IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 30687 of 2015 (I)

PETITIONER(S):

REJI CHERIYAN, AGED 48 YEARS,
S/O.CHERIYAN PHILIPOSE, RESIDING AT
THUVAMPALLIL, PATHIYOOR,
KAREELAKULANGARA P.O., ALAPPUZHA-6.

BY ADV. SRI.K.V.SADANANDA PRABHU.

RESPONDENT(S):
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1. **STATE OF KERALA,**
   REPRESENTED BY THE CHIEF SECRETARY,
   SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. **REVENUE DIVISIONAL OFFICE,**
   ALAPPUZHA-688 001.

3. **THE TAHSILDAR,**
   AMBALAPPUZHA-688 561.

BY GOVT. PLEADER SRI.RAJESH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 30687 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE ORDER DATED 29/05/2014 IN BT-615/14/J2 OF ASSESSMENT SENT UNDER RULE 9(1) TO THE PETITIONER.

EXT.P2 COPY OF THE AREA CALCULATION OF THE PERMIT ISSUED BY THE MUNICIPAL SECRETARY ALAPPUZHA DATED NIL.

EXT.P3 COPY OF THE ORDER DATED 18/06/2015 IN 6602/14/K OF THE 2ND RESPONDENT.

EXT.P4 COPY OF THE DEMAND NOTICE DATED 17/07/2015 IN BT 615/14/J2 BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 30687 of 2015

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Dated this the 9th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P3 and P4 orders. By Ext.P3 order, the appeal preferred by the petitioner, against an assessment order confirming a demand of building tax on the building owned by the petitioner, was rejected by the appellate authority. As per the provisions of the Kerala Building Tax Act, the petitioner has got an alternate remedy by way of revision before the District Collector in accordance with Section 13 of the Kerala Building Tax Act. The stand of the petitioner, however, is that the said revisional remedy is available only on deposit of 50% of the tax, that has been confirmed against the petitioner by the lower authority. It is his contention that, an insistence of 50% of the tax amounts confirmed against him, as a condition for maintaining the revision, is burdensome as far as the petitioner is concerned, and therefore, it is not an efficacious alternate remedy as far as the petitioner is concerned.

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 as also the submissions made across the bar, I find that the tax assessed against the petitioner is an amount of Rs.21,87,000/-. Although the petitioner preferred an appeal against the assessment order before the 2nd respondent, the said appeal was dismissed by the 2nd respondent appellate authority. It is thereafter, that the petitioner has approached this Court without taking recourse to the alternate remedy of filing a revision under Section 13 of the Kerala Building Tax Act. The submission of the learned counsel for the petitioner that the revesional remedy is an onerous one as far as the petitioner is concerned, does not appeal to me as reasonable. Firstly, the contentions of the petitioner, on merits, against the assessment order have already been considered by the appellate authority who dismissed the appeal. It is thereafter, the petitioner has, instead of approaching the revisional authority, approached this Court, through these proceedings under Article 226 of the Constitution of India. When compared to the amount that has been assessed against the petitioner, which assessment has been upheld by the first appellate authority, I am of the view that the requirement of paying 50% of the amount as a condition for maintaining the

revisionary remedy against the appellate order cannot be said to be onerous in any manner. Resultantly, I dismiss the writ petition in its challenge against Exts.P3 and P4 order and relegate the petitioner to the alternate remedy of filing a revision in terms of Section 13 of the Kerala Building Tax Act, before the District Collector.

The learned counsel for the petitioner submits that the time for preferring the revision under Section 13 of the Act, is already over. Taking note of the said submission, I direct that, if the petitioner files a revision petition under Section 13 of the Kerala Building Tax Act, within a period of two weeks from the date of receipt of a copy of this judgment, then the revisional authority shall treat the same as a validly constituted revision, subject to the petitioner complying with the formalities required to maintain the revision petition before the revisional authority.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das 09.10.15