



2025:KER:31244

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WP(C) NO. 32695 OF 2017

PETITIONER:

K.T.ABDUL GAFOOR,
AGED 43 YEARS
S/O. K.T. HAMZA, KANAYANKODE HOUSE,
KUNNAMANGALAM, KOZHIKODE - 673 577.

BY ADVS.
V.V.ASOKAN (SR.)
K.I.MAYANKUTTY MATHER (SR.)

RESPONDENTS:

- 1 THE SECRETARY, KOZHIKODE MUNICIPAL CORPORATION,
CORPORATION BUILDING, KOZHIKODE - 673 001.
- 2 KOZHIKODE MUNICIPAL CORPORATION,
CORPORATION BUILDING, REPRESENTED BY ITS
SECRETARY, KOZHIKODE - 673 001.

BY ADV BINDUMOL JOSEPH
SRI.K.D.BABU, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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MOHAMMED NIAS C.P., J

.....

W.P.(C) No.32695 of 2017

.....

Dated this the 10th day of April, 2025**JUDGMENT**

The petitioner challenges the demand raised by the Kozhikode Municipal Corporation for property tax in respect of the building (newly constructed shop rooms bearing Door Nos.29/661H, 29/661H1, 29/661H2, 29/661H3, 29/661H4, 29/661H5, 29/661H6, 29/661H7 and 29/661H8 for the periods 2014 to 2017, through Exts.P1 to P1(h) notices. The petitioner contends that the demand for property tax could have been made only after the actual occupation certificate and its utilisation.

2. In view of the above dispute, this Court had passed an order on 27.03.2025 as follows:-

“There will be a direction to the petitioner and the respondents to file statements as to when the occupancy certificate concerning the building in question was issued.

Post on 08.04.2025.”

3. Pursuant to the above order, a statement has been



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filed on behalf of respondents 1 and 2 that reads as follows:-

“3. It is respectfully submitted that the petitioner submitted completion certificate of the building on 20.05.2014. After completion of the building the corporation decided to give occupancy certificate as per the office note dated 16.05.2017. True copy of the office note dated 16.05.2017 is produced herewith and marked as Annexure R1 (a). “

4. Given the above statement that the occupancy certificate was issued only on 16.05.2017, the levy of the property tax could have been only from that date. The petitioner also relies on the judgment of this Court in ***Baiju M. v. Secretary, Kozhikode Municipal Corporation [2023 (6) KHC 72]***, which held that the liability to pay property tax will arise only after the issuance of the occupancy certificate and not before it.

5. In view of the above, the demand raised as per Exts.P1 to P1(h) are quashed. There will be a direction to the respondents to re-assess the property tax based on the occupancy certificate granted on 16.05.2017 and pass fresh orders within two months from today with notice to the petitioner.

6. There is also a prayer to direct the Corporation to



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pass orders on Ext.P2 application filed by the petitioner seeking remission on the ground that they had not occupied the building. The respondents are directed to pass appropriate orders on Ext.P2 with notice to the petitioner within two months from the date of receipt of the copy of this judgment

The impugned orders are quashed, and the writ petition is allowed as above.

Sd/-
MOHAMMED NIAS C.P.
JUDGE

Anu



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APPENDIX OF WP(C) 32695/2017

PETITIONER EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1A. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1B. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1C. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1D. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1E. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1F. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1G. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P1H. TRUE COPY OF THE DEMAND NOTICE ISSUED
BY THE 2ND RESPONDENT DATED
20.06.2017.
- EXHIBIT P2. TRUE COPY OF THE APPLICATION SUBMITTED
BY THE PETITIONER FOR
EXEMPTION/REMISSION OF THE PROPERTY
TAX FOR HIS BUILDING DATED 24.06.2017



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**EXHIBIT P3. TRUE COPY OF THE PROCEEDINGS OF THE
2ND RESPONDENT DATED 13.07.2017**

**EXHIBIT P4. TRUE COPY OF THE ACKNOWLEDGMENT GIVEN
BY THE OFFICE OF THE 2ND RESPONDENT
FOR SUBMISSION OF THE APPLICATION FOR
REMISSION DATED 19.9.2017**

RESPONDENT ANNEXURES

**ANNEXURE R1 (A) TRUE COPY OF THE OFFICE NOTE DATED
16.05.2017**