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27 JUL 2021

Most Urgent/Out at Once

Copy of order

IN THE HIGH COURT OF DELHI AT NEW DELHI

No. 10458-X

Dated 27/07/2021

From

The Registrar General
High Court of Delhi
New Delhi

To

1. Principal District & Sessions Judge (HQs) Tis Hazari Courts, New Delhi
2. Principal District & Sessions Judge, Saket Courts (South East District), New Delhi
3. Principal District & Sessions Judge, South, Saket Courts, New Delhi
4. Ms. Neelam Singh, ADJ-02, South East District, Saket Courts, New Delhi
   OR Successor Court
5. Ms. Manmeet Arora, Advocate (M:9811333871) appointed as Local Commissioner through email : manmeet.p.arora@gmail.com
6. The Manager, UCO Bank, Delhi High Court, Sher Shah Road, New Delhi

CASE NO. FAO 36/2021 & CM Appl. 2914/2021,10442/2021,10444/2021

Neeta Bhardwaj & Ors **Appellant/s**

Versus

Kamlesh Sharma **Respondent/s**

Sub: - Compliance of order dated 16.7.2021 of Hon'ble Court.

Ref:- Appeal against the orders dated 16.012021 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 dated 16.07.2021 passed by Hon'ble Ms. Justice Prathiba M Singh of this Court in the above noted case.

Please acknowledge the receipt.

Yours faithfully,

27/7/2021

Administrative Officer (J) C-IV
For Registrar General

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IN THE HIGH COURT OF DELHI AT NEW DELHI

FAO No. 36 OF 2021

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

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 Priyanka Himanshu
Sh Rati
Vishal

APPELLANTS

THROUGH

D V Bhardwaj

Delhi:

$~1 & 2

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 16th July, 2021

\+ **FAO 36/2021 & CM APPLs. 2914/2021, 10442/2021, 10444/2021**

NEETA BHARDWAJ & ORS. ..... Appellants

Through: Mr. M. Qayam Ud Din & Mr. Raj Kumar Yadav, Advocates for Appellants

versus

KAMLESH SHARMA ..... Respondent

Through: Mr. Rohit Kishan Naagpal with Mr. Aakarshan Bhardwaj and Mr. Dipanshu Gaba, Advocates for R-1,2,3,4 and 8.

Mr. Anurag Ahluwalia, Advocate as Court Receiver.

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

BISHAN SWAROOP ..... Petitioner

Through: Mr. Sumit Thakur, Advocate.

versus

MAHENDER KUMAR PANDEY ..... Respondent

Through: Mr. Subat Deb and Mr. Ranjeet Mishra, Advocates for R-1.

Ms. Mallika Joshi, Advocate for R-2(i) to (vii) (M: 9971600571).

Mr. K.G. Chokkar, Advocate.

Mr. Anurag Ahluwalia, Advocate as Court Receiver.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

CM. APPLs.20947/2021, 20948/2021, 20950/2021, 20951/2021 in CM(M) 323/2021 (for exemptions)

2. Allowed, subject to all just exceptions. Applications are disposed of

CM. APPL.20946/2021 (for condonation of delay) in CM(M)323/2021

3. This is an application for condonation of delay in filing the review application. For the reasons stated in the application, delay in filing the review is condoned. Application is disposed of.

CM APPL. 20904/2021 (for modification) in FAO 36/2021

4. Issue notice. Mr. Qayam Ud Din, ld. Counsel, accepts notice.

5. Let reply be filed within one weeks. Rejoinder be filed before the next date of hearing.

CM APPL. 14178/2021 (for appointment of Court Receivers) in CM(M) 323/2021

6. Vide order dated 16th April 2021, read with the Corrigendum to the same, court receivers were appointed in this matter for a period from 17th April 2021 till 22nd/23rd April 2021, i.e., for the period of the *Shashmahi Bari,* in order to assess the offerings and donations as also the *tehbazari* rights. However, as recorded in the order dated 10th May 2021, due to the second wave of the COVID-19 pandemic, the directions which were given to the court receivers could not be given effect to.

7. In view of the same, the Respondent No. 1 was directed to place on record the complete records of their collections during the period of the said *bari* i.e., 24th/25th March 2021 to 22nd/23rd April, 2021, before this court.

8. A compliance affidavit to that effect has been filed by Respondent No. 1. The court shall consider the same on the next date of hearing.

9. Copy of the affidavit be served on all the ld. Counsels who may file a response, if any, within one week. Rejoinder, thereto, if any, be filed before the next date.

CM. APPL.20945/2021 (for review/modification of the order dated 16th April 2021) and CM. APPL. 20949/2021 (for appointment of receiver) in CM(M) 323/2021

10. These are applications moved by the Respondent No. 1 – Mahender Kumar Pandey, for review/modification of the order dated 16th April 2021, and for fresh appointment of Court receivers in the forthcoming *bari* commencing on the midnight of 19th and 20th July 2021.

11. Mr. Thakur, ld. Counsel for the Petitioner, submits that repeated orders have been passed in favour of his client by the trial courts, holding that the monthly *bari* would be an exclusive *bari* of his client - i.e., Mr. Bishan Swaroop.

12. Mr. Deb, ld. Counsel however expresses his apprehension that the *bari* would be sold and Mr. Bhardwaj is likely to conduct *puja sewa* and collect the offerings. Mr. Thakur refutes this submission and submits that Mr. Bishan Swaroop himself will be conducting the puja.

13. Accordingly, issue notice in these applications. Mr. Thakur, ld. counsel accepts notice.

14. Let replies be filed within one week. Rejoinders, thereto, be filed before the next date of hearing.

15. In the meantime, Ms. Manmeet Arora, Advocate (M: 9811333871) is appointed as the Local Commissioner in this matter. The Local Commissioner shall pay surprise visits to the *Kalkaji Mandir* at least twice during the next ten days, in order to ascertain as to who is conducting the

puja sewa and who is collecting the offerings which are being put into the donation boxes and being given during the *puja sewas*. The Local Commissioner shall also report on any other relevant issues relating to the temple and temple complex, bearing in mind her earlier report including the cleanliness/hygiene levels at the *Mandir* and facilities for devotees. The report of the Local Commissioner shall be filed at least two days before the next date of hearing. The fee of the Local Commissioner is fixed at Rs. 50,000/- per visit, to be paid by the Petitioner, i.e., by Mr. Thakur's client.

16. It is made clear that complete accounts of the offerings which are collected during the monthly *bari*, from the midnight of 19th/20th July 2021, shall be maintained by Mr. Thakur's client, and the same shall be filed with the court at the end of the *bari*. In addition, the accounts of donations, offerings etc., till 31st July shall be placed on affidavit on 2nd August 2021. It shall also be emailed to the Court master.

17. List on 3rd August 2021.

FAO 36/2021 & CM APPLs. 2914/2021, 10442/2021, 10444/2021
CM(M) 323/2021

18. These are part heard matters.

19. Mr. Qayam Ud Din, ld. counsel submits that he appears for all the Appellants in FAO 36/2021. He has filed the *Vakalatnama* on behalf of the Appellant Nos. 1 and 2, and the same is on record. He submits that he would be filing the *Vakalatnama*, for the remaining Appellants as well. Let the same be filed within one week.

20. Both these cases are related to the *Kalkaji Mandir*. Further to the previous orders, a list of various litigations in respect of the *Kalkaji Mandir*, that are pending in various courts, has been placed before this Court. The

said list mentions a total of 39 cases. The ld. counsels of the parties, who are present in the hearing today, have also given details of three further cases which are stated to be pending. The said pending cases can be categorized in the following manner:

Category I – Case before the Supreme Court

S. No.	*Case Number*	*Case title*
1	*SLP (C) No. 32452/2013*	*Kalkaji Mandir Vikreta Sangathan II & Ors. v. Piyush Joshi and Ors.*

Category II – Cases before the High Court of Delhi

S. No.	*Case Number*	*Case title*
2	*CM(M) 1248/2018*	*Brij Mohan Bhardwaj and Ors. v. Vipul Gaur and Ors.*
3	*CM(M) 1241/2018*	*Brij Mohan Bhardwaj and Ors. v. Vipul Gaur and Ors.*
4	*CS(OS) 642/2005*	*Sapan Bhardwaj v. Ram Vishal Shahi and Anr.*
5	*RSA 109/2018*	*Sunny Bhardwaj v. Janak Dulari Bhardwaj and ors.*

Category III – Cases related to the occupation of the Dharamshala, unauthorized shopkeepers and recovery of teh-bazaari amounts, pending before various district courts

S. No.	*Case Number*	*Case title*
6	*CS DJ 210196/2016 (ADJ, South East, Saket Courts)*	*Sapan Bhardwaj v. Ram Vishal Shakti and Anr.*
7	*CS SCJ 572/2017 (SCJ, South East,*	*Chunnu Singh v. Naveen Kumar*

	Saket Courts)	
8	RCA SCJ/1/2020 (SCJ, South East, Saket Courts)	Ashok Bhardwaj v. Dinkar Bhardwaj and Ors.
9	CS SCJ/ 221/2021 (SCJ, South East, Saket)	Sumit Kumar Sharma and ors. v. Shri Kalkaji Mandir Prabandhak Sudhar Committee and ors.
10	CS DJ/613623/2016 (SCJ, South East, Saket)	Bhagwan Devi v. Ved Prakash and ors.
11	CS SCJ/ 51158/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Dhanpati
12	CS SCJ/51157/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Suman Sahi and Ors.
13	CS SCJ/ 50829/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Arun Kumar Podwal and Anr.
14	CS SCJ/50830/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Dinesh Bhardwaj
15	CS SCJ/51159/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Ajay Bhardwaj and Anr.
16	CS SCJ 51233/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Balwan Singh & Anr.
17	CS SCJ 51842/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Subhash

18	CS SCJ/51381/2016 (SCJ, South East, Saket)	Shri Kalkaji Mandir Shamlat Thok Jogian and Brahmin v. Sunil Bhardwaj and ors.
19	CS SCJ/200/2017 (SCJ, South East, Saket)	Rakesh Bhardwaj v. Vinod Kumar
20	CS SCJ/ 1571/2018 (SCJ, South East, Saket)	Mukhtiyar Singh v. Sunil Sahu @ Sunil Kumar
21	CS SCJ/1570/2018 (SCJ, South East, Saket)	Mukhtiyar Singh v. Prem Chand
22	CS SCJ/1569/2018 (SCJ, South East, Saket)	Mukhtiyar Singh v. Ram Narain
23	CS SCJ/1567/2018 (SCJ, South East, Saket)	Mukhtiyar Singh v. Pyare Lal
24	CS SCJ/1566/2018 (SCJ, South East, Saket)	Mukhtiyar Singh v. Rajender Aggarwal
25	CS SCJ/1568/2018 (SCJ, South East, Saket)	Mukhtiyar Singh v. Rajesh Grover @ Rajesh Kumar
26	CS SCJ/1733/2019 (SCJ, South East, Saket)	Mandir Shri Kalkaji v. Pyare Lal
27	CS SCJ 1729/2019 (SCJ, South East, Saket)	Mandir Shri Kalkaji v. Jai Prakash Sharma

Category IV – Cases related to the baridaars on the issues of rights to conduct puja sewa, puja sewa by women, and adoption

S. No.	*Case Number*	*Case title*
28	*CS SCJ/1437/2019 (SCJ, South East, Saket Courts)*	*Naval Bhardwaj v. Brij Mohan Bhardwaj and ors.*
29	*CS SCJ/1203/2020 (SCJ, South East, Saket Courts)*	*Narsh Chand v. Peeyush Kaushik and ors.*
30	*CS SCJ/579/2021 (SCJ, South East, Saket Courts)*	*Prem Chand Bhardwaj v. Sapan Bhardwaj and ors.*
31	*CS SCJ/835/2020 (SCJ, South East, Saket Courts)*	*Mukesh Bhardwaj v. Ajay Sharma*
32	*CS SCJ/40/2018 (SCJ, South East, Saket Courts)*	*Sunny Bhardwaj v. Master Anurag Bhardwaj and ors.*
33	*CS DJ/1010/ 2018 (ADJ, South East, Saket Courts)*	*Kamlesh Sharma v. Neeta Bhardwaj*
34	*MCA DJ/23/2018 (ADJ, South East, Saket Courts)*	*Rakesh Bhardwaj v. Mahant Surender Nath*
35	*CS SCJ/597970/2016 (SCJ, Tis Hazari Courts)*	*Naveen Kumar v. Lakhpat Ram*
36	*CS SCJ/596035/2016 (SCJ, Tis Hazari Courts)*	*Naveen Kumar v. Lakhpat Ram*

37	CS SCJ/ 594228/2016 (SCJ, Tis Hazari Courts)	Naveen Kumar v. Lakhpat Ram
38	RCA 6074/2016 (ADJ, Tis Hazari Courts)	Satish Kumar v. Mahesh and ors.
39	RCA DJ/60794/2016 (ADJ, Tis Hazari Courts)	Mahender Kumar Pandey v. Guganchand and ors.
40	Misc. SCJ 29894/2016 (ACJ/ARC, Tis Hazari Courts)	Ganpathnath v. Gugan Chand

Category V – Criminal cases in relation to the bari of the Kalkaji Mandir

S. No.	Case Number	Case title
41	Cr. Cases No. 7622/2018; FIR No. 24/2008 P.S. EOW u/s 406,420,465,468,471, 120B IPC (ASJ, South East, Saket Courts)	State v. Mahant Surender Nath
42	CT Cases No. 614451/2016 (MM, South East, Saket Courts)	Rakesh Bhardwaj v. Mahant Surender Nath

This above list, consisting of 42 cases in total across all the above mentioned five categories, is not exhaustive, as has been stated by the ld. counsels, however the same includes all the cases pertaining to the Kalkaji Mandir,

which are known to the counsels appearing before this court today.

21. Insofar as the *Kalkaji Mandir* is itself concerned, cumulatively, there are three major issues which arise:

i. The issue of renovation/re-development of the *Mandir* premises, and provisions of civic amenities, cleanliness, etc. in and around the temple complex for the devotees.

ii. The rights, occupation and the manner of allocation and revenue collection from shopkeepers, *tehbazari* holders and *dharmshalas*.

iii. The legal issues arising *qua* the *baridars* and the *puja sewa* rights, *inter se* amongst the various groups, as also the rights of women to conduct *puja sewa*.

22. A perusal of the orders passed by the Supreme Court in ***SLP (C)No. 32452/2013,*** titled ***Kalkaji Mandir Vikreta Sangathan-II & Ors. v. Piyush Joshi and Ors.***, shows that in the said SLP, various issues were considered by the Supreme Court, including the issue relating to the cleanliness and re-development of the Kalkaji Temple. Various directions have also been passed by the Supreme Court in the said case from time to time. However, a perusal of the reports of the Local Commissioner and the Receivers in ***FAO 36/2021,*** clearly shows that the current condition, in relation to cleanliness, sanitation and infrastructure of the temple and the temple complex is completely unsatisfactory and devotees who are visiting the temple are put to great inconvenience. Cleanliness of the temple, as also the provision of civic amenities for devotees is a major concern.

23. Devotees who visit the temple are lakhs in numbers during the festive season and at least thousands in number on a daily basis. All ld. Counsels,

who are appearing for some of the *baridars* before this Court today, on a query from the Court, agree that the temple complex needs to be re-developed and cleanliness etc. should be maintained and civic amenities ought to be provided for the devotees, who visit the temple. They further submit that they are willing to cooperate in this regard.

24. Moreover, the fact that the matters related to the *Kalkaji Mandir* are spread across various Courts and various judicial officers appears to also have led to a huge delay in the adjudication of the issues involved that have been raised.

25. Therefore, this Court is of the opinion that all the *baridars* ought to be represented before this court in order to pass effective orders in these matters.

26. Accordingly, at this stage, in order to pass effective orders as also to avoid multiplicity in proceedings and contradictory orders/judgements on issues concerning the *Kalkaji mandir*, the following directions are issued:

i) All the counsels appearing in the following matters, relating to ***Category IV*** i.e., concerning the rights of *puja sewa* of the *baridars* as also the rights of women to conduct *puja sewa*, would be issued notices through the respective District Judges for appearance before this Court on the next date, i.e., 3rd August 2021:

S. No.	*Case Number*	*Case title*
28	*CS SCJ/1437/2019 (SCJ, South East, Saket Courts)*	*Naval Bhardwaj v. Brij Mohan Bhardwaj and ors.*
29	*CS SCJ/1203/2020 (SCJ, South East, Saket*	*Narsh Chand v. Peeyush Kaushik and ors.*

	Courts)	
30	CS SCJ/579/2021 (SCJ, South East, Saket Courts)	Prem Chand Bhardwaj v. Sapan Bhardwaj and ors.
31	CS SCJ/835/2020 (SCJ, South East, Saket Courts)	Mukesh Bhardwaj v. Ajay Sharma
32	CS SCJ/40/2018 (SCJ, South East, Saket Courts)	Sunny Bhardwaj v. Master Anurag Bhardwaj and ors.
33	CS DJ/1010/ 2018 (ADJ, South East, Saket Courts)	Kamlesh Sharma v. Neeta Bhardwaj
34	MCA DJ/23/2018 (ADJ, South East, Saket Courts)	Rakesh Bhardwaj v. Mahant Surender Nath
35	CS SCJ/597970/2016 (SCJ, Tis Hazari Courts)	Naveen Kumar v. Lakhpat Ram
36	CS SCJ/596035/2016 (SCJ, Tis Hazari Courts)	Naveen Kumar v. Lakhpat Ram
37	CS SCJ/ 594228/2016 (SCJ, Tis Hazari Courts)	Naveen Kumar v. Lakhpat Ram
38	RCA 6074/2016 (ADJ, Tis Hazari Courts)	Satish Kumar v. Mahesh and ors.
39	RCA DJ/60794/2016 (ADJ, Tis Hazari Courts)	Mahender Kumar Pandey v. Guganchand and ors.
40	Misc. SCJ 29894/2016 (ACJ/ARC, Tis Hazari Courts)	Ganpathnath v. Gugan Chand

ii) The notice to be served shall be accompanied with a digitally signed copy of this order. The registry to put up a service report after obtaining the same from the concerned District judges before this court at least 3 days before the next date of hearing.

iii) The District Judges of the respective courts shall send the electronic record of the matters relating to ***Category IV***, as listed above, to the Registry of this Court, for them to be tagged along with these two petitions.

iv) All the parties and ld. counsels appearing in the matter today are directed to place on record, a list, to the extent possible, of all the shareholders/*baridars* in the following groups.

(1) Thulla Jasram - Mr. Qayam Ud Din, ld. Counsel

(2) Thulla Bahadur- Mr. Naagpal, ld. Counsel

(3) Thulka Tansukh – Mr. Naagpal, ld. Counsel

(4) Thulla Rambaksh – Mr Naagpal, ld. Counsel

(5) Thulla Jogians (consists of two sub-groups):

a) Thulla Kanphatta Jogi

b) Thulla Garbari Jogi- a consolidated list by Mr. Thakur, Mr. Naagpal and Mr. Chokkar, ld. counsels.

v) Insofar as Thulla Kanphatta Jogi is concerned, Mr. Aly Mirza, Advocate (M: 9899720944) be issued notice by the Registry, to place on record the details of the *baridaars* in the said Thulla Jogi. Mr. Naagpal ld. counsel to also inform Mr. Mirza of today's order, in order to ensure compliance.

vi) If any of the parties have any proposals in respect of the re-development of the *Kalkaji Mandir* premises and surroundings, they

are permitted to file the same.

vii) The Petitioners in CM(M) 323/2021 are also directed to serve all the Respondents with a copy of the said petition.

viii) All ld. Counsels for parties may also intimate the counsels appearing in the matters set out above in Category IV, about the order passed today in order to facilitate their appearance on the next date of hearing.

27. Insofar as the remaining matters in the other categories mentioned above, which are related to shopkeepers, *dharamshalas* and *teh bazari* etc., are concerned, the District Judges of the respective Districts at Tis Hazari and Saket court complexes, shall put up a report indicating the specific courts where the matters falling in Category III are pending.

28. The Registry is also directed to put up the latest memo of parties in both these cases in Volume- I of the respective files, for the court's convenience. Further, parties are permitted to file any pleadings and/or documents which they wish to rely upon during the course of submissions.

29. Insofar as ***FAO 36/2021*** is specifically concerned, Mr. Naagpal, ld. Counsel, submits that he wishes to file a reply to the affidavit filed by Mr. Sanjay Bharadwaj. The same may be filed within one week.

30. Finally, the Registry is directed to put up a report as to the total money which has been deposited by the Receivers in ***FAO 36/2021,*** expenses incurred and the amount that is currently lying in the account concerned.

31. List these petitions along with all pending applications for further hearing on 3rd August 2021.

32. Copy of this order be sent to the Local Commissioner, as also the District Judges of the Saket Courts (South East District) and the Tis Hazari Courts (Central District), by the worthy Registrar General. 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.

sd/-

PRATHIBA M. SINGH
JUDGE

JULY 16, 2021
MR/Dk/Rahul/Ak

True copy

THE SEAL OF DELHI HIGH COURT * NEW DELHI *