

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. 22010 of 2015 (A)

PETITIONER(S):

**REALTY PROPERTY PLANNERS PRIVATE LIMITED,
KPM COMPLEX, OPP. V. MART, VYTTILA,
PIN -682 019,
REPRESENTED BY ITS DIRECTOR MR. ANILKUMAR P A.**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):

- 1. THE INTELLIGENCE OFFICER (IB),
MATTANCHERY AT ALUVA, MINI CIVIL STATION,
ERNAKULAM - 683 101.**
- 2. THE COMMERCIAL TAX OFFICER,
WORKS CONTRACT, OFFICE OF THE ASSISTANT COMMISSIONER,
CLASS TOWERS, ERNAKULAM -682 018.**
- 3. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, THEVARA - 682 015.**
- 4. DEPUTY TAHSILDAR,
(REVENUE RECOVERY), KANAYANNUR TALUK,
ERNAKULAM - 682 011.**

BY 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:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1- COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE
2ND RESPONDENT DATED 28/12/2007.**

**EXHIBIT-P2- COPY OF THE ANNUAL RETURN FOR THE YEAR 2006-2007
DATED 30/03/2008.**

**EXHIBIT-P2(A)- COPY OF THE ANNUAL RETURN FOR THE YEAR 2007-2008
DATED 30/04/2009.**

**EXHIBIT-P2(B)- COPY OF THE ANNUAL RETURN FOR THE YEAR 2008-2009
DATED 30/04/2009.**

**EXHIBIT-P2(C)- COPY OF THE ANNUAL RETURN FOR THE YEAR 2009-2010
DATED 30/04/2010.**

EXHIBIT-P3- COPY OF THE PENALTY ORDER DATED 24/02/2010 FOR 2006-07.

EXHIBIT-P3(A)- COPY OF THE PENALTY ORDER DATED 24/02/2010 FOR 2007-08.

EXHIBIT-P3(B)- COPY OF THE PENALTY ORDER DATED 24/02/2010 FOR 2008-09.

EXHIBIT-P3(C)- COPY OF THE PENALTY ORDER DATED 24/02/2010 FOR 2009-10.

**EXHIBIT-P4- COPY OF THE APPELLATE ORDER DATED 08/12/2010 FOR THE YEAR
2006-07.**

**EXHIBIT-P4(A)- COPY OF THE APPELLATE ORDER DATED 08/12/2010 FOR THE YEAR
2007-08 TO 2009-10.**

EXHIBIT-P5- COPY OF THE NOTICE DATED 28/05/2014 FOR THE YEAR 2006-07.

EXHIBIT-P5(A)- COPY OF THE NOTICE DATED 28/05/2014 FOR THE YEAR 2007-08

EXHIBIT-P5(B)- COPY OF THE NOTICE DATED 29/05/2014 FOR THE YEAR 2008-09

EXHIBIT-P5(C)- COPY OF THE NOTICE DATED 29/05/2015 FOR THE YEAR 2009-10

EXHIBIT-P6- COPY OF THE REPLY DATED 10/07/2014 FOR THE YEAR 2006-07.

EXHIBIT-P6(A)- COPY OF THE REPLY DATED 10/07/2014 FOR THE YEAR 2007-08.

EXHIBIT-P6(B)- COPY OF THE REPLY DATED 10/07/2014 FOR THE YEAR 2008-09.

EXHIBIT-P6(C)- COPY OF THE REPLY DATED 10/07/2014 FOR THE YEAR 2009-10.

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**EXHIBIT-P7- COPY OF THE CERTIFICATE ISSUED BY THE 2ND RESPONDENT
DATED 10/10/2014.**

**EXHIBIT-P7(A)- COPY OF THE TOTAL RECEIPT OF THE PROJECT UPTO 31/03/2012
AS CONCEDED BY THE PETITIONER.**

**EXHIBIT-P8- COPY OF THE PENALTY ORDER DATED 31/10/2014 FOR THE YEAR
2006-07.**

**EXHIBIT-P8(A)-TRUE COPY OF THE PENALTY ORDER DATED 31/10/2014 FOR THE
YEAR 2007-08.**

**EXHIBIT-P8(B)-TRUE COPY OF THE PENALTY ORDER DATED 31/10/2014 FOR THE
YEAR 2008-09**

**EXHIBIT-P8(C)-TRUE COPY OF THE PENALTY ORDER DATED 31/10/2014 FOR THE
YEAR 2009-10**

EXHIBIT-P9-TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 09/06/2015.

EXHIBIT-P9(A)-TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 09/06/2015.

EXHIBIT-P9(B)-TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 09/06/2015.

EXHIBIT-P10-TRUE COPY OF THE RECTIFICATION PETITION DATED 14/07/2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.22010 of 2015

Dated this the 22nd day of July, 2015

J U D G M E N T

The petitioner impugning penalty proceedings has approached this Court.

2. The main ground of challenge is that, the petitioner has been denied an opportunity of personal hearing in the matter.

3. The petitioner sought specific opportunity for personal hearing by Ext.P6 series. It is seen from the impugned orders that, the authority proceeded to conclude the proceedings based on the reply given by the petitioner. It is not seen that, whether any opportunity of personal hearing has been given to the petitioner. The orders appear to have been passed on 30.08.2014 and 31.10.2014. The petitioner admits that they have received the orders during March 2015.

4. The petitioner in fact approached this Court invoking the extra ordinary jurisdiction of this Court under Article 226 of the Constitution contending that, they have denied the opportunity of hearing and bypassing statutory remedy. No doubt, the petitioner would be entitled for a rehearing of the matter as the petitioner has not afforded an opportunity of personal hearing. But the conduct of the petitioner in this matter cannot be left with impunity for the simple reason that, the petitioner has chosen to challenge this order

only when the revenue recovery proceedings are initiated against them and that, if the petitioner challenged the order within a reasonable time, the entire exercise relating to the revenue recovery proceedings could have been avoided.

5. Considering the facts and circumstances of the case, the impugned orders are set aside on condition that, the petitioner shall remit an amount ₹25,000/- (Rupees Twenty five thousand only) as cost in the account maintained by the Government under the head Other Receipts (Account No.0040-00-1119109) and another amount of ₹5,000/- (Rupees Five thousand only) to the Kerala Mediation Centre within two weeks from today. The petitioner shall appear before the authority along with the receipts for above payment on 17.08.2015 at 11.00 a.m. Thereafter, after hearing the petitioner and after giving an opportunity to produce further evidences, if any, the entire proceedings shall be concluded within a further period of two months.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV