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WPC.No.21495/24

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

WEDNESDAY, THE 16TH DAY OF JULY 2025 / 25TH ASHADHA, 1947

WP(C) NO.21495 OF 2024

PETITIONERS:

- 1 KOOVATT LAILA,
AGED 59 YEARS,
W/O.USMAN HAJI, CHESTHIYA MAHAL, KUNIYILPALAM,
KUTHUPARAMBA. P.O., KANNUR, PIN - 670 643.
- 2 FATHIMATH SHAMSHEENA,
AGED 23 YEARS,
D/O.USMAN HAJI, CHESTHIYA MAHAL, KUNIYILPALAM,
KUTHUPARAMBA P.O., KANNUR, PIN - 670 643.

BY ADV SRI.K.PRAVEEN KUMAR

RESPONDENTS:

- 1 STATE OF KERALA,
REP. BY ITS SECRETARY, LOCAL SELF GOVERNMENT
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001.
- 2 IRITTY MUNICIPALITY,
REP. BY ITS SECRETARY, PUNNAD P.O., IRITTY,
KANNUR, PIN - 670 703.
- 3 THE SECRETARY,



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*IRITTY MUNICIPALITY, PUNNAD P.O., IRITTY,
KANNUR, PIN - 670 703.*

*4 IRITTY MUNICIPAL COUNCIL,
REP. BY ITS CHAIRMAN, PUNNAD P.O.,
IRITTY, KANNUR, PIN - 670 703.*

*BY ADV SHRI.P.K.RAVISANKAR, SC, IRITTY
MUNICIPALITY*

SMT.DEEPA.K.R, SPL.G.P

*THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 16.07.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:*



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JUDGMENT

The petitioners are joint owners of the building bearing Door Nos.2232A (7 numbers), 2232B (7 numbers), 2232C (7 numbers), 2232D (7 numbers), [old XIII/612A to 612D] in ward No.9 of the 2nd respondent Municipality. Earlier, Ext.P1 notice was issued to the petitioners by the 2nd respondent on 11.01.2016, alleging that the petitioner had carried out certain unauthorized construction in the said property. A reply was submitted to the same as per Ext.P2 by the petitioner, and the dispute with regard to the unauthorized construction was ultimately settled as per Ext.P10 order passed by the Government on 11.02.2022, directing regularization of the building. Ext.P11 is the order issued by the Town Planner for regularizing the building in compliance of Ext.P10 proceedings and Ext.P12 is the occupancy certificate issued after regularization of the unauthorized construction. As per the said certificate, the date of completion of the building was shown as

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05.06.2000 and the date of occupancy was shown as 28.05.2022, meaning thereby that the construction is deemed to have been regularized with effect from 28.05.2022.

2. Thereafter, Ext.P13 series notice was issued to the petitioner, requiring the petitioner to pay the property tax along with twice the rate of tax treating the building as unauthorized. The said notice contained the period from 2016-2017, 2021-22 and 2022-2023. The matter was taken up by the Government and ultimately the Government issued Ext.P14 order, wherein the demand of the tax arrears were directed to be confined to the period from 2019-2020 onwards. Ext.P15 was issued by the 2nd respondent in such circumstances, demanding tax by three times for the period from 2019-2020 to 2022-2023. Immediately, on receipt of the same, the petitioners submitted Ext.P16 requesting for exemption from payment of the property tax. In the meantime, the petitioner had already remitted the tax. Thereafter, the petitioner approached this Court by filing this writ petition as there was inaction on the part of the



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respondents based on Ext.P16. The relief sought in this writ petition are as follows:

- “issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Ext.P15 series and to quash the original of the same to the extent it, imposes penalty on the petitioners and demanding time barred property tax;
- ii) to declare that the collection of time barred property tax as well as imposing penal charges on the building of the petitioners treating it as unauthorized even after the Ext. P10 to P12, is highly illegal and arbitrary;
- iii) issue a writ of mandamus or any other writ order or direction directing to respondents 2 to 4 to revise the levy of property tax on the petitioners after Ext.P10 to P12 and to refund the amount illegally collected from the petitioners by way of penal charges, compounding fee and time barred property tax along with interest as expeditiously as possible;
- iv) issue a writ of mandamus or any other writ order or direction directing the 3rd respondent to consider and pass orders on Ext.P16 as expeditiously as possible;



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v) to issue such other writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case;

vi) to permit the petitioner to produce translations of the vernacular documents as and when directed by this Hon'ble Court; "

3. A counter affidavit was filed by the respondents 2 to 4, opposing the reliefs sought by the petitioner and disputing the averments in the writ petition.

4. I have heard Sri.K.Praveen Kumar, learned counsel for the petitioner, Sri.P.K.Ravisankar, learned standing counsel for the respondents 2 and 4 and Smt.Deepa K.R, learned Special Government Pleader.

5. One of the main contentions raised by the learned counsel for the petitioner is that, since Ext.P12 would indicate that the building is regularized with effect from 28.05.2022, it was not proper for the respondents 2 to 4 to demand tax, double the rate along with the regular rate of tax, pertaining to the period after the said date. It is discernible from Ext.P14 that, the Municipality was directed to demand tax arrears for the

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period from 2019-2020 onwards. Ext.P15 is the demand notice issued based on Ext.P14. But in the said notice, while demanding tax at the rate of two times in addition to the normal rate, the demand was made for the period pertaining to 2022-2023 as well, which period is after the date of regularization. It is evident that once a regularization came into effect, the liability of the petitioners is to pay the tax at the regular rate, as the said building cannot be treated as unauthorised for that period. In this case, it is evident that the building was regularized on 28.05.2022. Therefore, the 2nd respondent Municipality could not have imposed two times of the normal tax along with regular rate of tax for a period after 28.05.2022.

In such circumstances, this writ petition is disposed of quashing Ext.P15 to the extent it contains the demand of property tax in respect of the building of the petitioners at the rate of two times of the normal rate pertaining to the period after 28.05.2022. The 2nd and 3rd respondents shall rework the demand made in Ext.P15, in tune with the observations made by



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this Court in this judgment and fix the liability of the petitioner. Additional amount, if any, collected from the petitioner pertaining to the period as referred to above, the same shall be adjusted in the amounts payable by the petitioner as tax in future for the said building.

Sd/-

ZIYAD RAHMAN A.A.
JUDGE

DG/16.7.25



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APPENDIX OF WP(C) 21495/2024

PETITIONER EXHIBITS

<i>Exhibit P1</i>	TRUE COPY OF THE LETTER DATED 11.01.2016 SENT BY THE 2ND RESPONDENT TO THE 1ST PETITIONER
<i>Exhibit P2</i>	TRUE COPY OF THE REPLY SENT BY 1ST PETITIONER DATED 05.02.2016
<i>Exhibit P3</i>	TRUE COPY OF THE JUDGMENT DATED 06.12.2018 IN WP(C).NO. 33617/2016
<i>Exhibit P4</i>	TRUE COPY OF THE OBJECTION DATED 24.12.2018 SUBMITTED BY THE 1ST PETITIONER
<i>Exhibit P5</i>	TRUE COPY OF THE PROCEEDING NO. R3/11930/15(1) DATED 11.06.2019 ISSUED BY THE 3RD RESPONDENT
<i>Exhibit P6</i>	TRUE COPY OF THE JUDGMENT DATE 14.10.2019 IN WP(C) 18164/2019
<i>Exhibit P7</i>	TRUE COPY OF THE ORDER DATED 05.03.2020 IN APPEAL NO. 745/2019 OF TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTION
<i>Exhibit P8</i>	TRUE COPY OF THE JUDGMENT DATED 25.11.2020 IN WP(C) NO.8735/2020
<i>Exhibit P9</i>	TRUE COPY OF THE PROCEEDING NO. TCPKNR/454/2021-C DATED 19.05.2021
<i>Exhibit P10</i>	TRUE COPY OF PROCEEDING NO. RB2/230/2021/LSGD DATED 11.02.2022 ISSUED BY THE 1ST RESPONDENT
<i>Exhibit P11</i>	TRUE COPY OF THE LETTER NO. TCPKNR/454/2021-C DATED 25.05.2022 ISSUED BY THE 3RD RESPONDENT
<i>Exhibit P12</i>	TRUE COPY OF THE OCCUPANCY CERTIFICATE DATED 28.05.2022 ISSUED BY 2ND RESPONDENT
<i>Exhibit P13</i>	TRUE COPY OF THE DEMAND NOTICE NO. BA-



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Exhibit P14

331/20-21 DATED 17.01.2023 ISSUED BY THE
3RD RESPONDENT

TRUE COPY OF THE LETTER NO.
1/5616371/2023 DATED 16.02.2023 ISSUED
BY THE 1ST RESPONDENT

Exhibit P15

TRUE COPY OF THE DEMAND NOTICE NO. BA-
331/20-21 DATED 22.02.2023 DEMANDING
ISSUED BY THE 3RD RESPONDENT

Exhibit P16

TRUE COPY OF THE REPRESENTATION FILED BY
PETITIONER IN MARCH 2023