(2021) 07 KL CK 0035

In the High Court Of Kerala

Case No : Writ Petition (C) No. 12961 Of 2021

Mr.A.M.Kharim APPELLANT

Vs

Principal Secretary Taxes Department RESPONDENT

Date of Decision : 02-07-2021

Acts Referred:
General Clauses Act, 1897 — Section 10

Citation : (2021) 07 KL CK 0035

Hon'ble Judges : Raja Vijayaraghavan V, J

Bench : Single Bench

Advocate : Athul Shaji, Anwin John Antony, K Amminikutty

Final Decision : Disposed Of

Judgement

Raja Vijayaraghavan V, J

1. The petitioner states that on an item of property owned by him and located at Judges Avenue, Kaloor he constructed an apartment by name

â??Gardeniaâ?. According to the petitioner by Ext.P1 notification dated 27.03.2010, the Government of Kerala had offered to give considerable

deduction in stamp duty on condition that the concessional rate shall apply only if the transfer takes place within 6 months from the date of allotment of

house number by the local bodies. The stamp duty payable was Rs.5 for every Rs.100/- or part thereof. The 18 apartments constructed by the

petitioner has been numbered as per Ext.P2 proceedings dated 04.01.2021. The petitioner was entitled to the benefits of Ext.P1 if the flats are

registered on or before 04.07.2021. The petitioner contends that the lockdown was imposed in the State for the period from 08.05.2021 and it was

lifted only on 16.06.2021. The petitioner was therefore disabled from enjoying the benefits of the full period of six months. He states that in similar circumstances Ext.P3 and P4 clarificatory orders were issued by the Government excluding the period of lockdown. In the said circumstances, the

petitioner is stated to have submitted Ext.P5 representation before the respondents 1 and 2. However his grievance is that the respondents have not

acted upon the same. It is in the afore circumstances that the petitioner is before this Court seeking the following reliefs:

Â (i)Â issue a writ of mandamus or any other writ, order or direction directing the 1st respondent to extend the 41 daysâ?? time lost due to second lockdown from

08.05.2021 to 16.06.2021 in computing the 6 months by extending 41 days for availing the benefit of Ext.P1 as granted in Exhibits P3 and P4.

2.Â Sri. Athul Shaji, the learned counsel submitted that the six months period as per Ext.P1 is due to expire on 03.07.2021. The State Government has

declared a complete lockdown on 03.07.2021 and 04.07.2021 and the next working day is on 05.07.2021. Some of the purchasers would be in a

position to present the document for registration on 05.07.2021 whereas some may be disabled from doing so. In the said circumstances, for the

benefit of those persons who are desirous of availing the benefit of Ext.P1 it may be made clear that if the parties act in terms of Ext.P1 on

05.07.2021, the act be considered as done or taken in due time in view of Section 10 of the General Clauses Act, 1897. He also prays that for those

individuals who are not able to avail the benefits, necessary directions be issued to the 1st respondent to consider Ext.P5 representation within a time

frame.

3.Â I have heard the learned Government Pleader who submitted that if the document is presented for registration on 05.07.2021, being the next

working day, the benefit of Ext.P1 can be extended.

4.Â Having regard to the submissions advanced, this writ petition is disposed of with the following directions:

1.Â If the petitioner acts in terms of Ext.P1 and presents the document on 05.07.2021 for registration, the same shall be considered as done or taken in due time.

2.Â Ext.P5 representation pending before the 1st respondent shall be taken up and appropriate orders shall be passed with notice to the petitioner expeditiously, at

any rate, within a period of one month from the date of production of a copy of this judgment.

