

\$~2(SB) to 5 (SB) & items 20 to 30

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

Date of Decision: 22nd March, 2022

3(SB)

+ **FAO 36/2021 & CM APPLs.2914/2021, 10442/2021, 10444/2021, 20904/2021, 23819/2021, 25868/2021, 25869/2021, 25870/2021, 25884/2021, 26495/2021, 29121/2021, 25885/2021, 43944-46/2021, 3172/2022, 3455/2022, 5641/2022, 5642/2022, 5803/2022, 5865/2022, 7745/2022, 13472/2022**

NEETA BHARDWAJ & ORS.

..... Appellants

versus

KAMLESH SHARMA

..... Respondent

With

+ **CM (M) 323/2021 & I.As.14178/2021, 20945/2021, 20949/2021, 40269/2021**
+ **CM (M) 575/2021 & CM APPL.43796/2021**
+ **CS (OS) 2499/2010**
+ **CS (OS) 527/2021 & I.As.1717-18/2022**
+ **CS (OS) 533/2021 & I.As.1721-22/2022**
+ **CS (OS) 538/2021 & I.As.1725-26/2022**
+ **CS (OS) 541/2021 & I.As.1723-24/2022**
+ **CS (OS) 544/2021 & I.As.1719-20/2022**
+ **CS (OS) 547/2021 & I.As.1715-16/2022**
+ **CS (OS) 588/2021**
+ **CS (OS) 55/2022**
+ **CS (OS) 56/2022**
+ **CS (OS) 57/2022**
+ **CONT.CAS(C) 614/2021**

Appearances:-

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

Mr. Neeraj Bhardwaj, Advocate.

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

Mr. Luv Bhardwaj, Advocate. (M:9990693140)
Mr. Sarvesh Bhardwaj, Advocate for R-9. (M:9350301058)
Mr. Arun Birbal and Mr. Sanjay Singh, Advocates for DDA.
(M:9958118327)
Mr. Siddharth Panda, Standing Counsel for SDMC. (M:9891488088)
Mr. Rameezuddin Raja, Advocate for Ms. Sangeeta Bharti, Standing
Counsel for DJB. (M:9899347995)
Ms. Samapika Biswal & Ms. Shambhavi Kala, Advocates for Ld.
Administrator (M-9818668876)
Ms. Mini Pushkarna, Standing Counsel, DUSIB with Ms. Latika Malhotra &
Ms. Shikha Baisoya, Advocates (M-9810674872)
Mr. Nitin Jain, Mr. Vishal Chauhan, Mr. K.P. Singh, Mr. Pooran Singh
Maher and Mr. Niyati Sharma, Advocates for Shopkeepers.
Mr. Rohit Kishan Naagpal & Mr. Dipanshu Gaba, Advocates.
(M:9873730191)
Mr. U.M. Tripathi, Mr. Birendra Kumar Pandey and Mr. Prashant Leo,
Advocates for Defendant in Item 20. (M:9818403060)
Mr. Vivek Kumar Singh, Advocate for Defendants in Item Nos.21, 22 & 23.
(M:8860456420)
Mr. Aly Mirza and Mr. Prabhas Chandra, Advocate for R-10.
(M:9899720944)
Mr. Kamal Mehta, Advocate for D-10 in item 27. (M:9810249271)
Ms. Esha Pandey, DCP South-East District, Delhi.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. These matters pertain to the *Kalkaji Mandir*, which this Court has been hearing from time to time. These are part-heard matters.

Eviction of Occupants from the Kalkaji Mandir Premises

3. Vide the previous order dated 15th March, 2022, this Court had passed the following directions:

“6. This Court has perused the report that has been placed on record jointly by the DDA, SDMC, DUSIB

and other officials including the counsels appearing for them. Keeping in mind the contents of the report, this Court is of the opinion that at best there may be 40 families occupying the Jhuggis and Dharamshalas who may not have adequate means and who need some compassionate consideration. However, these occupants have been in occupation of these unauthorized tenements for the last several years in a prime area in South Delhi. Thus, no exception of free accommodation can be given to them, however, in view of the fact that the Court has taken a compassionate view considering the financial standing of the occupants, it is directed as under:

(i) The ld. Administrator would meet one representative from each of the families of the current occupants as mentioned above, of Jhuggis and Dharamshalas on 19th and 21st March, 2022.

(ii) An option would be given to the said occupants to move into a tenement under the JNNURM scheme where a flat shall be allotted to them by DUSIB. The said occupants may opt for such rental accommodation upon payment of a sum of Rs.5,000/- per month as the rental amount. The options of the flats available under JNNURM shall be given by Ms. Mini Pushkarna, ld. counsel for DUSIB, to the ld. Administrator to enable him to interact with the occupants.

(iii) Those families who wish to purchase a flat from the DDA, subject to the satisfaction of eligibility criteria, shall be allotted either an EWS or LIG flat, upon them exercising the option. The said flat shall be allotted by the DDA to the party opting for the same, as may be confirmed by the ld. Administrator. The said party shall then file all of the documents and deposit the consideration amount. After deposit of the consideration, the flat shall be allotted within four weeks.

(iv) For those occupants who do not wish to exercise

the option of either (ii) or (iii) above, they shall remove all their belongings by Wednesday, i.e., 23rd March, 2022. On 24th and 25th March, 2022, all the occupants of Jhuggis and Dharamshalas in the premises of the Kalkaji Mandir shall be evicted.

(v) The DCP, South-East District, Delhi and the SHO, Kalkaji shall provide the necessary force for eviction of the occupants of the Jhuggis and Dharamshalas and any other unauthorized occupants, vendors etc., in the Kalkaji Mandir premises. The same shall be supervised by the Id. Administrator and his team. The officials of DUSIB, DDA and the SDMC shall remain present during the eviction so that they can give cooperation to the police as also to the Id. Administrator.”

4. Pursuant to the said directions, the Id. Administrator has today placed on record a report stating that a public notice was issued and affixed at various places in the premises of the *Kalkaji Mandir*. By the said notice, all the unauthorized occupants of *jhuggis* and occupants of *dharamshalas* were given three options as contained in the order dated 15th March, 2022, i.e., for either taking up flats on rent from DUSIB, for applying to DDA for purchase of EWG flats or to move to *rain baseras*. On behalf of the Id. Administrator, it is submitted that meetings were held with some of the occupants, all of whom have refused to accept any of the three options. The extract of the said report of the Id. Administrator is set out below:

“2. Pursuant to the order dated 15.03.2022 of the Hon’ble Delhi High Court, public notice was issued on 17.03.2022 notifying all occupants of jhuggis and dharamshalas regarding the directions of eviction for 24.03.2022 and 25.03.2022. The occupants were informed regarding the two (2) options for relocation identified by the Hon’ble Delhi High Court and were asked to come for a meeting with the

undersigned on 19.03.2022 and 21.03.2022 at 3 PM at the office of the undersigned in the Mandir. Public announcements were made in the Mandir premises regarding the order of the Court and the meetings to be held with the undersigned. The public notice was pasted on the notice board at the office of the undersigned in the Mandir and in other prominent places in the Mandir.

3. Further, notices dated 17.03.2022 were issued to the authorities, viz. Delhi Police, DDA, SDMC, and DUSIB for compliance of the order dated 15.03.2022 of the Hon'ble Delhi High Court. The authorities were also asked to be present for the meetings on 19.03.2022 and 21.03.2022.

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5 The attendance sheet showing the attendance of the persons present who attended the meeting is enclosed herewith.

Meeting with the authorities:

6. Inspector Balbir Singh, SHO Kalkaji was present along with ACP Pradeep Kumar and SI Manu Dev, Kalkaji. They were informed regarding the order dated 15.03.2022 of the Hon'ble Delhi High Court.

7. Mr. Ramesh Kumar, AE, DUSIB was present. He provided the undersigned with a list of flats available for lease at Rs.5,000/- under the JNNURM scheme in terms of the order dated 15.03.2022. The following details and locations were provided by the DUSIB personnel:

- (i) 280 flats are available in Sector 16B, Dwarka (however this shall become available after 2 months)*
- (ii) 313 flats are available in Baprola, near*

Nagloi

(iii) 2416 flats in Savda Ghevra

(iv) 1060 flats in Block A-3, Sultan Puri

8. Mr. Ramesh Kumar was directed to provide the nearest metro station, layout plan of the flats and contact person with whom the occupants can get in touch for viewing of the flats by the next date of meeting, i.e. on 21.03.2022.

9. Mr. Saurabh Gupta, AE, Mr. Om Prakash, Tehsildar, Mr. Pal, Sup. (Hort.), Mr. Om Prakash Ray, Patwari, were present on behalf of DDA. They were directed to similarly provide the layout plan of the flats for purchase stated to be located in Narela, the nearest metro station and contact person with whom the occupants can get in touch for viewing of the flats by the next date of meeting i.e. on 21.03.2022.

Meeting with occupants of Jhuggis:

10. The undersigned commenced meeting the occupants of the Jhuggis in groups of 5 persons. The first set of occupants who came for the meeting were as follows:

(i) Uma W/o Amar'

(ii) Ram Murti;

(iii) Rekha Kumari W/o Vinod;

(iv) Somn Gautam W/o Narendra Gautam; and

(v) Sunita Devi W/o Lt. Hari Lal.

11. They were apprised regarding the order of eviction directed by the Court on 24.03.2022 and 25.03.2022, and the options provided by DUSIB and DDA, which they may exercise, or vacate their belongings by 23.03.2022, failing which they shall be evicted. The said persons were also informed about representation of DUSIB that if none of these options are acceptable to the

occupants, they may also provide the occupants temporary night shelters/rain basera until they make their own alternative arrangements. The said persons stated that they do not have the means to pay rent for the flats offered or purchase flats. They have stated that they will neither vacate, nor opt for the flats on rent or purchase or the rain basera.

12. The following persons were also present outside the office of the Administrator. However, the first set of 5 persons told the rest of the persons to leave and not attend the meeting, and thereafter, no one else came for the meeting.

- (i) Kaushyla Devi W/o Lt. Gyan Chand;
- (ii) Manju Devi W/o Sunil;
- (iii) Ramesh Kumar W/o Vimla Devi;
- (iv) Koshlya Sharma W/o Raj Kumar Sharma;
- (v) Naresh Chakarwarty S/o Devi Ram Chakrawarty;
- (vi) Ramkali W/o Bachu;
- (vii) Keshna W/o Sada Shiv; and
- (viii) Indra Devi W/o Lt. Ram Sewak.

13. The persons listed in paragraphs 10 and 12 form part of the survey report of the joint inspection carried out by DDA and DUSIB, enclosed with their Report dated 14.03.2022 filed before the Hon'ble Delhi High Court.

14. The office of the undersigned has prepared a format of undertaking to be executed by occupant of the jhuggis/dharamshalas to indicate the option being exercised by them, and to inter alia abide by the terms and conditions of the authorities. This has been pasted on the notice board of the office of the undersigned as well as at prominent places in the Mandir premises. ”

5. In view of the said stand of the unauthorized occupants of *jhuggis* and occupants of *dharamshalas*, this Court is left with no option but to direct the Delhi Police to proceed with the eviction of the said unauthorized occupants of *jhuggis* and occupants of *dharamshalas*. The eviction of the said occupants also has a sense of urgency in view of the fact that the *Navratras* will be commencing from 2nd April, 2022 and proper arrangements have to be made for the entry and exit of the lakhs of devotees who visit the *Kalkaji Mandir* during the *Navratra* period. The *Kalkaji Mandir* premises sees a steady and high influx of devotees during the *Navratra* period and the continued occupation of the *jhuggis* and *dharamshalas* by the occupants would pose enormous threat to the safety and security of all the devotees, for whom elaborate arrangements would have to be made by the Id. Administrator.

6. The eviction shall now be on the terms as contained in the order dated 15th March 2022. The eviction process shall be undertaken under the direct supervision and control of Ms. Meenu Chaudhary, Joint Commissioner of Police, Southern Range, and Ms. Esha Pandey DCP, South East Delhi in terms of the order dated 15th March, 2022. All the other authorities viz., DUSIB, DDA, SDMC and their concerned officials namely, Ms. Garima Gupta, CEO, DUSIB, Mr. Manish Gupta, Vice Chairman, DDA, and Mr. Gyanesh Bharti, Commissioner, South Delhi Municipal Corporation, shall render complete assistance to the Delhi Police.

7. Thus, the unauthorized occupants of *jhuggis* and occupants of *dharamshalas* who are 142 and 46 in number respectively, are directed to cooperate with the eviction process, as they have chosen not to avail of any of the options which have been offered to them in terms of the order dated 15th March, 2022.

8. Ld. Administrator, along with the other agencies, is free to engage sufficient manpower or direct the deputation of the required manpower for the purpose of enabling the eviction of the unauthorized occupants of *jhuggis* and occupants of *dharamshalas*, from the *Kalkaji Mandir* premises.

9. Let the eviction process commence on 24th March, 2022, as directed previously.

10. All the authorities and officials of DDA, SDMC, DUSIB, Ms. Meenu Chaudhary, Joint Commissioner of Police, Southern Range, Ms. Esha Pandey, DCP, South-East District, Delhi, and SHO, Kalkaji, shall cooperate in this regard, including the *baridars* and *pujaris* who may be currently enjoying the *bari* in the *Kalkaji Mandir*.

Creation of temporary shops and kiosks

11. Ld. Administrator has also informed the Court that for the allotment of temporary shops and kiosks, 20 shopkeepers have already deposited a sum of Rs.30,000/-. Let the process of deposit of Rs.30,000/- for allotment of temporary shops and kiosks be continued.

12. Insofar as the erection of the temporary shops and kiosks is concerned, the Ld. Administrator has suggested that the project should be implemented by the Chief Engineer, DDA.

13. This Court has, vide order dated 15th March, 2022, already directed as under:

“16. This stand of the DDA is at variance with the stand recorded previously in the Ld. Administrator’s Report No.3 dated 13th January, 2022, as also in the order dated 14th January, 2022, where the DDA had already given its ‘No Objection’ for the redevelopment of the Kalkaji Mandir and the creation of the temporary shops and kiosks in the Kalkaji Mandir

premises. The relevant extract of the said order is as under:

“10. The DDA has already informed the Id. Administrator during the interactions which were held, that it has no objection to the redevelopment of the Kalkaji Mandir, and the creation of the temporary shops and kiosks in the Mandir premises. The same is recorded in paragraph 26(i) of the Administrator's report. Let a communication to this effect be issued by the DDA to the Id. Administrator, within one week.”

17. However, in the meeting report which has been filed recently, the stand of the DDA is that as per the Master Plan for Delhi, 2021, the entire area of Kalkaji Mandir premises is shown as a green area.

18. It is noticed that the Kalkaji Mandir premises has always had shops and kiosks which were attending to the devotees in the Mandir area. Further, there was also a large parking space on the DDA land, which was being utilized for parking of vehicles of the devotees. It is evident from the Local Commissioner's report dated 1st and 28th August, 2021, Receiver's report received on 15th March, 2021 as also the Reports of the Id. Administrator, that the said area is not a green area and the same has been used only for the purpose of parking in the Kalkaji Mandir, for a number of years. Thus, at this stage, considering the nature of issues before this Court, and in the overall interest of the proposed redevelopment of the Kalkaji Mandir, the Architect is permitted to put up the temporary shops and kiosks in the Mandir premises for a temporary period of one year, until the main redevelopment of the Mandir commences, in order to avoid the haphazard crowding of vendors and hawkers in the area. The same can be converted into a green area immediately upon the redevelopment of the

Mandir taking place, and upon the shopkeepers being made to move to the respective shops allocated to them in the finalized premises post the redevelopment. The said land can be converted to a green area then and landscaped as part of the larger scheme of development.

19. Ld. Administrator has identified a total of 104 shopkeepers who are entitled for being licensed temporary shops and kiosks. On the basis of the cost estimate given by the Architect, for each of the temporary shops and kiosks, a sum of Rs.30,000/- and Rs.20,000/- is fixed as one time cost for erection of the same. The shopkeepers, who are stated to be 104 in number, are permitted to express their choice as to the temporary shop or kiosk to the Ld. Administrator and deposit the money in respect thereof, in the account in the name of "Registrar General, Delhi High Court, A/c Kalkaji Mandir Fund" vide A/c No.15530110155950 [IFSC Code UCBA0001553]" (hereinafter, "Kalkaji Mandir Fund"). Upon the said deposit being made, the shopkeepers would be entitled to allotment of the temporary shops and kiosks in the Mandir premises, on a licence basis purely temporarily, without any rights.

20. On the next date, the Architect is requested to appear before this Court and give a timeline for the commencement of the erection of temporary shops and kiosks. Thereafter, this Court would also consider release of some amounts to the Architect to enable him to commence the erection of the temporary shops and kiosks."

14. Thus, in view of the above directions already issued on 15th March, 2022, the Architect may place on record a plan giving the timelines for erection of the temporary shops and kiosks, as per the said order. The request of Ld. Administrator for directing the Chief Engineer, DDA to take up the project for erection of temporary shops and kiosks is not acceded to

by this Court and the Architect already appointed by this Court shall proceed further in the matter. The Architect is also permitted to apply to the concerned authorities for electricity connection, water connection and sewage connection, as and when required. Let the said plan be submitted by the Architect by 31st March, 2022 along with details of the expenses projected to be incurred for the same.

15. Insofar as the period of *Navratras* is concerned, considering the lakhs of devotees who are likely to be visiting the temple, some arrangement would be required to be made for the purposes of selling *phool*, *prasad* and *puja samagri* and other *puja* utensils and gift items etc., Accordingly, as suggested by the Ld. Administrator, temporary tables may be allowed to be put up by the Id. Administrator in any suitable part of the *Kalkaji Mandir* premises, in consultation with the Architect and in a manner that ensures that access to the same is provided to all the devotees who visit the temple.

16. It is made clear that the allotment of these tables shall be made to only those shopkeepers who deposit the sum of Rs.30,000/- as directed by the previous order dated 15th March, 2022, for allotment of temporary shops. Moreover, the undertakings already given by the shopkeepers pursuant to orders dated 7th December, 2021 and 9th December, 2021, to the effect that the allottees shall not claim any rights in respect of the space allocated to them for selling the articles and wares, shall also apply *qua* the tables which may be permitted to be erected during the *Navratra* period. The *tehbazari* for each of the shopkeepers is fixed at Rs.15,000/- each for the entire *Navratra* period which shall be deposited with the Court in the account in the name of **“Registrar General, Delhi High Court, A/c Kalkaji Mandir Fund” vide A/c No.15530110155950 [IFSC Code UCBA0001553]”**

(hereinafter, “Kalkaji Mandir Fund”. If the Ld. Administrator wishes to continue the allocation of the said tables to the shopkeepers, let a proposal be placed before this Court in respect thereof.

17. Considering the quantum of work done by the Architect, the worthy Registrar General of this Court is directed to release a sum of Rs.3 lakhs to the Architect as an *ad hoc* payment for the assistance which he has rendered in these matters. For the said purpose, let the details of his bank account be supplied by the Architect to the worthy Registrar General, within three days.

Supply of Water and Laying Down of Sewage Lines

18. Pursuant to previous orders dated 1st February, 2022 and 15th February, 2022, the Delhi Jal Board (*hereinafter “DJB”*) has placed a report on record that the inspection of the *Kalkaji Mandir* premises has been done. The choking of sewer lines as well as leakage and overflow of water has been dealt with and repaired. Ld. Counsel for the Administrator also confirms that the repair as stated by the DJB has in fact been carried out.

19. The DJB shall also ensure that during the *Navratra* period, proper running water supply is made available to the devotees of the *Kalkaji Mandir* and the sewage system is functioning properly during the said period. The regular maintenance of the sewage system shall also be undertaken by the DJB.

20. **List all these matters on 31st March, 2022 at 2:30 p.m.**

21. Status report *qua* the eviction shall be placed on record by the Delhi Police by 31st March, 2021. Ld. Administrator to file a further status report on the remaining aspects. The Architect shall also file his proposal for the erection of the temporary shops and kiosks.

22. The present order be communicated to Mr. Sanjay Lao, Id. Standing Counsel (Criminal), GNCTD, Mr. Arun Birbal, Id. Counsel for DDA & SDMC, Ms. Mini Pushkarna, Id. Counsel for DUSIB, with a direction to further communicate the same to the concerned officials of the Delhi Police, DDA, SDMC and DUSIB, who are to comply with the directions given above.

23. 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

MARCH 22, 2022/ Rahul/dk/ad/ms

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