

ITEM NO.27

COURT NO.7

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).7023/2024

(Arising out of impugned judgment and order dated 11-03-2024 in WP No. 10497/2022 passed by the High Court Of M.P At Indore)

MAULANA KAMALUDDIN WELFARE SOCIETY DHAR M.P. Petitioner(s)

VERSUS

HINDU FRONT FOR JUSTICE
(REGD. TRUST NO. 976) & ORS. Respondent(s)

(IA No.70126/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 01-04-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Salman Khurshid, Sr. Adv.
Ms. Lubna Naaz, Adv.
Ms. Azra Rehman, Adv.
Mr. Akash Shukla, Adv.
M/S. Ace Legal , AOR

For Respondent(s) Mr. Sridhar Potaraju, Sr. Adv.
Mr. Bhakti Vardhman Singh, Adv.
Mr. Amit Sharma, Adv.
Mr. T Bhaskar Gowtham, Adv.
Mr. Gobind Kumar Parthiban, Adv.
Ms. Bhavya Tyagi, Adv.
Mr. Aayush, Adv.
Mr. Rajat Srivastava, Adv.
Mr. Lalit Mohan, Adv.
Ms. Shiwani Tushir, AOR

Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Ardhendumauli Kumar Prasad, Sr. Adv.
Mr. Hari Shankar Jain, Adv.
Mr. Santosh Kumar, Adv.
Mr. Praneet Pranav, Adv.
Mr. Vikas Shukla, Adv.
Mr. Ajay Awasthi, Adv.
Mr. Ashwin, Adv.
Mr. Vishnu Shankar Jain, AOR
Mr. Parth Yadav, Adv.
Ms. Mani Munjal, Adv.
Ms. Marbiang Khongwir, Adv.

Mr. K.M. Natraj, ASG
Mr. Saurabh Mishra, AAG

Mr. D. S. Parmar, AAG
Mr. Harmeet Singh Ruprah, Dy. AG
Mr. Abhimanyu Singh, Adv.
Mr. Sunny Choudhary, AOR (Physical appearance given)
Mr. Bharat Singh, AAG

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Salman Khurshid, learned Senior Counsel, appearing for the petitioner - Society

2. The challenge here is to the interim order passed on 11.03.2024 by the Division Bench at Indore of the Madhya Pradesh High Court.

3. The matter pertains to the Bhojshala Temple cum Kamal Maula Mosque at Dhar District, Madhya Pradesh. By the impugned order, the Director of the Archaeological Survey of India (ASI) is required to undertake a scientific investigation through adoption of latest method in the concerned complex and also in the peripheral area surrounding the complex.

4. The petitioner - Society was the respondent No.8 in the W.P. No.10497/2022 and it raises objection to the survey ordered by the High Court contending that relief to the respondent(s) - writ petitioner(s) cannot be granted in a petition under Article 226 of the Constitution. The petitioner also raises contention about the lawful right of the respondent No.8 vis-a-vis the complex in question. According to the petitioner, through the ordered survey, evidence in favour of the writ petitioner's cause could be discovered and such roving enquiry should be discouraged and parties be relegated to the Civil Court. The senior counsel then refers to the order passed by the High Court on 18.09.2003 pertaining to the very same premises in the W.P.(Civil) No.4216 of 2003 and argues that the later writ petition is hit by the principle of *res judicata*.

5. Mr. Guru Krishna Kumar and Mr. Sridhar Potaraju, learned Senior Counsel appearing on behalf of the Caveator - respondent No.1 and 15 respectively submit that a writ appeal against the learned Single Judge's order (dated 18.09.2003) is pending before the Division Bench at Jabalpur.

6. Issue notice, returnable in four weeks.

7. In the meantime, no action should be taken on the outcome of the survey ordered by the High Court under the impugned order dated 11.03.2024. It is also made clear that no physical excavation should be undertaken which will alter the character of Bhojshala Temple cum Kamal Maula Mosque at Dhar District, Madhya Pradesh.

[DEEPAK JOSHI]
COURT MASTER

[KAMLESH RAWAT]
ASSISTANT REGISTRAR