IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 21264 of 2015 (G)

PETITIONER(S):

ANNI WILSON,
W/O WILSON, MANAVALAN HOUSE,
AMBADIKULAM ROAD
ARANATTUKKARA VILLAGE, OLARIKKARA,
PULLAZHI P.O. THRISSUR DISTRICT.

BY ADV. SRI.MAHESH V.MENON

RESPONDENT(S):
----

1. THE DISTRICT COLLECTOR,
   THRISSUR, COLLECTORATE, AYYANTHOLE,
   THRISSUR-680 005.

2. THE REVENUE DIVISIONAL OFFICER,
   THRISSUR-680 001.

3. TAHASILDAR,
   THRISSUR, TALUK OFFICER, THRISSUR-680001.

BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

vmr.

WP(C).No. 21264 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF RETURN SUBMITTED BY THE PETITIONER.

EXHIBIT P1(A): TRUE COPY OF RETURN SUBMITTED BY THE PETITIONER.

EXHIBIT P1: TRUE COPY OF RETURN SUBMITTED BY THE PETITIONER.

EXHIBIT P2: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE 3RD RESPONDENT DATED 28.11.2005.

EXHIBIT P3: TRUE COPY OF APPEAL FILED BEFORE THE 2ND RESPONDENT.

EXHIBIT P3(A): TRUE COPY OF STAY PETITION FILED BEFORE THE 2ND RESPONDENT.

EXHIBIT P4: TRUE COPY OF STAY ORDER PASSED BY THE 2ND RESPONDENT DATED 21.1.2006.

EXHIBIT P5: TRUE COPY OF NOTICE ISSUED BY THE 3RD RESPONDENT DATED 17.1.2015.

EXHIBIT P6: TRUE COPY OF REPLY GIVEN BY THE PETITIONER TO THE 3RD RESPONDENT DATED 6.2.2015.

EXHIBIT P7: TRUE COPY OF APPLICATION MADE UNDER RIGHT TO INFORMATION ACT AND THE REPLY RECEIVED BY THE PEITIONER DATED 06.02.2015.

EXHIBIT P8: TRUE COPY OF THE REPLY GIVEN BY THE APPELLATE AUTHORITY ALONG WITH COPY OF THE RELEVANT PAGES OF DESTRUCTION REGISTER DATED 24.3.2015.

EXHIBIT P9: TRUE COPY OF NOTICE ISSUED BY THE 3RD RESPONDENT DATED 26.5.2015.

EXHIBIT P10": TRUE COPY OF REPLY GIVEN BY THE PETITIONER TO THE 3RD RESPONDENT DATED 24.6.2015.

RESPONDENT(S)' EXHIBITS : NIL.

/TRUE COPY/

P.S.TO JUDGE

vmr.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.21264 of 2015

Dated this the 22nd day of July, 2015

J U D G M E N T

The petitioner has approached this Court challenging the assessment order under the Luxury Tax.

2. The case of the petitioner is that, three separate residential units have been constructed by him and each unit has to be assessed separately for Luxury Tax. It is submitted that, if each unit is separately considered, she will not be liable to pay Luxury Tax.

3. It appears that the petitioner has filed an appeal against the original assessment order. The question of liability under the Luxury Tax in respect of the apartments or a composite unit of building has been answered by the honourable Supreme Court in ***State of Kerala and Others v. A.P. Mammikutty [2015 (3) KHC 794 (SC)]***. Therefore, even if the building has been assessed in composite manner, the petitioner would be liable under the Luxury Tax. Since the Luxury Tax being a recurring liability, the petitioner would be entitled for the benefit of exoneration only based on the subsequent sale being effected on each or each unit being separated by ownership, in the light of the judgment.

4. Therefore, the petitioner is free to point out the Thahsildar about any sale effected. In the light of the above referred judgment, the Thahsildar shall give a credit of exclusion of plinth

area based on the valid documents produced by the petitioner.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV