



2025:KER:43206

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ZIYAD RAHMAN A.A.

TUESDAY, THE 17<sup>TH</sup> DAY OF JUNE 2025 / 27TH JYAISHTA, 1947

WP(C) NO. 3826 OF 2023

PETITIONER/S:

SHERLY THOMAS NALPATHAMKALAM,  
AGED 54 YEARS  
W/O. BENNY THOMAS, NALPATHAMKALAM,  
VAZHAPPALLY EAST VILLAGE,  
VAZHAPPALLY EAST P.O.,  
KOTTAYAM DISTRICT,  
PIN - 686103

BY ADVS.  
SHRI. THOMAS ABRAHAM (NILACKAPPILLIL)  
SHRI. S. ABHILASH VISHNU  
SMT. K. R. MONISHA

RESPONDENT/S:

- 1 STATE OF KERALA,  
REPRESENTED BY PRINCIPAL SECRETARY,  
REVENUE TO GOVERNMENT,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM,  
PIN - 695001
- 2 THE DISTRICT COLLECTOR,  
COLLECTORATTE, KOTTAYAM,  
PIN - 686002
- 3 THE REVENUE DIVISIONAL OFFICER,  
KOTTAYAM, MINI CIVIL STATION,  
KOTTAYAM, PIN - 686001



4 THE TAHSILDAR AND ASSESSING OFFICER,  
KACHERY ROAD, OPPOSITE GOVERNMENT MODEL H.S.S.,  
CHANGANASSERRY, KERALA 686101.

BY ADV GOVERNMENT PLEADER

OTHER PRESENT:

SHRI.ARUN AJAY SANKAR, G.P

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 17.06.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



## **JUDGMENT**

The petitioner is the owner of a residential building, and this writ petition is filed by her, being aggrieved by the building tax assessment in respect of the said building.

2. According to the petitioner, the total plinth area of the building is 270.17 Square Meters, which is the plinth area mentioned in the Occupancy Certificate issued by the Changanasserry Municipality. In Ext.P1, the plinth area of 270.17 Square meters was approved by the Town Planning Officer as well. However, later, Ext.P2 proceedings were issued by the 4<sup>th</sup> respondent, imposing luxury tax under Section 5A of the Kerala Building Tax Act and also making a demand of Rs.2,460/- which is the remaining amount payable based on the revision of one time building tax payable by the petitioner. The assessment of the luxury tax was made, in view of the fact that in the measurement, the plinth area of the building was found to be more than 278.7 Square meters, therefore it was found that the petitioner is liable to pay luxury tax.



3. Aggrieved by Ext.P2, a statutory appeal was submitted before the 3<sup>rd</sup> respondent and it culminated in Ext.P3. As per the order passed by the 3<sup>rd</sup> respondent, the building of the petitioner, was remeasured on 20.07.2017 in the presence of the petitioner and her lawyer, and in such remeasurement, the total plinth area of the building was found to be 297.34 Square meters. In the light of the above, the appeal was submitted. Even though Ext.P5 revision petition was submitted before the 2<sup>nd</sup> respondent, the District Collector, the same was rejected as per Ext.P6. This writ petition is submitted by the petitioner in such circumstances, challenging the assessment and the demand.

4. A counter affidavit has been submitted that 4<sup>th</sup> respondent reiterating the view taken by them in the impugned orders.

5. I have heard, Sri.Thomas Abraham (Nilackappillil), the learned counsel for the petitioner and Sri.Arun Shanker, the learned Government Pleader for the respondents.

6. The challenge raised by the petitioner is against the assessment of building tax and luxury tax, by mainly placing



reliance upon Ext.P1 Occupancy Certificate, wherein it is stated that, the total plinth area of the building is only 270.62 Square meters. According to the petitioner, therefore the assessment of building tax by taking the plinth area as 297.34 is not at all justifiable. However, the crucial aspect to be noticed is that, as per Section 6 of the Kerala Building Tax Act, the manner in which the plinth area has to be determined is contemplated. The said provisions reads as follows:

“6. Determination of plinth area.— The plinth area of a building for the purposes of this Act, shall be the plinth area of the building as specified in the plan approved by the local authority or such other authorities as may be specified by Government in this behalf and verified by the assessing authority in such manner as may be prescribed.”

7. It is evident from the aforesaid provision that, even though the said provision contemplates that plinth area of a building for the purpose of this Act, shall be the plinth area of the building as specified in the plan approved by the local authority, the said provision also enables the assessing authority to verify the same. This would lead to a conclusion that, the statutory



stipulation contained in Section 6 is not merely to accept the plinth area mentioned in the approved plan as such, but the same is subject to verification of the assessing authority. In other words, it shall be open to the assessing authority to verify whether the plinth area mentioned in the approved plan is correct or not.

8. In this case, according to the respondents the plinth area was determined after conducting the measurement of the building. Moreover, during the pendency of the appeal, based on the direction issued by the 3<sup>rd</sup> respondent, the building was remeasured, by the Senior Superintendent in the presence of the petitioner and her lawyer. In the said measurement the plinth area of the building was found to be 297.34 Square Meter. The sketch which formed the basis of the said report was produced by the learned Government Pleader along with a memo dated 05.03.2025. In the said sketch the split up details of the measurement are specifically mentioned and it indicates that, the total plinth area of the ground floor was 260.72 Square Meters from which the car porch area having an extend of 16.80 Square Meters was reduced and the plinth area of the ground floor was



thus determined as 199.92 Square Meters. The total plinth area determined for the first floor was 97.42 Square Meters. Thus, the total plinth area of the building was found to be 297.34 Square Meters. Since this is a calculation, specifically made after physically measuring the building, in the presence of the petitioner and also her lawyer, I do not find any reason to discard the same.

9. Apart from the Ext.P1 Occupancy Certificate, no other documents are produced by the petitioner to substantiate that the measurement of the plinth area referred to above, was erroneous. As observed above, merely because of the reason that, Ext.P1 Occupancy Certificate contains that the plinth area is 270.62 Square Meters, that by itself would not lead to a conclusion that, the building tax has to be assessed based on the same. As mentioned above, Section 6 of the Kerala Building Tax Act contemplates for further verification of the said aspect and in this case a further verification has been done and found that the total plinth area is 297.34 Square Meters. This being a factual aspect and I do not find any scope for further scrutiny in the matter. In



such circumstances, I do not find any justifiable reason to entertain this writ petition.

Accordingly, this writ petition is dismissed. However, considering the fact that, this writ petition was pending consideration since 2023, the petitioner is permitted to pay the amount to be paid as building tax and luxury tax under the Kerala Building Tax Act, in six equal monthly instalments commencing from the 15<sup>th</sup> day of July 2025. In case there is default in making any such instalments, it shall be open for the respondents to initiate appropriate recovery proceedings.

Sd/-

**ZIYAD RAHMAN A.A.**  
**JUDGE**

rpk



APPENDIX OF WP(C) 3826/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY THE OCCUPANCY CERTIFICATE DATED 28.12.2010 IN PERMIT IN PERMIT NO. BA/348/08/03 ISSUED BY THE TOWN PLANNING OFFICER, CHNAGANACHERRY MUNICIPALITY,
- Exhibit P2 TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 4TH RESPONDENT DATED 19.10.2013 WITH S. NO. E4.256/13
- Exhibit P3 TRUE COPY OF ORDER OF THE 3RD RESPONDENT R.D.O., KOTTAYAM, DATED 01.08.2017 IN CASE NO. D-6217/2013R.DIS
- Exhibit P4 TRUE COPY OF THE NOTICE OF DEMAND AND ORDER OF ASSESSMENT IN S.NO. E4-256/13, KBTA - 256/13
- Exhibit P5 TRUE COPY OF THE REVISION PETITION IN CASE NO B5-11627/17
- Exhibit P6 TRUE COPY OF THE REVISION PETITION IN CASE NO B5-11627/17