IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 36184 of 2015 (W)

PETITIONER(S):

JOHN THOMAS,
S/O.K.K.THOMAS, NO.1, NOEL PALMDALE,
RAJAGIRI P.O., KAKKANAD, ERNAKULAM DISTRICT,
PIN - 682 039.

BY ADVS.SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
SRI.ISAC T.PAUL

RESPONDENT(S):
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1. STATE OF KERALA, SECRETARIAT,
   THIRUVANANTHAPURAM, PIN - 695 001,
   REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE.

2. THE TAHSILDAR,
   KANAYANNUR TALUK, PARK AVENUE, ERNAKULAM,
   PIN - 682 011.

3. THE VILLAGE OFFICER,
   KAKKANAD VILLAGE, KAKKANAD, ERNAKULAM DISTRICT,
   PIN - 682 030.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 36184 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: **TRUE PHOTOCOPY OF CONSTRUCTION AGREEMENT DATED 25.1.2011 EXECUTED BETWEEN THE BUILDER AND THE APARTMENT PURCHASER**

EXT.P-2: **TRUE PHOTOCOPY OF CONSTRUCTION AGREEMENT DATED 9.4.2012 EXECUTED BETWEEN THE BUILDER AND THE APARTMENT PURCHASER**

EXT.P-3: **TRUE PHOTOCOPY OF ASSESSMENT ORDER DATED 8.6.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER**

EXT.P-4: **TRUE PHOTOCOPY OF THE DEMAND NOTICE DATED 8.6.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER**

EXT.P-5: **TRUE PHOTOCOPY OF CHEQUE NO.149212 DATED 8.8.2015 FOR RS.86,139/- ISSUED BY THE PETITIONER TO 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.36184 of 2015

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Dated this the 1st day of December, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P3 assessment order and Ext.P4 demand notice issued by the 2nd respondent under the Kerala Building Tax Act assessing the petitioner to building tax. Although various contentions are raised by the petitioner in the writ petition against Ext.P3 assessment order, I am of the view that the petitioner has an effective alternate remedy by way of an appeal before the appellate authority under the Kerala Building Tax Act. The apprehension of the petitioner is with regard to payment of the entire tax assessed on him, as a condition for maintaining the appeal. The learned Government Pleader on instructions would submit that the petitioner has already paid the 1st installment of the amount confirmed against him by Ext.P3 assessment order. Taking note of the said submission, I dispose the writ petition by directing the petitioner to approach the appellate authority under the Kerala Building Tax Act through a duly constituted appeal against Ext.P3 order. I make it clear that, if the petitioner pays the 2nd instalment of the tax confirmed against him in Ext.P3 assessment order, then the appellate authority shall consider the appeal preferred by the petitioner on merits, after affording the petitioner an opportunity of being heard. It shall be open to the petitioner to produce all relevant materials to substantiate his contentions on merit before the appellate authority at the time of hearing. To enable the petitioner to pursue this appellate remedy, I also direct that recovery steps for recovery of the 3rd and 4th instalments of the amount confirmed against the petitioner by Ext.P3 assessment order, shall be kept in abeyance for a period of one month from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/01.12.15