

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 8883 of 2009 (S)

PETITIONER(S) :-

1. MARRADU ARAYA SAMAJAM,
REPRESENTED BY ITS PRESIDENT MR.K.DASAN, S/O.APPU
AGED 65 YEARS, RESIDING AT KELAPPANTAKATHU
MARRADU BEACH, P.O.ARAKKINAR, CALICUT-28.
2. T.PRAJU, S/O.KUTTYMON, AGED 35 YEARS,
SECRETARY, MARRADU ARAYA SAMAJAM
RESIDING AT THEKKEITHADI, P.O.ARAKKINAR, CALICUT-28.

BY ADVS.SRI.N.NAGARESH
SRI.SAJITH KUMAR V.
SRI.RINOY JOSEPH

RESPONDENT(S) :-

1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, DEPARTMENT FOR REVENUE
THIRUVANANTHAPURAM.
 2. CHIEF SECRETARY, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.
 3. THE DISTRICT COLLECTOR, CALICUT.
 4. THE COMMISSIONER OF POLICE, CALICUT.
- Addl.5. T.ASMA, W/O.ALI, THEKKEPURATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.6. A.SALI, ERJUVINTAKATH, S/O.ABDULKADHAR, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.7. A.HAMSA, W/O.ABU, ABUBAKARINTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.8. T.DEVADASAN, S/O.SUKUMARAN, THEKKETHODI HOUSE,
ARAKINER.P.O., MARRADU, KOZHIKODE.
- Addl.9. A.SAINUDHEEN, S/O.USSANKUTTY, ERJUVINTAKATH,
ARAKINER.P.O., MARRADU, KOZHIKODE.

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- Addl.10. T.RAMANAN, S/O.SUKUMARAN, THEKKETHODI, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.11. A.NABEESA, W/O.UMMER, ABOOBAKARINTAKATH,
ARAKINER.P.O., MARRADU, KOZHIKODE.
- Addl.12. C.ALIKOYA, S/O.HAMSA, SEEMAMUNTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.13. T.NAFEESA, W/O.MUHAMMED, THALAKALAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.14. ABOOBAKER KOYA, SEEMAMUNTAKATH, ARAKINER.P.O.,
MARRADU, KOZHIKODE.
- Addl.15. T.THAHIRA, THALAKALAKATH, W/O.ALI, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.16. A.NAFEESA, W/O.HAMSA, ERJUVINTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.17. C.MUSTHAFA, SEEMAMUNTAKATH, ARAKINER.P.O., MARRADU
KOZHIKODE.
- Addl.18. A.ABOOBAKER, ERJUVINTAKATH, ARAKINER.P.O., MARRADU
KOZHIKODE.
- Addl.19. M.P.BASHEER, S/O.ABDULLA, MANANTHALAPADANNAYIL,
ARAKINER.P.O., MARRADU, KOZHIKODE.
- Addl.20. C.AHMED KOYA, S/O.HAMSA, SEEMAMUNTAKATH,
ARAKINER.P.O., MARRADU, KOZHIKODE.
- Addl.21. A.ISMAYIL, S/O.ABDULKADHAR, ERJUVINTAKATH,
ARAKINER.P.O., MARRADU, KOZHIKODE.
- Addl.22. T.KUNJEEBI, W/O.MUSTHAFA, THALAKALAKATH,
ARAKINER.P.O., MARRADU, KOZHIKODE.
- Addl.23. A.LATHEEF, S/O.ABDULKADHAR, ERJUVINTAKATH,
ARAKINER.P.O., MARRADU, KOZHIKODE.
- Addl.24. M.ISHAK, S/O.ABDULLA, MOOLCHINTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.25. A.SAKEENA, W/O.SIDDIQUE, ERJUVINTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.26. P.ALI, S/O.PAREEKUTTY, PUTHIYAPURAYIL, ARAKINER.P.O.
MARRADU, KOZHIKODE.
- Addl.27. A.ASRA, W/O.ERJUUTTY, ERJUVINTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.

Addl.28. A.UMMER, S/O.ABU, ABOOBAKERINTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.

Addl.29. C.ABBAZ (DELETED), SEEMAMUNTHAKATH, ARAKINER.P.O.,
MARRADU, KOZHIKODE.

Addl.30. T.NABEESA, THALAKALAKATH, ARAKINER.P.O., MARRADU
KOZHIKODE.

Addl.31. C.NABEESA, W/O.KAREEM, SEEMAMUNTHAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.

Addl.32. ABDUL LATHEEF, S/O.HAMEER, VALIYAVEETIL,
ARAKINER.P.O., MARRADU, KOZHIKODE.

Addl.33. A.AMINA, ABOOBAKARINTAKATH, ARAKINER.P.O., MARRADU
KOZHIKODE.

Addl.34. A.ASSAN, S/O.ABU, ABOOBAKARINTAKATH, ARAKINER.P.O.
MARRADU, KOZHIKODE.

Addl.35. A.NABEESA, ABOOBAKERINTAKATH, ARAKINER.P.O., MARRADU
KOZHIKODE.

Addl.36. SAIRA, CHULLIYAMVALAPPIL, ARAKINER.P.O., MARRADU
KOZHIKODE.

Addl.37. ALI KOYA (DELETED), PONMADATH, ARAKINER.P.O., MARRADU
KOZHIKODE.

Addl.38. C.HAIRUNIZA, SEEMAMUNTAKATH, ARAKINER.P.O., MARRADU
KOZHIKODE.

Addl.39. T.RAMLA, THEKKEPURATH, ARAKINER.P.O., MARRADU
KOZHIKODE.

ADDL. R5 TO R39 ARE IMPEADED AS PER ORDER DATED
08.04.2009 IN IA 5088/2009 IN WP(C) 8883/2009.

ADDL. R29 AND R37 ARE DELETED FROM THE PARTY ARRAY OF
RESPONDENTS IN THE CAUSE TITLE VIDE ORDER DATED
5.12.2013 IN I.A.No.16523/2013.

ADV. SRI.P.V.KUNHIKRISHNAN FOR ADDL.R5-R28,
R30-R36,R38-R39
R1-R4 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

jvt

APPENDIX

Petitioner's Exhibits :-

Ext.P1 :- True copy of the detailed report dated 30.1.2008 forwarded by the Special Officer, Control Room, Marradu to the District Collector and translation.

Ext.P2(a) :- True copy of the report No.D1-2120/08-CC dated 3.4.2008 forwarded by the Commissioner of Police to the District Collector and translation.

Ext.P2(b) :- True copy of the report dated 27.2.2008 submitted by the Sub-inspector of Police to the Assistant Commissioner of Police and translation.

Ext.P3 :- true copy of the letter dated 14.10.2008 issued by the Minister for Industries, Mr.Elamaram Kareem and translation.

Ext.P4 :- True copy of the detailed report dated 24.1.2009 forwarded by the District Collector to the Additional Chief Secretary Department for Home and translation.

Ext.P5 :- True copy of the order No.G.O.(M.S) No.73/09/Rev dated 7.2.2009 issued by the 1st respondent along with Annexure and translation.

Ext.P6 :- True copy of the consequential order No.G.O.(M.S)No.88/09/Rev dated 13.2.2009 issued by the 1st respondent and translation.

Ext.P7 :- True copy of the representation dated 3.3.2009 submitted by the petitioner before the 2nd respondent.

Respondent's Exhibits :- NIL.

//True Copy//

P.A. to Judge

**ASHOK BHUSHAN, Ag. C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.8883 of 2009

Dated this the 13th day of January 2015

J U D G M E N T

Shaffique, J.

This writ petition has been filed by the petitioners challenging Exts.P5 and P6. In fact Ext.P6 is the modified order of Ext.P5. The issue relates to the claim made by about 35 persons alleging that they have lost their properties during the Maradu massacre, on account of which, they have to flee from their residential houses.

2. This writ petition has been filed in the form of Public Interest Litigation by Maradu Araya Samajam and its Secretary inter alia contending that the compensation is being given to a section of people who were found to be not eligible. Reference is made to Exts.P1, P2 and P4 to indicate that the claims of 35 families who are listed in Exts.P5 and P6 have already been considered by the police as well as the revenue authorities and it was found that they are not eligible for any compensation. But still the Government in order to please certain persons had directed payment of compensation

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upto ₹25,000/- to them and directed the District Collector to consider the same.

3. A counter affidavit has been filed on behalf of the first respondent inter alia stating that initially as per Government Order dated 24.1.2008, sanction was given for extending compensation to the families of those who were killed or seriously injured or those who had lost their valuable household things and other valuable items in connection with the violence. Accordingly, compensation was given to 179 persons. Thereafter another 35 persons were given sanction by the State Government for granting compensation upto ₹25,000/-. Considering the request made by them, the Government intended only to extend compensation to all the persons affected without making any room for complaints and with good intention to bring normalcy to Marad. Further it is stated that the District Collector has also not disbursed the compensation to the said 35 persons in view of the Court Order and the State Government has no intention to deny compensation to any eligible person who had suffered in the Marad incident.

4. A perusal of Exts.P1, P2 and P4 would indicate that reports are already available with the Government in regard to the claim made by most of the persons mentioned in Exts.P5 and P6 list. It is inter alia contended that reports which are available evidences that the police as well as the revenue authorities have actually rejected the claims made by most of the aforesaid persons. A perusal of Exts.P5 and P6 would show that the Government has sanctioned payment to the said 35 persons. In fact their eligibility to receive compensation has not been so far considered. That is also a matter which is required to be considered by the District Collector while considering the claims. In fact no enquiry was conducted by the Government while issuing Exts.P5 and P6, to find out whether they were actually eligible to get compensation.

5. Under such circumstances, we are of the view that before proceeding for disbursement of any amount as stated in Exts.P5 and P6, it is for the District Collector to consider whether the 35 persons mentioned in the list are actually entitled to get compensation. Such persons are free to submit

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their claims before the District Collector, who shall consider their claims after reference to all available reports including Exts.P1, P2 and P4.

In the result, this Writ Petition is disposed of as under :-

The 3rd respondent, District Collector shall consider the claims of the 35 persons mentioned in Exts.P5 and P6 based on their eligibility as well as the loss suffered by them subject to a maximum of ₹25,000/- as mentioned in the Government Order. The persons mentioned in Ext.P6 are permitted to submit their representation along with necessary materials to prove their claims before the District Collector.

Sd/-
ASHOK BHUSHAN
Ag. CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE