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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 22<sup>ND</sup> DAY OF AUGUST 2025 / 31ST SRAVANA, 1947

WP(C) NO. 5469 OF 2025

PETITIONER/S:

MARTHOMA SYRIAN CHURCH  
(MALANKARA MARTHOMA SYRIAN CHURCH OF MALABAR)  
MARTHOMA SABHA OFFICE, SCS CAMPUS,  
THIRUVALLA, PATHAMTHITTA, KERALA,  
REPRESENTED BY ITS SABHA SECRETARY,  
ABEY T. MAMMEN, PIN - 689101

BY ADVS.  
SHRI.SHINTO MATHEW ABRAHAM  
SHRI.SANTHOSH MATHEW (SR.)  
SRI.ARUN THOMAS  
SMT.KARTHIKA MARIA  
SRI.ANIL SEBASTIAN PULICKEL  
SHRI.MATHEW NEVIN THOMAS  
SHRI.KURIAN ANTONY MATHEW  
SHRI.KARTHIK RAJAGOPAL  
SMT.LEAH RACHEL NINAN

RESPONDENT/S:

- 1 STATE OF KERALA  
REPRESENTED BY ADDITIONAL CHIEF SECRETARY,  
REVENUE (SPECIAL CELL) DIVISION,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,  
PIN - 695001
- 2 DISTRICT COLLECTOR, PATHANAMTHITTA  
2ND FLOOR, DISTRICT COLLECTORATE,  
PATHANAMTHITTA, KERALA,  
PIN - 689645

W.P.(C) No. 5469 of 2025

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3      TAHSILDAR, KOZHENCHERRY  
KOZHENCHERRY TALUK OFFICE, GROUND FLOOR,  
MINI CIVIL STATION, KOZHENCHERRY,  
SH7, PATHANAMTHITTA, KERALA,  
PIN - 689645

4      VILLAGE OFFICER, KOZHENCHERRY  
KOZHENCHERRY VILLAGE OFFICE,  
KOZHENCHERRY ROAD, KOZHENCHERRY,  
PIN - 689641

ADV. SMT.RESHMITHA R CHANDRAN, SR.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
22.08.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**JUDGMENT**

The petitioner is a Church and this writ petition is submitted by the petitioner, challenging Ext.P9 order passed by the Government by which the exemption sought by the petitioner from payment of building tax under Section 3(1)(b) of the Kerala Building Tax Act, 1975 was rejected.

2. The facts that led to the filing of this writ petition is as follows:

The petitioner had constructed a building, mainly intended for using it as a housing complex for retired and aged clergymen and their families. The same was constructed with the charitable and religious aim of conducting worship and providing shelter and care for retired , aged and indigent clergymen and families of the deceased clergymen, who have no other means of livelihood and protection in their old age. Exts.P5 and P8 are the applications submitted by the petitioner, seeking exemption. However, as per Ext.P9, the Government considered the said application, and rejected the claim, after hearing the authorized representative of



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the petitioner. This writ petition is submitted by the petitioner challenging Ext.P9.

3. A statement has been submitted on behalf of the 1<sup>st</sup> respondent, wherein, the relief sought by the petitioner is rejected. It was averred in the said statement that, the subject buildings are constructed as residential apartments for the retired priests and widows of the deceased clergymen. There are 20 apartments and each apartment consists of a living room, bedroom, kitchen, balcony and a bathroom. This is not a building attached to any Church. It was also averred that even according to Form II return submitted by the owner, it is only shown as a residential building. Therefore, it was contended that, the finding entered into by the Government is correct and thus, dismissal of the writ petition was sought.

4. Heard, Sri.Shinto Mathew Abraham, the learned counsel for the petitioner and Smt. Reshmitha R Chandran, the learned Senior Government Pleader for the respondents.

5. The question that arises for consideration is whether the rejection of the claim for exemption for the building of the



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petitioner as per Ext.P9, is justifiable or not. When it comes to the claim of the petitioner, it is discernible from the application submitted by the petitioner in this regard that, the building according to them, was constructed for the purpose of providing accommodation to retired priests, aged clergymen and their near relatives including the families of the deceased clergymen who have no other means. In Ext.P9 order, the 1<sup>st</sup> respondent considered application, and found that the building is not used for any religious purposes. It was in these circumstances the same was rejected.

6. The learned counsel for the petitioner vehemently contested that as far as the building in question is concerned, as the same is being used for providing accommodation to old aged priest and clergymen of the petitioner's church, it should be treated as a charitable activity within the meaning of exemption contemplated under Section 3(1)(b) of the Kerala Building Tax Act, 1975. The learned counsel for the petitioner placed reliance upon various decision rendered by this Court including **Anugraha Sadan Charitable Society v. Tahasildar W.P.(C) No.**



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**37744/2007), Sr.Kochuthresia T.P v. State of Kerala (W.P.(C) No. 6076/2024) and Sree Sankara Santhi Nilayam and Educational Trust v. The Tahasildar (W.P.(C) No.28152/2007).**

7. On the other hand, the learned Government Pleader places reliance upon the observation made by the Honourable Supreme Court in **Lisie Medical Institutions v. State of Kerala and Others** [(2024) 1 SCC 200] and the observations in **Government of Kerala and Another v. Mother Superior Adoration Convent** [(2021) 5 SCC 602].

8. As far as the statutory stipulations contained under Section 3(1)(b) of the Kerala Building Tax Act, 1975 is concerned, the same provides for exemption from payment of building tax in respect of buildings used principally for religious, charitable or educational purposes or as factories or workshops. What is relevant for granting exemption is the principal use of the building and it must be either for religious, charitable or educational purposes or as factories or workshops.

9. In this case, the specific case of the petitioner, while seeking exemption, is that the building is constructed for the



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purpose of accommodation for the care of retired aged and indigent clergymen and the families of the deceased clergymen. From the application submitted by the petitioner and the pleadings in the writ petition, it is evident that the accommodation to the building in question is being provided by the petitioner, only to the persons attached to the petitioner or who were attached to the petitioner at some point of time. Nowhere in the writ petition or in the application submitted by the petitioner, they have a case that the accommodation is being provided to any other persons who are not related to the petitioner institutions or not attached with the petitioner institution at any point of time. It is the rule of interpretation that every part of the provision has to be given meaning and effect in the context of the statute as held in **Manik Lal Majumdar v. Gouranga Chundra Dey [(2004) 12 SCC 448]**. In light of this principle, the question of charity is concerned, it must be understood in terms of an act, which is extended or made applicable to the benefit of all persons, without collecting any remuneration. Even if the access to persons is confined to a particular community or religion also, still it could be



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treated as a charity, in the light of the observations made by this Court in **Sree Sankara Santhi Nilayam's** case (supra). However, a different yardstick needs to be applied in a case where, an institution is providing accommodation in a building in respect of only persons who had rendered their services, to the institution concerned at some point of time. In such a situation, the same could be treated as part of remuneration to the services rendered by such persons concerned, to the institution at the time when they were in active service. Therefore, the same cannot be treated as a charity which has to be performed without any remuneration.

10. The learned counsel for the petitioner on the other hand brought the attention of this Court to the observation made in **Mother Superior Adoration Convent's** case (supra) in paragraph 27, where it was observed that a literal formalistic interpretation of the statute at hand is to be eschewed. While considering the question, the object sought to be achieved by the provision is to be examined and such construction should be adopted taking note of the object of the statute. It was also





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observed that, when there is ambiguity arises in such construction, such ambiguity must be in favour of the matter exempted. It is a well established rule of construction that the words and phrases occurring in a statute are to be taken not in isolated or detached manner disassociated from the context, but are to be read together and constructed in the light of purpose and object of the Act itself ,as categorically held by the Apex Court in **Darshan Singh Balwant Singh v. State of Punjab [(1952) 2 SCC 578]**,**Subramanian Swamy v. Election Commission of India [(2008) 14 SCC 318]** ,**Zameer Ahmed Latifur Rehman Sheikh v. State of Maharashtra [2010 (5) SCC 246]**, **Pallawi Resources Ltd v. Protos Engineering Company Pvt. Ltd. [(2010) 5 SCC 196]** and in **Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd [(1987) 1 SCC 424]**, wherein it was observed that;

*33. " Interpretation must depend on the text and the context. They are the basis of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the*



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*textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute- maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be constructed so that every word has a place and everything is in its place."*

11. However, in this case, it is pointed out by the learned Government Pleader that the purpose is very specific, which is to accommodate the persons who are related to the petitioner alone. To be precise, the access is provided only to those persons who had rendered their services to the institution and therefore, under no circumstances the same can be treated as charity as



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mentioned under Section 3(1)(b) of the Act. As far as the decision rendered by this Court in **Sree Sankara Santhi Nilayam and Educational Trust** (supra) is concerned, that was a case in which, the exemption was claimed in respect of an old age home, that was intended to accommodate the persons belonging to the Brahmin community alone. This court held that in such cases, the exemption has to be granted. However, in the building which was subject matter of the said decision, it was accessible to all persons belonging to that particular community and such access was not confined to persons related to the institution. Moreover, in the said decision, as per the order impugned therein, the exemption was denied, on the ground that some of the inmates were making contributions to the institution for managing the affairs thereon and the rejection of exemption was on that sole ground. Thus, the question as to the meaning of charity, in relation to the circumstances that are in existence in this case, was not considered in the said decision. In **Sr.Kochuthresia's** case (supra) also, even though the question was relating to a building where nuns were given accommodation, the question that had



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arisen in this case was never considered. Moreover, in the said decision, the exemption was denied on the reason that some of the persons were working as teachers. Besides, no final decision has been taken in the said decision and matter was remanded for fresh consideration.

12. On the other hand, the purpose of Section 3(1)(b) of the Kerala Building Tax Act, 1975 was considered by a Division Bench of this Court in the **Lisie Medical Institutions's** case **[2023 KHC 9103]**, even though in a different context, and the meaning of charity as defined under Section 3 (1) (b) of the Kerala Building Tax Act, 1975 was explained therein. There, the question considered was whether the services rendered by a hospital could be treated as a charitable or not. After examining the materials placed on record, this Court came to a definite finding in the said decision that, as the predominant activity of the hospital was to provide treatment by collecting charges and the free treatment was extended only to a limited number of patients, it was held that, no exemption could be granted to them. Therefore, in the light of the decisions referred to above, the term



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'charity' has to be understood to be a service, which is extended to all without any remuneration collected from the parties concerned. Of course, even though some of the inmates are making any payment, that by itself would not disentitle the person concerned from claiming exemption.

13. Thus, the conclusion as to the legal position possible from the above discussions is that, if the building is utilized for the benefit of the persons who have rendered their services to the institution alone, the same cannot be treated as a charity. However, even while holding so, a distinction has to be drawn by taking the nature of the institution which is operating the activities in the building in question. In this case, it is also the case of the petitioner that, the petitioner is a Church, which is engaged in charitable activities besides the religious activities. In para 5 of the writ petition a long list of the institutions managed by them which are engaged in charitable purposes, is provided. Thus, it is the case of the petitioner that, they are engaged in charitable activities and not for profit. This is an aspect which makes a crucial distinction. In a case in which, the building is utilized for



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free accommodation of the aged and disabled persons who rendered their services to establishments exclusively engaged in charitable/religious activities and managed by the institution owning the building in question, a different yardstick needs to be applied. In other words, if the accommodation is provided without collecting charges, for the persons who rendered their services to the charitable/religious institutions managed by the owner of the building, it has to be treated as a charitable purpose within the meaning of section 3(1) (b) of the Act. The claim of the petitioner in this regard has to be verified by the authority concerned, for determining the eligibility of the petitioner for exemption. However, in Ext P9 order, the application of the petitioner was rejected only on the ground that, no religious activity was being carried out therein. Therefore, the matter requires reconsideration.

In such circumstances, this writ petition is disposed of quashing Ext P9, P10, P11 and P12, with a direction to the 1<sup>st</sup> respondent to reconsider the application for exemption, in the light of the observations made in this judgment. It is clarified that, in case it is found that, the building is used for providing free



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accommodation to aged and disabled persons, who rendered their services to the petitioner in the charitable/religious institutions of the petitioner, and their dependent family members who have no other means, the benefit of section 3(1) (b) of the Kerala Building Tax Act, 1975 shall be extended to the petitioner.

Sd/-

**ZIYAD RAHMAN A.A.**

**JUDGE**

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APPENDIX OF WP(C) 5469/2025

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE IMAGES OF THE FELLOWSHIP ROOM INSIDE THE SENIOR CLERGYMEN APARTMENT
Exhibit P2	A TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT TAHSILDAR TO THE PETITIONER CHURCH, IN RELATION TO IMPOSITION OF TAX, DATED 01-07-2019
Exhibit P3	A TRUE COPY OF THE ORDER OF THE PATHANAMTHITTA DISTRICT COLLECTOR, DATED 04-05-2020, TAKING SENIOR CLERGYMEN APARTMENTS AS COVID CENTRE, ALONG WITH THE LIST OF ROOM AND RELATED INVENTORIES PROVIDED BY CHURCH FOR FREE OF COST
Exhibit P4	A TRUE COPY OF THE LETTER SENT BY THE 3RD RESPONDENT TO THE PETITIONER, DATED 08-03-2021
Exhibit P5	A TRUE COPY OF THE APPLICATION, DATED 12-08-2021, SENT BY PETITIONER CHURCH TO THE HON'BLE MINISTER OF REVENUE, STATE OF KERALA, SEEKING TAX EXEMPTION
Exhibit P6	A TRUE COPY OF THE LETTER ISSUED BY 1ST RESPONDENT DATED 26-11-2022 TO THE PETITIONER CHURCH
Exhibit P7	A TRUE COPY OF THE LETTER DATED 09-12-2022 SENT BY THE 2ND RESPONDENT DISTRICT COLLECTOR TO THE PETITIONER CHURCH
Exhibit P8	A TRUE COPY OF THE APPLICATION FROM THE PETITIONER CHURCH, DATED 22-12-2022, SUBMITTED BEFORE THE 1ST RESPONDENT ON 23-12-2022, DURING THE PERSONAL HEARING
Exhibit P9	A TRUE COPY OF THE ORDER ISSUED BY 1ST RESPONDENT, DATED 06-02-2023, REJECTING EXHIBIT P8 APPLICATION FOR TAX EXEMPTION FOR SENIOR CLERGYMEN APARTMENT





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Exhibit P10	A TRUE COPY OF THE PROCEEDINGS AND DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT TAHSILDAR, DATED 12-10-2023
Exhibit P11	A TRUE COPY OF THE LETTER, DATED 10-07-2024, ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER CHURCH, THREATENING TO INITIATE REVENUE RECOVERY PROCEEDINGS
Exhibit P12	A TRUE COPY OF THE LETTER DATED 19-11-2024 SENT BY THE 3RD RESPONDENT TAHSILDAR TO THE PETITIONER CHURCH, THREATENING TO INITIATE REVENUE RECOVERY PROCEEDINGS
Exhibit P13	A TRUE COPY OF THE LAND TAX RECEIPT, DATED 16-04-2024
Exhibit P14	A TRUE COPY OF THE PANCHAYAT BUILDING TAX RECEIPT DATED 16-01-2025
Exhibit P15	A TRUE COPY OF THE PUBLIC NOTICE ISSUED BY THE PETITIONER CHURCH INFORMING ABOUT THE MARAMON CONVENTION'S SCHEDULE