

\$~18 to 21 & 1(OS) to 8(OS) & 16 (OS) to 19 (OS)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 1st February, 2022

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+ **FAO 36/2021 & CM APPLs.2914/2021, 10442/2021, 10444/2021, 20904/2021, 23819/2021, 25868/2021, 25869/2021, 25870/2021, 25884/2021, 43946/2021, 3172/2022, 3455/2022, 5641/2022 & 5642/2022**

NEETA BHARDWAJ & ORS.

..... Appellants

versus

KAMLESH SHARMA

..... Respondent

With

+ **CM (M) 323/2021 & CM APPLs.14178/2021, 20945/2021, 20949/2021, 40269/2021**

+ **CM (M) 575/2021 & CM APPL. 43796/2021**

+ **CONT.CAS(C) 614/2021**

+ **CS (OS) 527/2021 & I.A.s.1717-18/2022**

+ **CS (OS) 533/2021 & I.A.s.1721-22/2022**

+ **CS (OS) 538/2021 & I.A.s.1725-26/2022**

+ **CS (OS) 541/2021 & I.A.s.1723-24/2022**

+ **CS (OS) 544/2021 & I.A.s.1719-20/2022**

+ **CS (OS) 547/2021 & I.A.s.1715-16/2022**

+ **CS (OS) 674/2021**

+ **CS (OS) 2499/2010**

+ **CS (OS) 55/2022**

+ **CS (OS) 56/2022**

+ **CS (OS) 57/2022**

+ **CS (OS) 588/2021**

Appearances:-

Mr. R.K. Bhardwaj, Adv. (M:9312710547) for Appellant in FAO 36/2021

Mr. K.G. Chhokar, Adv. in CM(M) 323/2021, FAO 36/2021 & 575/2021

Ms. Kawalpreet Kaur, Advocates for impleaders in FAO 36/2021.

(M:8287908688) advhaiderali08@gmail.com & kawalpreet@hrln.org

Mr. Harvinder Kumar alia Sanjay Bhardwaj in person.

Mr. Neeraj Bhardwaj, Advocate. neerajlawyer79@gmail.com
Mr. Yogender Nath Bhardwaj in person.
Mr. Kush Bhardwaj, Advocate. (M:9891074686) kbhardwaj524@gmail.com
Mr. Luv Bhardwaj, Advocate. (M:9990693140)
Mr. Nakul Bhardwaj in person. (M:9971328006)
Mr. Lokesh Bhardwaj in person. (M:9971576388)
Mr. Yoginder Singh, Advocate. (M:9999735003) for impleader Mr. Shailender Kumar Gautam.
Mr. Ravi Sharma, Advocate. (M:9654665565)
Mr. Rohit Kishan Naagpal, Mr. Dipanshu Gaba and Mr. Aakarshan Bhardwaj, Advocates. (M:9212786555) rohitnaagpal@gmail.com
Mr. Anuroop P.S & Mr. Gaurav Bidhuri, Advocates. (M:9582818838) scgnctd@gmail.com
Mr. Kamal Kant Bhardwaj, Advocate for Thula Bahadur. (M:9999438838) kant.bhardwaj047@gmail.com
Mr. Sarvesh Bhardwaj, Advocate for Defendant. (M:9350301058)
Mr. Ashok Bhardwaj and Mr. Dinkar Bhardwaj, Advocates.
Mr. D.K. Singhal, Advocate. (M:9811035029)
Ms. Samapika Biswal, Ms. Shambhavi Kala and Mr. Kartikeya Sharma, Advocates for Ld. Administrator. (M:9818668876)
Mr. Arun Birbal & Mr. Sanjay Singh, Advocates for SDMC & DDA. (M:9958118327)
Ms. Sangeeta Bharti, Standing Counsel for DJB. (M:9811112863)
Mr. Thakur Sumit, Advocate. (M:9968454481) in CS (OS)s 528/2021, 531/2021, 553/2021, 683/2021 & CM (M) 323/2021
Mr. Nitin Jain, Mr. Vishal Chauhan, Mr. Rajesh Kumar, Mr. Harshil Gupta & Mr. K.P. Singh, Advs. (M: 9716569056) attorneynitinjain@gmail.com
Mr. Vishal Bhardwaj, Advocate. (M:9205103230) adv.vishal9@gmail.com
Mr. Siddharth Panda, Advocate for SDMC. siddhupanda@gmail.com
Mr. Deepak Dewan, Advocate. advdeepakdewan@gmail.com
Mr. Santosh Kumar Tripathi, ASC (Civil), GNCTD with Mr. Arun Panwar, Mr. Arun Panwar, Mr. Siddarth Krishna Dwivedi and Ms. Vrinda Singh, Advocates. (M:9818112250)
Ms. Mini Pushkarna, Standing Counsel with Ms. Latika Malhotra & Ms. Khushboo, Advocates for DUSIB. (M:9810674872)
Mr. Vikas Singh, Sr. Advocate with Mr. Sudhir Naagar, Advocate for applicants in CM No.3455/2022.
Mr. Aly Mirza, Advocate for Respondent No.10 in item 19.

Mr. Sanjay Mishra, Mr. Nitesh Singla and Ms. Stuti Mishra, Advocates for Objectors.

Ms. Rakshika Bhardwaj, Advocate

Mr. Goonmeet Singh Chauhan, Architect.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. These matters pertain to the *Kalkaji Mandir*, which this Court has been hearing from time to time. These are part-heard matters.
3. In terms of the order dated 21st December 2021, this Court received a detailed report from the Ld. Administrator dated 13th January, 2022 (*hereinafter "Report No.2"*). The recommendations from the said Report No.2 were recorded in the order dated 14th January, 2022. The various parties before this Court in these matters were permitted to receive copies of the said report and make submissions in respect of those recommendations.
4. Further, this Court has received an additional Report dated 31st January, 2022 (*hereinafter "Report No.3"*) from the Ld. Administrator and has reviewed the progress of actions taken pursuant to such recommendations. An overview of the same is as follows.

Supply of Water and Laying Down of Sewage Lines

5. Vide order dated 15th November, 2021, this Court had directed the Delhi Jal Board (*hereinafter "DJB"*) to inspect the premises of the *Kalkaji Mandir* and to take immediate steps for laying down a temporary pipeline for an uninterrupted supply of drinking water as also for supplying running water to the toilet complexes. The DJB was also directed to place on record a status report in respect of the same. Pursuant to the said order, a Report

dated 28th January, 2022 has been filed by Ms. Sangeeta Bharti, Id. Standing Counsel, on behalf of the DJB. The said report has been signed by Mr. Brijnandan Gupta, who is Executive Engineer, (M)51, DJB. As per the said report, the following works have been executed by DJB:

“Pursuant to the directions of this Hon’ble Court, the following works were executed by Delhi Jal Board.

i. Water line for supplying of water to all 4 Piyaos has been laid and water supply has been started.

ii. The Sewer line has been laid in the Parking area of Kalkaji Mandir Complex and made functional.”

6. Report No.3 submitted on behalf of the Id. Administrator has recorded some grievances that were raised, i.e., the sewer lines within the premises of the *Kalkaji Mandir*, are still choked and there is an overflow of water. Mr. Anil Kumar Gupta, Zonal Engineer, Delhi Jal Board has assured the Id. Administrator that he would look into the matter.

7. Accordingly, it is directed that the team from the DJB shall be sent to inspect the premises, and ensure that the choking, leakage and overflow of water, if any, is dealt with and repaired expediently, so that the premises of the *Mandir* are kept clean. Let a status report be filed by Ms. Bharti on behalf of the DJB by the next date.

Removal of unauthorised construction and encroachments

8. Mr. Nitin Jain, Id. counsel, who appears for 64 shopkeepers submits that all the clients he represents have vacated their respective shops. This position is also confirmed by Ms. Kawalpreet Kaur appearing on behalf of 11 shopkeepers.

9. Ms. Samapika Biswal, Id. Counsel, appearing for the Id. Administrator, submits that all the shopkeepers, except Mr. Radhey Shyam who is the shopkeeper of Shop No.1 named '*Kalkamai Ke Prasad Ki Kadami Dukan*', have vacated their respective shops and tenements which they were in possession of.

Jhuggi and Jhopri Dwellers

10. Insofar as the *Jhuggis* are concerned, the Id. Administrator has submitted that 21 *Jhuggis* were removed on 15th December, 2021 and thereafter on 31st January, 2022, 18 other *Jhuggis* were removed.

11. The Id. Administrator, in Report No.3, has observed that there are approximately 50-60 *Jhuggis* that still occupy an area near the *Ram Piyao* Parking. Insofar as the said *Jhuggis* are concerned, the DDA, SDMC, and Delhi Police are directed to remove the *Jhuggis* and ensure that the entire area is cleared.

12. Since the inhabitants of the said *Jhuggis* have had adequate notice of all the proceedings, which have been going on for the last several months before this Court, it is made clear that if the *Jhuggi* dwellers fail to vacate the premises, the demolition drive in respect of the 50-60 *Jhuggis* near the *Ram Piyao* Parking area shall continue unhindered and conclude, on or before 7th February, 2022. Ms. Pushkarna, Id. counsel, has already assured the Court on behalf of DUSIB that upon request of DDA, adequate shelters shall be made available, if required and alternate space would also be considered, as per its prevalent policy. This aspect has already been dealt with in orders dated 7th December, 2021 and 9th December, 2021.

Dharamshalas

13. Insofar as the *dharamshalas* in the *Mandir* premises are concerned, there are several occupants in 46 *dharamshalas*, which have been categorized as under, in Report no.3:

“However, most persons residing in the Dharamshalas have resisted vacation of the same from the Mandir premises. Therefore, the Asst. to the Ld. Administrator conducted an inspection of the Dharamshalas on 04.01.2022 and 05.01.2022 and informed the residents about the orders of the Hon’ble High Court. It was also observed that there are five (5) types of occupation within the Dharamshalas:

(i) Occupied by shopkeepers;

(ii) Occupied by encroachers/trespassers, other than shopkeepers;

(iii) Occupied by Pujaris themselves;

(iv) Occupied by tenants of Pujaris; and

(v) Occupied by sewaks of Pujaris.”

14. Mr. Vikas Singh, Id. Senior Counsel, appearing for 17 *pujaris* currently occupying the *dharamshalas*, submits that his clients and their families have been living in the *dharamshalas* for several generations. Similarly, Mr. Sanjay Mishra, Id. Counsel, submits that he appears for 5 *pujari* families who occupy the *dharamshalas*.

15. Mr. Goonmeet Singh Chauhan, Id. Architect, submits that the *dharamshalas* are in a dilapidated condition and are unsafe for the present occupants.

16. In the opinion of this Court, after perusing the reports initially filed

by the Local Commissioner and thereafter by the Id. Administrator, there is no doubt that the *dharamshalas* are in a dilapidated condition and are plainly unsafe for being occupied. The current situation cannot be permitted to continue as apart from the *Pujaris* who claim rights, there are several unauthorised occupants and encroachers as well who are living with their families. The *dharamshalas* also need to be renovated as part of the overall re-development of the *Kalkaji Mandir*. For this purpose, the present occupants of the *dharamshalas* including the shopkeepers, encroachers/trespassers other than shopkeepers, the *pujaris*, the tenants of *pujaris*, as also the *sewaks* of *pujaris* would also have to vacate the said premises.

17. Insofar as all the *pujaris* and their families occupying the *dharamshalas* are concerned, they may appear before the Id. Administrator on 7th February, 2022, at 2:00 PM and make their submissions. On the said date, the Id. Administrator may interact with the *pujaris* and their families, and draw up a list of all eligible *pujaris*, who could be considered for allotment of quarters in the overall re-development plan. Thereafter, in consultation with the Id. Architect, the Id. Administrator may make recommendations to this Court as to the manner in which the said *pujaris* and their families ought to be accommodated, if any, in the overall re-development plan.

18. Mr. Kush Bhardwaj, Id. Counsel, appearing for some of the *baridars*, submits that one of the *dharamshalas* is currently being used for the storage of *gangajal* and the same must be taken care of during the re-development process.

19. In view of his submission, it is directed that before taking any action

towards the demolition of the said *dharamshala*, the *gangajal* which is stored in the said *dharamshala*, shall be moved to a clean and sanitized place, so that the same can be used for the purpose of *Puja Sewa*. The Id. Administrator shall also take a decision in this regard.

Creation of Temporary Shops and Kiosks at the Mandir Premises

20. Mr. Goonmeet Singh Chauhan, Id. Architect submits that keeping the overall re-development of *Kalkaji Mandir* in mind, a plan for the creation of the temporary shops and kiosks is being finalised. He seeks two weeks' time to submit the final proposal for the creation of the temporary shops and kiosks, as also the renovation of the *dharamshalas*.

21. Accordingly, for this purpose, Mr. Chauhan shall present the finalised re-development plan before this Court on 15th February, 2022 at 2.30 p.m.

22. It is also made clear that while the *Jhuggis* are being removed on or before 7th February, 2022, the concerned authorities including the DDA, SDMC, and the Delhi Police shall simultaneously also effect the removal and disposal of *malba* (debris) and commence levelling of the land. The said authorities shall ensure that the land space is freely available for the Id. Architect to conduct a final survey, before presenting the finalised Re-development plan before this Court, on 15th February, 2022.

Identification of the Shopkeepers

23. As per Report No. 2 and Report No. 3 of the Id. Administrator, 136 shopkeepers had initially given undertakings to vacate the premises in terms of the previous orders of this Court. However, after examining the said undertakings, the Id. Administrator has drawn up a list of 103 shopkeepers, to whom the shops have to be allotted.

24. Mr. Nitin Jain, Id. Counsel submits that there are 3 or 4 shopkeepers,

who have been held to be ineligible for allotment by the Id. Administrator. Mr. Jain is permitted to submit relevant documents in respect of such shopkeepers, so as to enable the Id. Administrator to take a decision, and prepare the final list of shopkeepers eligible for allotment. The Id. Administrator may hold a meeting with the shopkeepers in this regard, on a mutually convenient date and time.

25. The final list of eligible shopkeepers may now be finalized and submitted to this Court by the Id. Administrator, on or before 15th February, 2022.

Tehbazari - Cost of Construction and Monthly Payments

26. The Id. Administrator had made some recommendations as to the *tehbazari* and the monthly amounts to be paid by the shopkeepers, ranging between 1 and 5 lakhs per month.

27. Mr. Nitin Jain, Id. counsel, has raised objections on behalf of the shopkeepers in this regard. He submits that the income of the shopkeepers from the small shops which are allotted to them is not commensurate with the recommendation made by the Administrator, in any manner. It is also pointed out that the bids of Rs.1,00,000/- per month for a temporary shop at the market-way site, and Rs.5,00,000/- per month for a temporary shop at the *Ram Piyao* site, as recorded in paragraphs 12 &13 of Report No.2 are on the basis that the *Phool Prasad* Shops are limited to 10 in number. Ms. Kawalpreet Kaur, Id. Counsel who represents 11 shopkeepers has similar objections.

28. From the submissions made today, it appears that different *tehbazari* amounts may have to be fixed depending upon the categories of shops which are to be allotted. Accordingly, the Id. Administrator shall consider fixing

different slabs for the *tehbazari* for the different categories of shops in the *Mandir* Premises. The Id. Administrator may make recommendations in respect of the following aspects:

- (i) Total number of shops/kiosks to be created;
- (ii) Different categories of shops for selling different items and their specific numbers;
- (iii) Specific number of shops and kiosks in the different categories;
- (iv) *Tehbazari* to be paid *qua* each such shop and kiosk based on the category;
- (v) Contribution towards cost of construction to be made by such persons; and
- (vi) Persons who wish to be allotted the said shops/kiosks and are willing to pay the recommended *Tehbazari* and contribute to the cost of construction.

29. In this respect, Mr. Nitin Jain, Id. Counsel and Ms. Kawalpreet Kaur shall make submissions before the Id. Administrator on a mutually convenient date and time, on or before 7th February, 2022. Thereafter, the Administrator shall make a recommendation in respect of the costs for construction of the temporary shops as also the *tehbazari* which is to be charged in respect of the various categories of temporary shops and kiosks which are to be allotted to the shopkeepers. Let a report in respect of the finally recommended *tehbazari* and monthly amounts which are to be deposited by the shopkeepers, be placed before this Court, on 15th February, 2022, by the Id. Administrator.

30. Additionally, Ms. Smita Maan, Id. Counsel appearing for some *baridars*, submits that some of the shopkeepers, including Mr. Bhagwandas

and Mr. Pyare Lal, used to pay much higher amounts of *tehbazari* that ran into lakhs of rupees. She submits that the bids which they have submitted before the Id. Administrator are significantly lower than the previous amounts they used to pay. Accordingly, the Id. Administrator would also hear submissions from the *baridars* in respect of fixing *tehbazari* amounts.

31. Insofar as the shops, which are currently running in the *Mandir* premises are concerned, let a report also be placed by the Id. Administrator before this Court as to who are running these shops, what *tehbazari* amounts are being collected for the said shops, and the manner in which these amounts are being deposited, by 15th February, 2022.

Contribution for the Redevelopment of the Mandir from the Baridars

32. The Id. Administrator has recommended that an additional sum of Rs.5 lakhs per month ought to be contributed by the *baridars* for the redevelopment of the *Kalkaji Mandir*. For the time being, however, considering the details of various amounts which have been received from the various proceedings in the District Courts and the accounts submitted today, it is directed that the *baridars* shall deposit a sum of Rs.2 lakhs per month in the ***Kalkaji Mandir Fund***, subject to further orders of this Court.

33. In so far as other amounts lying deposited before various Courts are concerned, a draft report has been received from the Registry today, tabulating the various amounts, which are lying deposited in the form of FDRs, demand drafts and cheques with the District/Civil Courts. According to the Registry of this Court, the total amounts lying deposited is more than Rs.6 crores, as tabulated till now, apart from those lying deposited in various suits. However, the complete details of the same have not yet been tabulated by the Registry.

34. The worthy Registrar General of this Court shall now receive a proper report from the concerned branch. He shall get all the amounts lying deposited in the various proceedings concerning the *Kalkaji Mandir* before the District Courts transferred into the aforementioned *Kalkaji Mandir Fund* account.

35. The Court has also noticed that various FDRs, demand drafts and cheques issued in the names of Judicial Officers concerned in the various proceedings, are lying deposited in an uncashed manner. The Registry shall tabulate all of the FDRs, DDs, cheques, and other instruments deposited in various proceedings relating to the *Kalkaji Mandir* in all suits, appeals, petitions, etc., and submit a report to the worthy Registrar General. The Registrar General shall send the same to the Branch head, UCO Bank, Delhi High Court for necessary encashment of the principal and interest which has accrued thereupon. The said amounts shall be transferred to the account in the name of the **“Registrar General, Delhi High Court, A/c Kalkaji Mandir Fund”** vide A/c No.15530110155950 IFSC Code UCBA0001553. The concerned banks are directed to cooperate in this regard.

36. The Id. Administrator shall also submit a report setting out the accounts of the expenses incurred with regard to the *Kalkaji Mandir*, since the date of his appointment. Let the said report be submitted on or before 15th February, 2022.

37. The Registrar General shall also call for the amounts and interest accrued thereupon in the following matters pertaining to the *Kalkaji Mandir*:

- (i) **CS (OS) 57/2022 [MISC. SCJ 279/2018]** titled ***Pirithi Nath & Ors. vs. Tula Ram*** in the Account No. CCD843 PAO VI, SBI, Tis Hazari Courts, where pursuant to the orders of the Division

Bench of this Court passed in 1972 & 1978, a sum of Rs.10 lacs is stated to be lying deposited in the said account.

- (ii) Amounts lying deposited in suits filed before the Original Side of the Delhi High Court.
- (iii) In the proceedings pending in **CS SCJ 96542/16** pending before the Court of Ms. Sonam Singh, CJ-07, Central, Tis Hazari Courts, where 11 FDRs to the tune of Rs.1,08,96,045/-.

38. In all these matters, let the said amounts be consolidated along with any interest which has accrued thereon, and be transferred to the ***Kalkaji Mandir Fund***.

39. Any FDRs lying in the sealed cover shall be removed for the purpose of encashing the amounts in the presence of the Deputy Registrar of this Court. Thereafter, the amounts encashed shall be deposited in the ***Kalkaji Mandir Fund***.

CS(OS) 674/2021

40. The present suit for recovery of *mesne* profits/damages has been filed against Sh. Rajinder Aggarwal/Defendant who was occupying shop no. A-1, Kalkaji Mandir, New Delhi.

41. He is an illegal occupant in the said premises.

42. In terms of the previous orders passed by this Court dated 27th September, 2021, 15th November, 2021 and 7th December, 2021, 9th December, 2021, and 21st December, 2021, all shopkeepers were directed to handover vacant and peaceful possession of their shops within the premises of *Kalkaji Mandir*.

43. Ld. counsel for the Plaintiff submits that the Defendant is no longer in occupation of the shop concerned. This is also confirmed by the ld. counsel

for the Id. Administrator.

44. Accordingly, the said Defendant shall deposit a sum of Rs.2 lakhs, as donation to the *Mandir*, on account of occupying the said premises for so many years without paying any *tehbazari* or rent. The said amount shall be deposited by the Defendant within four weeks, to the ***Kalkaji Mandir Fund***.

45. It is made clear that only after the said amount is deposited shall the Defendant - if he wishes to be considered for allotment of a new shop - be considered for allotment.

46. Accordingly, the suit is disposed of in these terms.

CS (OS) 588/2021

47. In this matter, Mr. Kamal Mehta, Id. Counsel submits that an application bearing no. *Misc SCJ No.27/2021* titled ***Radhey Shyam v. Saliq Ram***, has been moved by Sh. Durga Prasad for withdrawal of amounts lying deposited in the A/c No. 33714286687 in the State Bank of India, Tis Hazari Courts Branch. The said amount is stated to be Rs.1,63,11,465/-. As per Mr. Mehta, the amount to be disbursed to the applicants pursuant to proceedings between the parties that were disposed of in terms of a compromise decree vide order dated 22nd October, 2001.

48. Let the said amount be transferred by the concerned bank, within two weeks, to the ***Kalkaji Mandir Fund***. Upon the said amount being received, the application filed by Sh. Durga Prasad shall be considered by this Court.

49. List on 15th February, 2022.

CS (OS) 2499/2010

50. This suit was filed by Sh. Mahender Bhardwaj, a *Pujari*, against the Defendant seeking possession, permanent injunction, damages and *mesne* profits, with regard to A-20-Salagram Kasth Dharamshala, located in the

premises of *Kalkaji Mandir*. The case in the suit was that the Defendant was running a shop and was using the *Dharamshala* without authorization.

51. Mr. R.K. Bhardwaj, Id. counsel, submits that this is a suit filed against the unauthorized occupants of the *Dharamshala*.

52. Mr. Tripathi, Id. counsel appearing for the Defendant would like to seek instructions in this matter. He further submits that his client is not currently available to give an undertaking with regard to his occupation of the said *Dharamshala*.

53. Accordingly, the Defendant, shall give instructions to Mr. Tripathi and make a statement with respect to this issue, on the next date of hearing.

54. List this matter on 4th February, 2022.

55. Insofar as other occupants of the *Dharamshala* are concerned, in *CS (OS) 523/2021, CS (OS)s 529/2021, 530/2021 & 534/2021, CS(OS) 548/2021, CS(OS) 551/2021, CS (OS) 555/2019*, this Court vide previous order dated 9th December, 2021 had directed the Defendants to deposit certain sums as donations to the *Mandir*, and the said sum was to be determined by the Id. Administrator after verifying their capacity. In this regard, the Id. Administrator has recommended a deposit of Rs.2 lacs each by the Defendants.

56. Therefore, in respect of these occupants, identified as below in Report No.3:

(a) Mr. Pyare Lal (CS(OS) 548/2021);

(b) Mr. Jay Prakash Sharma (CS(OS) 551/2021);

(c) Mr. Vinod Kumar Sharma and Mr. Gyan Singh Sharma (CS (OS) 555/2019);

(d) Ms. Suman Shahi (CS (OS)s 529/2021, 530/2021 &

534/2021);

(e) Ms. Saraswati, Mr. Sanjay Baral and Mr. Ajay Baral

(CS (OS) 523/2021);

Each of the above listed parties from (a) to (e) shall deposit a sum of Rs.2 lakhs as donation to the *Kalkaji Mandir* as recommended by the Id. Administrator, within four weeks, to the *Kalkaji Mandir Fund*.

FAO 36/2021 & CM APPLs.2914/2021, 10442/2021, 10444/2021, 20904/2021, 23819/2021, 25868/2021, 25869/2021, 25870/2021, 25884/2021, 43946/2021, 3172/2022, 3455/2022, 5641/2022 & 5642/2022

57. Vide order dated 14th January, 2022, this Court had issued notice to one Sh. Radhey Shyam, who is the shopkeeper of Shop No.1 named '*Kalkamai Ke Prasad Ki Kadami Dukan*'. As per the Id. Administrator's report, Mr. Radhey Shyam had refused to vacate the said shop in order to enable the redevelopment of the *Mandir* premises. It was his case before the Administrator that there are various orders which have been passed in his favour, and thus he is entitled to occupy the premises.

58. Today, Mr. Saurabh Kirpal, Id. Senior Counsel instructed by Mr. Gaurav Sharma, Id. Counsel, appears on behalf of Mr. Radhe Shyam.

59. Reliance is placed by Mr. Kirpal on the order of the Supreme Court dated 3rd October, 2018 in *SLP No.36887/2016* titled *Shri Pearey Lal v. Shri Jia Pujari*, where the Supreme Court has directed as under:

“Accordingly, these appeals are partly allowed holding that the appellant(s) is a licensee, decree of injunction is passed in favour of the appellant to the extent that the appellant shall not be dispossessed without the process of law meaning thereby the respondent(s) shall be permitted to recourse of legal proceedings in this behalf. We

*may record that as and when such a suit is filed
the same shall be adjudicated on its own merits.
No order as to costs.”*

60. A perusal of the above order would show that the status of Mr. Radhe Shyam is one of a licensee, who can be dispossessed in accordance with law. Notably, the suit in which this order has been passed, was filed in a representative capacity and at best would be a representation on behalf of the deity in the *Kalkaji Mandir*. Therefore, the status of Mr. Radhey Shyam is, at best, one of a licensee.

61. It is a matter of record that currently, an Administrator has been appointed for the overall administration, redevelopment and management of the *Kalkaji Mandir*. As is clear from the Id. Administrator's report, the Administrator has already issued three communications to Mr. Radhe Shyam to vacate the premises. However, Mr. Radhey Shyam has refused to do so.

62. Considering that the Administrator is now looking after the overall administration of the *Kalkaji Mandir* and its redevelopment, Mr. Radhey Shyam shall make his submissions before the Id. Administrator and the Administrator shall make his recommendation to this Court accordingly.

63. In the meantime, Mr. Radhey Shyam shall file a complete account of all the amounts which have been deposited by him before the Trial Court and the photographs of the premises concerned, within two weeks.

64. List on 15th February, 2022.

65. Mr. Udit, Id. Counsel, also submits that he has filed a fresh application in respect of rights over the upcoming *Bari* commencing on 12th February, 2022. Id. Counsel to bring the said application on record and get

it listed before the Court, upon which, the same shall be considered by the Court.

66. It is made clear that all amounts being transferred to the account newly opened by the worthy Registrar General of this Court toward re-development of *Kalkaji Mandir*, shall be retained in an interest bearing account.

67. List on 15th February 2022.

CM (M) 323/2021 & CM APPLs.14178/2021, 20945/2021, 20949/2021, 40269/2021, CM (M) 575/2021 & CM APPL 43796/2021, CONT.CAS(C) 614/2021, CS (OS) 527/2021 & I.A.s.1717-18/2022, CS (OS) 533/2021 & I.A.s.1721-22/2022, CS (OS) 538/2021 & I.A.s.1725-26/2022, CS (OS) 541/2021 & I.A.s.1723-24/2022, CS (OS) 544/2021 & I.A.s.1719-20/2022, CS (OS) 547/2021 & I.A.s.1715-16/2022, CS (OS) 55/2022, CS (OS) 56/2022, CS (OS) 57/2022

68. List on 15th February 2022.

69. Ms. Samapika Biswal, Id. Counsel, appearing for the Id. Administrator, to file Report No.3 of the Id. Administrator before the Court and bring the same on record, within a week. The Registry is permitted to issue copy of Report No.3 to all parties upon request.

70. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

**PRATHIBA M. SINGH
JUDGE**

FEBRUARY 01, 2022/mw/dk/Rahul/ad/ms

(corrected & released on 4th February, 2022)