C/O
15-09-2021

D-5

IN THE HIGH COURT OF DELHI AT NEW DELHI

No. 13662 -X Dt. 13-9-21

From

The Registrar General
High Court of Delhi
New Delhi.



To

1. The Principal District & Session Judge (HQs) Tis Hazari Courts, Delhi.
2. The Principal District & Session Judge, Saket Courts (South East District), New Delhi.
3. The Principal District & Session Judge, South, Saket Courts, New Delhi.
4. Ms. Neelam Singh, ADJ – 02, South East Distt., Saket Courts, New Delhi Or Successor Court
5. Ms. Manmeet Arora, Advocate,appointed as Local Commissioner through email : manmeet.p.arora@gmail.com (Mob. 9811333871)
6. Mr. Sanjay Lao, Ld. Counsel for the Delhi Police email:- gnctd@gmail.com Ph. 9818166809.
7. The Commissioner South Delhi, New Delhi email:- dyancsz@mcd.org.in
8. Mr. Arun Birbal, Ld Counsel for the SDMC email:- sdmc@gmail.com Ph. 9958118327.
9. The Delhi Commissioner of Police, South Delhi email :- dcp-south-dl@nic.in

FAO No. 36/2021

NEETA BHARDWAJ & ORS. .....Appellant/s
Vs.
KAMLESH SHARMA .....Respondent/s

Appeal against the order dated 16-01-2021 passed by Ms. Neelam Singh, ADJ – 02, South East District, Saket Courts, New Delhi in Case No. CS No. 1010/2018.

Sir,

I am directed to forward herewith for information and immediate compliance/necessary action on/a copy of order dt. 08-09-2021 passed by Hon'ble Ms. Justice Prathiba M. Singh of this Court in the above noted case.

Please acknowledge the receipt.

Yours faithfully,

10/9/21

Admn. Officer (J) C-IV
For Registrar General

In the matter of:

NEETA BHARDWAJ & ORS. ...APPELLANTS

VERSUS

KAMLESH SHARMA & ORS. ...RESPONDENTS

(APPEAL AGAINST THE IMPUGNED ORDER DATED 16.01.2021 PASSED BY Ms. NEELAM SINGH, LD. ADJ – 02, SE, SAKET COURTS, NEW DELHI IN CS No. 1010 OF 2018 IN CASE TITLED AS KAMLESH SHARMA VS NEETA BHARDWAJ & ORS.)

MEMO OF PARTIES

1. Neeta Bhardwaj
   W/o Late Sh. Ajay Sharma @ Ajay Bhardwaj
2. Vishal Sharma
   S/o Late Sh. Ajay Sharma @ Ajay Bhardwaj
3. Himanshu
   S/o Late Sh. Ajay Sharma @ Ajay Bhardwaj
4. Shruti
   D/o Late Sh. Ajay Sharma @ Ajay Bhardwaj
5. Priyanka Bhardwaj
   Late Sh. Ajay Sharma @ Ajay Bhardwaj

All the above appellants Residents of H.No. 6, Gali No. 1, Indra Garden Colony, Mohan Nagar, Ghaziabad, Uttar Pradesh

...APPELLANTS

Versus

1. Kamlesh Sharma
   W/o Sh. K.C. Sharma
   D/o Late Sh. Kalicharan
   R/o H.No. 531, Chirag Delhi,
   New Delhi – 110017

...CONTESTING RESPONDENT

2. Ramesh S/o Smt. Prem Lata & Sh. Bharat Singh
3. Rakesh S/o Smt. Prem Lata & Sh. Bharat Singh

   Both Respondents No. 2 & 3 Residents of C – 1, Janakpuri, Delhi

4. Ashok @ Kalu

   S/o Smt. Shanti Devi & Sh. Jagan Nath

   R/o Village Bhartal, Delhi (Near Govt. School)

5. Kapoori Devi

   D/o Late Sh. Kalicharan & Birmo Devi

   R/o Village Dujana, District Ghaziabad, U.P.

6. Pushpa @ Pushplata

   D/o Late Sh. Kalicharan & Birmo Devi

   R/o Village Sampla, Haryana

...(2 to 6) Non Contesting / Performa Respondents

Neeta Shruti Priyanka Himanshu Vishal

APPELLANTS

THROUGH

R.K. BHARDWAJ
Counsel for Appellants
Chamber No. 371, Civil Wing,
Tis Hazari Courts, Delhi – 110054
M: 9312710547
E-mail: neerajlawyer79@gmail.com

Delhi
Date: 21.01.2021

S-9 to 12

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 8th September, 2021

+ **FAO 36/2021**

NEETA BHARDWAJ & ORS. ..... Appellants

Through: Mr. Neeraj Bhardwaj, Advocate.

versus

KAMLESH SHARMA ..... Respondent

Through: Mr. Rohit Kishan Naagpal, Mr. Akarshan Bhardwaj & Mr. Dipanshu Gaba, Advocates for R-1to 4 & 6.
Ms. Rashmi B. Singh, Advocate for R-7&8.
Mr. Sarvesh Bhardwaj, Advocate for R-11.
Mr. Aly Mirza & Mr. Prabhas Chandra, Advocates for R-10.
Ms. Sageeta Bharti, Standing Counsel for DJB (M-9811112863).
Mr. Amit Gupta, Advocate for Applicants.
Mr. Yoginder Singh, Advocate for Applicant.

9 WITH

\+ **CM (M) 575/2021**

MAM CHAND ..... Petitioner

Through: Mr. Krishan Gopal Chokkar, Advocate.

versus

SATISH KUMAR AND ORS ..... Respondents

Through: Mr. Pradeep Kumar Gulia, Advocate for R-59 & 57.
Mr. Rajesh Kumar Gupta, Advocate for LRs of R-58.

10 WITH

\+ **CM (M) 323/2021**

BISHAN SWAROOP ..... Petitioner

Through: Mr. L.S. Solanki, Advocate.

versus

MAHENDER KUMAR PANDEY ..... Respondent

Through: Mr. Jitender Verma, Advocate for R-1
Mr. Anuroop P.S., Advocate for R-1.
Mr. Mayank Yadav, Advocate for Applicant.
Mr. Neeraj Bhardwaj, Advocate for R-3.

12

\+

AND

CONT.CAS(C) 614/2021

POORNIMA SHARMA ..... Petitioner

Through: Mr. Rohit Kishan Naagpal & Mr. Dipanshu Gaba, Advocates.
Ms. Garima Anand, Advocate.

versus

VIPUL GAUR ..... Respondent

Through: Mr. Neeraj Bhardwaj, Advocate.

Appearances:-

Mr. Vishal Bhardwaj, Advocate in FAO 36/2021.
Mr. Kamal Kumar, Advocate.
Mr. Kamal Kant Bhardwaj, Advocate.
Ms. Smita Maan, Advocate.
Mr. Ashok Kumar, Advocate.
Mr. Atul Bandhu, Advocate.
Mr. Kush Bhardwaj, Advocate.
Mr. Sanjay Bhardwaj.
Mr. R.K. Gupta, Advocate.
Mr. R.K. Bhardwaj, Advocate.
Mr. Lakshay, Advocate.
Mr. K.G. Chhokar, Advocate.
Mr. Avinash Chaurasia, Advocate.
Mr. Sanjay Lao, Standing Counsel (CRL)
Mr. Arun Birbal, Standing counsel for SDMC
Ms. Sangeeta Bharti, Advocate for DJB.
Mr. Thakur Sumit, Advocate.
Mr. Lokesh Bhardwaj, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER

% 08.09.2021

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. These matters relate to the *Shri Kalkaji Mandir* and are being heard from time to time. Vide order dated 16th July 2021, notices were issued to counsels appearing in the trial courts where more than 40 cases are pending in respect of the *Kalkaji Mandir*. In view of the said notice, Suit *CS No.29016/2016* has been mentioned today. It is submitted that evidence has been concluded before the ld. ADJ and it may be clarified that the ld. ADJ can proceed to adjudicate the matter finally. It is clarified that since the suit is listed for final arguments before the ADJ, the said matter may proceed further.

CM (M) 575/2021 & CM APPLs.29013-14/2021

3. The present petition challenges the impugned order dated 30th September, 2020, passed by the ADJ-II, West District, Tis Hazari Courts (*hereinafter, "trial court"*), vide which the application of the Petitioner (who was the Respondent No. 2 before the trial court) under Order 39 Rules 1 and 2 of the CPC for auction of the *bari* for performing *puja sewa* at the *Kalkaji Mandir*, commencing from 26th / 27th September, 2020, and concluding on 26th October 2020, has been rejected by the Trial Court.

4. The Petitioner - Shri Mam Chand, claims rights to his share in the *Mandir's* offerings and collections which are claimed to have devolved upon him from his mother through his *naani* who in turn got rights through her

father Mr. Mehar Nath, son of Mr Sukhi Nath. He claims that he belongs to the *Gharbari Jogi* (*San Jogis in the Thok Jogians*).

5. The submission of Mr. Chhokar, ld. Counsel for the Petitioner, is that the rights of the *naani* were earlier recognized by the Court. However, vide the judgment dated 28th September, 1985 in ***MCA No.344/1985***, it was held that Parsandi Devi, who is the mother of the present Petitioner, is not entitled to shares in the offerings of the *Kalkaji Mandir*.

6. The present *bari*, for which the application was moved before the trial court, was for the month of 26th September, 2020 to 27th October, 2020 during which period the Petitioner claims rights in *bari*. The Trial Court has observed that in order to allow the application of the Petitioner under Order XXXIX Rules 1 & 2 CPC, it will be necessary to decide as to whether which of the parties have rights of *puja sewa* in the *Kalkaji Mandir*. Accordingly, the Petitioner's application was rejected by the trial court. However, Mr. Chhokar, ld. Counsel, submits that the share of the Petitioner has been deposited before the Trial Court.

7. Accordingly, issue notice in the matter. Let notice be served upon the ld. counsels appearing for the Respondents in the Trial Court, by the Petitioner. The notice shall be issued *dasti* as also through email.

8. Mr. Rajesh, ld. Counsel accepts notice on behalf of LRs of Respondent No. 58. Mr. Pradeep Kumar, ld. Counsel accepts notice on behalf of Mr. Tarun and Mr. Varun, Respondent Nos. 60 & 61, who are the children of Mr. Daya Ram.

9. List on 24th September 2021, at 2:30 PM.

10. Let reply be filed in the present contempt petition within one week. Rejoinder, thereto, be filed with one week thereafter.

11. List on 24th September 2021.

FAO 36/2021 & CM APPL.2914/2021, 10442/2021, 10444/2021, 20904/2021, 23819/2021, 25869-70/2021, 25884-85/2021, 26495/2021, CM APPL. 25868/2021 and CM APPL. 29121/2021

12. CM APPL. 25868/2021 has been filed on behalf of Ms. Monika Ganguly seeking impleadment. CM APPL. 29121/2021 has been on behalf of Shailender Kumar Gautam seeking impleadment in FAO 36/2021.

13. In these matters, various issues relating to *Shri Kalkaji Mandir* are being considered by this Court. One of the issues that has arisen is the share of women, including married sisters and married daughters. It is submitted by Mr. Neeraj Bharadwaj, ld. Counsel appearing for Mr. Vipul Gaur, that earlier judgments passed on this issue do not directly deal with the issue raised in this case. Insofar as in the current *bari* is concerned, there is a dispute in respect of the share of five women namely Ms. Indu Sharma, Ms. Ms. Purnima Sharma, Ms. Monika Ganguly, Ms. Shashi Sharma and Ms. Urmila Sharma, as also one of the sons of the sister.

14. Since these matters are currently being heard by this Court and the offerings, which have been received, are lying without being distributed in the *Mandir's* locker, it is directed that the share all these five women i.e., Ms. Indu Sharma, Ms. Purnima Sharma, Ms. Monika Ganguly, Ms. Shashi Sharma and Ms. Urmila Sharma, shall be deposited with the Registrar General of this Court, until these issues are finally decided.

15. Insofar as the division of the remaining collections from the offerings in respect of the said *bari* is concerned, the same shall be done under the supervision of the Local Commissioner- Ms. Manmeet Arora, Advocate (M: 9811333871) (*hereinafter, "LC"*), who had earlier visited the temple and had interacted with the *baridaars* and the *pujaris*. The LC shall visit the *Kalkaji Mandir* on 17th September, 2021 at about 5:00 p.m. The LC shall be paid a fee of Rs. 50,000/- by the *baridaars*. The distribution of the respective shares to the *baridaars* shall take place before the LC. The *baridaars* shall receive their respective shares personally, or the same shall be received by the persons authorized by the *baridaars*, upon producing documents proving authorisation which would be verified by the LC.

16. Insofar as the main matter in FAO 36/2021 is concerned, Mr. R.K. Bhardwaj, ld. Counsel on behalf of Ms. Neeta Bhardwaj & ors, has again entered appearance and submits that he would be representing the Appellants in this matter.

17. Mr. Rohit Naagpal, ld. Counsel for the Respondents in FAO 36/2021 submits that the next *bari* concerned would require the shares of the parties in the main matter to be decided. Accordingly, insofar as the specific shares in FAO 36/2021, titled ***Neeta Bhardwaj & Ors. v. Kamlesh Sharma*** is concerned, list the same separately, for hearing on 15th September, 2021 at 2:30 P.M.

18. Insofar as the aspect of maintenance, redevelopment and cleanliness of the *Kalkaji Mandir* premises is concerned, pursuant to the last order dated 3rd September 2021, Mr. Sanjay Lao, ld. counsel for the Delhi Police and Mr. Arun Birbal, ld. Counsel for SDMC have appeared before the Court today.

19. Both the SDMC and Delhi Police are directed to conduct joint inspection and place a report before this Court as to the extent of unauthorised construction and unauthorised occupation in the entire temple complex of the *Kalkaji Mandir*. The report shall also give their recommendations as to how the access to and movement in the temple can be made smoother for the devotees and regulated better, especially in the forthcoming *Navratras*. The DCP, South Delhi and Commissioner, SDMC to depute respective teams for carrying out the joint inspection. Let the said report be placed before this Court within two weeks.

20. Mr. Arun Birbal, ld. Counsel, shall also place on record any plan which the SDMC has prepared, for the redevelopment and beautification of *Kalkaji Mandir*.

21. Further, Mr. Nagpal, ld. Counsel has also given a proposed plan for redevelopment, along with various suggestions. The said documents also contain a conceptual plan and a sample architectural model for redevelopment of the *Kalkaji Mandir* premises. He submits that the said plan has been prepared by a government approved architect. Mr. Nagpal, ld. Counsel shall place on record, an estimate of costs and the timelines in respect of such redevelopment, according to the plan proposed by him.

22. Mr. Vishal Bhardwaj, ld. Counsel, has made further submissions. Mr. R. K Bhardwaj, ld. Counsel appearing for the Appellants, as also personally belonging to *Thulla Tansukh*, has also made submissions in respect of the aspect of redevelopment of the temple premises.

23. The Registry shall ensure that all the proposals filed by various parties, in respect of the redevelopment of the *Kalkaji Mandir*, shall be placed in a separate folder called 'proposals' with the e-file of this

matter. Secondly, insofar as the Local Commissioner's reports are concerned, the same shall be placed in a separate folder, titled 'LC reports'.

24. Issue notice to Ms. Sangeeta Bharti, ld. counsel, to place on record the affidavit called for from the Delhi Jal Board, in respect of sewerage lines which are stated to have been laid, as recorded in the last order dated 3rd September 2021. The DJB shall place on record the details of the tender etc. that were floated for execution of the sewerage work.

25. List FAO 36/2021 titled ***Neeta Bhardwaj & Ors. v. Kamlesh Sharma*** separately, on 15th September 2021, specifically for hearing and determining the shares *qua* the concerned *bari*, at 2:30 P.M.

26. List all these matters and pending applications for further hearing on 24th September 2021, at 2:30 PM.

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 8, 2021
dj/dk/Ak

Most Urgent/Out at once

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE (HQ): DELHI

No. 24762-787 Genl./HCS/2021 Dated, Delhi the 14 SEP 2021

Sub: Copy of the letter no. 13662-X dated 13.09.2021 and this office diary No. 1492 dated 13.09.2021 along with copy of order dated 08.09.2021 passed by Hon'ble Ms. Prathiba M. Singh in Case No. FAO 36/2021 titled "Neeta Bhardwaj & Ors Vs. Kamlesh Sharma" for information and immediate compliance/necessary action to.

1. All the Ld. Principal District & Sessions Judges, Delhi, New Delhi (except South District and South-East District, Saket Courts New Delhi).
2. Court of Sh. Sunil Rana, Ld. ADJ-05, Central, Thc, Delhi.
3. Court of Sh. Rakesh Pandit, Ld. ADJ-09, Central, Thc, Delhi.
4. Court of Sh. Shirish Aggarwal, Ld. ACJ-cum-ARC, Central, Thc, Delhi.
5. Court of Ms. Aneeza Ompal Shokeen, Ld. Civil Judge-06, Central, Thc, Delhi.
6. Court of Ms. Sonam Singh, Ld. Civil Judge-07, Central, Thc, Delhi.
7. The Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi for information.
8. PS to Ld. Principal District & Sessions Judge (HQs), Tis Hazari Courts, Delhi for information.
9. The Chairman, Website Committee, Tis Hazari Courts, Delhi with the request to direct the concerned official to upload the same on the Website of Delhi District Courts.
10. The Director (Academics), Delhi Judicial Academy, Dwarka, New Delhi for information as requested vide letter no.DJA/Dir.(Acd)/2019/4306 dated 06.08.2019.
11. Dealing Assistant, R&I Branch for uploading the same on LAYERS.
12. For uploading the same on Centralized Website through LAYERS.

14/09/21

(RAKESH PANDIT)
Officer-in Charge, Genl. Branch, (C)
Addl. District & Sessions Judge,
Tis Hazari Courts, Delhi.

Encl.: As above.