IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 36424 of 2015 (C)

PETITIONER :

DR.R.RAGHAVAN,
S/O. SANTHA, AGED 54 YEARS, 'SANTHAM', YAKKARA AMSOM,
DESOM, PALAKKAD TALUK BY POWER OF ATTORNEY HOLDER,
DR. V.BALAKRISHNA PANICKER, S/O. A. VELAYUDHAN PILLAI,
AGED 84 YEARS, 'MANJUSHA, KALLEKULANGARA,
PUDUPPARIYARAM AMSOM, DESOM,
PALAKKAD TALUK AND DISTRICT

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENT :

THE TAHSILDAR,
(ASSESSING AUTHORITY UNDER THE KERALA BUILDING TAX ACT),
PALAKKAD TALUK AND DISTRICT, PIN -678 001

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 36424 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE BUILDING TAX ASSESSMENT PARTICULARS ISSUED BY THE SECRETARY, AKATHETHARA GRAMA PANCHAYAT TO THE PETITIONER DATED 25-06-2015

EXHIBIT P2 TRUE COPY OF THE PETITION FILED BEFORE THE RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.36424 of 2015

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Dated this the 2nd day of December, 2015

J U D G M E N T

The petitioner who has been assessed to building tax under the Kerala Building Tax Act, on a building that was constructed by him prior to 2007, apprehends that in future assessments to luxury tax under the Kerala Building Tax Act, the assessing authority will adopt the same plinth area as was originally adopted while completing the assessment under Kerala Building Tax Act. It is the case of the petitioner that since the assessment to building tax in 2007, there have been modifications effected to the building resulting in a decrease in the plinth area of the building. It is his case, therefore, that while assessing the building to luxury tax in future years the respondent must first determine the plinth area of the building as its stands now before deciding as to whether the building will attract the levy of luxury tax under the Kerala Building Tax Act. It is stated that, requesting the respondent to conduct a fresh measurement of the plinth area of the building for the purposes of levy of luxury tax, he has preferred Ext.P2 representation before the respondent and the same is pending consideration before the said respondent. In the writ petition, he seeks a direction to the respondent to pass orders on Ext.P2 representation expeditiously.

2. I have heard the learned counsel for the petitioner and the

learned Government Pleader appearing on behalf of the respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, and finding that the request of the petitioner in Ext.P2 representation is essentially for causing a measurement of the building to be undertaken for the purposes of levy of luxury tax under the Kerala Building Tax Act, I direct the respondent to cause a measurement of the building of the petitioner to be done, after due notice to the petitioner, within a period of one month from today. The plinth area of the building as determined by the measurements so taken by the respondent shall be the basis for future levy of luxury tax in respect of the building owned by the petitioner. The respondent shall communicate the result of the measurement to the petitioner within two weeks after the date of the measurement. The respondent shall also take care to ensure that, the measurement of the plinth area of the building is done in accordance with the provisions of the Kerala Building Tax Act and Rules and not in accordance with the provisions of any other Act or Rules.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/2.12.15