IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 33829 of 2015 (C)

PETITIONER :

JILSON JOSE, AGED 40 YEARS,
S/O JOSE, VANDANAKKARA HOUSE,
VANDANMATTOM KARA,
KODIKULAM VILLAGE, THODUPUZHA TALUK

BY ADVS.SRI.MATHEW JOHN (K)
SRI.DOMSON J.VATTAKUZHY

RESPONDENTS :
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1. THE VILLAGE OFFICER,
   KODIKULAM - 685 582

2. THE TAHSILDAR,
   THODUPUZHA 685 584

3. THE REVENUE DIVISIONALOFFICER,
   IDUKKI - 685 584

BY GOVERNMENT PLEADER SRI.R. RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 33829 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **TRUE COPY OF THE DEMAND NOTICE DATED 20-05-2014.**

EXHIBIT P2: **TRUE COPY OF THE APPLICATION BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 30-04-2014**

EXHIBIT P3: **A TRUE COPY OF THE LETTER BY THE 2ND RESPONDENT TO THE PETITIONER DATED 29-04-2014**

EXHIBIT P4: **A TRUE COPY OF THE ORDER OF THE 3RD RESPONDENT DATED 06-08-2015**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 33829 of 2015

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Dated this the 9th day of November 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 First Appellate order, under the Kerala Building Tax Act. The grievance of the petitioner in the writ petition is essentially that there are two separate buildings in the same premises and, while computing the liability of the petitioner to luxury tax under Section 5A of the Building Tax Act, the respondents had taken the plinth area pertaining to both the buildings instead of the main building and levied luxury tax on the plinth area so computed. Although the petitioner, when served with Ext.P1 assessment order, preferred an appeal before the 3rd respondent, the 3rd respondent by Ext.P4 order, has placed reliance on the report of the Tahsildar and come to the conclusion that the total plinth area of the building in question is 306.64 m^2 and proceeded to confirm the assessment done on the petitioner. In the writ petition, the petitioner urges that the computation of plinth area of the building as 306.64 m^2 could not have been arrived at unless the respondents took the plinth area of both the buildings, which are situated in the same premises, together for the purposes of assessment. It is the contention of the petitioner that if the plinth area of the main building alone is taken, then the plinth area of the said building would be 267.3 m^2, which would be less than the plinth area contemplated for the levy of building tax, namely 278.76$m^{2.}$

2. I have heard the learned counsel 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 against Ext.P4 order of the 3rd respondent, the petitioner has an alternate remedy by way of a revision before the District Collector. I therefore relegate the petitioner to the alternate remedy of filing a revision petition before the District Collector, Idukki. If the petitioner files a duly constituted revision application before the District Collector, Idukki, within a period of three weeks from the date of receipt of a copy of this judgment, then the District Collector shall treat the same as a valid revision petition filed in accordance with the provisions of the Building Tax Act and Rules and proceed to decide the matter on merits. I also make it clear that before passing orders as directed in this judgment, the District Collector shall cause a measurement to be done, of the buildings in the premises of the petitioner, and specifically verify as to whether there is one building or two buildings, and the plinth area of each of those buildings, if there are more than one. The findings of the District Collector, regarding liability of the petitioner to pay luxury

tax under Section 5A of the Building Tax Act, shall be based on the results of the measurement that is caused to be done by him pursuant to the directions in this judgment. The District Collector should also afford the petitioner an opportunity of hearing before passing final orders in the revision petition. To enable the petitioner to pursue the revisional remedy against Ext.P4, I direct that the recovery steps for recovery of the amounts confirmed against the petitioner in Ext.P1 assessment order shall be kept in abeyance for a period of one month.

The writ petition is accordingly disposed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/