

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).No. 25964 of 2015 (U)

PETITIONER(S):

**RAJU AGED 39 YEARS
S/O.VARGHESE, EARASSERRY HOUSE,
MARARIKULAM NORTH P.O., ALAPPUZHA-688523.**

BY ADV. SRI.SHERRY J. THOMAS

RESPONDENT(S):

- 1. TAHSILDAR, CHETHALA TALUK OFFICE
CHERTHALA-688524.**
- 2. VILLAGE OFFICE
MARARIKULAM VILLAGE OFFICE, MARARIKKULAM-690101.**
- 3. DISTRICT COLLECTOR
COLLECTORATE, ALAPPUZHA-688001.**

R BY GOVERNMENT PLEADER, SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : THE TRUE COPY OF THE RESIDENCE CERTIFICATE DTED 24-7-2015
ISSUED BY THE MARARIKULAM NORTH PANCHAYATH
- EXT.P2 : THE TRUE COPY OF THE OWNERSHIP CERTIFICATE DATED 24-7-2015
ISSUED BY THE MARARIKULAM NORTH PANCHAYATH.
- EXT.P3 : THE TRUE COPY OF THE TAX RECEIPT DATED 21-7-2015 ISSUED BY
THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P4 : THE TRUE COPY OF THE LAND TAX RECEIPT DT 16-6-2015 OF THE
PETITIONER'S FATHER IN RE-SURVEY NO.673/1-1
- EXT.P5 : THE TRUE COPY OF THE BUILDING TAX RECEIPT DT 9-6-2011
- EXT.P6 : THE BUILDING TAX RECEIPT DT 24-7-2015 ON RESIDENTIAL BUILDING
FOR THE YEAR 2014-15 PAID BEFORE THE MARARIKULAM NORTH
GRAMA PANCHAYATH FOR PETITIONER'S BUILDING.
- EXT.P7 : THE TRUE COPY OF THE ELECTRICITY BILL DT 6-7-2015 ISSUED TO
THE PETITIONER UNDER LT1A TARIFF
- EXT.P8 : THE REQUET SUBMITTED BY THE PETITIONER TO THE 1ST
RESPONDENT ON 18-12-2014.
- EXT.P9 : THE TRUE COPY OF THE ASSESSMENT ORDER DATED 10-6-2015.
- EXT.P10 : THE TRUE COPY OF THE REPLY DT 5-8-2015 SUBMITTED BY THE
PETITIONER TO THE 1ST RESPONDENT.
- EXT.P10a : THE TRUE COPY OF THE RECEIPT DT 5-8-2015 ISSUED BY THE OFFICE
OF THE 1ST RESPONDENT.
- EXT.P11 : THE TRUE COPY OF THE LETTER DATED 10.09.2012 ISSUED TO
KERALA HOME STAY AND TOURISM SOCIETY.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 25964 of 2015

Dated this the 23rd day of September, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P9 assessment order under the Kerala Building Tax Act. During the pendency of the writ petition, the petitioner had paid an amount of Rs.15,000/- as a condition for the grant of stay against further proceedings pursuant to Ext.P9 assessment order, that is impugned in the writ petition. I note from Ext.P9 that the building tax assessed on the petitioner, is in an amount of Rs.70,200/-, which is payable in four installments of Rs.17,550/- each. I also find that, against Ext.P9 order, the petitioner has an alternate remedy of preferring an appeal before the Revenue Divisional Officer. There is a requirement, however, that as a condition for preferring the appeal, the petitioner has to deposit the tax amount, that is confirmed against him. Taking note of the fact that the petitioner had already approached this Court, and this Court had granted an interim stay against recovery pursuant to Ext.P9 order in the writ petition, I deem it fit to relegate the petitioner to the alternate remedy of filing an appeal against Ext.P9 order before the appellate authority under the Kerala Building Tax Act, without having to deposit the entire pre-deposit amount. Accordingly, if the petitioner files an appeal against Ext.P9 order, before the appellate

authority, within a period of three weeks from the date of receipt of a copy of this judgment, duly accompanied by a payment of Rs.2,550/-, so that the total payment by the petitioner would be of one installment of the tax confirmed against him by Ext.P9 order, the said appeal shall be considered by the appellate authority on merits. The appellate authority shall endeavour to pass orders in the appeal within a period of one month thereafter, after hearing the petitioner. The interim order of stay against recovery of the balance amount of tax confirmed against the petitioner by Ext.P9 shall continue to be in force till such time as the appellate authority passes orders in the appeal and communicates the same to the petitioner.

2. I make it clear that, if the petitioner does not prefer the appeal within the period of three weeks granted in this judgment, then he will lose the benefit of this judgment and the respondents will be free to initiate recovery steps against the petitioner.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE