

**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. 33887 of 2015 (I)**  
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**PETITIONER(S):**  
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1. P.V.GEORGE, S/O. VARGHESE,  
PADAYATTIL HOUSE, ANGAMALY - 683572,  
ERNAKULAM.
2. RIGI GEORGE, W/O GEORGE, PADAYATTIL HOUSE,  
ANGAMALY - 683572, ERNAKULAM.

**BY ADV. SRI.PRAMOD J.DEV**

**RESPONDENT(S):**  
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1. THE TAHSILDAR, TALUK OFFICE,  
ALUVA, ERNAKULAM - 683101.
2. THE DEPUTY SECRETARY,  
REVENUE (SPECIAL CELL)  
DEPARTMENT SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.
3. THE DISTRICT COLLECTOR,  
CIVIL STATION, KAKKANADU, KOCHI - 682 030.
4. THE VILLAGE OFFICER, VILLAGE OFFICE,  
THURAVOOR - 683586, ERNAKULAM DISTRICT.
5. THE GENERAL MANAGER,  
DISTRICT INDUSTRIES CENTRE,  
ERNAKULAM DISTRICT, KAKKANAD - 682 030.
6. KERALA STATE, REPRESENTED BY ITS  
SECRETARY TO THE GOVERNMENT DEPARTMENT OF  
REVENUE, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

**BY GOVERNMENT PLEADER SRI.RANJITH**

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

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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**

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- EXHIBIT P1: TRUE COPY OF THE ACKNOWLEDGEMENT OF REGISTRATION OF PERIYAR PROFILES DTD 29-12-2008.
- EXHIBIT P2 : TRUE COPY OF THE ORDER ISSUED BY THE TAHASILDAR, ALUVA, NUMBERED C6-782/2008 DATED 26-12-2012.
- EXHIBIT P3 : TRUE COPY OF THE NOTICE ISSUED BY THE SECRETARY, TO GOVT. DATED 6-2-2013.
- EXHIBIT P4 : TRUE COPY OF THE REPLY SUBMITTED BY RIGHT GEORGE DATED 4-3-2013.
- EXHIBIT P5 : TRUE COPY OF THE NOTICE ISSUED BY THE SECRETARY, TO GOVT. DATED 11-3-2013.
- EXHIBIT P6 : TRUE COPY OF THE ORDER ISSUED BY DPTY.SECRETARY, REVENUE DEPARTMENT DATED 9-5-2013.
- EXHIBIT P7 : TRUE COPY OF THE ORDER ISSUED BY THE TAHASILDAR, ALUVA DATED 27-06-2013.
- EXHIBIT P8 : TRUE COPY OF THE PETITION FILED BY P.V GEORGE, BEFORE THE DISTRICT COLLECTOR, ERNAKULAM DATED 17-07-2013.
- EXHIBIT P9 : TRUE COPY OF THE REPORT FILED BY THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM DATED 25-07-2013.
- EXHIBIT P10 : TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA IN WP(C) 19997/13 DATED 22-09-2014.
- EXHIBIT P11 : TRUE COPY OF THE ORDER ISSUED BY DPTY.SECRETARY, REVENUE DEPARTMENT DATED 13-3-2015.
- EXHIBIT P12 : TRUE COPY OF THE NOTICE ISSUED BY GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM DATED 22-07-2015.
- EXHIBIT P13 : TRUE COPY OF THE ORDER ISSUED BY THE TAHASILDAR, ALUVA, NUMBERED C6-782/2008 DATED 28-09-2015.
- EXHIBIT P14 : TRUE COPY OF THE RECEIPT ISSUED BY THE THURAVOOR VILLAGE OFFICE DATED 5-10-2015.

**RESPONDENT(S)' EXHIBITS:** NIL

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**//TRUE COPY//**

**P.S. TO JUDGE**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C) No.33887 of 2015**  
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Dated this the 9<sup>th</sup> day of November 2015

**JUDGMENT**

The challenge in the writ petition is against Ext.P11 order passed by the 2<sup>nd</sup> respondent, rejecting the petitioners' claim for exemption of an extent of 958.32 M<sup>2</sup> of his building from the levy of building tax, on the ground that the said plot was used as a factory/workshop. It is the specific case of the petitioner in the writ petition that although, by Ext.P10 judgment, this Court had quashed the earlier Government Order (Ext.P6) and directed the 2<sup>nd</sup> respondent to consider the matter afresh, after giving the petitioner an opportunity of being heard, in Ext.P11 order that was passed by the 2<sup>nd</sup> respondent, the application of the petitioner for exemption has been rejected on the ground that the petitioner did not produce any muster roll to show that there were 12 workers working in the factory. According to the petitioner, since in Ext.P6 order that was impugned in the earlier petition, the report of the Tahsildar, to the effect that there were 12 workers working in the factory, had been accepted by the 2<sup>nd</sup> respondent, there was no requirement of the petitioner once again establishing this admitted fact in the proceedings, which led to Ext.P11 order that is

impugned in the writ petition.

2. I have heard the learned counsel appearing for the petitioners 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, in Ext.P11 order, that is impugned in the writ petition, the 2<sup>nd</sup> respondent has chosen to deny the benefit of exemption to the petitioners only on the ground that the petitioners did not produce a muster roll to show that there were 12 workers working in the building of the petitioner. In my view, inasmuch as in Ext.P6 order, that was impugned by the petitioners in the earlier writ petition which led to Ext.P10 judgment, the issue of whether there were 12 workers working in the premises of the petitioner was not in dispute, the 2<sup>nd</sup> respondent could not have cited this as a reason for denying the petitioners the benefit of an exemption under the Kerala Building Tax Act. Apart from the non production of muster rolls by the petitioners, there is no other reason cited in Ext.P11 to deny the petitioners the benefit of the exemption sought for. Accordingly, I find that Ext.P11 does not comply with the directions in Ext.P10 judgment to the extent of consideration of the

matter in the proper prospective. Accordingly, I quash Ext.P11 order, and direct the 2<sup>nd</sup> respondent to consider the matter afresh after treating the petitioners' building as having had 12 workers during the relevant time and to decide the issue of exemption to the building of the petitioners by considering Ext.P9 report of the General Manager, District Industries, Ernakulam. The 2<sup>nd</sup> respondent shall also afford the petitioners an opportunity of being heard prior to taking a fresh decision in the matter. The 2<sup>nd</sup> respondent shall pass fresh orders, as directed, within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is accordingly disposed.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

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