

WP(C) NO. 13425 OF 2025



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2025:KER:29523

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 4TH DAY OF APRIL 2025 / 14TH CHAITHRA, 1947

WP(C) NO. 13425 OF 2025

PETITIONER :

C.Y CHERIAN
AGED 65 YEARS
S/O YOHANNAN, CHEMBOTTUKUDIYIL HOUSE,
KUPPADI P.O., SULTHAN BATHERY TALUK,
WAYANAD, PIN - 673592

BY ADV NIRMAL V NAIR

RESPONDENTS :

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 DISTRICT COLLECTOR, WAYANAD
CIVIL STATION, KALPETTA P.O., WAYANAD,
PIN - 673121
- 3 TAHSILDAR
SULTHAN BATHERY TALUK, SULTHAN BATHERY P.O.,
WAYANAD, PIN - 673592
- 4 TAHSILDAR (REVENUE RECOVERY)
AMBALAVAYAL TALUK OFFICE, AMBALAVAYAL P.O.,
WAYANAD, PIN - 673593

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5 VILLAGE OFFICER
SULTAN BATHERY VILLAGE OFFICE,
SULTAN BATHERY P.O., WAYANAD,
PIN - 673 592

6 SULTHAN BATHERY MUNICIPALITY
O/O THE SULTHAN BATHERY MUNICIPALITY,
SULTHAN BATHERY P.O., WAYANAD,
REPRESENTED BY ITS SECRETARY,
PIN - 673 592

BY SMT.JASMIN M.M, GOVERNMENT PLEADER

BY SRI.JAYAKUMAR NAMBOODIRI T V, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



BECHU KURIAN THOMAS, J.
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W.P.(C).No.13425 of 2025
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Dated this the 4th day of April, 2025

JUDGMENT

Petitioner seeks for a direction to quash Ext.P3 and also for a direction to reconsider Ext.P2 and assess building tax on petitioner's building as per the plinth area in the plan approved by the local authority.

2. Petitioner is the owner of a property situated in Resurvey No.199/25 and 199/26 of Block No.18 of Sulthan Bathery. The building was constructed by the petitioner pursuant to Ext.P1 permit and thereafter the owners were assessed to building tax to the tune of Rs.12,42,800/-.

3. Acquiescing into the order, the first instalment of the said order of assessment was paid by the petitioner. In the meantime, petitioner filed a request letter before the assessing authority to cancel the proceedings initiated against him by accepting a portion of the amount assessed and avoid further proceedings. The said letter was responded to by the assessing authority as per Ext.P3 stating that the assessment order was passed on 27.01.2023 and that since there was failure to pay the amount due, revenue recovery proceedings have already been recommended. The aforesaid communication is challenged by the petitioner.

4. I have heard Sri.Nirmal V.Nair, the learned counsel for the petitioner as well as Smt.Jasmin M.M., the learned Government Pleader.



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5. The Kerala Building Tax Act, 1975 provides for assessment of building tax. Once an order of assessment is passed, the assessing authority becomes practically functus officio for the purpose of building tax. The remedy of a person aggrieved by an order of assessment is to prefer statutory appeal and revision as provided under the Act. In the absence of any statutory remedy invoked by the petitioner, the assessment order became final. Therefore recourse to Article 226 of the Constitution of India is not proper.

6. In the instant case, as mentioned earlier, petitioner had even acquiesced into the order by paying the first instalment and thereafter he has turned around and now requests for acceptance of a portion of the amount in satisfaction of the entire tax assessed. Such a procedure is unheard in law. Once tax has been assessed, the entire amount has to be paid, unless there are amnesty schemes.

Accordingly, I find no merit in this writ petition and it is dismissed without prejudice to the remedies, if any available under the Act.

Sd/-

BECHU KURIAN THOMAS, JUDGE

RKM

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APPENDIX OF WP(C) 13425/2025

PETITIONERS' EXHIBITS :

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| Exhibit P1 | A TRUE COPY OF BUILDING PERMIT NO. B1-BA(32209)/2019 DATED 19-9-2019 ISSUED BY THE 6TH RESPONDENT |
| Exhibit P2 | A TRUE COPY OF THE REPRESENTATION DATED 27-2-2025 SUBMITTED BY THE PETITIONER |
| Exhibit P3 | A TRUE COPY OF THE ORDER NO. TLKSBY/842/2025-D2 DATED 6-3-2025 ISSUED BY THE 3RD RESPONDENT |