(2006) 03 KL CK 0040

In the High Court Of Kerala

Case No : Writ Petition (C) No. 1777 of 2006

Mohamad Sadik APPELLANT

Vs

Tahsildar RESPONDENT

Date of Decision : 27-03-2006

Acts Referred:

Kerala Building Tax Act, 1975 — Section 5A

Citation : (2006) 3 KLT 271

Hon'ble Judges : K. Balakrishnan Nair, J

Bench : Single Bench

Advocate : K.S. Madhusoodanan and T.V. Jayakumar Namboodiri, for the Appellant; P. Nandakumar, Government Pleader, for the Respondent

Judgement

K. Balakrishnan Nair, J.—The petitioner has approached this Court challenging Exhibit P3 order of the First respondent Tahsildar, levying building tax under the Kerala Building Tax Act, 1975. The petitioner submits, he has already paid the amount due under Exhibit P3. The said order also imposes luxury tax of an amount of Rs. 2,000/- per year, u/s 5 A of the above said Act. Since the challenge against Exhibit P3 is highly belated, it is repelled. But, the luxury tax has to be paid every year. So, even assuming, he has suffered the payment of luxury tax for earlier years, he is entitled to challenge the order of demand made as per Exhibit P6. It is declared so. The petitioner may invoke the appellate remedy against the demand of luxury tax for the year 2005-06, made as per Exhibit P6. In that event, the appellate authority shall dispose of the same, in accordance with law, after affording an opportunity of being heard to the petitioner. The petitioner may pay the amount under protest. In case the appeal is allowed, the amount paid shall be refunded to him. It is clarified that the finding of the Tahsildar, concerning the plinth area of the building contained in Exhibit P3, will not operate as res judicata. The petitioner will be free to adduce fresh evidence and establish the correct plinth area before the appellate authority. The appellate authority shall consider his contentions, uninfluenced by the finding concerning the same in Exhibit P3.

The Writ Petition is disposed of as above.

