



2025 : KER : 25945

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
WEDNESDAY, THE 26TH DAY OF MARCH 2025 / 5TH CHAITHRA, 1947
WP(C) NO. 12365 OF 2021

PETITIONERS:

- 1 V.T. THOMAS,
 AGED 61 YEARS
 S/O. V.R. THOMAS, VADAKKAL ESTATE,
 PATHALAM, KUTTIKATTUKARA P.O., PIN-683501**
- 2 MEENA THOMAS,
 AGED 56 YEARS
 W/O. V.T. THOMAS,
 VADAKKAL ESTATE, PATHALAM,
 KUTTIKATTUKARA P.O., PIN-683501**

**BY ADVS.
DINESH R.SHENOY
A.JOSEPH GEORGE
EBIN MATHEW
P.ROHIT PREMANANDAN SHENOY**

RESPONDENTS:

- 1 ELOOR MUNICIPALITY,
 MUNICIPAL BUILDING, ELOOR SOUTH,
 UDHYOGAMANDAL P.O., PIN-683501,
 REPRESENTED BY ITS SECRETARY**
- 2 THE SECRETARY,
 ELOOR MUNICIPALITY,
 MUNICIPAL BUILDING, ELOOR SOUTH,
 UDHYOGAMANDAL P.O., PIN-683501**

**BY ADVS.
SHRI.K.S.ARUNKUMAR, SC, ELOOR MUNICIPALITY
JOHN K.GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26.03.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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BECHU KURIAN THOMAS, J.

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Dated this the 26th day of March, 2025

JUDGMENT

Petitioners are the owners of four commercial buildings bearing Nos. 11/205, 11/206, 11/207 and 11/208, within the jurisdiction of the 1st respondent. The four buildings were constructed prior to 2007, and petitioners have been paying tax regularly. However, in the year 2018-19, when petitioners applied for the grant of licence for the buildings, respondents refused to accept the application, and instead, issued Exhibit-P1 to Exhibit-P8 demand notices, which, according to the petitioners, included exorbitant demands. Immediately, petitioners approached this Court in W.P.(C). No.10956/2020, and by judgment dated 04.06.2020, the demand notices were quashed, and the Municipality was directed to assess the property tax as per Rule 12 of the Kerala Municipality (Property Tax, Service Cess and Surcharge) Rules, 2011, after issuing notice to the petitioners by speed post and other modes like e-mail and WhatsApp. Thereafter, the assessment proceedings were initiated, and Exhibit-P21 order was issued on 17.03.2021, revoking the building numbers allotted to the four buildings on the premise that unauthorised constructions have been carried out by the petitioners and despite notice, they were not regularised.



Consequent to Exhibit-P21, demand notices were issued, imposing huge amounts on the buildings treating them as unauthorised structures in its entirety. Exhibit-P22 to Exhibit-P29 are the demand notices. Thus, faced with such huge demands and Exhibit-P21 order revoking the building numbers already issued to the petitioners, this writ petition has been filed.

2. According to the petitioners, four building numbers already allotted were in relation to constructions carried out prior to 2007 and they cannot, under any circumstances, be treated as unauthorised. It is further contended that, even the alleged unauthorised structures cannot be regarded as unauthorised since they were only temporary constructions and cannot even be part of the plinth area of the building. It was also submitted that in case any unauthorised structures are in existence, only those constructions could have been assessed as such under law. The authorised constructions which have been in existence for almost two decades could not have, under any circumstances, be regarded as unauthorised even if it is assumed that some additional constructions were carried out.

3. A counter affidavit has been filed by the respondents pointing out that pursuant to the judgment of this Court in W.P.(C). No.10956 of 2020, a site inspection was conducted, which revealed that the petitioners had carried out an extension in the main building and they are being utilised by the petitioners. It is further



stated that the additional constructions have changed the floor area, and therefore, the said constructions are either to be demolished or appropriate application ought to be submitted for regularisation. In fact, petitioners had submitted an application for regularisation on 19.10.2020, and since defects were noted in the application, it could not be processed. According to the respondent, the unauthorised constructions are not intended to protect the building from sun and rain as alleged by the petitioners, but are used as loading and unloading area and there are additional constructions created as rooms for workers and drivers behind the building bearing number 11/208. Respondents further plead that since the site inspection revealed that there are unauthorised constructions, they are to be demolished, and though petitioners had misled the court that the unauthorised constructions have been demolished, on inspection of the site on 03.08.2021, it was revealed that those demolished structures have been re-erected without any valid permit.

4. A reply affidavit has been filed by the petitioners pointing out that the alleged unauthorised constructions are only canopies constructed with aluminium sheets for the purpose of protecting the loading and unloading works from rain and sun, and the same cannot be treated as unauthorised construction at all.

5. I have heard Sri. Dinesh R. Shenoy, the learned counsel for the petitioners as well as Sri. K. S. Arunkumar, the learned Standing



Counsel for the respondents.

6. In Exhibit-P11 judgment dated 04.06.2020, a specific direction was issued to reconsider the matter by issuing notice to the petitioners through speed post or through other modes and to take a decision thereafter. Exhibit-P21 order issued pursuant to the said direction does not indicate any such notice having been issued to the petitioners. Therefore, on the ground of violation of principles of natural justice, Exhibit-P21 has to be interfered with.

7. Apart from the above, the assertion of the petitioners, which does not seem to be wholly denied, is that the canopy or lean-to constructed by the petitioners for the purpose of protecting loading and unloading works from rain and sun are only temporary structures, which cannot be regarded as unauthorised constructions. The further contention of the petitioners is that the said structure does not even enclose any portion of the building and hence is not included in the plinth area as per the Building Rules.

8. Reference to the definition of the term 'plinth area' in Section 2(ce) of the Kerala Municipality Building Rules, 2019 and Section 2(bf) of the Kerala Municipality Building Rules, 1999 are relevant in this context. It is also pertinent to mention that if there are any additional unauthorised constructions made to an existing authorised building, the former cannot render the latter to be regarded as unauthorised in its entirety. Only the additional construction alone



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could be treated as unauthorised, and appropriate proceedings can be initiated for such construction. Therefore, the cancellation of building numbers to the authorised structures of the petitioners as per Exhibit-P21 is perverse and cannot be legally justified. The demand notices issued to the petitioners treating all four authorised structures also as unauthorised constructions are liable to be interfered with.

9. In the result, Exhibit-P21 order is hereby set aside, and the second respondent is directed to reconsider the matter, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of the judgment, after granting an opportunity of hearing to the petitioners. If, in case any site inspection is proposed to be done, the same shall be done with minimum of 24 hours notice to the petitioners.

10. In view of the above, the demand notices issued as Exhibit-P22 to Exhibit-29 and Exhibit-P36 are hereby quashed. After fresh orders are passed, the second respondent will be at liberty to issue fresh demand notices in accordance with law.

The writ petition is allowed as above.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

Jka/26.03.25.



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APPENDIX OF WP(C) 12365/2021

PETITIONERS' EXHIBITS

Exhibit P1	TRUE COPY OF THE DEMAND NOTICE DATED 12-03-2019 ISSUED BY THE SECOND RESPONDENT RAGARDING BUILDING BEARING NUMBER 11/205
Exhibit P2	TRUE COPY OF THE DEMAND NOTICE DATED 12.03.2019 ISSUED BY THE SECOND RESPONDENT REGARDING BUILDING BEARING NUMBER 11/206
Exhibit P3	TRUE COPY OF THE DEMAND NOTICE DATED 12.03.2019 ISSUED BY THE SECOND RESPONDENT REGARDING BUILDING BEARING NUMBER 11/207
Exhibit P4	TRUE COPY OF THE DEMAND NOTICE DATED 12.03.2019 ISSUED BY THE SECOND RESPONDENT REGARDING BUILDING BEARING NUMBER 11/208
Exhibit P5	TRUE COPY OF THE NOTICE DATED 19.12.2019 ISSUED BY THE SECOND RESPONDENT REGARDING BUILDING BEARING NUMBER 11/205
Exhibit P6	TRUE COPY OF THE NOTICE DATED 19.12.2019 ISSUED BY THE SECOND RESPONDENT REGARDING BUILDING BEARING NUMBER 11/206
Exhibit P7	TRUE COPY OF THE NOTICE DATED 19.12.2019 ISSUED BY THE SECOND RESPONDENT REGARDING BUILDING BEARING NUMBER 11/207
Exhibit P8	TRUE COPY OF THE NOTICE DATED 19.12.2019 ISSUED BY THE SECOND RESPONDENT REGARDING BUILDING BEARING NUMBER 11/208
Exhibit P9	TRUE COPY OF THE RECEIPT DATED 07-01-2020 TOWARDS THE BUILDING TAX OF THE BUILDING NO.11/205
Exhibit P10	TRUE COPY OF THE RECEIPT DATED 15-01-2020 TOWARDS THE BUILDING TAX OF THE BUILDING NO.11/206
Exhibit P11	TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 04.06.2020 IN WRIT



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PETITION NO.10956 OF 2020

- Exhibit P12** **TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 02.07.2020 WRIT PETITION NO.13040 OF 2020**
- Exhibit P13** **TRUE COPY OF THE NOTICE DATED 27.07.2020 SERVED TO THE PETITIONER ON 12.08.2020 REGARDING REASSESSMENT OF TAX AND DIRECTING PETITIONER TO SUBMIT RETURNS WITH IN 7 DAYS**
- Exhibit P14** **TRUE COPY OF THE RETURN SUBMITTED BY PETITIONER DATED 19.08.2020 IN FORM 2 OF RULE 2011 REGARDING BUILDING DOR NUMBERS 11/205,11/206,11/207 AND 11/208 ALONG WITH RECEIPT ISSUED BY THE SECOND RESPONDENT**
- Exhibit P15** **TRUE COPY OF THE INTIMATION DATED 06.10.2020 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER CITING INSPECTION WILL BE CONDUCTED IN THE PREMISES ON THE BASIS OF EXHIBIT P11 JUDGMENT.**
- Exhibit P16** **TRUE COPY OF THE NOTICE DIRECTING PETITIONER TO DEMOLISH ALLEGED SHED CONSTRUCTED DATED 16.10.2020 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER**
- Exhibit P17** **TRUE COPY OF THE APPLICATION DATED 19.10.2020 SUBMITTED BY THE PETITIONERS BEFORE THE SECOND RESPONDENT ALONG WITH RECEIPT ISSUED BY THE SECOND RESPONDENT REQUESTING GRANT OF BREATHING TIME.**
- Exhibit P18** **TRUE COPY OF THE NOTICE DATED 20.10.2020 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONERS GRANTING ONE MONTH TIME FOR PRODUCTION OF DOCUMENTS**
- Exhibit P19** **TRUE COPY OF THE NOTICE DATED 29.1.2021 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONERS TO PRODUCE ELEVEN ADDITIONAL DOCUMENTS.**
- Exhibit P20** **TRUE COPY OF THE APPLICATION DATED**



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**20.2.2021 ALONG WITH RECEIPT ISSUED BY THE
SECOND RESPONDENT REQUESTING OF 90 DAYS
ADDITIONAL TIME**

- | | |
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| Exhibit P21 | TRUE COPY OF THE NOTICE DATED 17.3.2021
ISSUED BY THE SECOND RESPONDENT CANCELLING
BUILDING NUMBERS AND IMPOSING TAX. |
| Exhibit P22 | TRUE COPY OF THE NOTICE DATED 17.3.2021
ISSUED BY THE SECOND RESPONDENT REGARDING
BUILDING BEARING DOOR NO.11/205 UA UNDER
SECTION 242 OF KM ACT |
| Exhibit P23 | TRUE COPY OF THE NOTICE DATED 17.3.2021
ISSUED BY THE SECOND RESPONDENT REGARDING
BUILDING BEARING DOOR NO.11/206 UA UNDER
SECTION 242 OF KM ACT |
| Exhibit P24 | TRUE COPY OF THE NOTICE DATED 17.3.2021
ISSUED BY THE SECOND RESPONDENT REGARDING
BUILDING BEARING DOOR NO.11/207 UA UNDER
SECTION 242 OF KM ACT |
| Exhibit P25 | TRUE COPY OF THE NOTICE DATED 17.3.2021
ISSUED BY THE SECOND RESPONDENT REGARDING
BUILDING BEARING DOOR NO.11/208 UA UNDER
SECTION 242 OF KM ACT |
| Exhibit P26 | TRUE COPY OF THE ARREAR DEMAND NOTICE
DATED 19.3.2021 ISSUED BY THE SECOND
RESPONDENT REGARDING BUILDING BEARING DOOR
NO.11/205 UA |
| Exhibit P27 | TRUE COPY OF THE ARREAR DEMAND NOTICE
DATED 17.3.2021 ISSUED BY THE SECOND
RESPONDENT REGARDING BUILDING BEARING DOOR
NO.11/206 UA |
| Exhibit P28 | TRUE COPY OF THE ARREAR DEMAND NOTICE
DATED 17.3.2021 ISSUED BY THE SECOND
RESPONDENT REGARDING BUILDING BEARING DOOR
NO.11/207 UA |
| Exhibit P29 | TRUE COPY OF THE ARREAR DEMAND NOTICE
DATED 19.3.2021 ISSUED BY THE SECOND
RESPONDENT REGARDING BUILDING BEARING DOOR |



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NO.11/208 UA

- Exhibit P30** TRUE COPY OF THE REPRESENTATION DATED 23.3.2021 SUBMITTED BY THE PETITIONERS BEFORE THE SECOND RESPONDENT
- Exhibit P31** TRUE COPY OF THE REPRESENTATION DATED 23.2.2020 SUBMITTED BY THE FIRST PETITIONER BEFORE THE SECOND RESPONDENT REGARDING BUILDING BEARING DOOR NO.11/205
- Exhibit P32** TRUE COPY OF THE REPRESENTATION DATED 23.3.2020 SUBMITTED BY THE FIRST PETITIONER BEFORE THE SECOND RESPONDENT REGARDING BUILDING BEARING DOOR NO.11/206
- Exhibit P33** TRUE COPY OF THE REPRESENTATION DATED 23.3.2020 SUBMITTED BY THE FIRST PETITIONER BEFORE THE SECOND RESPONDENT REGARDING BUILDING BEARING DOOR NO.11/207
- Exhibit P34** TRUE COPY OF THE REPRESENTATION DATED 23.3.2020 SUBMITTED BY THE FIRST PETITIONER BEFORE THE SECOND RESPONDENT REGARDING BUILDING BEARING DOOR NO.11/208
- Exhibit P35** TRUE COPY OF THE APPLICATION DATED 27.4.2021 SUBMITTED BY THE FIRST PETITIONER BEFORE THE SECOND RESPONDENT.
- Exhibit P36** TRUE COPY OF THE NOTICE DATED 03.06.2021 ISSUED BY THE SECOND RESPONDENT TO REMIT TAX.
- Exhibit P37** TRUE PHOTOCOPY OF ORDER DATED 3/12/2004 ISSUED BY THE SECRETARY TO GOVERNMENT LOCAL SELF GOVERNMENT (H) DEPARTMENT.
- Exhibit P38** TRUE PHOTOCOPY OF PHOTOGRAPHS OF THE OPEN PORTCH/CANOPIES IN FRONT OF THE PETITIONER'S BUILDING AND THE BATHROOMS