

Mathew Sam Mathai vs State of Kerala

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Court : Kerala

Decided On : Jun-21-2022

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : WP(C)/18154/2021

Appellant : Mathew Sam Mathai

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY,
THE 21ST DAY OF JUNE 2022 / 31ST JYAISHTA, 1944
PETITIONER/S: MATHEW SAM MATHAI AGED 31 YEARS, S/O LATE
SAM MATHAI, NOBLE VILLA, AYLARA P.O. YEROOR, KOLLAM -
691312 BY ADVS. UNNI SEBASTIAN KAPPEN SHRI.T.B.HOOD,
SPL.G.P. TO A.G. RESPONDENT/S: 1 STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY, DEPARTMENT OF
REVENUE AND DISASTER MANAGEMENT, GOVERNMENT
SECRETARIAT, STATUE, THIRUVANANTHAPURAM -

2 THE DISTRICT COLLECTOR, (CHAIRMAN-DISASTER
MANAGEMENT AUTHORITY) DISTRICT COLLECTOR OFFICE, CIVIL

STATION, KOLLAM - 3 THE CHIEF EXECUTIVE OFFICER DISASTER MANAGEMENT AUTHORITY, DISTRICT COLLECTOR OFFICE, CIVIL STATION, KOLLAM - 691013 4 TALUK TAHSILDAR, PUNALUR TALUK, TALUK OFFICE, 1ST FLOOR, MINI CIVIL STATION, KOLLAM - 691305 OTHER PRESENT: GP P.S.APPU THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 21st day of June, 2022 The petitioner is running a tourist home by the side of the Anjal - Punalur road in Kollam District. The tourist home was requisitioned by the Disaster Management Authority as a first line Covid treatment centre from 18.04.2020 onwards and returned to the petitioners custody on 28.09.2020. The petitioner is seeking compensation for the loss sustained during the period when the tourist home was taken over.

2. Learned Counsel for the petitioner submits that the tourist home was a running establishment, generating good income and the petitioner sustained huge monetary loss due to the take over.

3. Learned Government Pleader submitted that,

even though petitioners tourist home was taken over, during the period 18.04.2020 to 28.09.2020 no covid patient was lodged in the building. Therefore, the authority is under no obligation to compensate the petitioner. It is pointed out that under Section 66 of the Disaster Management Act, 2005, when compensation is disputed or declined, the arbitrator under the Act has to be approached. Therefore, the petitioners claim for compensation can only be considered by the District Collector, in his capacity as the arbitrator. Accordingly, the Writ Petition is disposed of as under:- The petitioner shall file a proper application within three weeks, containing the details with respect to the compensation claimed by him. If the application is filed within the above time limit, the second respondent shall consider the same and pass appropriate orders thereon within six weeks. If the petitioner is found eligible for the compensation, the amount due to him shall be paid within two

months of the decision. Sd/- V.G.ARUN JUDGE RK APPENDIX OF WP(C) 18154/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE COMMUNICATION NO.G.1 - DATED 24.04.2020 Exhibit P2 TRUE COPY OF THE COMMUNICATION NO.G.1- DATED 28.09.2020 Exhibit P3 TRUE COPY OF THE G.O.(MS) NO:21/2020/DMD DATED 25.06.2020 Exhibit P4 TRUE COPY OF THE G.O.(MS) NO:22/2020/DMD DATED 26.06.2020 Exhibit P5 TRUE COPY OF THE COPY OF THE LAWYERS NOTICE ISSUED UNDER INSTRUCTIONS FROM THE PETITIONER TO THE 4TH RESPONDENT HEREIN DATED 10.08.2021

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