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

Date of Decision: 21st 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**

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 APPLs. 43796/2021**

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

+ **RFA 411/2021**

+ **RFA 413/2021**

+ **RFA 414/2021**

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

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

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

+ **CS (OS) 518/2021**

+ **CS (OS) 519/2021**

+ **CS (OS) 520/2021**

+ **CS (OS) 521/2021**

+ **CS (OS) 524/2021**

+ **CS (OS) 526/2021**

+ **CS (OS) 528/2021**

+ **CS (OS) 531/2021**

+ **CS (OS) 545/2021**

+ **CS (OS) 546/2021**

+ **CS (OS) 552/2021 & I.As. 16148-49/2021**

+ **CS (OS) 553/2021**

+ **CS (OS) 557/2021**

+ **CS (OS) 559/2021**

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

+ **CS(OS) 641/2005 & I.As. 19445/2014, 24296/2015**

- + **CS (OS) 642/2005 & I.As. 19847/2012, 16501/2014, 16502/2014, 19512/2014, 2234/2015, 24297/2015, 4478/2019, 8339/2020**
- + **CS (OS) 683/2021**
- + **CS (OS) 527/2021**
- + **CS (OS) 533/2021**
- + **CS (OS) 538/2021**
- + **CS (OS) 541/2021**
- + **CS (OS) 544/2021**
- + **CS (OS) 547/2021**
- + **CS (OS) 674/2021**

Appearances:-

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

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

Ms. Kawalpreet Kaur, Advocate for impleaders in FAO 36/2021. (M:8287908688)

Mr. Sunil Fernandes, Standing Counsel with Mr. Shubham Sharma, Advocate for BSES-RPL.

Mr. Harvinder Kumar alia Sanjay Bhardwaj in person.

Mr. Neeraj Bhardwaj, Advocate.

Mr. Yogender Nath Bhardwaj in person.

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

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, Advocates. (M:9212786555)

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

Mr. Anuroop P.S & Mr. Gaurav Bidhuri, Advocate. (M:9582818838)

Mr. Kamal Kant Bhardwaj, Advocate for Thula Bahadur. (M:9999438838)

Mr. Rajesh Kumar Gupta, Advocate for LR's of R-58. (M:9811070697)

Mr. Sarvesh Bhardwaj, Advocate for Defendant. (M:9350301058)

Mr. Ashok Bhardwaj and Mr. Dinkar Bhardwaj, Advocates.

Mr. D.K. Singhal, Advocate. (M:9811035029)

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)
Mr. Rameezuddin Raja, Advocate for 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, Advocates. (M: 9716569056)
Mr. Amit Rawat, Advocate for Plaintiff. (M:8307429100)
Mr. Vishal Chauhan, Mr. Harshil Gupta & Mr. Himanshu Chauhan, Advocates. (M:9971369850)
Mr. Navin Rawat, Advocate for Mr. O.P. Saxena, Advocate. (M:9315062091)
Mr. Santosh Kumar Tripathi, ASC (Civil), GNCTD with Mr. Arun Panwar, Advocate. (M:9818112250)
Ms. Mini Pushkarna, Standing Counsel with Ms. Latika Malhotra & Ms. Khushboo, Advocates for DUSIB. (M:9810674872)
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

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

CONT.CAS(C) 614/2021

3. At the outset, Mr. Neeraj Bhardwaj, Id. Counsel for the Plaintiff in CS(OS) 556/2021, which was disposed of vide order dated 9th December 2021, submits that he seeks a clarification in paragraph 61 of the said order. He submits that the plaintiffs in the said suit are *Shri Kalkaji Mandir Prabandhak Sudhar Committee*, Mr. Ajay Bhardwaj, Mr. Vijay Bhardwaj, Ms. Rakhi and Ms. Rajni Gaur, however in the said order, it is recorded as Mr. Tarun Gaur. Accordingly, he seeks a clarification/rectification in respect thereof. Paragraph 61 shall stand rectified in terms pleaded. Ordered accordingly.

Removal of unauthorised occupation/construction in the Mandir premises

4. Vide last order dated 9th December 2021, this Court had directed the shopkeepers in the *Mandir* premises to give undertakings before the Id. Administrator of the *Kalkaji Mandir*, appointed by this Court. Upon the said undertaking being given, and verification in respect thereof being conducted, the shopkeepers were to be given reasonable time by the Id. Administrator for removal of their articles and belongings from the shops lying sealed. Upon the same being done, the SDMC and DDA, in cooperation with other civic agencies, were to remove all unauthorised constructions/ encroachment by 25th December 2021.

5. Further in respect of those persons residing within the *Mandir* premises in the *Dharamshala* or otherwise, this Court had directed the vacation of the said residences on or before 25th December 2021.

6. On a query from the Court as to the status on-ground at the *Mandir* and developments in respect of the directions given on 9th December 2021 by this Court, Ms. Shambhavi Kala, Id. Counsel appearing for the Id.

Administrator firstly submits that 31 shops had been demolished prior to the last date of hearing. Post the same, the 21 *jhuggis* in the *Mandir* premises have been demolished by the DDA. Further, insofar as removal of the shopkeepers along with their articles lying in the sealed shops, it is submitted that a few shopkeepers have voluntarily removed their belongings. However, more shopkeepers are, today onwards, removing their respective goods and belongings from the said shop premises, and are expected to remove all their belongings in the next few days.

7. Mr. Jain, Id. Counsel appearing for 65 shopkeepers, submits that the main entry to the *Mandir* has been locked, due to which the belongings of the shopkeepers cannot be removed at one go. He further submits that more time ought to be given for the shopkeepers to remove their goods. This request is rejected inasmuch as undertakings have already been given by the shopkeepers and they are also being considered for allotment of alternate space on licence basis. Any delay in vacating the existing shops would further delay the cleaning and re-development of the *Mandir* premises.

8. Accordingly, the Id. Administrator to take steps to ensure that the shopkeepers do not face any impediments in removing their goods and belongings by 25th December 2021, as already directed by this Court. It is made clear that if the said shopkeepers do not remove their belongings by the 25th of December, the concerned Authorities/ Civic Agencies, would be free to take action post 25th December, 2021, pursuant to the order dated 9th December 2021, in accordance with law.

9. Ms. Kawal Preet Kaur, Id. Counsel appearing for 11 shopkeepers submits that she has filed an application for impleadment of her clients in these petitions. She submits that all the 11 shopkeepers are willing to file

their undertakings before the Id. Administrator, in terms of the directions given in the last order dated 9th December 2021. If so, these 11 shopkeepers, who Ms. Kaur claims to represent, are permitted to file their undertakings before the Id. Administrator on the same terms as applicable to the other shopkeepers, as directed vide order 9th December 2021.

Interim measures for re-development of the Mandir premises

10. Vide the last order dated 9th December 2021, this Court had heard the Id. Architect- Mr. Goonmeet Singh Chauhan appointed in these matters. The following direction was given by this Court:

“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.”

11. Today, the Id. Architect has submitted a comprehensive report and has also given a detailed presentation, which has also been projected on the display screen for all Id. Counsels and their respective clients who are present today, to watch.

12. As per the said presentation, the temporary creation of shops and kiosks and some toilet and water facilities, etc. has been considered by the Id. Architect. He has identified three areas for the creation of a total of 71 temporary shops and 136 temporary kiosks i.e., a total of 207 structures for operation of shops. The three locations identified are:

- i) *Ram Piyao* entrance
- ii) Outer ring road entrance;
- iii) The DDA/ Lotus Temple entrance.

13. The detailed presentation which has been shown to the Court today may also be submitted to the Id. Administrator for his perusal. The Id. Administrator would then hold consultations with the *baridaars* and the shopkeepers, in the following manner:

- i) On 3rd January 2022, all *baridaars* may approach the Id. Administrator and hold a meeting with him, in respect of the development and creation of temporary structures for shops and *kiosks*. The said meeting shall be at 2 pm at the office of the Id. Administrator in *Kalkaji Mandir*.
- ii) On 5th January 2022, an interaction may be held by the Id. Administrator with all shopkeepers. The shopkeepers may also be assisted by their counsels in the said meeting, *albeit* in small numbers. The said meeting shall also be at 2 pm at the office of the Id. Administrator in *Kalkaji Mandir*.
- iii) On the basis of the plan and budget prepared by the Id. Architect, the Id. Administrator may also hold a meeting, on 7th January 2022, with the officials of the SDMC, DDA, Delhi Jal Board and Delhi Fire Services to ensure that the plans for creation of temporary structures to enable the entire *Kalkaji Mandir* premises to be reorganized and redeveloped temporarily, are in compliance with the applicable regulations which are followed by these civic agencies. The said meeting shall also be at 2 pm at the office of the Id. Administrator in *Kalkaji Mandir*.

14. An electronic copy of the presentation which has been shown to the Court today, may also be made available to any of the parties who request for the same, in the Id. Administrator Office at the *Mandir*'s premises.

15. It is made clear that bids may be submitted by various shopkeepers/other allottees who are interested in obtaining either the temporary shops or temporary *kiosks*, as per the public notice released by the Id. Administrator.

16. On the basis of the bids received, the Id. Administrator may prepare a list of all such persons who are willing to take allotment of these shops/*kiosks*. In addition, the *baridaars* at the *Mandir* would also be required to contribute for the creation of these temporary structures. The exact ratio of the contributions etc., shall be finalised by the Id. Administrator.

17. Finally, on the basis of the bids received and discussions with *baridaars*, the shopkeepers, the Civic Agencies and the Id. Architect, the Id. Administrator shall place on record a final report for creation of temporary structures (shops and *kiosks*) at the *Kalkaji Mandir*, for this Court's consideration and approval.

18. For receiving the report of the Id. Administrator in respect of the said meetings and for perusal of the report for creation of temporary shops/*kiosks*, as well as ascertaining the status of the unauthorised construction, **list these matters on 14th January, 2022 at 2:30 pm.**

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

19. 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 *Suit No. 771/2008* titled *Ganpat Nath v. Gagan Chand*.

20. As the records of the said case are before this Court, the Registrar (Writs) may call the concerned *Nazir* from the Trial Court to examine as to whether any amount stands deposited in the said suit. Let a status report in after analysing the same, be filed before 14th January 2021.

21. **List on 14th January 2022 at 2:30 pm.** Copy of this order be communicated to the concerned *Nazir* by the Registrar (Writs) of this Court to ensure compliance.

CS (OS) 527/2021, CS (OS) 533/2021, CS (OS) 538/2021, CS (OS) 541/2021, CS (OS) 544/2021, CS (OS) 547/2021 & CS (OS) 674/2021

22. **List these matters on 14th January, 2022 at 2:30 pm.**

23. At this stage, Mr. Neeraj Bhardwaj, Id. Counsel submits that another suit concerning the *Kalkaji Mandir* being *CS No. 9609/2016* titled *Kalkaji Mandir v. State* is still pending before the Court of Id. ADJ, South East District, Saket Courts, Delhi. Pursuant to the previous orders that have been passed in *FAO 36/2021* and connected petitions, let the said suit be transferred to this Court, to be heard and decided along with these matters.

CS(OS) 526/2021

24. **List tomorrow i.e., on 22nd December, 2021 at 2:30 pm.**

RFA 411/2021, RFA 413/2021, RFA 414/2021

CS (OS) 511/2021, CS (OS) 512/2021, CS (OS) 517/2021, CS (OS) 518/2021, CS (OS) 519/2021, CS (OS) 520/2021, CS (OS) 521/2021, CS (OS) 524/2021, CS (OS) 528/2021, CS (OS) 531/2021, CS (OS) 545/2021, CS (OS) 546/2021,

CS (OS) 552/2021 & I.As. 16148-49/2021

CS (OS) 553/2021, CS (OS) 557/2021, CS (OS) 559/2021,

CS (OS) 588/2021,

CS(OS) 641/2005 & I.As. 19445/2014, 24296/2015

CS (OS) 642/2005 & I.As. 19847/2012, 16501/2014, 16502/2014,
19512/2014, 2234/2015, 24297/2015, 4478/2019, 8339/2020

CS (OS) 683/2021,

25. The issues that inter alia, arise in these suits, which have been listed in *Category A* are in respect of:

- a) whether the adopted children of the *baridaars* have any right in the said *bari*, offerings and *puja sewa*;
- b) whether women have rights to conduct *puja sewa* and collect their share of the *bari*.

26. In **CS (OS) 517/2021**, let court notice be issued to the Id. Counsel for the Plaintiff by the Respondent for the next date of hearing. This matter relates to one of the forthcoming *baris*. Accordingly, this matter shall be taken up as Item No.1 on the said date.

27. **List these matters for hearing on 31st January, 2022 at 2:30 pm.**

These are part heard matters.

28. 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 the orders shall be insisted by any authority/entity or litigants.

**PRAITHIBA M. SINGH
JUDGE**

DECEMBER 21, 2021/Rahul/dk/Ak