

\$~17 to 20 & 28 to 31 & 1(OS) to 45(OS)

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

Date of Decision: 07th December, 2021

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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, 25885/2021, 26495/2021, 29121/2021, 38063/2021, 38289/2021, 39643/2021, 43944/2021, 43945/2021, 43946/2021 & REVIEW PET. 177/2021**

NEETA BHARDWAJ & ORS.

..... Appellants

versus

KAMLESH SHARMA

..... Respondents

With

+ **CM (M) 323/2021 & CM APPLs. 14178/2021, 20945/2021, 20949/2021, 40269/2021, REVIEW PET. 103/2021**

+ **CM (M) 575/2021 & CM APPLs. 29013/2021, 29014/2021, 43796/2021, 43797/2021**

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

+ **RFA 411/2021**

+ **RFA 412/2021**

+ **RFA 413/2021**

+ **RFA 414/2021**

+ **CS (OS) 511/2021**

+ **CS (OS) 512/2021**

+ **CS (OS) 517/2021**

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+ CS (OS) 559/2021
+ CS (OS) 588/2021
+ CS (OS) 641/2005 & IAs 19445/2014 & 24296/2015
+ CS (OS) 642/2005 & IAs 19847/2012, 16501/2014, 16502/2014,
19512/2014, 2234/2015, 24297/2015, 4478/2019 & 8339/2020
+ CS (OS) 648/2021

Appearances:-

Mr. Rakesh Tikoo, Senior Advocate on behalf of Lokesh Bhardwaj

Mr. R.K. Bhardwaj with Mr. Dheeraj Bhardwaj, Advocates.
(M:9312710547)

Mr. Neeraj Bhardwaj, Advocate.

Mr. Rohit Kishan Naagpal & Mr. Dipanshu Gaba, Advocates.

Ms. Garima Anand, Advocates.

Mr. Anuroop P.S & Mr. Gaurav Bidhuri, Advocate for R-46 to 49.

(M:9582818838)

Mr. Humayun Khan, Advocate (M:9811177317) for Mr. Pradeep Kumar Gulia, Advocate for R-59 & 57.

Mr. Rajesh Kumar Gupta, Advocate for LR of R-58.

Mr. Kamal Kumar, Advocate for R-22 & 25. (M:9136452240)

Mr. Krishan Gopal Chokkar, Advocate.

Mr. Jitender Verma, Advocate for R-1 Mr. Anuroop P.S., Advocate for R-1.

Mr. Mayank Yadav, Advocate for Applicant.

Mr. Thakur Sumit, Advocate.

Mr. Vishal Bhardwaj, Advocate in FAO 36/2021.

Mr. Kamal Kant Bhardwaj, Advocate.

Mr. Vishal Maan and Mr. R.S. Verma, Advocate

Mr. Vipin Bharadwaj, in person

Mr. Kush Bhardwaj, Advocate. (M:9891074686)

Mr. Luv Bhardwaj, Advocate. (M:9990693140)

Mr. Sanjay Bhardwaj.

Mr. R.K. Gupta, Advocate.

Mr. K.G. Chhokar, Advocate. (M:9896030124)

Mr. Avinash Chaurasia, Advocate. (M:9811841262)

Mr. Yoginder Singh, Advocate.

Mr. Sarvesh Bhardwaj, Advocate.

Ms. Rashmi B. Singh, Advocate.

Mr. Prabhash Chandra, Advocates.

Ms. Sangeeta Bharti, Standing Counsel for DJB (M-9811112863).

Mr. Amit Gupta, Advocate for Applicants. (M:8307429100)

Mr. Amit Rawat, Advocate. (M:8307429100)

Mr. D.K. Singhal, Advocate.

Mr. Manish Choudhary, Advocate.

Mr. K. K. Tyagi, Advocate.

Mr. Sunil Fernandes, Standing counsel BSES with Mr. Shubham Sharma, Advocate.

Mr. Harsh Khirwal, Advocate.

Ms. Samapila Biswal and Ms. Shambhavi Kala, Advocates for Ld. Administrator.

Ms. Smita Mann, Advocate.

Ms. Vivek Kumar Singh & Mr. Yashvir Kumar, Advocates.

Mr. Arun Birbal & Mr. Sanjay Singh, Advocates for SDMC. (M:9958118327)

Mr. S. Sasib Hussain, Advocate.
Mr. Sanjay Lao, Advocate.
Mr. Pardeep kumar Gulia, Advocate.
Mr. Thakur Sumit, Advocate. (M:9968454481)
Mr. Sundeep Sehgal, Advocate. (M:9810005572)
Mr. Mahenderr Kumar Pandey, Advocate.
Inspector Mr. Balbir Singh, SHO Kalkaji & SI Mr. Manu Dev
(M:9910662682)
Mr. Deepak Dewan, Advocate. (M:9810127778)
Mr. Nitin Jain, Advocate.
Mr. Shashi Bhushan, Advocate.
Mr. Deepak Diwan, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
Prathiba M. Singh, J. (Oral)

1. This hearing has been done in physical Court. Hybrid mode is permitted in cases where permission is being sought from the Court.
2. These matters pertain to the *Kalkaji Mandir*, which this Court has been hearing from time to time. These are part heard matters.
3. Vide last order dated 15th November 2021, various directions were issued to the Delhi Police, SDMC, the Id. Administrator appointed by this Court, DUSIB, Delhi Jal Board as well as some of the *baridaars*.

Misconduct on the part of baridaars

4. As captured in paragraph 19 and 20 of the last order dated 15th November 2021, Mr. Nakul Bhardwaj and Mr. Lokesh Bhardwaj are two individuals, who according to the interim report of the Id. Administrator dated 26th October 2020, have impeded, and obstructed the implementation of the directions passed by this Court. Accordingly, notice was issued to these two persons, and they were directed to be personally present in Court.
5. Today, Mr. Nakul Bhardwaj and Mr. Lokesh Bhardwaj are present in

Court. Mr. Rakesh Tikko, Id. Senior Counsel, appearing on behalf of Mr. Lokesh Bhardwaj, submits that Mr. Lokesh Bhardwaj is an advocate whose family is also part of the *baridaars* of the *Kalkaji Mandir*. He submits that he does not have a copy of the Id. Administrator's report.

6. Vide the last order, the Id. Administrator's report was directed to be made available to all parties appearing in these matters. Be that as it may, both Mr. Lokesh Bhardwaj and Mr. Nakul Bhardwaj may obtain a copy of the Id. Administrator's report from the Registry, and shall specifically respond to the contents of the said report in paragraphs 31-37, which relate to them. Let an affidavit responding to the said contents be filed within two weeks.

Unauthorized encroachment by the shopkeepers and removal of encroachments and unauthorized construction

7. Vide the last order, this Court had clearly held that none of the shopkeepers, who are in illegal occupation of *Mandir* premises, can remain in possession. The shopkeepers or their families also cannot reside in the *Mandir* complex. The same is impermissible and is nothing but unauthorized encroachment and trespass into the *Mandir's* premises. Accordingly, the following direction was passed:

"14. Accordingly, the Id. Administrator, with the cooperation of the Delhi Police and the SDMC, is permitted to take action for removal of all the unauthorized encroachers including their residences within the Kalkaji Mandir premises. For the said purpose, if any of the shopkeepers and illegal residents in the Mandir premises are entitled to alternate accommodation, the DUSIB may consider their request and provide alternate premises on humanitarian grounds. However, it is made clear that the pendency

of any application for alternate accommodation before DUSIB shall not come in the way of the removal of encroachers and trespassers from the Mandir premises.”

8. Today, Ms. Samapika Biswal, Id. Counsel appearing on behalf of the Id. Administrator submits that the direction is being complied with and as a result, encroachments by 31 shopkeepers have been already removed from the *Mandir* premises.

9. In respect of this issue, impleadment applications bearing CM Appl. No. 43944/2021 has been filed by 68 shopkeepers who claim to be the occupants of the shops at the *Kalkaji Mandir* premises. Mr. Nitin Jain, Id. Counsel has tendered appearance on their behalf. Apart from this, Mr. Deepak Diwan, Id. Counsel has also tendered appearance on behalf of 33 shopkeepers, and Mr. Shashi Bhushan, Id. Counsel, has appeared for 4 shopkeepers, who claim to have their shops within the *Kalkaji Mandir* premises. Several of these shopkeepers are also stated to be residing within the *Mandir* premises including in the *Dharamshalas* etc.,

10. It is the submission of Mr. Shashi Bhushan, Id. Counsel, that his clients who are four shopkeepers, three of whom also have their families residing in the *Dharamshala* which is within the premises of the *Kalkaji Mandir*. He submits that insofar as three shopkeepers - namely Ms. Saraswati, Mr. Vinod Kumar Sharma and Mr. Gyan Sunder Sharma are concerned, they are in occupation of the said premises since 20 to 30 years. He accordingly prays that, on humanitarian grounds, they may be given time to vacate the occupation of the said premises. Insofar the fourth shopkeeper, who he represents, namely Mr. Hemant Raj Bhasin is concerned, he is in occupation of one shop only and does not reside in the premises.

11. On a query as to whether his clients, who are currently in occupation and even in residence of the *Mandir* premises, would be willing to give an undertaking, within two days, as to vacate the *Mandir* premises, Mr. Jain, Id. Counsel, representing the 68 shopkeepers and their families, who have filed CM Appl. No. 43944/2021, submits that he would like to take instructions from his clients in respect of the same. A similar request is made by Mr. Deepak Diwan, Id. Counsel appearing for another 33 shopkeepers.

12. Mr. Bhardwaj, Id. Counsel appearing for a few of the *baridaars* submits that several of the shopkeepers against whom decrees have been passed by Trial Court are not even allowing enforcement of the said decrees. Most of the shopkeepers are also not paying any *tehbazari*.

13. This Court is of the opinion that insofar as the shopkeepers who have made their residences and are in unauthorised occupation of shops, are concerned, all the residents of the shops and within the *Mandir* premises including the *Dharamshala* have to be vacated. It is also made clear that for vacation of the shops and of unauthorized occupants from the *Mandir* premises, the Id. Administrator shall continue to take action as per the previous orders of this Court, with effect from 10th December, 2021 onwards. In the meantime, insofar as the three shopkeepers namely- Ms. Saraswati, Mr. Vinod Kumar Sharma and Mr. Gyan Sunder Sharma, represented by Mr. Bhushan, are concerned, considering that Mr. Bhushan has submitted that they are willing to give undertakings to the court that they will vacate their residences in the *Dharamshala* premises, they are given time till 25th December, 2021 to vacate the said premises and the spaces unauthorizedly occupied in the *Dharamshala*. The undertaking to this effect shall be presented to the Court on 9th December, 2021 at 2:30 P.M. for

further orders.

14. Mr. Jain and Mr. Diwan to also seek instructions from their clients by the said date, and file their undertakings, if agreeable, as to whether the said shopkeepers are willing to vacate the said premises.

15. This court intends to request the architect who was appointed vide order dated 27th September 2021 - Mr. Gurmeet Singh Chauhan, to inspect and survey the entire premises of the *Kalkaji Mandir* and suggest an alternate place where shops can be temporarily be run till the final plan for the re-development of the *Mandir* is approved by this Court. For the said purpose, if the shopkeepers file their undertakings before this court, an option could be given, on the basis of the highest bid which may be received as per the public notice floated by the Administrator on 12th November, 2021, to all the shopkeepers who have had their shops for a long period in the *Kalkaji Mandir* premises to run shops, subject to payment of *tehbazari/licence* fee in accordance with the terms and conditions prescribed. If the shopkeepers file their undertakings to the effect that they would not occupy or reside in the *Mandir* premises, in terms mentioned above, this Court could consider their undertakings and pass directions in respect thereof on the next date of hearing.

16. Finally, insofar as the shopkeepers, whose unauthorised residences within the *Mandir* premises are to be vacated, are concerned, they are permitted to approach the Delhi Urban Shelter Improvement Board (DUSIB) and DDA immediately, for alternate premises if they are eligible in accordance with law. If DUSIB has a process of providing **रैन बसेरा** (Night shelter) they are permitted to avail of the same in accordance with law as

well. Insofar as the SDMC and the DDA are concerned, it is made clear that all the encroachments and persons who are in the unauthorised occupation, whether in the shops or residences, have to be removed from the *Kalkaji Mandir* and requisite cooperation shall be extended by the officials concerned, to the Id. Administrator for the said purpose.

Potable Drinking Water for devotees

17. Vide the last order dated 15th November 2021, the following directions were passed in respect of the Delhi Jal Board:

“28. The Id. Administrator has informed the Court that there are three Piyaos in the Mandir premises. However, regular water is not being made available by the Delhi Jal Board, or any of the baridaars, or even the Shri Kalkaji Mandir Prabandhak Sudhar Committee.

29. Accordingly, it is directed that the Delhi Jal Board shall send a team to the Kalkaji Mandir day after tomorrow, to inspect and to take immediate steps for laying down a temporary pipeline for uninterrupted supply of drinking water to the devotees in the Mandir, as also for running water supply to the toilet complexes.

30. The official from the Delhi Jal Board- Mr. Ashok Kumar, Executive Engineer, M-41, is also directed to coordinate with the Id. Administrator for the installation of filtration equipment to the Piyaos, so that uninterrupted drinking water is available to the devotees.

31. In respect thereof, a status report shall be filed by the Delhi Jal Board before this Court, confirming the uninterrupted availability of potable water, by the next date of hearing.”

18. Pursuant to this order, a status report has been filed on behalf of the

Delhi Jal Board, informing the court that two tenders and work orders are in the process of being issued for laying of water lines and sewer lines.

19. Ms. Bharti, Id. Counsel for the Delhi Jal Board submits that currently the construction work in Delhi-NCR region is stopped, and as soon as the same recommences the work in respect of the directions given in the last order, would be undertaken and a further status report would be filed.

20. Finally, insofar as the sewer lines which were laid pursuant to the orders of the Supreme Court in *SLP(C) No. 32452-453/ 2013* are concerned, since those sewer lines are stated to be blocked and are not in a serviceable condition, the same shall be cleaned and it shall be ensured by the Delhi Jal Board that the said sewer lines are opened and are put into proper functional use for the purpose of the *Mandir*.

Suits transferred and issues in respect thereof

21. Vide order dated 27th September 2021, various suits pertaining to the *Kalkaji Mandir* were transferred to be consolidated before this Court. All these matters are listed today, and are broadly divided into three categories:

• **Category A**

Matters pertaining to disputes between baridaars, adoption issues and the rights of female baridaars to offer puja sewa and their entitlement for share in donations and offerings

S.No.	Case No.	Cause Title
1.	FAO-36-2021	<i>Neeta Bhardwaj v. Kamlesh Sharma</i>
2.	CM(M)-323-2021	<i>Bishan Swaroop v. Mahender Kumar Pandey</i>
3.	CM(M)-575-2021	<i>Mam Chand v. Satish Kumar</i>
4.	CONT. CAS(C)-614-2021	<i>Poornima Sharma v. Vipul Gaur</i>

5.	<i>RFA-411-2021</i>	<i>Ashok Bhardwaj v. Dinkar Bhardwaj & Ors.</i>
6.	<i>RFA-413-2021</i>	<i>Mahender Kumar Pandey v. Gugan Chand</i>
7.	<i>RFA-414-2021</i>	<i>Satish Kumar v. Mahesh & Ors.</i>
8.	<i>CS(OS)-511-2021</i>	<i>Mukesh Bhardwaj v. Ajay Sharma</i>
9.	<i>CS(OS)- 512-2021</i>	<i>Sunny Bahrdwaj v. Master Anurag Bhardwaj. (Minor) & Ors.</i>
10.	<i>CS(OS)-517-2021</i>	<i>Prem Chand Bhardwaj v. Sapan Bhardwaj</i>
11.	<i>CS(OS)-518-2021</i>	<i>Naveen Kumar v. Lakphat Ram</i>
12.	<i>CS(OS)-519-2021</i>	<i>Naresh Chand v. Peeyush Kaushik & Ors.</i>
13.	<i>CS(OS)-520-2021</i>	<i>Naveen Kumar v. Lakphat Ram & Ors.</i>
14.	<i>CS(OS)-521-2021</i>	<i>Naveen Kumar v. Lakphat Ram & Ors.</i>
15.	<i>CS(OS)-524-2021</i>	<i>Monika Ganguli v. Amit Gaur</i>
16.	<i>CS(OS)-525-2021</i>	<i>Narender Kumar & Ors. v. Lakhmi Chand @ Lakhu & Ors.</i>
17.	<i>CS(OS)-526-2021</i>	<i>Shri Kalkaji Mandir Shamlat Thok Jogians and Brahmmins Mauza Bahapur v. Ajay Bhardwaj & Ors.</i>
18.	<i>CS (OS)-528-2021</i>	<i>Vijay Laxmi v. Sat Dev</i>
19.	<i>CS(OS)-531-2021</i>	<i>Sat Dev v. Vijay Laxmi</i>
20.	<i>CS(OS)-545-2021</i>	<i>Bhagwati Devi v. Ved Prakash & Ors.</i>
21.	<i>CS(OS)-546-2021</i>	<i>Naveen Kumar v Lakhpat Ram & Ors.</i>
22.	<i>CS(OS)-552-2021</i>	<i>Naval Bhardwaj v. Brij Mohan Bhardwaj</i>
23.	<i>CS(OS)-553-2021</i>	<i>Sat Dev & Ors. v. Vijay Laxmi</i>
24.	<i>CS(OS)-557-2021</i>	<i>Ganpat Nath v. Gugan Chand & Ors.</i>
25.	<i>CS(OS)-559-2021</i>	<i>Mam Chand v. Inderjeet & Ors.</i>
26.	<i>CS(OS)-588-2021</i>	<i>Radhe Shyam v. Salig Ram & Ors.</i>

27.	CS(OS)- 641-2021	U.N. Bhardwaj v. Y.N. Bhardwaj & Ors.
28.	CS(OS)-642-2021	U.N. Bhardwaj v. Y.N. Bhardwaj & Ors.

• **Category B**

Suits pertaining to shopkeepers, unauthorized construction and illegal occupation on the Mandir premises including payment of tehbazari.

S.No.	Case No.	Cause Title
1.	CS(OS)-523-2021	Kalkaji Mandir Prabandhak Sudhar Committee v. Saraswati & Ors.
2.	CS(OS)- 527-2021	Mukhtiyar Singh v. Prem Chand
3.	CS(OS)-529-2021	Suman Sahi v. Sarvesh Bhardwaj & Ors.
4.	CS(OS)-530-2021	Sapan Bhardwaj & Ors. v. Ram Vishal Shahi & Ors.
5.	CS(OS)-532-2021	Chunnu Singh v. Naveen Kumar
6.	CS(OS)-533-2021	Mukhtiyar Singh & Ors. v. Rajender Kumar Aggarwal & Ors.
7.	CS(OS)-534-2021	Sarvesh Bhardwaj v. Suman Shahi
8.	CS(OS)-535-2021	Shri Kalkaji Mandir through Harish Bhardwaj v. Suman Shahi & Anr.
9.	CS(OS)-579-2021	Shri Kalkaji Mandir Shamlat Thok Jogians and Brahmins v. Dhanpati
10.	CS(OS)-538-2021	Mukhtiyar Singh & Ors. v. Pyare Lal & Ors.
11.	CS (OS)-539-2021	Shri Kalkaji Mandir through Harish Bhardwaj v. Balwan Singh & Ors.
12.	CS(OS)-540-2021	Shri Kalkaji Mandir Shamlat Thok Jogians & Brahmins v. Arun Kumar Padwal
13.	CS(OS)-541-2021	Mukhtiyar Singh & Ors. v. Sunil Sahu & Ors.
14.	CS(OS)-542-2021	Shri Kalkaji Mandir Shamlat Thok Jogians and Brahmins Mauza Bahapur v. Subhash & Ors.

15.	CS(OS)-543-2021	Shri Kalkaji Mandir Shamlat Thok Jogians and Brahmins Mauza Bahapur v. Kalkaji Mandir Vikreta Sangathan II & Ors.
16.	CS(OS)-544-2021	Mukhtiyar Singh & Ors. v. Ram Narain Singh & Ors.
17.	CS(OS)-547-2021	Mukhtiyar Singh & Ors. v. Rajesh Grover @ Rajesh Kumar & Ors.
18.	CS(OS)-548-2021	Mandir Sri Kalkaji & Anr. v. Pyare Lal
19.	CS(OS)-550-2021	Sumit Kumar Sharma v. Shri Kalkaji Prabhandhak Sudhar Committee & Anr.
20.	CS(OS)- 551-2021	Mandir Sri Kalkaji & Anr. v. Jai Prakash Sharma
21.	CS(OS)-554-2021	Shri Kalkaji Mandir Shamlat Thok Jogians and Brahmins Mauza Bahapur v. Dinesh Kumar Bhardwaj
22.	CS(OS)-555-2021	Rakesh Bhardwaj v. Vinod Kumar Sharma
23.	CS(OS)-648-2021	Smt. Rajwati v. Shri Rajesh Kumar Alias Raju

• **Category C**

Miscellaneous matters

S. No.	Case No.	Cause Title
1.	RFA-412-2021	Rakesh Bhardwaj v. Mahant Surender Nath

22. It is also submitted by Id. Counsel for the *baridaars* that the following two cases have not been sent by the Trial Court. Accordingly, the respective Trial Courts to send the record of the following two cases, before the next date:

i) C.S No. 1732/2019 titled *Kalkaji Mandir v. Ragendir Aggarwal (Sh. Nikhil Chopra) Ld. ADJ-02 (South), Saket Courts, New Delhi.*

ii) C.S No. 7219/2016 titled *Sat Dev v. Vijay Laxmi*

Upon receipt, Registry to number the above mentioned cases in their respective categories.

23. Insofar as the category B cases are concerned, list all these cases on **9th December, 2021 at 2:30 PM.** All issues concerning the shopkeepers, that have been captured in this order, shall be heard on 9th December 2021. All parties, including the Id. Counsels representing the shopkeepers shall be ready to make submissions in respect of these suits as well as the undertakings. FAO 36/2021 and CM(M) 323/2021 be also listed along with these cases on 9th December 2021.

24. Insofar as category A cases are concerned, list all these cases on **21st December, 2021 at 2:30 P.M.** The Delhi Jal Board shall also file its further status report by the said date. Further, the two individuals- namely Sh. Lokesh Bhardwaj and Sh. Nakul Bhardwaj shall also file their affidavits within two weeks and shall be heard.

25. Finally, list the case mentioned in Category C on **22nd February, 2022.**

REVIEW PET. 177/2021 in FAO 36/2021

26. The present review application has been filed by Sh. Kush Bhardwaj, Id. Counsel for Sh. Naval Bhardwaj, who is one of the *baridaars* at the *Kalkaji Mandir*. The Review Applicant is described as the Petitioner in the said application. It is firstly also clarified that Mr. Kush Bhardwaj, Id. Counsel who is appearing, is himself a *baridaar*, who had made submissions before this court which were recorded in the order dated 27th September, 2021.

27. As per the submissions made today, the Review Applicant claims that

he belongs to *Thulla Bahadur* group and is one of the *pujaris* who has inherited the right to conduct the *puja sewa*. The grounds that have been urged for seeking review of the order dated 27th September 2021 are:

- i. That the court has exceeded its jurisdiction by going into other issues concerning the *Mandir* while entertaining the First Appeal against the order of the Trial Court under Order 39 Rule 1 and 2.
- ii. 700 *pujaris* who have stakes in the *Kalkaji Mandir* have not been made parties in the present proceedings.
- iii. It is not permissible for the Court to go beyond the pleadings urged in the FAO.
- iv. The earlier orders passed in respect of the *Kalkaji Mandir* dated 10th May 1877 in *Suit No. 85/1877*, by the Extra Assistant Commissioner in *Maharamnath Chela of Sawant Nath, Nihaag Jogi v. Umrao @ Lalji and ors.*, as well as the settlement agreement dated 15th July 1843, have not been considered by the court.

28. Mr. Bhardwaj relies upon the following judgments in support of the Review application:

- i. ***Bachhaj Nahar v. Nilima Mandal and Ors. AIR 2009 SC 110***
- ii. ***Smt. Chander Kali Bail and ors. Jagdish Singh Thakur and Anr. AIR 1977 SC 2262***
- iii. ***Dr. Subramaniam Swamy v. State of Tamil Nadu and Ors. AIR 2015 SC 460***
- iv. ***Sri Channakeshwavaswamy Temple and Anr. v. The Commissioner for Hindu Religious and Endowments Chamarajapet, Bengaluru (WP(C) No. 12406/2017, High***

Court of Karnataka, decided on 20th May 2020)

29. It is submitted by the other members of the *Thulla Bahadur*, who are represented in this court by Mr. Nagpal and Ms, Mann, that they do not concur with the submissions being made by Mr. Kush Bhardwaj, Id. Counsel.

30. This Court has perused the Review application, and has also perused the judgments which have been placed by Id. Counsel for the Applicant. As contained in the order dated 27th September, 2021 and the previous orders passed therein, *Shree Kalkaji Mandir* is a *Mandir* of great historical importance to Delhi, and has been a subject matter of at least 60 to 70 proceedings which were pending before various district courts and several courts in Delhi. As per order dated 27th September 2021, all these cases have now been transferred to this Court in exercise of powers under Section 24 CPC.

31. In *FAO 36/2021*, the issues raised are in respect of the rights of women to conduct *puja sewa*, as also the manner in which the offerings, donations, etc are to be collected by the various *baridaars* at the *Kalkaji Mandir*. A decision on this issue would have a significant impact on all the proceedings which were pending in various district courts. Accordingly, this Court, exercising its powers under Section 24 of CPC, had vide order dated 27th September 2021, directed transfer all matters pending before the lower courts, in respect of the *Kalkaji Mandir*, before this court, to hear all parties who are stakeholders in the *Kalkaji Mandir*, consolidate the issues and resolve them in a quick and efficient manner.

32. The issues raised in *FAO 36/2021* which are being dealt with by the court, are issues with ramifications spanning across the various stakeholders

in the *Mandir*. Thus, this court holds that the ground for review that this court has exceeded its jurisdiction is completely untenable. In any case, the order dated 27th September 2021, is not only in the context of the FAO, but has also been passed exercising jurisdiction under Articles 226 and 227 of the Constitution of India in *CM(M) 323/2021*.

33. Insofar as hearing being given to all the *pujaris* of the *Mandir* are concerned, as recorded in the judgment dated 27th September, 2021, there are various groups which are conducting *puja sewa* and collecting the donations and offerings in the *Mandir*. All these groups were clearly represented before this court by various Counsels, whose submissions have been recorded from time to time during the hearings, as reflected in the order dated 27th September 2021.

34. In matters of this nature, where each and every group has hundreds of individual stakeholders, it is practically impossible to hear each and every *pujari* or each and every member of their family. Broadly all the groups and *baridaars* have been heard on several dates prior to the passing of order dated 27th September 2021, including Mr. Kush Bhardwaj and his client Mr. Naval Bhardwaj, whose submissions were clearly recorded in the said order.

35. Insofar as the earlier orders relating to *Suit No. 85/1877*, and Settlement Agreement of 1843 are concerned, all these orders were considered in the judgment passed by the Id. Sub- Judge, Delhi dated 1st February, 1974, where the shares of the various groups were decided. This order of the Id. Sub-Judge, dated 1st February 1974, has been fully considered by this court in its order dated 27th September, 2021. In any event, it is made clear that before finally disposing of these matters, all the requisite orders historically passed by various forums in respect of the

Kalkaji Mandir would be considered by this Court.

36. Finally, insofar as the submission of Mr. Bhardwaj that the appointment of an Administrator can be only for a limited period is concerned, the gross mismanagement that was happening in the *Mandir* and the complete unauthorized encroachment and the whimsical manner in which the *tehbazari* were being given had created a matter of immense concern, especially, in light of the fact that hundreds and thousands of devotees visit the *Mandir* every day. Moreover, there is no unity among the various *baridaars*. Each group has various sub-groups and all individuals speak in different voices. There is enormous in-fighting amongst the stakeholders which is reflected in various proceedings that were pending in different courts. Some cases have been filed for each and every *bari* and the said *baris* are being auctioned, on a commercial basis. The spiritual sanctity of the *Mandir* is completely eroded by all the stakeholders, unauthorised occupants, encroachments by shopkeepers, lack of cleanliness and hygiene, lack of basic amenities to devotees. It was under these circumstances that before this Court, the *baridaars*, as noted in the order dated 27th September 2021, clearly arrived at a consensus that there was a need to appoint an Administrator to look after the administration of the *Kalkaji Mandir*.

37. It is under these circumstances that this Court has appointed a Retired Judge as the Id. Administrator vide order dated 27th September 2021. The Administrator would, hopefully not be required to act for an indefinite period. However, he would have to render his assistance until the encroachments and unauthorized constructions have been removed, the process of collection of donations and offerings are streamlined, and some broad progress takes place in respect of the redevelopment of the *Mandir* as

also the provision of civic amenities for the devotees.

38. Accordingly, the Applicant has failed to demonstrate any grounds of review and the review application is clearly devoid of any merit.

39. Review application is accordingly dismissed with no order as to costs.

CM APPL. 43796/2021 in CM(M) 575/2021

40. This is an application filed on behalf of the Respondent No. 59, Sh. Inderjeet, who prays for release of 1/12th share of Sh. Bishamber Nath, lying deposited in the form of FDR in *RCA No. 60746/2016*, titled *Satish Kumar and Ors. v. Mahesh Kumar and Ors.* and in *Suit No. 771/2008* titled *Ganpat Nath v. Gugan Chand*

41. Insofar as *RCA No. 60746/2016*, titled *Satish Kumar and Ors. v. Mahesh Kumar and Ors.* is concerned, a report has been received that no amount is lying deposited. Let a specific report be called as to the amount lying deposited in *Suit No. 771/2008* titled *Ganpat Nath v. Gugan Chand* to enable this court to pass orders in this application.

42. Let a copy of this application be served upon Id. Counsels representing all the other parties.

43. List this Application on 21st December 2021. These are part heard matters.

44. 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**

DECEMBER 7, 2021/dk/aman/dj/Ak