

\$~26 to 29 & 1(OS) to 26(OS)

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

Date of Decision: 9th December, 2021

27

+ **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**

NEETA BHARDWAJ & ORS.

..... Appellants

versus

KAMLESH SHARMA

..... Respondents

With

+ **CM (M) 323/2021 & CM APPLs. 14178/2021, 20945/2021, 20949/2021, 40269/2021, 44264/2021, REVIEW PET. 103/2021**

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

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

+ **CS (OS) 523/2021**

+ **CS (OS) 525/2021**

+ **CS (OS) 527/2021**

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+ **CS (OS) 532/2021**

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+ **CS (OS) 547/2021**

+ **CS (OS) 548/2021**

+ **CS (OS) 550/2021**

+ CS (OS) 551/2021
+ CS (OS) 554/2021
+ CS (OS) 555/2021
+ CS (OS) 556/2021
+ CS (OS) 648/2021
+ CS (OS) 674/2021

Appearances:-

Mr. R.K. Bhardwaj with Mr. Dheeraj Bhardwaj, Advocates.
(M:9312710547)
Mr. Neeraj Bhardwaj, Advocate.
Mr. Rohit Kishan Naagpal & Mr. Dipanshu Gaba, Advocates.
Mr. Anuroop P.S & Mr. Gaurav Bidhuri, Advocate. (M:9582818838)
Mr. Humayun Khan, Advocate (M:9811177317) for Mr. Pradeep Kumar
Gulia, Advocate for R-59 & 57.
Mr. Rajesh Kumar Gupta, Advocate for LRs of R-58.
Mr. Kamal Kumar, Advocate for R-22 & 25. (M:9136452240)
Mr. Sanjay Bhardwaj.
Mr. Sarvesh Bhardwaj, Advocate.
Mr. D.K. Singhal, Advocate.
Mr. Manish Choudhary, Advocate.
Ms. Samapila Biswal and Ms. Shambhavi Kala, Advocates for Ld.
Administrator. (M:9818668876)
Ms. Vivek Kumar Singh & Mr. Yashvir Kumar, Advocates.
Mr. Arun Birbal & Mr. Sanjay Singh, Advocates for SDMC.
(M:9958118327)
Mr. Thakur Sumit, Advocate. (M:9968454481)
Mr. Sundeep Sehgal, Advocate. (M:9810005572)
Mr. Mahender Kumar Pandey, Advocate.
Mr. Deepak Dewan, Advocate. (M:9810127778)
Mr. Nitin Jain, Mr. Vishal Chauhan, Mr. Harshil Gupta, Mr. Himanshu
Chauhan, Advocates. (M: 9716569056)
Mr. Shashi Bhushan, Advocate.
Mr. Vishal Chauhan, Mr. Harshil Gupta & Mr. Himanshu Chauhan,
Advocates. (M:9971369850)
Ms. Mini Pushkarna, Standing Counsel with Ms. Latika Malhotra & Ms.
Khushboo, Advocates for DUSIB. (M:9810674872)
Mr. Subrat Deb, Advocate.
Mr. Goonmeet Singh Chauhan, Architect.

**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.

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

CM (M) 323/2021 & CM APPLs. 14178/2021, 20945/2021, 20949/2021, 40269/2021, 44264/2021, REVIEW PET. 103/2021

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

CONT.CAS(C) 614/2021

3. CM APPL. 44264/2021 is moved by Mr. Subrat Deb, Id. Counsel, seeking discharge in CM (M) 575/2021. He submits that he used to represent Respondent No. 1- Mr. Mahender Kumar Pandey, who is now represented by Mr. Anuroop P.S., Id. Counsel. In view of this, Id. Counsel for Respondent No.1 is discharged. CM APPL. 44264/2021 is disposed of in these terms.
4. In these matters, Mr. Nitin Jain, Id. Counsel, at the outset, submits that he would be withdrawing his *vakalatnama* in respect of Mr. Hemant Raj, Ms. Suman Shahi and Ms. Asha @ Chunnu, wife of Chunnu Singh. He submits that Mr. Hemant Raj is already represented by Mr. Bhushan, Id. Counsel in these matters. Ordered accordingly.
5. Vide the last order dated 7th December 2021, this Court had observed

and directed as under:

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/license 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.”

6. Pursuant to the above, today the following Id. counsels have appeared on behalf of the various shopkeepers in the *Mandir* premises:

- i. Mr. Nitin Jain, Id. Counsel, representing 65 shopkeepers.
- ii. Mr. Bhushan, Id. Counsel, representing 10 shopkeepers (3 of whom are also stated to have residences within the premises)
- iii. Mr. Dewan, Id. Counsel, representing 27 shopkeepers, out of which one of them, being Ms. Suman Shahi w/o Mr. Ram Vilash Shahi, also in possession of the residential space in the *Dharamshala* apart from running a shop. Both the said persons have submitted separate undertakings.
- iv. Mr. Vivek Kumar Singh, Id. Counsel, representing 1 shopkeeper- Ms. Gangashri.

7. The total number of shopkeepers, occupying and running shops in the *Mandir* premises, who are represented before this Court are, therefore, 103 in number. Among these, the number of shopkeepers who have also maintained residences within the *Mandir* premises are 4 in number.

8. On behalf of all these shopkeepers, occupying shops in the *Mandir* premises, undertakings have been given, through their counsels, that they

shall be vacating the premises of the shops, subject to the outcome of the challenge before the Hon'ble Supreme Court of India and some reasonable time being given to vacate, as also provision of some alternate spot within the premises to run their shops. Further, on behalf of all the 4 persons who are residing within the *Mandir* premises in the *Dharamshala*, undertakings have been given that they shall be vacating the said premises.

9. The undertakings and the shopkeepers on whose behalf the said undertakings have been given are as under:

Undertaking given by the Shopkeepers at Sl. No 1-46 represented by Mr. Nitin Jain, ld. Counsel:

“We, the undersigned, undertake to vacate the shops which is in our possession subject to some reasonable time is afforded for the same. This undertaking is being given, without prejudice to our rights and contentions and, subject to the outcome of our respective challenge pending before the Hon'ble Supreme Court of India”

The shopkeepers who have signed the said undertaking are:

1. Sher Singh S/o Bankey lal, Unit No. C-2 Kalkaji Mandir New Delhi-19, (M) 9711531747.
2. Mr. Ramu S/o Rajpal Singh Unit No. A-16 Kalkaji Mandir New Delhi-19, (M) 8745898450.
3. Govinda S/o Ramji Sahu Unit No. A-11 Kalkaji Mandir New Delhi-19, (M) 8826420363.
4. Sonilal S/o Harlal Unit No. A-26 Kalkaji Mandir New Delhi-19, (M) 9899885231.
5. Ashok Kumar S/o Nathuram Unit No. B-22 Kalkaji Mandir New

- Delhi-19, (M) 7291055733.
6. Mantoo Lal S/o Harlal, Unit No. B-27 Kalkaji Mandir New Delhi-19, (M) 8506068781.
 7. Anshu Devi, W/o Late Acchelal, Unit No. B-31 Kalkaji Mandir New Delhi-19, (M) 9821970587
 8. Satyanarain Sharma S/o Shivaleek Sharma, Unit No. B-23 Kalkaji Mandir, New Delhi-19, (M) 9771953316.
 9. Misri Lal S/o Joknnu Sah, Unit No. A-6 Kalkaji Mandir New Delhi-19, (M) 8130587781
 10. Sonwati W/o Late Balakram Gupta, Unit No. B-19 Kalkaji Mandir New Delhi,19, (M) 8130587781
 11. Boby S/o Sunil Gupta, Unit No. B-21 Kalkaji Mandir New Delhi-19, (M) 8130537781.
 12. Geeta W/o Late Hari, Unit No. A-20 Kalkaji Mandir, New Delhi-19, (M) 9900332364.
 13. Tej Parakash S/o Munnalal, Unit No. A-28 Kalkaji Mandir, New Delhi-19, (M) 9650664931.
 14. Ramnarain S/o Jishukhram, Unit No. A-13 Kalkaji Mandir New Delhi-19, (M) 9718484916.
 15. Joginder Prasad S/o Ramadhar Prasad, Unit No. B-18 Kalkaji Mandir, New Delhi 19, (M) 8800538266.
 16. Badal S/o Babulal, Unit No. C-7 Kalkaji Mandir New Delhi-19, (M) 9810266081.
 17. Anita W/o Bhurelal, Unit No. B-29 Kalkaji Mandir, New Delhi-19, (M) 8920879589.
 18. Sakil S/o Mohmad Khan, Unit No. B-11 Kalkaji Mandir, New

- Delhi-19, (M) 9810272785.
19. Mugtyar S/o Husain Baksh, Unit No. A-4 Kalkaji Mandir, New Delhi-19, (M) 7042741278.
 20. Yogendra Singh S/o Lakhan Singh, Unit No. B-30 Kalkaji Mandir New Delhi-19, (M) 9311843703.
 21. Shiv Prakash Sharma S/o Sahdev Sharma, Unit No. B-16 Kalkaji Mandir, New Delhi-19. (M) 8860157338.
 22. Arun Parwal S/o Shiv Kumar, Unit No. B-10 Kalkaji Mandir, New Delhi-19, (M) 9958687094.
 23. Dinesh S/o Sh. Krishan, Unit No. B-35 Kalkaji Mandir, New Delhi-19, (M) 9968453208.
 24. Nahar Singh S/o Ram Prasad. Unit No. A-10, Kalkaji Mandir, New Delhi-19, (M) 9891778463,
 25. Narain S/o Ramdayal Sahu, Unit No. A-18 Kalkaji Mandir, New Delhi-19, (M) 9818982762 xxvi) Prushottam S/o Lekhraj, Unit No. B-3 Kalkaji Mandir, New Delhi-19, (M) 9910709342.
 26. Purushottam, S/o Lekhraj, Unit No. B-3 Kalkaji Mandir New Delhi-19, (M) 9910709342.
 27. Sudama W/o Late Munalal, Unit No. A-5 Kalkaji Mandir, New Delhi-19, (M) 7011313084.
 28. Ganesh S/o Ramjee Sahu, Unit No. B-9 Kalkaji Mandir, New Delhi-19, (M) 9650736285.
 29. Rajkumar Gupta S/o Misrilal, Unit No. B-32 Kalkaji Mandir, New Delhi-19, (M) 9911396885.
 30. Dilshad S/o Abdul Mazid. Unit No A-12 Kalkaji Mandir, New Delhi-19, (M) 9837079716.

31. Gulsher S/o Abdul Mazid, Unit No. B-5 Kalkaji Mandir New Delhi-19. (M) 7060202308.
32. Naushad Khan S/o Late Irfan, Unit No. A-25 Kalkaji Mandir, New Delhi-19 (M) 9818980223.
33. Rambilash S/o Sri Munnalal, Unit No. A-27 Kalkaji Mandir New Delhi 19. (M) 9899857169.
34. Sunil Sahu S/o Mathura Sahu. Unit No. A-19 Kalkaji Mandir, New Delhi-19, (M) 8448660581.
35. Raj Bahadur S/o Bhurelal, Unit No B-12 Kalkaji Mandir, New Delhi-19, (M) 9711322708.
36. Gupesh Sahu S/o Mathura Sahu, Unit No. A-17 Kalkaji Mandir, New Delhi-19, (M) 7277643341.
37. Ashish S/o Nandkishor Sahu, Unit No. B-17 Kalkaji Mandir, New Delhi-19, (M) 9871877182.
38. Babban Singh S/o Babu Kailash Singh, Unit No. B-14 Kalkaji Mandir New Delhi-19, (M) 8447796234.
39. Kavita Grover W/o Late Rajesh Grover, Unit No. A-[4 Kalkaji Mandir, New Delhi-19, (M) 9599734797.
40. Pawan Aggarwal S/o Kishorilal, Unit No. B-13 Kalkaji Mandir New Delhi-19. (M) 9667819973.
41. Vikash S/o Rudraksh Sharma, Unit No. A-8 Kalkaji Mandir, New Delhi-19, (M) 9810371260.
42. Sanjay Sharma S/o Kuldeep Sharma, Unit No. B-25 Kalkaji Mandir, New Delhi-19, (M) 7982603912.
43. Gyan Devi W/o Late Ashok Kumar, Unit No. B-20 Kalkaji Mandir New Delhi-19, (M) 9871163479.

44. Jay Prakash Sharma S/o Sahdev Sharma, Unit No. B-15 Kalkaji Mandir, New Delhi-19, (M) 9654063966.
45. Sunil S/o Prakash Sinch, Unit No. B-6 Kalkaji Mandir, New Delhi-19, (M) 9140542108.
46. Manaram S/o Amar Singh, Unit No. A-15 Kalkaji Mandir, New Delhi-19.

Undertaking given by the Shopkeepers at Sl. Nos 47 to 65 represented by Mr. Nitin Jain, ld. Counsel:

“We, the undersigned, shopkeepers running our respective shops from within the Kalkaji Mandir premises hereby state and declares that no person has been residing or living within our shops at any point of time and will not be permitted to do so in future also. We undertake to vacate the shops which is in our possession subject to some reasonable time is afforded for the same. This undertaking is being given, without prejudice to our rights and contentions and, subject to the outcome of our respective challenge pending before the Hon’ble Supreme Court of India”

The shopkeepers who have signed the said undertaking are:

47. Tanuj Khanna S/o Bhagwan Das Khanna. Unit No. Shop No. A-23 Kalkaji Mandir, (M) 9818631228.
48. Pramod Singh S/o Ram Avtar Singh, Unit No. Shop No. B-7 Kalkaji Mandir, (M) 9873122302.
49. Suresh S/o Goverdhan, Unit No. Shop No. B-34 Kalkaji Mandir, (M) 8527175492.
50. Raj Kumar S/o Suresh, Unit No. Shop No. A-24 Kalkaji Mandir,

(M) 8130566582.

51. Shalini Garg w/o Gaurav Garg, Unit No. Shop No. B-8 Kalkaji Mandir, (M)9354152511.
52. Rakesh Kumar S/o Late Ramdas, Unit No. Shop No. A-29, Kalkaji Mandir, (M) 9899777691.
53. Gangashri W/o Late Ramdas, Unit No. Shop No. A-30 Kalkaji Mandir, (M) 9818909171.
54. Amit Kumar Sharma S/o Late Mahesh Chand Sharma, Unit No. Shop No. B-1 Kalkaji Mandir, (M) 9968115841.
55. Sumit Kumar Sharma S/o Late Mahesh Chand Sharma, Unit No. Shop No.C-3 Kalkaji Mandir, (M) 8810200938.
56. Rajendra Agarwal S/o Banwari Lal Agarwal, Unit No. Shop No. A-1 Kalkaji Mandir, (M) 7300500508.
57. Geeta Devi W/o Banwarilal Agarwal Unit No. Shop No. A-1B Kalkaji Mandir, (M) 9027590115.
58. Jeevanlal S/o Pyarelal Unit No. Shop No. A-9 Kalkaji Mandir, (M) 9315216682.
59. Deep Kumar S/o Pyarelal Unit No. Shop No. B-2 Kalkaji Mandir, (M) 9773660572.
60. Premchand S/o Late Mewalal Unit No. Shop No. A-3 Kalkaji Mandir, (M)9811960849.
61. Rakesh Kumar S/o Premchand Unit No. Shop No. A-7 Kalkaji Mandir, (M) 7982129984.
62. Dinesh Kumar Gupta S/o Prem Chand Unit No. Shop No. A-22 Kalkaji Mandir, (M) 8130632740.
63. Pyare Lal S/o Late Shri Ramdas. Unit No. Shop No. A-2 Kalkaji

- Mandir, (M) 8285905779.
64. Kakye W/o Late Ram Prakash, Unit No. Shop No. B-4 Kalkaji Mandir, (M) 9027197168.
65. Mohan Singh S/o Late Roshanlal. Unit No. Shop No. C-9 Kalkaji Mandir, (M) 9871129260.

Undertaking given by the Shopkeepers at Sl No. 66-92 represented by Mr. Deepak Dewan, ld. Counsel:

In respect of shops:

*“In pursuance of order dated 07.12.2021.
We, the undersigned, undertake to vacate the shops which is in our possession subject to some reasonable time is afforded for the some and reallocation of shop in vicinity of Mandir. This undertaking is being given, without prejudice to our rights and contents and, subject to the outcome of our respective challenge pending before the Hon’ble Supreme Court of India.”*

In respect of residence in the Dharamshala:

*“In pursuance of order dated 07.12.2021.
We, the undersigned, undertake to vacate the dharamshala which is in our possession subject to some reasonable time is afforded for the some and reallocation of shop in vicinity of Mandir. This undertaking is being given, without prejudice to our rights and contents and, subject to the outcome of our respective challenge pending before the Hon’ble Supreme Court of India.”*

The shopkeepers who have signed the above undertakings are:

66. Suman Shahi W/o Ram Vihar Shahi, Shop CN. 98, Vishal Dharamshala, Kalkaji Mandir, (M) 9871500601 and Ram Vishal Shahi S/o Brij Lal CN-98, Vishal Dharamshala, Kalkaji Mandir, Delhi, (M) 9871500601. *(In respect of residence)*
67. Asha W/o Chunnu Singh, C-2, Kalkaji Mandir, Near Gate No. 1 (M) 8826364474.
68. Lucky S/o Shakil Khan, Unit No. B11A Kalkaji Mandir, New Delhi-19, (M) 8882588855.
69. Feroz S/o Late. Md. Khan, Unit No. B-11A Kalkaji Mandir New Delhi-19 (M) 9899157115.
70. Sunil Kumar Tiwari S/o Phool Chand, Unit No. B-24 Kalkaji Mandir, New Delhi-19, (M) 8826954068.
71. Kamlesh W/o Brij Mohan, Unit No. B-25 Kalkaji Mandir, New Delhi-19, (M) 8447121142.
72. Sunder Lal S/o Indra Lal, Unit No. A-21B Kalkaji Mandir, New Delhi-19, (M) 6395525149.
73. Dineshwar Thakur S/o Phoni Thakur, Unit No. B-46 Kalkaji Mandir, New Delhi.
74. Jageshwar Gupta. S/o Mani Lal Gupta, Unit No. B-46 Kalkaji Mandir, New Delhi-19, (M) 8800742785.
75. Dharmender Kumar S/o Late. Hori Lal, Unit No. C-10 Kalkaji Mandir, New Delhi-19, (M) 9871257644.
76. Deepak Thakur S/o Dineshwar Thakur, Unit No. A-31A, Kalkaji Mandir, New Delhi-19, (M) 9711441406.
77. Virender Kumar S/o Lal Babu, Unit No. A-21 Kalkaji Mandir, New Delhi-19 (M) 9870311572.

78. Bhudev Singh S/o Vasu Dev Singh, Unit No. C-1 I Kalkaji Mandir, New Delhi-19, (M) 9870311572.
79. Jaswant S/o Lakhrai. Unit No. B-3A Kalkaji Mandir, New Delhi-19 (M) 9910709342.
80. Lalta Prasad S/o Ram dass Mauriva, Unit No. A-9 Kalkaji Mandir, New Delhi-19, (M) 7042814508.
81. Bhure Lal S/o Gajraj Singh, Unit No. A-34 Kalkaji Mandir, New Delhi-19.
82. Avran Singh S/o Shri Ram Dass, Unit No. A-22 Kalkaji Mandir, New Delhi-19, (M) 9811949729.
83. Shavitri Devi W/o Gang Ram, Unit No. C-34 Kalkaji Mandir, New Delhi-19.
84. Suraj S/o Sunil Sahoo, Unit No. A-19 Kalkaji Mandir, New Delhi-19, (M) 8287236845.
85. Renu Devi W/o Purshotam, Unit No. B-3 Kalkaji Mandir, New Delhi-19, 9910709342.
86. Chandra Shekar S/o Shri Ram Narayan, Kalkaji Mandir, New Delhi-19, (M) 8882062700.
87. Sunita Rani W/o Satya Narayan Sharma, Unit No. B-23 Kalkaji Mandir, New Delhi-19, (M) 9971953316.
88. Sobran Singh S/o Sh. Ram Das, Shop No. A29A, Kalkaji Mandir, New Delhi-19, (M) 9711982635.
89. Ganga Ram S/o Shyam Lal, A-33, Kalkaji Mandir, Delhi-19 (M) 9910418066.
90. Sanjiwan Lal S/o Dubar Lal, B-33, Kalkaji Mandir, Delhi-19, (M) 9810603115.

91. Rani Devi W/o Nand Kishor Shab, B-17, Kalka Ji Mandir, (M)
8448763844.
92. Pradeep Shah S/o Narayan Shah, A-18, Kalkaji Mandir, (M)
9871557103.

Undertaking given by the Shopkeepers at Sl. No. 93-102 represented by Mr. S. Sasibhushan, ld. Counsel (sample):

In respect of shops:

“I _____ under take that I am ready to vacate the above noted shop premises within 10 days or as and when directed by this Hon’ble Authority. However it is respectfully submitted that I have been running the said shop since last 29 years and I have no other alternative sources of income. Since last 2 years the shop was closed due COVID19 and now the said shop is closed due to the direction of the Hon’ble High Court of Delhi. Hence my condition became miserable and I am unable to even earn the bread and butter for my family. My right to livelihood under Article 19(1)(g) also badly affected due to closer of the shop. Hence your honor may kindly consider my candidature at first preference, in case of allotments of alternative area/premises on rehabilitation scheme under relevant provisions of Street vendors (Protections of livelihood and regulation of street vending) Act, 2014 or any other Act for the time being in force. I also under take to pay the license fee/allotment charges, if any fixed by the Shree Kalkaji Temple administration authority while allotment of new shop.”

In respect of residence in the Dharamshala:

“I, _____under take that, I am ready to vacate the above noted Dharmshala premises as directed by this Hon’ble Court subject to providing alternative accommodation by SDMC or DUSIB or JJ slum department, Delhi on rehabilitation scheme. That I have no shelter for myself and my family (consisting of _____) in Delhi or in _____. Since last 2 years due COVID19 I have no sources of earning to arrange any rented accommodation in Delhi, presently my condition is miserable and I am also unable to earn the bread and butter for my family. I have been running a small shop of Phool & Prasad shop since last 22 years, due to sudden closer of the said shop, my right to livelihood under Article 19(1)(g) also badly affected. Hence you honor may allot alternative area/premises on rehabilitation scheme under relevant provisions of Street vendors (Protections of livelihood and regulation of street vending) Act, 2014 or any other Act for the time being in force. I also under take to pay the license fee/allotment charges, if any fixed by this Hon’ble Court or any Authority.”

The shopkeepers who have signed the said undertaking are:

93. Saraswati R/o Dharamshala No.1, Kalkaji Mandir, New Delhi.
(In respect of residence)
94. Sanjay Baral, shop near Pipal Dharamshala No. 1, Kalkaji Mandir, New Delhi.
95. Vinod Kumar Sharma, R/o Kanhaiya Dharamshala, Kalkaji Mandir, Delhi. *(In respect of residence)*
96. Dharampal Morya, Shop No. C-15, Kalkaji Mandir, Delhi.
97. Suman Yadav, Shop No. D-7, Kalkaji Mandir, Delhi.

98. Gyan Singh Sharma, R/o Kanhaiya Dharamshala, Kalkaji Mandir, Delhi. (*In respect of residence*)
99. Rajesh Kumar, Shop No. D-7, Kalkaji Mandir, Delhi.
100. Ajay Baral, Shop near MCD Water Tank, Kalkaji Mandir, Delhi.
101. Hemant Raj Bhasin, shop No. C-8, Kalkaji Mandir, Delhi.
102. Vijay Baral, Shop near MCD Water Tank, Kalkaji Mandir, Delhi.

Undertaking given by the Shopkeeper at Sl. No. 103 represented by Mr. Vivek Kumar Singh, ld. Counsel:

“I, Gangashri, W/o Sh. Ram Sewak, Shop No. C-9B, Omi Dharamshala, Shri Kalkaji Mandir, New Delhi-110019 do hereby undertake as under:-

1. *That I am one of the defendants in Suit No. CS(OS) 556/2021 titled as “Shri Kalkaji Mandir, New Delhi & Ors. Vs. Mohan Singh & Ors.” Pending before the Hon’ble Court.*
2. *That I undertake to vacate the shop which was in my possession subject to reasonable time.”*

The shopkeeper who has signed the said undertaking is:

103. Gangashri W/o Sh. Ram Sewak, Shop No. C-9B, Omi Dharamshala, Shri Kalkaji Mandir, New Delhi-110019.

10. Accordingly, in respect of all the shopkeepers, who are in occupation of the premises and are running shops, but are not using the premises for residential purposes, the following directions are issued:

- a) All the shopkeepers are acceptable to vacate the existing spaces in their occupation. Accordingly, without going into the contents of the actual documents signed and placed before the Court, all

the undertakings to vacate the premises are accepted by this Court and taken on record.

- b) The Id. Administrator has placed on record 'standard undertakings' which are being sought from all the shopkeepers for the purpose of vacation and consideration for reallocation. The format of the same has been publicly displayed at the *Mandir* premises. This Court has perused the same, and the revised version of the said undertaking is attached with this order as **Annexure-I**. Accordingly, all the shopkeepers shall identify their respective shops, their own identity and give undertakings in the format as attached with this order, to the Id. Administrator. Each of the shopkeepers shall, in paragraph 6 of the undertaking, mention the amount of monthly licence fee that they are willing to pay for the alternate premises, which is now proposed to be allotted to them, if eligible. For the said purpose of furnishing the undertakings, all the said shopkeepers shall appear before the Id. Administrator from 11th December, 2021 - 3:00 P.M. onwards.
- c) Upon the said exercise and verification being completed on or before 14th December, 2021, the shopkeepers shall be given reasonable time by the Id. Administrator for removing their articles and belongings from the premises, from the shops lying sealed.
- d) Upon their articles and belongings being removed, the Administrator shall, along with the cooperation of the civic agencies including the SDMC, DDA, Delhi police and all other governmental authorities whose assistance would be

requisitioned by the Id. Administrator, remove all the unauthorised construction/encroachment in the area and fully clear up the area that has been occupied by the shopkeepers. The said clearing up shall be completed on or before 25th December 2021.

11. Insofar those persons who are residing within the *Mandir* premises, including within the *Dharamshalas*, i.e., the three clients of Mr. Bhushan, Id. Counsel- Ms. Saraswati, Mr. Vinod Kumar Sharma and Mr. Gyan Singh Sharma, and one client of Mr. Dewan, Id. Counsel- Ms. Suman Shahi/Mr. Ram Vilas Shahi and their respective families, are concerned, the following directions are issued:

- a) They shall vacate their residences along with their families, positively, on or before 25th December, 2021. It is made clear that no extension shall be granted in respect of the same, i.e., in respect of vacating the residences.
- b) The said families, whose residences are being vacated, are free to approach the DUSIB/DDA for any alternate accommodation. Ms. Malhotra, Id. Counsel appearing on behalf of Ms. Mini Pushkarna, Id. Standing Counsel, who appears for DUSIB, submits that *रैन बसेरा* (Night shelters) are available to persons who are using the *Kalkaji Mandir* premises as residences and they may approach DUSIB for the same. However, the use of the same would be on a temporary basis and no permanent rights shall be claimed by the said persons. Accordingly, the families who have been asked to move their residences, may

contact the official of DUSIB namely Mr. Rajender Gosain, Deputy Director- Night Shelter, (M:9560596102), for the purpose of allotment of *रैन बसेरा* (Night shelters), if needed. It is however made clear that irrespective of the allotment of the said shelters/ alternate accommodation, the families in the residences at the *Mandir* shall vacate the space occupied by them, on or before 25th December, 2021.

12. Today, Mr. Goonmeet Singh Chauhan, Id. Architect who was appointed by this Court vide order dated 27th September 2021, has joined the proceedings through video conferencing. He submits that he has surveyed the *Kalkaji Mandir* premises and the vicinity.

13. According to him, there are three parking sites in the *Kalkaji Mandir* premises, i.e., on the - East side, West side near the metro station, and one near the Lotus temple which belongs to the DDA. In his opinion, the best site for opening up shops, in a planned way, is the West side parking site, near the metro station. He submits that the same is suitable for allotment of some shops. He further submits that there are two options for creating temporary premises for the shopkeepers- one in the form of a tented shop, and the other involving a pre-engineered shed.

14. Let a comprehensive report, in respect of creation of shops, of different sizes, and in a manner that ensures proper access to the temple for the devotees along with basic civic amenities including toilet facilities etc., be placed before the Court, after a meeting with the Id. Administrator in respect of the same, on or before 20th December, 2021. Mr. Chauhan also submits that he has made a presentation in respect of the same. Let the same

be also placed before the Court on or before 20th December 2021.

15. Insofar as the *tehbazaari* / license fee being paid by the shopkeepers are concerned, on the basis of the public notice that has been given, as recorded in the last order dated 7th December 2021, and the bids received by the Id. Administrator, as also the sizes of the shops that are to be allocated to each of the shopkeepers, the *tehbazaari* / license fee and the terms and conditions for the said allotments, would be fixed by this Court. The manner in which the *tehbazari*/license fee collected is to be dealt with, including for the purpose of redevelopment and share of the *baridaars* in the same, shall also be considered by the Court.

16. Finally, it is made clear that apart from the persons who have given undertakings before this Court today, all the remaining encroachments/unauthorised shops/ structures etc., shall be removed by the SDMC/DDA with effect from 13th December, 2021, in accordance with the previous orders passed in these cases. If any of the other shopkeepers wish to give undertakings to vacate the premises, apart from the ones that have already given today, they are permitted to appear before the Id. Administrator and make their submission. It is only subject to them giving the said undertakings, that the demolition will not immediately be carried out. However, in respect of all others demolition of all unauthorised encroachment/removal shall continue from 13th December, 2021.

17. List these matters on 21st December, 2021 at 2:30 P.M. All the undertakings that have been filed today are taken on record, the Registry to place the same in a separate electronic folder in the electronic file of these cases. These are part heard matters.

CS (OS) 523/2021

18. In the present suit, the Defendants are Smt. Saraswati (*Sl. No. 93*) and her sons Mr. Sanjay Baral (*Sl. No. 94*) and Mr. Ajay Baral (*Sl. No. 100*). The suit has been filed by the *Shri Kalkaji Mandir Prabhandhak Sudhar Committee*, with the following prayers:

“(1) A decree for ejectment / possession be passed against the defendants to hand over vacant possession of Dharamshala No. 1, Near Mata Kalkaji Bhawan situated within the precincts of Mandir Sri Kalkaji as shown in Red Color in the Site Plan.

(2) A Decree for damages be passed at the rate of Rs. 50,000/- P.M. for wrongful gain from use and occupation of the suit property from the date of institution of the suit till realization of possession.

(3) A Decree for mesne profit be also passed for accruing wrongful gain by defendants of the suit property from the date of institution of the suit till the handing over of the possession.

(4) A Decree for permanent injunction be also passed restraining the defendants from alienating, selling and creating any third party interest or parting with possession of suit property i.e. Dharamshala No.1, Near Mata Kalka Bhawan situated within the precincts Mandir Sri Kalkaji as shown in Red Color in the Site Plan.”

19. The Defendants are stated to have been in possession of the *Dharamshala* premises, since the last several years.

20. An undertaking has been given today by the Defendants, in **FAO 36/2021** and connected matters, as recorded above, to the effect that the Defendants shall vacate the said premises on or before 25th December, 2021. The said undertaking on behalf of the Defendants has been given

through Mr. Bhushan, Id. Counsel, and has been accepted by this Court and taken on record.

21. Accordingly, the Defendants in the present suit shall be bound by the undertaking given, failing which the Plaintiffs are free to approach the Id. Administrator appointed for the *Kalkaji Mandir* by this Court in **FAO 36/2021** and connected matters, for removal of their belongings from the *Dharamshala*, after 25th December 2021. The possession of the said premises being occupied, shall be handed over to the Id. Administrator.

22. Insofar as the prayer *qua* mesne profits are concerned, Mr. Bhardwaj, Id. Counsel for the Plaintiff, submits that if the Defendants vacate the premises, they will not press the prayer for *mesne* profits.

23. It is noted that the Defendants have enjoyed, unauthorizedly, the premises in question with a large family and have been residing therein for the last 30 years. The Defendant No.1 in her cross-examination in the suit has made the following statement:

“I am not earning regularly from the said shop. (vol. I earn around Rs.100 to 150/- on Saturdays and Sundays). It is wrong to suggest that around 50,000/-devotees visit the temple daily. I have three sons and one daughter. My all the four children were born in the Dharamshala only. It is correct that I have not filed any suit for declaration against the plaintiff for declaring me as owner of the said Dharamshala.”

24. In the opinion of this Court, considering the fact that the Defendant and her family have used the premises at *Kalkaji Mandir* for so many years and apart from using the shop they have also used the *Dharamshala* as residence, this Court is of the opinion that the Defendants shall deposit a

sum as donation to the *Mandir* with the Id. Administrator, which shall be directed by him after verifying the capacity of the Defendants.

25. Given the fact that the trial in this case has already been concluded and the matter is at the stage of final hearing, as also the fact that the Plaintiffs have, as recorded above, already given up their relief sought in relation to *mesne* profits, the matter need not be relegated back to the Trial Court. The Defendants shall be bound by the undertaking given today.

26. The present suit is disposed of in the above terms.

CS (OS) 525/2021

27. Let notice be issued by the Registry to the Counsels appearing for the parties before the Trial Court.

28. List on 22nd February, 2022.

CS (OS) 527/2021

29. This suit is connected with the main matter being heard i.e., *FAO 36/2021*. Accordingly, list on 21st December 2021.

CS (OS)s 529/2021, 530/2021 & 534/2021

30. Mrs. Suman Shahi (*Sl. No. 66*), w/o Mr. Ram Vilas Shahi (*Sl. No. 66*) and her family, who is the Plaintiff in CS(OS) 529/2021 and Defendant in CS(OS)s 530/2021 and 534/2021, have today given their undertakings to the Court in *FAO 36/2021* and connected matters, as recorded above, to the effect that they shall vacate the said premises within the *Kalkaji Mandir* on or before 25th December, 2021. The said undertakings have been filed through Mr. Deepak Dewan, Id. Counsel.

31. Mrs. Suman Shahi and her family shall be bound by the undertaking given, failing which the Defendant in CS(OS) 529/2021 and Plaintiffs in

CS(OS)s 530/2021 and 534/2021 are free to approach the Id. Administrator appointed for the *Kalkaji Mandir* by this Court, for removal of their belongings from the *Dharamshala* and the shops, after 25th December 2021. The possession of the said premises being occupied, shall be handed over to the Id. Administrator.

32. Further, given that there is long term occupation of the *Dharamshala* in CS(OS) 530/2021 by the Defendant and his family for so many years, this Court is of the opinion that the Defendant shall deposit a sum as donation to the *Mandir* with the Id. Administrator, which shall be directed by him after verifying the capacity of the Defendants

33. Accordingly, in view of the undertakings given today, nothing survives in these suits. These suits are disposed of in view of the orders passed today in *FAO 36/2021* and connected matters.

CS (OS) 532/2021

34. The present suit has been filed by Mr. Chunnu Singh, who is the husband of Ms. Asha (*Sl. No. 67*). They have together been running a shop in the *Kalkaji Mandir* premises.

35. An undertaking has been given today by the wife of the Plaintiff, in *FAO 36/2021* and connected matters, as recorded above, to the effect that she shall, along with her family, vacate the said premises of the shop on or before 25th December, 2021. The said undertaking has been given through Mr. Dewan, Id. Counsel, and has been accepted by this Court and taken on record.

36. Accordingly, in view of the undertaking given today and the orders passed above, nothing survives in the suit. The suit is, accordingly, disposed of in view of the orders passed above in *FAO 36/2021* and connected

matters.

CS (OS)s 533/2021, 538/2021, 541/2021, 544/2021 & 547/2021

37. List on 21st December, 2021.

CS (OS)s 535/2021, 579/2021, 539/2021, 540/2021, 542/2021 & 554/2021

38. Mr. Dipak Dewan and Mr. Sarvesh Bhardwaj, Id. Counsels request for time to seek instructions in these matters.

39. Both Id. counsels to seek instructions and be ready to make submissions on the next date. They are permitted to obtain the electronic copy of the record of these suits from the Court Master in order to assist this Court on the next date.

40. List these matters on 22nd December, 2021.

CS (OS) 543/2021

41. Mr. Sarvesh Bhardwaj, Id. Counsel appears for the Plaintiffs and Mr. Vivek Kumar Singh, Id. Counsel appears for the Defendants. Both Id. Counsels request for time to seek instructions in this matter.

42. List this matter on 22nd December, 2021.

CS(OS) 548/2021

43. The present suit has been filed on behalf of the Mandir Shri Kalkaji through the Plaintiff Mr. Tarun Gaur against Mr. Pyare Lal (*Sl. No. 63*), who is represented through Mr. Jain, Id. Counsel. The prayers in the suit are as under:

“(i) That a decree for recovery of mesne profits/damages be passed in favour of Plaintiff No.2 to the tune of Rs.1,50,000/- (Rupees one lakh fifty thousand only) against the defendant which he realized being in wrongful use and occupation of the suit property i.e. shop/shed No. A-2, Kalkaji Mandir, Kalkaji, New Delhi-110019 measuring 24

sq. yards as shown in red colour in the site plan without paying any license fees/tehbazari in the monthly Bari of plaintiff no.2 which commence from 12/13.06.2019 ending on intervening night 11/12.07.2019 for performance of Sewa Puja and realization of Tehbazari of Mandir Sri Kalkaji (Plaintiff No.1) as shown in red colour in the site plan;

(ii) Cost of the suit be also awarded in favour of plaintiffs and against defendant.”

44. Today, Shri Pyare Lal, the Defendant, has given an undertaking in **FAO 36/2021** and connected matters, as recorded above, to the effect that he shall, along with his family, vacate the said premises of the shop on or before 25th December, 2021. The said undertaking has been given through Mr. Jain, Id. Counsel, and has been accepted by this Court and taken on record.

45. Accordingly, since the Defendant has given an undertaking to vacate the premises in terms of the order set out above, the only issue remains is in respect of award of *mesne* profits. To this, Mr. Bhardwaj, Id. Counsel for the Plaintiff submits that he does not wish to press this relief and the Id. Administrator may be given the liberty to decide as to whether the Defendant ought to pay any amount as donation for the redevelopment of the *Mandir* due to his long, unauthorised, occupation in the premises.

46. Therefore, in view of the long-term occupation of the premises by the Defendant, unauthorisedly, this Court is of the opinion that the Defendant may deposit a sum as donation to the *Mandir* with the Id. Administrator, if deemed fit by the Id. Administrator, and the said amount, if any, shall be directed by him after verifying the capacity of the Defendants.

47. In view of the undertaking given today and the orders passed above,

nothing survives in the suit. The suit is, accordingly, disposed of in view of the orders passed above in **FAO 36/2021** and connected matters.

CS(OS) 550/2021

48. The present suit has been filed by Mr. Sumit Kumar Sharma (*Sl. No. 55*), Mr. Mohan Singh (*Sl. No. 65*), Mr. Hemant Raj Bhasin (*Sl. No. 101*), Ms. Asha (*Sl. No. 67*) for a decree of permanent injunction in favour of the Plaintiffs restraining the Defendant- *Kalkaji Mandir Prabandhak Sudhar Committee* and ors. from erecting net with railings in front of the shops Nos. C-2, C-3, C-8 and C-9 at the *Kalkaji Mandir*, New Delhi.

49. Undertakings have been given today by these Plaintiffs, in **FAO 36/2021** and connected matters, as recorded above, to the effect that they shall, along with his family, vacate the said premises of the shops on or before 25th December, 2021. The said undertakings have been given through Mr. Bhushan, Id. Counsel, and has been accepted by this Court and taken on record.

50. Accordingly, in view of the undertakings given today and the orders passed above, nothing survives in the suit. The suit is, accordingly, disposed of in view of the orders passed above in **FAO 36/2021** and connected matters.

CS(OS) 551/2021

51. The present suit has been filed on behalf of the *Mandir Shri Kalkaji* through the Plaintiff Mr. Tarun Gaur against Mr. Jay Prakash Sharma (*Sl. No. 44*), who is represented through Mr. Jain, Id. Counsel as well as Mr. Dewan, Id. Counsel. The prayers in the suit are as under:

“(i) *That a decree for recovery of mesne profits/damages be passed in favour of Plaintiff*

No. 2 - to the tune of Rs.1,50,000/- (Rupees one lakh fifty thousand only) against the defendant which he realized being in wrongful use and occupation of the suit property i.e. shop bearing no. B-16, Kalkaji Mandir, New Delhi-110019 measuring 14'3" X 19'0" sq. yards by carrying on his business in the name and style of "M/s Shiv Photo Studio" and using the premises illegally for commercial purposes/site for commercial purposes situated within the precincts of Mandir Sri Kalkaji as shown in red colour in the site plan without paying any license fees/tehbazari in the monthly Bari of plaintiff no.2 which commence from 12/13.06.2019 ending on intervening night 11/12.07.2019 for performance of Sewa Puja and realization of Tehbazari of Mandir Sri Kalkaji (Plaintiff No.1) as shown in red colour in the site plan;

(ii) Cost of the suit be also awarded in favour of plaintiffs and against defendant."

52. Today, Mr. Jay Prakash Sharma, the Defendant, has given an undertaking in **FAO 36/2021** and connected matters, as recorded above, to the effect that he shall, along with his family, vacate the said premises of the shop on or before 25th December, 2021. The said undertaking has been given through Mr. Jain, Id. Counsel, and has been accepted by this Court and taken on record.

53. Accordingly, since the Defendant has given an undertaking to vacate the premises in terms of the order set out above, the only issue remains is in respect of award of *mesne* profits. To this, Mr. Bhardwaj, Id. Counsel for the Plaintiff submits that he does not wish to press this relief and the Id. Administrator may be given the liberty to decide as to whether the

Defendant ought to pay any amount as donation for the redevelopment of the *Mandir* due to his long, unauthorised, occupation in the premises.

54. Therefore, in view of the long-term occupation of the premises by the Defendant, unauthorisedly, this Court is of the opinion that the Defendant may deposit a sum as donation to the *Mandir* with the Id. Administrator, if deemed fit by the Id. Administrator, and the said amount, if any, shall be directed by him after verifying the capacity of the Defendants.

55. In view of the undertaking given today and the orders passed above, nothing survives in the suit. The suit is, accordingly, disposed of in view of the orders passed above in *FAO 36/2021* and connected matters.

CS (OS) 555/2019

56. The present suit has been filed by the Plaintiff, Mr. Rakesh Bhardwaj, against the Defendants- Mr. Vinod Kumar Sharma (*Sl. No. 95*) and Mr. Gyan Singh Sharma (*Sl. No. 98*), seeking the following reliefs:

“a) To pass a decree of mandatory injunction directing both the defendants to remove themselves from the suit property i.e. Kanahiya Dharamshala, Kalkaji Mandir, Village Bahapur, New Delhi.

b) cost of the suit along with legal charges may also be awarded to the plaintiffs;”

57. Today, both the Defendants- Mr. Vinod Kumar Sharma and Mr. Gyan Singh Sharma have given their undertakings to the Court in *FAO 36/2021* and connected matters, as recorded above, to the effect that they shall vacate the said premises within the *Kalkaji Mandir* on or before 25th December, 2021. The said undertakings have been filed through Mr. Bhushan Id. Counsel.

58. Both the Defendants shall be bound by the undertaking given, failing

which the Plaintiff is free to approach the Id. Administrator appointed for the *Kalkaji Mandir* by this Court, for removal of their belongings from the *Dharamshala* and the shops, after 25th December 2021. The possession of the said premises being occupied, shall be handed over to the Id. Administrator.

59. Further, given that there is long term occupation of the *Dharamshala* in by the Defendants, for so many years, this Court is of the opinion that the Defendants shall deposit a sum as donation to the *Mandir* with the Id. Administrator, which shall be directed by him after verifying the capacity of the Defendants.

60. Accordingly, in view of the undertakings given today, nothing survives in this suit. This suit is disposed of in view of the orders passed today in *FAO 36/2021* and connected matters.

CS (OS) 556/2021

61. The present suit has been filed on behalf of the *Mandir Shri Kalkaji* through the Plaintiff Mr. Tarun Gaur against the Defendants- Mr. Mohan Singh (*Sl. No. 65*) and Mrs. Gangashri (*Sl. No. 103*), who are represented through Mr. Vivek Kumar Singh, Id. counsel. The prayer in the suit is as under:

“a Decree for Permanent Injunction be passed in favor of the plaintiffs thereby restraining the defendants their agents, friends, servants, representatives, relatives etc. from encroaching and entering in Shree Bhagwan Dharamshala, Sri Kalkaji Mandir comprising of 4 Rooms measuring 11' – 2' x 8'-6", 11' - 2" x 8' - 4", 9' - 4" x 12' & 9'-6" x 14' - 4" respectively, two Verandhas measuring 19' - 5" x 10' - 3" & 8' - 6" x 14' - 4" respectively and its attached / adjoining Chabutra

measuring 11' - 2" x 24' - 4" which is shown in Green Colour in site plan which is situated on the land of Shamlat Thok Brahmins and Thok Jogians on which temple Sri Kalkaji is also built / situated and from opening and running any Stall as also shown in photographs.”

62. Today, Mr. Mohan Singh and Mrs. Gangashri, have given their undertakings in **FAO 36/2021** and connected matters, as recorded above, to the effect that he shall, along with his family, vacate the said premises of the shop on or before 25th December, 2021. The said undertaking has been given through Mr. Jain, Id. Counsel, and Mr. Vivek Kumar Singh, Id. Counsel, respectively, and has been accepted by this Court and taken on record.

63. Accordingly, since the Defendants have given an undertaking to vacate the premises in terms of the order set out above, nothing survives in this suit. This suit is disposed of in view of the orders passed today in **FAO 36/2021** and connected matters.

CS (OS) 648/2021

64. The present suit has been filed by Smt. Rajwati against the Defendant- Mr. Rajesh Kumar (**Sl. No. 99**), who is represented by Mr. Bhushan, Id. Counsel. The prayer in the suit is as under:

“(i) a decree for Rs.1,65,983/- (Rs. One lac sixty five thousand nine hundred eighty three only) along with further interest at 18% per year from date of suit till payment be passed against the defendant and in favour of the plaintiff.”

65. None appears for the Plaintiff.

66. Today, Mr. Rajesh Kumar has given his undertaking in **FAO 36/2021**

and connected matters, as recorded above, to the effect that he shall, along with his family, vacate the said premises of the shop on or before 25th December, 2021. The said undertaking has been given through Mr. Bhushan, Id. Counsel.

67. Let notice be issued to Mrs. Rajwati, as well as her Counsel, returnable on 22nd February, 2022. Notice be issued through all permissible modes.

CS (OS) 674/2021

68. This matter has been received in the typed supplementary list.

69. List on 21st December, 2021.

70. Finally, it is made clear that for the time being, in all these matters, when the possession is handed over, the same shall be handed over to the Id. Administrator only, subject to further orders in these matters.

71. Further, even in the cases/suits which have been disposed of, Id. counsels for the parties are permitted to appear and render assistance to the Court in these matters and if they wish to move any applications in the disposed of suits, they are permitted to do so, by mentioning the same before the Court.

72. 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 9, 2021/dj/dk/aman/Ak

UNDERTAKING ON BEHALF OF OCCUPANT OF THE SHOP IN KALKAJI MANDIR

1. I, _____, am an occupant of [*Insert Name of Shop/Shop No./Identification No.*] in the *Kalkaji Mandir* Temple Complex since the last ____ years. The dimension of the shop/cubicle is ____ ft. x ____ ft. I sell _____ (*pooja samagri/flowers/food items etc.*) in the shop. Copy of my identification card and the relevant documents showing my occupation in the Temple Complex are enclosed herewith as **Annexure A**.
2. I undertake that I shall forthwith remove my goods from the said Shop(s), presently closed, and remove the Shop(s), in accordance with the Order dated 27.09.2021 passed by the Hon'ble Delhi High Court in **FAO No.36 of 2021** and in order to facilitate the re-development of the Temple Complex.
3. I hereby agree to give up all my rights and claims whatsoever in the said Shop(s) to enable me to be considered for temporary allotment of shop(s) at a designated place in the Temple Complex presently and for consideration of my case for allotment of shop(s) in the Temple Complex, proposed to be re-developed. I agree and acknowledge that such allotment shall be on the terms and conditions as may be finalized by the Id. Administrator of the *Kalkaji Mandir* and approved by the High Court.
4. I agree and acknowledge that the limited license, if approved, is granted to me only for the running shop at the allocated place in the Temple Complex and shall not constitute any right, title or interest in the said shop/structure/super-structure.

5. I undertake to vacate the temporary licensed premises whenever the same is required for re-development of the Temple Complex, or as per the directions of the Administrator and the High Court. I undertake that I shall not claim any equities on the basis of the fresh license.

6. I undertake to pay advance license fees of Rs. [____] per month and thereafter by the 10th of the subsequent month in the UCO Bank account of the Administrator. I agree and acknowledge that failure to pay the license fee by the 10th of the subsequent month would result in termination of license being granted to me.

7. I also agree to abide by the Order dated 27.09.2021 passed by the Hon'ble Delhi High Court in the matters related to the *Kalkaji Mandir*, as may be applicable to me. I further agree to abide by the terms and conditions of the temporary license and the directions of the Administrator of the *Kalkaji Mandir* as may be issued from time to time.

8. I undertake that the temporary licensed premises shall be used only for the purpose of [*Insert the type of shop proposed to be set up*] and for no other purpose. I further undertake that I shall close my shop before the closing timing of the *Kalkaji Mandir* and that no employee or person shall be permitted to stay or sleep within the temporary licensed premises.

9. The present undertaking is given by me without prejudice to my rights in the petition filed by me, pending before the Supreme Court.

Name and Signature of Executant

Date: _____

Place: _____