



2024/KER/58917

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 2<sup>ND</sup> DAY OF AUGUST 2024 / 11TH SRAVANA, 1946

WA NO. 534 OF 2024

AGAINST THE ORDER/JUDGMENT DATED IN WP(C) NO.23896 OF 2022  
OF HIGH COURT OF KERALA

APPELLANT/PETITIONER

SMT.PATHMINIM LEGAL HEIR OF MR.MATTUMMEL  
KUNHIRAMAN  
AGED 66 YEARS  
M POORANANJALI NILAYAM, NILESHWAR VILLAGE  
NILESHWAR P O , HOSDURG TALUK, KASARGODU  
DISTRICT, PIN - 671314  
BY ADVS.  
P.V.VINOD (BENGALAM)  
D.REETHA

RESPONDENT/RESPONDENT NO.1

- 1 STATE OF KERALA  
REPRESENTED BYTHE SECRETARY, REVENUE (SPECIAL  
CELL) DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DISTRICT COLLECTOR  
KASARGOD DISTRICT, PIN - 671123
- 3 THE REVENUE DIVISIONAL OFFICER  
KANHANGOD KASARAGOD DISTRICT, PIN - 681315
- 4 THE TAHASILDAR  
HOSDRUG TALUK, KASARAGOD DISTRICT, PIN - 671315
- 5 VILLAGE OFFICER  
NILESHWAR VILLAGE KASARGOD DISTRICT, PIN - 671314



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6 THE SECRETARY  
THE SECRETARY NILESHWAR MUNICIPALITY, NILESHWAR,  
KASARAGOD DISTRICT, PIN - 671314

OTHER PRESENT:

GP - SMT. RESMITA RAMACHANDRAN,  
SRI. M SASINDRAN (R6)

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
02.08.2024, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**J U D G M E N T**

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Dr. A.K.Jayasankaran Nambiar, J.

The appellant herein is the petitioner in W.P.(C)No.23896 of 2022 and she is aggrieved by the judgment dated 01.12.2023 of the learned Single Judge in the writ petition.

2. Briefly stated the facts necessary for disposal of the writ appeal are as follows:

The writ petition was preferred by the appellant herein, aggrieved by an order of the First Appellate Authority under the Kerala Building Tax Act (Ext.P16), that upheld the assessment order passed by the Tahsildar, assessing the buildings belonging to the appellant for building tax and luxury tax. By the said order, the Appellate Authority also remanded another issue to the Tahsildar-Assessing Authority for fresh consideration.



3. While disposing the writ petition, the learned Single Judge took note only of that portion of the impugned order of the First Appellate Authority that remanded one issue for fresh consideration by the Assessing Authority and dismissed the writ petition as not maintainable, since according to the learned Single Judge, Ext.P16 was only a remand order.

4. Before us, it is the submission of Sri.P.V.Vinod, the learned counsel for the appellant that the learned Single Judge did not take note of the first portion of Ext.P16 order, which literally confirmed the assessment to building tax of the buildings of the appellant. He therefore, seeks to show us the factual errors committed by the First Appellate Authority, while confirming the order of the Assessing Authority, assessing the buildings to building tax.

5. On a consideration of the submissions of the learned counsel for the appellant, we are of the view that even in respect of the first portion of Ext.P16 order of the First Appellate Authority, the appellant has an effective alternative



remedy of preferring a Revision Petition before the District Collector under Section 13 of the Building Tax Act. A writ petition was never maintainable against Ext.P16 order in the first place. Accordingly, while sustaining the impugned judgment of the learned Single Judge, to the extent it considers the second portion of Ext.P16 order and relegated the appellant before the Tahsildar for a fresh consideration of the issue, we direct that as regards the first portion of Ext.P16 order, by which the First Appellate Authority affirmed the assessment order of the Tahsildar, assessing the buildings belonging to the appellant to building tax, the appellant is granted liberty to prefer a statutory revision before the District Collector (the second respondent herein). We make it clear that if the appellant prefers such a Revision petition before the District Collector within a month from the date of receipt of a copy of this judgment, then the District Collector shall treat the said Revision Petition as one filed within time for the purposes of the Act and proceed to consider the Revision Petition on merits.

Save for this limited modification, the rest of the



directions in the impugned judgment are not interfered with.

The writ appeal is thus partly allowed.

Sd/-

**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-

**SYAM KUMAR V.M.**  
**JUDGE**

smm