

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 31885 of 2015 (I)

PETITIONER(S) :

**SHEEBA C.THOMAS, AGED 44 YEARS,
W/O.SIBY P.S, PERAYIL, AMBIKA MARKET P.O.,
VAIKOM, KOTTAYAM.**

BY ADV. SRI.B.PRAMOD

RESPONDENT(S) :

- 1. THE DEPUTY TAHSILDAR (RR),
VAIKOM, KOTTAYAM DISTRICT.**
- 2. THE VILLAGE OFFICER,
VECHOO VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT.**
- 3. THE SUB REGISTRAR,
OFFICE OF THE SUB REGISTRAR, ETTUMANOOR,
KOTTAYAM DISTRICT.**
- 4. THE DISTRICT REGISTRAR (AUDIT),
KOTTAYAM DISTRICT.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**P1: TRUE COPY OF THE SALE DEED DATED 06.04.2013 OF ETTUMANOOR
S.R.O.**

P2: TRUE COPY OF THE NOTIFICATION.

**P3: TRUE COPY OF THE NOTICE DATED 31.07.2013 ISSUED BY
THE 4TH RESPONDENT.**

**P4: TRUE COPY OF THE NOTICE DATED 17.04.2015 ISSUED BY
THE 1ST RESPONDENT U/S.7 OF THE REVENUE RECOVERY ACT.**

**P5: TRUE COPY OF THE NOTICE DATED 17.04.2015 ISSUED BY
THE 1ST RESPONDENT U/S.34 OF THE REVENUE RECOVERY ACT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 31885 of 2015

Dated this the 30th day of October, 2015

JUDGMENT

The petitioner is aggrieved by Exts.P4 and P5 notices issued to him under the Kerala Revenue Recovery Act, demanding an amount of Rs.24,500/- together with interest and other charges from 11.11.2014. In the writ petition, the petitioner states that he is not aware of the basis of the computation shown in Ext.P4 notice and he also relies on Ext.P3, which refers to an order passed under Section 45A of the Kerala Stamp Act. It is under these circumstances that he challenged the recovery notices in the present writ petition, inter alia, on the ground that the provision of Section 45A of the Kerala Stamp Act cannot be invoked in those cases where the value of the land at the consideration set forth in the instrument is less than the fair value of the land.

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

3. The learned Government Pleader on instructions, would submit that the order, which formed the basis of the demand in Ext.P4 notice was passed by the District Registrar (Audit) in terms

of Section 45B of the Kerala Stamps Act. A copy of the said order dated 31.07.2013 is also produced by the learned Government Pleader. Taking note of the said submission of the learned Government Pleader on instructions, I am of the view that the remedy of the petitioner lies in preferring an appeal against the aforesaid order passed against him under Section 45B of the Kerala Stamp Act, before the appellate authority. Accordingly, I relegate the petitioner to his alternate remedy of filing an appeal against the order dated 31.07.2013 referred to above, within a period of one month from the date of receipt of a copy of this judgment. Taking note of the submission of counsel for the petitioner that he was not served with a copy of the aforementioned order, there will be a direction to the 4th respondent to serve a copy of the order dated 31.07.2013 to the petitioner, within a period of one week from the date of receipt of a copy of this judgment. If the petitioner files an appeal against the said order, within the period of one month granted in this judgment, then the same shall be treated as a duly constituted appeal for the purposes of the Kerala Stamp Act, and the appellate authority shall consider the appeal on merits. To enable the petitioner to pursue his appellate remedy, I direct that coercive

steps for recovery of amounts from the petitioner, including further proceedings pursuant to Exts.P4 and P5 shall be kept in abeyance for a period of six weeks from the date of receipt of a copy of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE