

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 28TH DAY OF SEPTEMBER 2017/6TH ASWINA, 1939

WP(C).No. 31233 of 2017 (D)

PETITIONER :

**BEAUMONDE, THE FERN HOTEL
REPRESENTED BY ITS MANAGING PARTNER DEEPAK,
NEAR SOUTH RAILWAY STATION, ERNAKULAM.**

BY ADV. SRI.T.RAJESH

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION ROAD, KAKKANAD,
ERNAKULAM-682 030.**
- 2. TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM-682 015.**
- 3. THE VILLAGE OFFICER,
ERNAKULAM VILLAGE, ERNAKULAM-682 011.**

BY GOVERNMENT PLEADER SRI.SHAMSUDHEEN.V.K.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-09-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 THE TRUE COPY OF THE BUILDING PLAN AS APPROVED BY THE CORPORATION OF COCHIN.**
- EXHIBIT P2 THE TRUE COPY OF THE ORDER OF ASSESSMENT WHICH IS SERVED ON THE PETITIONER ON 5-10-2016.**
- EXHIBIT P3 THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE ARCHITECT OF THE PETITIONER.**
- EXHIBIT P4 THE TRUE COPY OF THE REVISION PETITION FILED BY THE PETITIONER ON 22-10-2016.**
- EXHIBIT P5 THE TRUE COPY OF THE STAY PETITION SUBMITTED BY THE PETITIONER.**
- EXHIBIT P6 THE TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT ACKNOWLEDGING THE RECEIPT OF REVISION PETITION ON 25-10-2016.**
- EXHIBIT P7 THE TRUE COPY OF THE JUDGMENT IN WP(C) NO.35944 OF 2016.**
- EXHIBIT P8 THE TRUE COPY OF THE CHEQUE DEPOSIT MADE BY THE PETITIONER TOWARDS REMITTANCE OF BALANCE 25%.**
- EXHIBIT P9 THE TRUE COPY OF THE NOTICE INTIMATING HEARING.**
- EXHIBIT P10 THE TRUE COPY OF TE ORDER DATED 24-3-2017 WHICH WAS SERVED ON PETITIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.31233 Of 2017
.....
Dated this the 28th day of September, 2017

J U D G M E N T

The petitioner has approached this Court aggrieved by Ext.P10 order passed by the 1st respondent rejecting a revision application preferred by the petitioner against an order assessing the petitioner to building tax. In the writ petition, it is the case of the petitioner that the 1st respondent passed Ext.P10 order after noticing that, on the day fixed for hearing of the revision petition the petitioner was not present. The dismissal of the revision petition is therefore on the ground of default. The learned counsel for the petitioner would submit that, while it is a fact that he could not appear before the 1st respondent on the date fixed for hearing, in the revision petition that was preferred before the 1st respondent, the petitioner had clearly indicated that the dispute was with regard to the measurement of the plinth area of the building, and to substantiate his contentions, the petitioner had produced a copy of the building plan along with the revision petition.

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2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find from a perusal of Ext.P10 order that the 1st respondent has dismissed the revision petition solely on the ground of default on the part of the petitioner in not appearing for the hearing. The learned counsel for the petitioner would submit that he could not be represented at the hearing because a close relative of his lawyer had expired on that date, which resulted in the lawyer not representing the petitioner before the 1st respondent. Taking note of the said submission, and finding that, no prejudice will be caused to the respondents if the petitioner is heard on merits in the revision petition, and further, the fact that the petitioner has already remitted 50% of the amounts confirmed against him by the assessment order at the time of filing the revision petition, I quash Ext.P10 order and direct

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the 1st respondent to pass fresh orders in the revision petition on merits, after hearing the petitioner. To enable the 1st respondent to do so, I direct the petitioner to appear before the 1st respondent at his office at 11 am on 11.10.2017. The 1st respondent shall pass fresh orders as directed within a month thereafter.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/28.09.17