

Babu vs the State of Kerala

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Court : Kerala Orders

Decided On : Aug-27-2021

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/25792/2010

Appellant : BABU

Respondent : The State of Kerala

Judgement :

WP(C) NO. 25792 OF 2010 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 27TH DAY OF AUGUST 2021 / 5TH BHADRA, 1943
WP(C) NO. 25792 OF 2010 PETITIONER/S: 1 BABU
MADHURAPPALLIL HOUSE, PRAYAR SOUTH,, ALUMPEEDIKA P.O.,
PIN - 690 547,, KOLLAM DIST. 2 KUNJUMON AGED 40
SO.KOYAKUNJU SAJITHA MANZIL, MALAMEL BHAGOM,,
KAREELAKULANGARA P.O., KAYAMKULAM,, ALAPPUZHA DIST. 3
PURUSHOTHAMAN AGED 61 S/O.KOCHUKRISHNAN,
CHALITHARAYIL,, AYIRAMTHENGU, ALUMPEEDIKA, P.O.PARYAR,
VIA, PIN - 690 547, KOLLAM DIST. 4 AJAYAKUMAR AGED 39

SO.CHANDRASENAN RAJIVILASOM, AYIRAMTHENGU,
ALUMPEEDIKA P.O., PIN - 690 547, KOLLAM DIST. 5 BHADRAN
AGED 54 SO.YESODHARAN VADAKKETHOPPIL, AZEEKKAL P.O.,
PRAYAR, PIN - 690 547, KOLLAM DIST. 6 SASIDHARAN AGED 52
SO.BALAKRISHNAN SHYAM NIVAS, PRAYAR SOUTH,
AYIRAMTHENGU,, ALUMPEEDIKA P.O., PIN - 690 547, KOLLAM
DIST. 7 SREEJU AGED 30 SO.SREEDHARAN ALUMPEEDIKA P.O,
PRAYAR SOUTH,, PIN - 690 547, KOLLAM DIST. 8 LORANCE CRUZ
AGED 63 SO.VARGHESE PUTHENPURAYIKL HOUSE,
AYIRAMTHENGU,, ALUMPEEDIKA P.O, PIN - 690 547, KOLLAM DIST.
9 SAJU.V. AGED 37 SO.VASU MARAKKASSERIL HOUSE,
AYIRAMTHENGU,, ALUMPEEDIKA P.O, WP(C) NO. 25792 OF 2010 2
PRAYAR-VIA., PIN - 690 547, KOLLAM DIST. 10 LITHA SAJU AGED 28
WO.SAJU.V. MARACKASSERIL HOUSE, AYIRAMTHENGU,,
ALUMPEEDIKA P.O, PIN - 690 547, KOLLAM DIST. 11 NOUSHAD
AGED 45 SO.ALIYARUKUNJU PUTHUPARACKAMANNEL,
AYIRAMTHENGU,, ALUMPEEDIKA P.O, PARYAR, PIN - 690 547,,
KOLLAM DIST. 12 ALIYARUKUNJU, AGED 78 S/O.KUNJU MIDHEEN
KUNJU, PUTHUPARACKAMANNEL,, AYIRAMTHENGU,
ALUMPEEDIKA P.O, PIN - 690 547,, KOLLAM DIST. 13 EARNEST
JOSEPH AGED 38 S/O.JOSEPH FERNANDEZ, KOCHUMANNEL
HOUSE,, AZHEEKAL P.O., PRAYAR VIA PIN - 690 547,, KOLLAM
DIST. 14 LIYON DCRUZ AGED 63 S/O.LORENCE, D'CRUZ, JESUS
MARY NIVAS,, KALLUMMOODU, KPAC JUNCTION, KAYAMKULAM
P.O., ALAPPUZHA DIST. 690 502. 15 THANGAL KUNJU AGED 61
SO.MOOSA SAHIB ERAIMANGALATHU THEKKATHIL HOUSE,,
CLAPPANA P.O., KARUNAGAPPALLY,, PIN - 690 547, KOLLAM DIST.
16 DINESH BABU AGED 53 SO.DIVAKARAN MUTHALASSERIL
THEKKATHIL HOUSE,, CHETTIKULANGARA, OLLAKETTIAMBALAM
P.O.,, MAVELIKKARA, PIN - 690 510. 17 PRASAD AGED 44
SO.SIVADASAN KOONETHU, AYIRAMTHENGU, ALUMPEEDIKA P.O.,
PIN - 690 547, KOLLAM DIST. 18 RUBY PRASAD AGED 34
WO.PRASAD KOONETHU, AYIRAMTHENGU, ALUMPEEDIKA P.O.,

PIN - 690 547, KOLLAM DIST. 19 RAJAN AGED 51 SO.THANKAPPAN BABU MANDIRAM, ADINADU THEKKU, KATTILKADAVU P.O., KARUNAGAPPALLY, PIN - 690 547, KOLLAM DIST. 20 ABDUL SAMAD AGED 60 S/O.MOHAMMOODU KUNJU, MEVOOR,, AYIRAMTHENGU, WP(C) NO. 25792 OF 2010 3 ALUMPEEDIKA P.O., PIN - 690 547, KOLLAM DIST. 21 SHAHUL HAMEED AGED 41 S/O.MOHAMMOODU KUNJU, NEDIYANATTU HOUSE,, CLAPPANA P.O., PIN - 690 547, KOLLAM DIST. 22 THANKACHY AGED 45 WO.ULLAS MATHASSERIL HOUSE, CLAPPANA NORTH,, CLAPPANA P.O., PIN - 690 547, KOLLAM. 23 MADHHU AGED 44 SO.NARAYANAN PUTHENMANNEL HOUSE, AZHEEKAL P.O., PRAYAR, PIN - 690 547, KOLLAM. 24 PRASAD.M. AGED 50 SO.MADHAVAN KOLLASSERIL HOUSE, ALUMPEEDIKA P.O., PIN - 690 547, KOLLAM. 25 NAVSUDEEN AGED 27 SO.SHAMSUDHEEN KADATHUKADAVIL, AYIRAMTHENGU,, ALUMPEEDIKA P.O. PIN - 690 547, KOLLAM. 26 SHARGADHARAN AGED 51 SO.BALAKRISHNAN KALARICKAMMANNEL (A.A.VILLA), AYIRAMTHENGU,, ALUMPEEDIKA P.O. PIN - 690 547, KOLLAM. 27 ARUN AGED 25 SO.SANAGADHARAN A.A.VILLA, AYIRAMTHENGU, ALUMPEEDIKA P.O., KOLLAM, PIN - 690 547. 28 VALSALA AGED 45 WO.SARANGADHARAN A.A.VILLA, AYIRAMTHENGU, ALUMPEEDIKA P.O., KOLLAM, PIN - 690 547. 29 AMBUJAN AGE 55 SO.KARUNAKARAN ARAYANPARAMBIL HOUSE, ADINADU P.O., KARUNAGAPPALLY PIN - 690 542. 30 BALACHANDRAN AGE 53 SO.VEERASENAN PARAYIDATHU, AZHEEKKAL P.O. PRAYAR VIA., KOLLAM DIST - 690547. 31 RUKIYA BEEVI AGED 60 WO.ALIYARUKUNJU PUTHUPURACKAMANNEL, AYIRAMTHENGU,, ALUMPEEDIKA P.O., PRAYAR, KOLLAM, PIN - 690547. WP(C) NO. 25792 OF 2010 4 32 CHANDRIKA AGE 55 WO.LATE VASU MANACKASSERIL, AYIRAMTHENGU,, ALUMPEEDIKA P.O., KOLLAM, PIN - 690547. 33 RAJAMONY AGE 51 WO.LATE SASIDHARAN REEJABHAVANAM, AZHEEKAL P.O., PRAYAR VIA, KOLLAM DIST, PIN - 690547. BY ADV SMT.R.RANJANIE RESPONDENT/S: 1 THE STATE OF KERALA THE SECRETARY TO THE GOVERNMENT,,

LAND AND REVENUE, SECRETARIAT,, THIRUVANANTHAPURAM 2
ADDITIONAL CHIEF SECRETARY TO GOVT AND PROJECT
DIRECTOR TEAP, DISASTER MANAGEMENT, (TRP- CELL)
DEPARTMENT, SECRETARIAT,, THIRUVANANTHAPURAM 3 THE
DISTRICT COLLECTOR KOLLAM. 4 EXECUTIVE DIRECTOR KERALA
STATE P.W.D.ROADS DIVISION,, KERALA PUBLIC WORKS
DEPARTMENT, KOLLAM. 5 ASST.EXECUTIVE ENGINEER P.W.D.
BRIDGE'S SECTION,, OFFICE OF THE ASST.ENGINEER BRIDGE'S
SECTION,, KARUNAGAPPALLY. BY SMT.DEEPA NARAYANAN,
SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 27.08.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: WP(C) NO. 25792 OF 2010 5
P.V.KUNHIKRISHNAN, J ----- W.P.(C.)
No.25792 of 2010 ----- Dated this the 27th day
of August, 2021

JUDGMENT

The above writ petition is filed with following prayers :

i) Writ of mandamus, directing the respondents to compensate the petitioners for the deprivation of their only source of livelihood during the construction work of the Aazhikal Ayiram thengu Palam crossing the Kayamkulam Kayal, National watercourse, by paying an amount of Rs.4,500/- per month from July 2008 till April 2010, for a total period of 22 months. ii) Pass such other orders as this Hon'ble Court may deem fit and necessary in the facts and circumstance of the case. And Allow this Original petition with cost.

2. The petitioners are occupants of shop rooms situated

at Ayiramthengu Junction, Karunagappally and was conducting different trades. The project of constructing overbridge at Aazhikal-Ayiramthengu palam crossing the Kayamkulam Kayal, National watercourse was approved by the Government

and the construction of the bridge started in 2005. By the construction of the bridge, the shop rooms lie underneath the bridge just about 5 metres away from the pillars of the bridge. When the WP(C) NO. 25792 OF 2010 6 construction reached the eastern side of the Kayal in May 2008, the respondents required all the petitioners to close down their shop rooms, in view of the construction being done very close to their building. The access of the building to this area was also blocked due to the construction. It is the case of the petitioners that an amount of Rs.4,500/- per month as allowance for the loss of their livelihood during the period of construction due to the closure of their shop rooms was assured by the Government. According to the petitioners, from April 2008 onwards, the shop rooms were closed. Though the project of Ayiramthengu-Aazhikal bridge was to be executed before October 2008, the bridge was completed and inaugurated only by March 2010. According to the petitioners, they were permitted to commence their trade only after inauguration of the bridge, that also only from April 2012. After several agitations made by the petitioners, it is stated that the respondents paid an amount of Rs. 13,500/- to the petitioners being allowance for a period of 3 months from April 2008 to June 2008 at the rate of Rs.4,500/-. According to the petitioners, they are entitled an amount of Rs.4,500/- per month from July 2008 till April 2010 for a total period of 22 months, the period WP(C) NO. 25792 OF 2010 7 during which the shop rooms of the petitioners were closed down for the construction of the bridge. Hence, this writ petition is filed. A counter affidavit is also filed by the 1st respondent disputing the averments in the writ petition.

3. Admittedly, the construction of the bridge is already

over. The inauguration of the new bridge was in the year 2010. Admittedly, the petitioners were conducting the shops thereafter. At this distance of time, I am not in a position to pass any orders in this writ petition. Therefore, this writ petition is dismissed. SD/- P.V.KUNHIKRISHNAN JUDGE SKS WP(C) NO. 25792 OF 2010 8 APPENDIX PETITIONER'S EXHIBITS : EXT.P1 THE PHOTOCOPY OF THE ORDER DATED 30.7.2007 OF THE 1ST RESPONDENT EXT.P2 THE PHOTOCOPY OF THE GOVERNMENT ORDER DATED 26.10.2007 EXT.P3 THE PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT EXT.P4 THE PHOTOCOPYN

OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS EXT.P5 THE PHOTOCOPY OF THE GOVERNMENT ORDER DATED 5.11.2004

EXT.P6 THE PHOTOCOPY OF THE DECISION OF THE TALUK LEGAL SERVICE COMMITTEE, KARUNAGAPPALLY DATED 13.3.2009 EXT.P7 THE PHOTOCOPY OF THE JUDGMENT DATED 7.8.2009 IN WP NO 19105 OF 2009 EXT.P8 THE PHOTOCOPY OF THE JUDGMENT DATED 9.12.2009 IN CCC NO.1409 OF 2009 EXT.P9 THE PHOTOCOPY OF THE COMMUNICATION DATED 29.6.2010. EXT.P10 THE PHOTOCOPY OF THE GOVERNMENT ORDER DATED 16.4.2010. RESPONDENT'S EXHIBITS : NIL

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