**(2024) 05 KL CK 0198**

**In the High Court Of Kerala**

**Case No :** Writ Petition (C). No. 18343 Of 2024

Dr. S. Vijaya — APPELLANT

Vs

State Of Kerala — RESPONDENT

**Date of Decision :** 24-05-2024

**Acts Referred:**

**Citation :** (2024) 05 KL CK 0198

**Hon'ble Judges :** C. Jayachandran, J

**Bench :** Single Bench

**Advocate :** Pushparajan Kodoth, K.Jayesh Mohankumar, Vandana Menon, Vimal Vijay, Ajith Viswanathan

**Final Decision :** Disposed Of

## Judgement

C. Jayachandran, J

1. The grievance espoused by the petitioner in this writ petition is that, the petitioner was mulcted with Ext P3 demand notice with a tune of Rs.3.24 lakhs, alleging illegal excavation of laterate stones. It is the further grievance of the petitioner that, he is not being permitted to pay the land tax in respect of the property for the self-same reason of the alleged illegal mining, as could be seen from Ext.P4 document.

2. Heard the learned counsel for the petitioner and the learned Government Pleader on behalf of the respondents.

3. Learned counsel for the petitioner would submit that, though Ext.P2 objection was preferred against Ext.P1 demand notice, the same was not considered by the 2nd respondent/Geologist. Nor was the petitioner afforded an opportunity of hearing. A single, solitary sentence in Ext.P3 to the effect that, Ext.P2 objection is not legally sustainable, will not answer the requirements of law, when Ext.P2 raises specific objection as regards Ext.P1 demand notice, is the submission made by the learned counsel. According to the learned counsel, Ext.P3 cannot be sustained and the petitioner be afforded with an opportunity of being heard. On

the question of land tax, learned counsel would submit that, even assuming the ground alleged of illegal mining is presumed to be true, the same is no reason to refuse acceptance of land tax.

4. These contentions were seriously refuted by the learned Government Pleader. It was submitted that, the petitioner's objection was considered as could be seen from Ext.P3.

5. Having heard the learned counsel appearing on both sides, this Court is inclined to allow this writ petition. As rightly submitted by the learned counsel for the petitioner, a mere self-serving sentence in Ext.P3 to the effect that the objection is not maintainable, will not answer the requirements of law. It is incumbent on the part of the authority enjoined with the power to consider and decide to give reasons for arriving at a the particular conclusion, which exercise should be done after dealing with the objections preferred by an affected party. This much of the requirement is very much part and parcel of the foundational principle of natural justice adumbrated in audi alteram partem. In the circumstances, this Court is of the opinion that, Ext.P3 has to be set aside. After affording an opportunity of being heard to the petitioner and after considering his objections, a fresh order shall be passed. The above exercise shall be done and completed within a period of one month from today (24.05.2024). The petitioner will place a copy of this judgment before the 2nd respondent.

6. As regards non-acceptance of land tax, this Court is in complete agreement with the submissions made by the learned counsel for the petitioner. Even if an allegation of illegal mining is there as against the petitioner, the same is no reason to refuse acceptance of land tax, which has only fiscal overtones, as reaffirmed by this Court in a catena of judgments. In these circumstances, the 4th respondent is directed to accept land tax, irrespective of the out come of the proceedings before the 2nd respondent/Geologist.

 