

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937**

**WP(C).No. 35750 of 2015 (P)**  
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**PETITIONER(S) :**  
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1. RAHELAMMA GEORGE, AGED 57 YEARS,  
W/O.A.V.GEORGE, ALUNILKUNNATHIL HOUSE,  
THELLIYOOR MURI, MALLAPALLY TALUK,  
PATHANAMTHITTA DISTRICT.
2. ANOOP T. GEORGE, AGED 36 YEARS,  
S/O. A.V.GEORGE, ALUNILKUNNATHIL HOUSE,  
THELLIYOOR MURI, MALLAPALLY TALUK,  
PATHANAMTHITTA DISTRICT.
3. ALWIN ALUNILKUNNATHIL GEORGE, AGED 30 YEARS,  
S/O. A.V GEORGE, ALUNILKUNNATHIL HOUSE,  
THELLIYOOR MURI, MALLAPALLY TALUK,  
PATHANAMTHITTA DISTRICT

BY ADVS.SRI.G.SREEKUMAR (CHELUR)  
SRI.K.N.RADHAKRISHNAN(THIRUVALLA)  
SRI.P.K.RAVI

**RESPONDENT(S) :**  
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1. STATE OF KERALA,  
REP. BY THE SECRETARY, REVENUE, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN -689 645
2. THE DISTRICT COLLECTOR,  
PATHANAMTHITTA, PIN -689 645
3. THE ASSESSING AUTHORITY,  
THAHASILDAR, THIRUVALLA,  
PATHANAMTHITTA, PIN -689 101

BY GOVERNMENT PLEADER SMT. K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 26-11-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**WP(C).No. 35750 of 2015 (P)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- P1:- COPY OF THE REPLY NOTICE SUBMITTED BY THE PETITIONERS BEFORE THE THIRD RESPONDENT, DATED 15/12/2014.**
- P2:- COPY OF THE ORDER AND DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT DATED 27/12/2014.**
- P3:- COPY OF THE JUDGMENT IN WPC NO.9917/2015 DTD 20/5/2015**
- P4:- COPY OF MEDICAL CERTIFICATE ISSUED FROM THE FELLOWSHIP HOSPITAL DTD 18/8/2015.**
- P5:- COPY OF DISCHARGE SUMMARY ISSUED FROM THE CANCER WING OF AMRUTHA HOSPITAL, KOCHI.**
- P6:- COPY OF ASSESSMENT ORDER AND DEMAND NOTICE DTD 25/07/2015.**

**RESPONDENT(S)' EXHIBITS:** **NIL**  
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**/TRUE COPY/**

**P.A.TO JUDGE**

**sts**

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

**W.P.(C) No. 35750 of 2015**

Dated this the 26<sup>th</sup> day of November 2015

**JUDGMENT**

In the writ petition, the challenge of the petitioners against Ext.P6 order that was passed by the 3<sup>rd</sup> respondent, assessing the building belonging to the petitioners to building tax, under the Kerala Building Tax Act. The grievance of the petitioners is essentially that before passing Ext.P6 order, the petitioners were not afforded an opportunity of hearing.

2. I have heard the learned counsel appearing for the petitioners as also the learned Government Pleader 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 an earlier order of assessment, the petitioners had approached this Court through W.P.(C).No.9917/2015, which is disposed by Ext.P3 judgment, directing the 3<sup>rd</sup> respondent to pass fresh orders, after hearing the petitioners and advertent to the objections of the petitioners. In Ext.P6 order, that was passed by the 3<sup>rd</sup> respondent

subsequent thereto, it is seen that the sole reason for the direction in Ext.P6 order is the fact that pursuant to Ext.P3 judgment, nobody had appeared for the hearing before the 3<sup>rd</sup> respondent. Counsel for the petitioners would submit that Sri. A.V.George, the first petitioner's husband, who was pursuing the matter earlier, subsequently died on account of an ailment, and it is under these circumstances that there was no representation before the 3<sup>rd</sup> respondent at the personal hearing, which eventually led to Ext.P6 order. Taking note of the submission of counsel for the petitioners, I am of the view that the 3<sup>rd</sup> respondent should be directed to pass fresh orders in the matter based on the directions in Ext.P3 judgment, after hearing the petitioners. To enable the 3<sup>rd</sup> respondent to do so, I quash Ext.P6 order, and direct the petitioners to appear before the 3<sup>rd</sup> respondent, at his office, at 11 a.m. on 04.12.2015, together with all documents in support of their contentions on merits. The 3<sup>rd</sup> respondent shall proceed to pass fresh orders as directed, within a month thereafter.

The writ petition is disposed as above.

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

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