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

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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, REVIEW PET. 177/2021 & 179/2021**

NEETA BHARDWAJ & ORS.

..... Appellants

Through: Mr. R.K. Bhardwaj with Mr. Dheeraj Bhardwaj, Advocates.
(M:9312710547)
Mr. Neeraj Bhardwaj, Advocate.

versus

KAMLESH SHARMA

..... Respondent

Through: Mr. Rohit Kishan Naagpal, Mr. Akarshan Bhardwaj & Mr. Dipanshu Gaba, Advocates for R-1 to 4 & 6.
Ms. Rashmi B. Singh, Advocate for R-7 & 8.
Mr. Sarvesh Bhardwaj, Advocate for R-7.
Mr. Aly Mirza & Mr. Prabhash Chandra, Advocates for R-10.
Ms. Sangeeta Bharti, Standing Counsel for DJB (M-9811112863).
Mr. Amit Gupta, Advocate for Applicants. (M:8307429100)

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With

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

BISHAN SWAROOP

..... Petitioner

Through: Mr. Thakur Sumit, 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.

- 14 With
+ **CM (M) 575/2021 & CM APPLs. 29013/2021, 29014/2021**
MAM CHAND Petitioner
Through: Mr. Krishan Gopal Chokkar,
Advocate.
versus
SATISH KUMAR AND ORS Respondents
Through: Mr. Anuroop P.S, Advocate for R-46
to 49. (M:9582818838)
Mr. Humayun Khan, Advocate
(M:9811177317) for Mr. Pradeep
Kumar Gulia, Advocate for R-59 &
57.
Mr. Rajesh Kumar Gupta, Advocate
for LR's of R-58.
Mr. Kamal Kumar, Advocate for R-
22 & 25. (M:9136452240)
- 15 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 Kant Bhardwaj, Advocate.
Mr. Vishal Maan and Mr. R.S. Verma, Advocate

Mr. Vipin Bharadwaj, in person
Mr. Kush Bhardwaj, Advocate. (M:9891074686)
Mr. Luv Bhardwaj, Advocate.
Mr. Sanjay Bhardwaj.
Mr. R.K. Gupta, Advocate.
Mr. R.K. Bhardwaj, Advocate.
Mr. K.G. Chhokar, Advocate. (M:9896030124)
Mr. Avinash Chaurasia, Advocate.
Mr. Avinash Chaurasia, Advocate. (M:9811841262)
Mr. Yoginder Singh, Advocate.
Mr. Sarvesh Bhardwaj, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER
% **27.10.2021**

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

REVIEW PET. 179/2021 in FAO 36/2021

3. The present is a Review Application filed on behalf of Mahant Surender Nath, who claims to be representing the *Thok Jogian*. Mr. Aly Mirza, Id. counsel representing the Applicant in this Review Application wishes to seek Review of paragraphs 36 to 37 and 104 onwards of the judgment dated 27th September, 2021, passed by this Court.
4. The submissions of Mr. Aly Mirza, in the present Review Application are as under:
 - i. In paragraph 36 of the judgment dated 27th September 2021, he seeks modification in respect of his submissions on the ownership of the *Mandir* land. It is his submission that insofar as the ownership of the land is concerned, the land belongs to *Thok*

Jogian, Thok Brahmin- Nisf Nisf (Group of Jogis, group of Brahmins, fifty fifty) as described in paragraph B of Review Application, and not simply with the *Thok Jogian*. His submission in the Review Application in this respect is as under:

“B. Because in para 36 of the impugned judgment it has been observed that the submission of the Petitioner’s counsel was that the ownership of land vests in the Thok Jogians. The submission of the petitioner’s counsel as recorded is incomplete and inaccurate. The submission with regard to ownership made on 03.09.2021 was that the ownership of land, as per revenue records, vests in Thok Jogian Thok Brahmanan nisf nisf (Group of jogis, group of Brahmins, fifty fifty.) It was further submitted insofar as Thok Jogian is concerned the land vests in the Petitioner and insofar Brahmins are concerned it vested in 5 Brahmin families. The issue of ownership is separate and distinct from the issue of share in puja sewa, which flows from judgment and order dated 01.02.1974 Sh. S.N. Kapur ld. Sub-Judge, (as he then was), which was passed in a representative suit of 1969 entitled “Mahant Pirthi Nath vs. Tula Ram & Ors.””

- ii. Insofar as paragraph 37 of the judgment is concerned, he submits that the Court has recorded as under:

“37. Ld. Counsel submits that his client supports any mechanism for the beautification, renovation and re-development of the Kalkaji Mandir.”

In the Review Application, it is his case that he did not support any mechanism of the beautification, renovation and redevelopment, but only consented for removal of encroachments, cleaning of the *Mandir* and laying of sanitation and sewage.

- iii. Insofar as paragraph 104 onwards of the judgment, where this Court has recorded that parties do not have objections for appointing an independent Administrator, is concerned, he submits that the same was never submitted by him, and his client never consented to the appointment of an independent Administrator.

On each of the above three grounds, which are the only grounds raised in this Review Application, this Court has heard submissions of Mr. Aly Mirza Id. Counsel.

5. Firstly, it is to be noted that the practice of this Court is to record the submissions made by Counsels on a particular day, especially in part-heard matters, at the end of the day's hearing. Even in the present set of cases, the said practice was followed by the Court. The submissions made were dictated in open Court and were finally incorporated in the judgment.

6. However, since Id. Counsel submits that the issue relates to ownership of land and he wishes to change his submission in respect thereof, insofar as the first sentence in paragraph 36 of the judgment dated 27th September 2021 is concerned, the said submission is modified as under:

“Insofar as the ownership of the land is concerned, he submits that the same belongs to the Thok Jogian, Thok Brahmins and Nisf Nisf (Group of Jogis, group of Brahmins, fifty fifty). It

is his submission that to the extent of the part of the land owned by Thok Jogians the Applicant would be the owner and insofar as the Thok Brahmins are concerned five families would be the owner. This submission is objected to by all the ld. Counsels appearing in the matters.”

Accordingly, the first sentence in paragraph 36 shall be read as modified vide this order.

7. Insofar as paragraph 37 of the judgment is concerned, the submission of Mr. Aly Mirza as recorded, in respect of beautification, renovation and redevelopment, even considering what is being submitted today in the Review petition, does not deserve to be changed.

8. Insofar as paragraph 104 of the judgment is concerned, it records the submissions made on the final day when concluding submissions were made by all ld. Counsel who appeared in the matter. None of the Counsel, including Mr. Mirza, ld. Counsel for the Applicant, raised any objection in respect of the appointment of an independent Administrator. In fact, owing to the deplorable condition in the *Kalkaji Mandir*, there was consensus that an independent Administrator would be needed for looking after the *Mandir*. Accordingly, the same does not deserve to be modified.

9. With these observations the review petition is disposed of.

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, REVIEW PET. 177/2021 & 179/2021

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

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

CONT.CAS(C) 614/2021

10. At the outset, Ms. Sangeeta Bharti, Id. counsel appearing for the Delhi Jal Board submits that in compliance of the order dated 24th September 2021 in *FAO 36/2021*, she has filed an affidavit of the DJB placing all the documents on record.

11. An interim report has been received from the Id. Administrator who was appointed vide judgment dated 27th September 2021, last evening. The Court would like to peruse the same before proceeding further.

12. A request has been made on behalf of Id. Administrator for opening of an additional bank account. However, Id. Counsels appearing for various parties submit that they have filed Review Applications in respect of the order dated 27th September 2021. Some of the review Applications are listed today, and some are yet to be listed before the Court. Accordingly, the said request shall be dealt with on the next date.

13. Mr. Vipin Bhardwaj, who appears in person, submits that his Counsel Ms. Smita Mann is held up in another Court. He submits that the police are not providing complete cooperation, for the removal of encroachments and management of the devotees for *darshan*. Accordingly, let today's order be communicated to Mr. Sanjay Lao, Standing Counsel (Criminal) for GNCTD, in order to enable him to obtain instructions, and file a status report in respect thereof, before the next date of hearing. Mr. Lao shall also be present on the next date of hearing.

14. Mr. Sarvesh Bhardwaj, Id. counsel appearing on behalf of some of the *baridaars*, who claims to be having one-third share in *Thulla Rambaksh* submits that the Id. Administrator has actually and positively started work in the *Kalkaji Mandir* premises, and he supports the work which is being

carried out by the Id. Administrator.

15. Insofar as *Tehbazari* is concerned, there is no consensus between the parties on as to whether the same is to be allocated or not, and if so, then how the same is to be allocated.

16. List all these matters for consideration on 15th November 2021 at 2:30 PM, in physical court. These are part-heard matters.

PRATHIBA M. SINGH, J.

OCTOBER 27, 2021

Dj/ Ak