IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 29274 of 2015 (H)

PETITIONER(S):

V. HAMZA, S/O.MUHAMMED,
AGED 57 YEARS, VALLOORAN HOUSE,
POOKKATTIRI, EDAYUR P.O, PIN-676 552,
MALAPPURAM DISTRICT.

BY ADV. SRI.U.K.DEVIDAS.

RESPONDENT(S):
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1. **THE TAHSILDAR, TALUK OFFICE,**
   TIRUR, MALAPPURAM DISTRICT-676 565.

2. **THE VILLAGE OFFICER,**
   VILLAGE OFFICE, EDAYUR,
   MALAPPURAM DISTRICT-676 505.

R1 & R2 BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 29274 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. **COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE SECRETARY, EDAYUR GRAMA PANCHAYATH.**

EXHIBIT P2. **COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE SECRETARY, EDAYUR GRAMA PANCHAYAT.**

EXHIBIT P3. **COPY OF THE ORDER DATED 21.08.2015 ISSUED BY THE FIRST RESPONDENT.**

EXHIBIT P4. **COPY OF THE PROCEEDINGS DATED 21.08.2015.**

EXHIBIT P5. **COPY OF THE PHOTOGRAPHS OF THE BUILDING.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.29274 of 2015

Dated this the 30th day of September, 2015

JUDGMENT

Challenge in the writ petition is against Ext.P4 assessment order assessing a building constructed by the petitioner to building tax and luxury tax. The challenge in the writ petition against Ext.P4 order is confined to the levy of luxury tax. In that according to the petitioner, the building comprises of separate residential units and therefore that each unit has to be assessed separately in terms of the provisions of the Kerala Building Tax Act and Rules.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that against Ext.P4 assessment order, the petitioner has an effective order in remedy by way of preferring an appeal before the appellate authority under the Kerala Building Tax Act. Accordingly, I dismiss the writ petition in challenge against Ext.P4 order and relegate the petitioner to the appellate remedy under the Kerala Building Tax Act and Rules. I make it clear that if the petitioner files a duly

constituted appeal and complies with the necessary statutory formalities for maintaining the appeal before the appellate authority within a period of one month from today, then the appellate authority shall consider the same on merits and pass orders thereon. To enable the petitioner to pursue his appellate remedy, I direct the recovery steps for recovery of the luxury tax amount confirmed against the petitioner in Ext.P4 order shall be kept in abeyance for the afore mention period of one month.

A.K.JAYASANKARAN NAMBIAR
JUDGE

rsr