2025:KER:29796

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

**PRESENT**

**THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS**

**MONDAY, THE 7TH DAY OF APRIL 2025 / 17TH CHAITHRA, 1947**

**WP(C) NO. 14245 OF 2025**

**PETITIONERS :**

1 **SULAIMAN ABOOBACKER SAIT**
**AGED 81 YEARS**
**S/O. ABOOBACKER ABDULLA SAIT,**
**RESIDING AT SKYLINE IMPERIAL GARDENS,**
**LORDS 20-B, STADIUM LINK ROAD, KALOOR DESOM,**
**PALARIVATTOM P.O, ELAMKULAM VILLAGE,**
**KANAYANNUR TALUK, ERNAKULAM DISTRICT,**
**PIN - 682025**

2 **RASHEEDA SULAIMAN**
**AGED 67 YEARS**
**W/O SULAIMAN ABOOBAKER SAIT,**
**RESIDING AT SKYLINE IMPERIAL GARDENS,**
**LORDS 20-B, STADIUM LINK ROAD, KALOOR DESOM,**
**PALARIVATTOM P.O, ELAMKULAM VILLAGE,**
**KANAYANNUR TALUK, ERNAKULAM DISTRICT,**
**REPRESENTED BY HER POWER OF ATTORNEY -**
**SULAIMAN ABOOBACKER SAIT, AGED 81 YEARS,**
**S/O. ABOOBACKER ABDULLA SAIT,**
**RESIDING AT SKYLINE IMPERIAL GARDENS,**
**LORDS 20-B, STADIUM LINK ROAD, KALOOR DESOM,**
**PALARIVATTOM P.O, ELAMKULAM VILLAGE,**
**KANAYANNUR TALUK, ERNAKULAM DISTRICT,**
**PIN – 682 025**

**BY ADVS.**
**ARUN KUMAR.P**
**THIYYANNOOR RAMAKRISHNAN**
**AMBIKA RADHAKRISHNAN**
**KAVYA SURESH**

**RESPONDENTS :**

1 KOCHI MUNICIPAL CORPORATION
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE, ERNAKULAM, KOCHI,
PIN - 682011

2 THE SECRETARY,
KOCHI MUNICIPAL CORPORATION,
CORPORATION OFFICE, ERNAKULAM, KOCHI,
PIN - 682011

3 THE PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF LOCAL SELF GOVERNMENT INSTITUTIONS,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001

4 M/S. POPULAR VEHICLES AND SERVICES LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
KUTTUKARAN CENTRE, MAMANGALAM,
EDAPPPALLY SOUTH VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT, PIN - 682025

BY SMT.JASMIN M.M, GOVERNMENT PLEADER

BY SRI.ARUN ANTONY, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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**BECHU KURIAN THOMAS, J.**
**=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-**
**W.P.(C).No.14245 of 2025**
**=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-**
**Dated this the 7th day of April, 2025**

**JUDGMENT**

Petitioners challenge demand notices issued in respect of property tax for the period from 2014-15 onwards. The date of demand notices is 27.03.2025. This Court has already reserved the judgment in series of writ petitions questioning retrospective levy of property tax in the buildings falling within the jurisdiction of the Kochi Municipal Corporation. The questions raised in this writ petition though includes challenge against the retrospective levy, still stands on a slightly different footing. One of the issues in the instant case is as to whether property tax could be levied for a building which petitioners allege was not in existence atleast for some period. Another contention raised is whether a temporary building can be imposed with property tax?

2. I have heard Sri.Arun Kumar P., the learned counsel for the petitioners, Sri.Arun Antony, the learned Standing Counsel for the respondent Corporation as well as Smt.Jasmin M.M., the learned Government Pleader.

3. According to the petitioners, their land was leased to the 4th respondent, who after vacating the property, demolished the building.

Thereafter a fresh lease was granted to another, who have constructed a new building and hence for some period of time, there was no building which disentitles levy of property tax. Since the question whether the building was in existence or not is a factual dispute, I am of the view that the petitioners ought to pursue the statutory remedies, in accordance with law.

4. The learned counsel for the petitioners in this context submitted that the statutory deposit may be avoided since the amount has been demanded from 2014-15 onwards. Considering the aforesaid submission, I am of the view that if the petitioners prefer any appeal against Ext.P7 series of demand notices and deposits the property tax demanded therein for the period from 2022-23 onwards, in respect of all the demand notices, the appellate authority shall accept the appeal, if it is filed within time and pass appropriate orders, in accordance with law. The statutory deposit required under Section 509(ii) of the Act shall stand confined only for the tax demanded from the period 2022-23 onwards. The appellate authority shall, if the aforesaid amount is deposited, consider all questions raised in the appeal.

The writ petition is disposed of as above.

Sd/-

**BECHU KURIAN THOMAS, JUDGE**

RKM

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**APPENDIX OF WP(C) 14245/2025**

**PETITIONERS' EXHIBITS :**

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| **EXHIBIT P1** | **TRUE COPY OF THE REGISTERED LEASE AGREEMENT EXECUTED BY PETITIONERS** |
| **EXHIBIT P2** | **TRUE COPY OF THE NOTICE FOR VACATING THE LEASED PREMISES DATED 27.01.2023 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONERS INTIMATING VACATING OF THE PREMISES** |
| **EXHIBIT P3** | **TRUE COPY OF THE REGISTERED LEASE AGREEMENT BEARING NO. 1906/1/2023 OF EDAPPALLY SRO EXECUTED BY PETITIONERS WITH THE M/S. LUXON MOTORS PVT. LTD** |
| **EXHIBIT P4** | **TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE 1ST RESPONDENT IN THE NAME OF PETITIONERS DATED 22.01.2024 BEARING NO. BA/1001/3196/2023** |
| **EXHIBIT P5** | **TRUE COPY OF THE OCCUPANCY CERTIFICATE ISSUED BY THE 1ST RESPONDENT IN THE NAME OF THE PETITIONERS DATED 23.04.2024 BEARING NO. BA/1001/3196/2023** |
| **EXHIBIT P6** | **TRUE COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 1ST RESPONDENT BEARING NO. R-C070100-24037858 DATED 24.05.2024 WITH RESPECT TO BUILDING NO. 3303/A FOR THE PERIOD 2024-2025** |
| **EXHIBIT P6A** | **TRUE COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 1ST RESPONDENT BEARING NO. R-C070100-24037865 DATED 24.05.2024 WITH RESPECT TO BUILDING NO. 3303/A1 FOR THE PERIOD 2024-2025** |
| **EXHIBIT P6B** | **TRUE COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 1ST RESPONDENT BEARING NO. R-C070100-24037869 DATED 24.05.2024 WITH RESPECT TO BUILDING NO. 3303/A2 FOR THE PERIOD 2024-2025** |

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| **EXHIBIT P6C** | **TRUE COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 1ST RESPONDENT BEARING NO. R-C070100-24037873 DATED 24.05.2024 WITH RESPECT TO BUILDING NO. 3303/A3 FOR THE PERIOD 2024-2025** |
| **EXHIBIT P7** | **TRUE COPY OF THE DEMAND NOTICE BEARING NO. 40169020011472 ISSUED BY THE 1ST RESPONDENT WITH RESPECT TO BUILDING BEARING NO. 4061/A** |
| **EXHIBIT P7A** | **TRUE COPY OF THE DEMAND NOTICE BEARING NO. 40169020011471 ISSUED BY THE 1ST RESPONDENT WITH RESPECT TO BUILDING BEARING NO. 4061/A1** |
| **EXHIBIT P7B** | **TRUE COPY OF THE DEMAND NOTICE BEARING NO. 40169020011470 ISSUED BY THE 1ST RESPONDENT DATED NIL WITH RESPECT TO BUILDING BEARING NO. 4061/A2** |
| **EXHIBIT P7C** | **TRUE COPY OF THE DEMAND NOTICE BEARING NO. 40169020011469 ISSUED BY THE 1ST RESPONDENT DATED NIL WITH RESPECT TO BUILDING BEARING NO. 4061/A3** |
| **EXHIBIT P7D** | **TRUE COPY OF THE DEMAND NOTICE BEARING NO. 40169020011472 ISSUED BY THE 1ST RESPONDENT DATED NIL WITH RESPECT TO BUILDING BEARING NO. 4061/B** |
| **EXHIBIT P7E** | **TRUE COPY OF THE DEMAND NOTICE BEARING NO. 401690200571473 ISSUED BY THE 1ST RESPONDENT DATED NIL WITH RESPECT TO BUILDING BEARING NO. 38/4052** |
| **EXHIBIT P8** | **TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO. 40660/2016 AND CONNECTED CASES DATED 16.03.2023** |
| **EXHIBIT P9** | **TRUE COPY OF THE GOVERNMENT ORDER NO. 540/2019 DATED 06.03.2019** |