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

Date of Decision: 20th February, 2024

+ **FAO 36/2021, CM APPLs. 57032/2023 & 57033/2023 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, 43944-46/2021, 3172/2022, 3455/2022, 5641/2022, 5642/2022, 5803/2022, 5865/2022, 7745/2022, 13472/2022, 16153/2022, 17039/2022, 18207/2022, 18247/2022, 18248/2022, 21768/2022, 21801/2022, 21802/2022, 21803/2022, 22125/2022, 23093/2022, 29624/2022, 32296/2022, 34552/2022, 34553/2022, 39754-55/2022, 40548/2022, 43723/2022, 53179/2022, 876/2023, 14509/2023, 15812/2023, 15813/2023 13658/2023, 22230/2023, 25196/2023, 27387/2023, 28558/2023, 28559/2023, 29981/2023, 31169/2023, 40347-49/2023, 41312-13/2023, 52644-46/2023, 61839/2023, 63979/2023**

NEETA BHARDWAJ & ORS.

..... Appellants

Through:

versus

KAMLESH SHARMA

..... Respondent

Through:

+ **CS(OS) 518/2021**
+ **CS(OS) 520/2021**
+ **CS(OS) 521/2021**
+ **CS(OS) 524/2021**
+ **CS(OS) 546/2021**
+ **CS(OS) 552/2021, I.As. 16148/2021 & 16149/2021**
+ **CS(OS) 557/2021**
+ **CS(OS) 559/2021**
+ **CS(OS) 56/2022 & I.A. 12340/2022**
+ **CS(OS) 57/2022**
+ **CS (OS) 2499/2010**
+ **CS (OS) 511/2021**
+ **CS (OS) 526/2021 & I.A. 7511/2022**
+ **CS (OS) 527/2021, I.As. 1717/2022 & 1718/2022**
+ **CS (OS) 533/2021, I.As. 1721/2022 & 1722/2022**



- + CS (OS) 535/2021 & I.A. 7552/2022
- + CS (OS) 538/2021, I.As. 1725/2022 & 1726/2022
- + CS (OS) 539/2021, I.As. 9063/2022 & 9064/2022
- + CS (OS) 540/2021 & I.A. 7940/2022
- + CS (OS) 541/2021, I.As. 1723/2022 & 1724/2022
- + CS (OS) 542/2021, I.As. 9031/2022 & 9032/2022
- + CS (OS) 544/2021, I.As. 1719/2022 & 1720/2022
- + CS (OS) 545/2021
- + CS (OS) 547/2021, I.As.1715-16/2022
- + CS (OS) 554/2021, I.As. 9061/2022 & 9062/2022
- + CS (OS) 579/2021, I.As. 9981/2022 & 9982/2022
- + CS (OS) 55/2022, CCP(O) 91/2023, I.As. 12299/2022, 12300/2022, 12341/2022, 12342/2022, 19288/2022 & 24076/2023
- + CS (OS) 240/2023
- + CS (OS) 284/2023, I.As.10300-04/2023
- + CM (M) 323/2021, CM APPLs. 14178/2021, 20945/2021, 20949/2021 & 40269/2021
- + CONT.CAS(C) 614/2021
- + RFA 412/2021
- + RFA 413/2021

Appearances:

Mr. Arun Birbal & Mr. Sanjay Singh, Advocates for DDA. (M: 9810029802)
R. K. Bhardwaj & Dheeraj Bhardwaj, Advs.
Ms Sonia Singhani and Ms Vidhi Gupta, Advs. for DDA.
Mr. Neeraj Bhardwaj & Mr. Rahul Bhardwaj, Advs. (M- 9350271061)
Mr. Lokesh Bhardwaj, Advocate.(M- 9971576388)
Mr. Akarshan Bhardwaj, Advocate.
Ms. Samapika Biswal, Ms. Nidhisha Garg and Mr. Aman Kumar Yadav, Advocates (M: 9406951592).
Mr Anuj Chaturvedi & Mrs Shreya Manjari Advs. (M: 9431643312).
Mr. Goonmeet Singh Chauhan, Architect.
Mr. Rishabh Kapur, Adv. (M: 7042181838)
Mr. Kush Bhardwaj, Adv. (M:9891074686)
Dr. P. N. Mishra and Mr. Anjani Kumar Mishra, Advs. (M: 9213145580)
Mr. Tanay Hari Lal, Advocate.
Ms. Himanshi Kaushik, Architect.
Mr. Sarvesh Bhardwaj, Advocate.



Mr. Lakshay Bhardwaj, Mr. Kamal Kumar, Mr. Aashish Bhardwaj & Mr. Satish Pandey, Advocates.
Mr. Ramesh Kumar Mishra, Adv.
Mr. Kaoliangpou Kamei & Mr. Paul Kumar Kalai, Advs.
Mr. Siddharth Panda and Mr. Venkateshan, Advocates for MCD.
Mr. Vishal Bhardwaj, Advocate
Mr. Rishabh Kapur, Adv.

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.
3. Vide the order dated 12th February, 2024, in ***RFA 412/2021***, the Court had sought a report from the Id. Administrator and other stakeholders, in respect of the recent unfortunate Jagran incident on the intervening night of 27th and 28th January, 2024. The Id. Administrator has placed on record a report in respect of the same. As per the said report, the Id. Administrator has conducted an inquiry regarding the event on 4th February, 2024. The organizers of the event were Mr. Anuj Mittal and Mr. Satish Kumar who engaged various professionals for the purpose of tenting, floral decoration, platform construction and photography. The same was organized by one '*Shree Kalkaji Sajja Sevdar Mitr Mandal (Regd.)*', the mobile numbers of the organisers being 9811068409 and 9818868409. One of the posters which were circulated for the event is extracted below:



4. As per the Id. Administrator, the event was organized by these two individuals who are stated to be the members of the abovementioned *Sevadar Mitr Mandal* organisation. They wrote to the DCP (South-East) District on 22nd November, 2023 seeking permission to organise the jagran and use loud speakers. However, Mr. Rakesh Kumar, S.H.O, Kalkaji, who is present virtually, submits that no permission was granted. It is not in doubt that the program was held in the Mahant parisar. The Mahant himself has filed an affidavit stating that he has handed over the management and control of the Kalkaji Mandir premises to the Id. Administrator after the order dated 27th September, 2021. The relevant portion of the said order reads as under:



“106. For the effective day-to-day administration, efficient and smooth functioning, as also to ensure that the above-mentioned issues are addressed at the Kalkai Mandir. this Court is of the opinion that an Independent Administrator is required to be appointed by this Court for performing various functions in relation to the Mandir and its complex. Accordingly, Justice (Retd.) Mr. J.R Midha. is appointed as the Administrator of the Shri Kalkai Mandir, Delhi. The mandate of the Administrator shall be to take all necessary steps inter alia, as set out herein below, in the interest of devotees, pilgrims, baridaars, in order to ensure their safety and security, as also to preserve the integrity and sanctity of the deity and the Mandir. Which is of utmost historical importance to the people of Delhi. The id- Administrator shall take all steps needed in light of the facts recorded above for the effective and safe functioning of the Mandir.

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*108. (iv) Upon removal of all unauthorized occupants and encroachments, the Id. Administrator shall direct the civic agencies and the Fire department concerned to secure the entire land belonging to the Mandir by means of barricading/ raising walls, to avoid future encroachments/unauthorized occupation. **The entire Mandir complex shall be under the direct supervision and control of the Id. Administrator.**”*

5. It is his case that the Id. Administrator was to give directions and permission for holding the event. However, clearly, from the Id. Administrator’s report, the Id. Administrator has not given any permission for holding the event. The Id. Administrator is stated to have also interacted with all the victims on 7th February, 2024, who suffered injuries as also the relative of one lady who has unfortunately passed away due to the collapse of the platform. Compensation has also been directed to be paid by the organizers



of the event to the said victims according to the gravity of the injury that they have suffered, which ranges from Rs. 15,00,000/- for the case of death to Rs. 5,000/- for simple injury.

6. The various reports and the submissions which have been made show that several societies which are registered claim to be operating from the Kalkaji Mandir premises, which is wholly impermissible. These Societies which claim to be registered with the name of the *Shri Kalkaji Mandir* cannot be allowed to function in this manner for holding programs in the precincts of the Mandir, without the permission of the Ld. Administrator, once the order dated 27th September, 2021 has been passed by this Court. The entire management, control and administration of Shri Kalkaji Mandir has to be only under the supervision of the Id. Administrator and not under control of any other person, society or entity.

7. Vide the previous order dated 12th February, 2024, Sh.Surendranath – claiming to be the *Mahant*, was directed to file an affidavit in respect of the incident which took place. The affidavit of Mahant has been filed which is on record and which reads as under:

**“AFFIDAVIT IN COMPLIANCE OF ORDER
DATED 12.02.2024 PASSED BY THIS HON'BLE
COURT**

I, Mahant Surendra Nath Chela of Mahant Ram Nath aged about 68 years, Gaddi Nashin of Avdhoot Jogi, Dera of Avadhoot Jogi, Mandir Shri Kalkaji, resident of Mahant Parisar, Mandir Shri Kalkaji, New Delhi, do hereby solemnly affirm and state as under :-

1. That I am the respondent in the present Regular First Appeal and have been directed by order dated 12.02.2024 passed by this Hon'ble Court to file an affidavit on the recent incident occurred in Kalka Mata Jagran on 27.01.2024.



2. *That Shri Kalkaji Sajja Sewadar Mitra Mandal (Regd.) has been organising Mata ki Chowki (Jagran) for peace and prosperity of the Nation for the last 15 Years with the help of devotees and temple administration. This year also the same Sewadar Mitra mandal organised Mata Ki Chowki (Jagran) for 51 days which culminated on 27th January 2024, when the unfortunate incident occurred in the midnight of 27th and 28th January 2024.*
3. *That the Kalkaji temple premises including my Mahant Parisar has been given under management and control of the Ld.Administrator appointed by this Hon'ble Court vide order dated 27.09.2021. After 27.09.2021 I am not authorized to take any administrative decision or to give any permission to the organisers holding program in the premises.*
4. *That like previous years, when the organizers approached me for holding Chowki for 51 days, I had advised them to take all necessary permission from all the concerned authorities managing the administration of temple.*
5. *That learned Administrator was supposed to give permission and consent as per Court's directions and he was even seen very much inviting and participating in the Chowki on 03.01.2024. It was also seen that Pujaris Baridars) also assisted in collecting donations for the said function. Copies of the photographs of the program (Chowki) dated 03.01.2026 at Mahant Parisar, Kalkaji Temple is being annexed as ANNEXURE A-1.*
6. *That I had merely attended the program on one day only as an audience and was not present at the Jagran when the unfortunate occurrence took place. I was sure that the organisers might have taken all permissions from the Police, the Administrator and other authorities.*
7. *That certain photographs are being filed with affidavit and video clip is being uploaded on link:*



https://drive.google.com/file/d/14_xuxpOg0xMbqhR4rZWYK1vVers5v7fc/view?usp=drive_link which clearly show that Id. Administrator was in one or other way associated with Mata ki Chowki celebrations. I was neither present in the Chowki nor my consent was required after order dated 27.09.2021 passed by this Hon'ble Court.

8. That I am extremely unhappy and sad with the unfortunate incident occurred at Mahant Parisar and feel extremely sorry for the families who suffered loss of life and sustained injuries and pray to Maa Kalkaji that in future such incident is not repeated.”

8. From the above, it is clear that the Mahant's position is that he is not authorized to take administrative decisions or to give any permission to organizers for holding any program in the premises. The premises of the *Kalkaji Mandir* is for the use by the public and no individual or entity can exercise exclusive control on any part of the said premises. The Id. Administrator having been appointed and given full management and control, any event that has to be organized would require permission. Without the same, no program shall be organized within the Mandir precincts. No jagran shall be held or any other similar events would be permitted in the Kalkaji Mandir. If any organization wishes to hold any jagran or similar religious program, such organization may approach the Court for seeking permission by way of an application.

Crowd Management

9. Insofar as the crowd management in the Kalkaji Mandir is concerned, the footfall is stated to be 20,000 to 40,000 devotees on Tuesdays and Saturdays and approximately 10,000 on weekdays. During Navratri and on



other festivals like New Year's eve *etc.*, the footfall is more than 50,000 upto 1 lakh.

10. As per the Id. Administrator, the present situation for crowd management is not sufficient and thus there is a need to have a three layer security personnel deployment in the Mandir premises as the present staff is grossly insufficient. In view of the same, the Id. Administrator has recommended a three layer security for the Mandir premises. The Id. Administrator has also suggested the constitution of a strong volunteer force under the *Shri Kalkaji Mandir Prabandhak Sudhar Committee* ('SKMPSC') which claims to have more than 800 volunteers. Accordingly, let the Id. Administrator take steps for revival of the SKMPSC which can also recruit volunteers for crowd management and place a report in this regard by the next date of hearing. All steps shall be taken to ensure that there is proper crowd management at the Mandir premises.

11. The S.H.O. Kalkaji submits that an FIR has been registered in respect of the incident. Let the investigation be conducted in an expeditious manner and a status report be placed by the next date of hearing before the Court stating as to who were the persons responsible for the incident.

Demarcation & Redevelopment

12. The Revenue Authorities have completed the demarcation and the demarcation has been perused by the Id. Administrator and by all the other stakeholders who were present in a meeting held on 11th January, 2024. The following were the persons who were present in the said meeting:



S.No.	Name	Particulars
1.	<i>Justice J.R. Midha (Retd.)</i>	<i>Administrator appointed by the Hon'ble Delhi High Court</i>
2.	<i>Mr. Goonmeet Singh Chauhan</i>	<i>Ld. Architect appointed by the Hon'ble Delhi High Court</i>
3.	<i>Mr. Soumik Ghosh</i>	<i>Senior Architect, Design Forum International</i>
4.	<i>Ms. Samapika Biswal, Advocate</i>	<i>Assistant to Administrator</i>
5.	<i>Mr. Vipul Gaur</i>	<i>Pujari</i>
6.	<i>Mr. R. K. Bhardwaj</i>	<i>Pujari</i>
7.	<i>Mr. Neeraj Bhardwaj</i>	<i>Pujari</i>
8.	<i>Mr. Lokesh Bhardwaj</i>	<i>Pujari</i>
9.	<i>Mr. Siddharth Bhardwaj</i>	<i>Pujari</i>
10.	<i>Mr. Mahesh Bhardwaj</i>	<i>Pujari</i>
11.	<i>Mr. Satish Chand Pandey</i>	<i>Pujari</i>
12.	<i>Mr. Sarvesh Bhardwaj</i>	<i>Pujari</i>
13.	<i>Mr. Rahul Bhardwaj</i>	<i>Pujari</i>
14.	<i>Ms. Himanshi Kaushik</i>	<i>Architect of the Pujaris</i>
15.	<i>Mr. Arun Kumar Pal</i>	<i>Director, SPC Engineers Pvt. Ltd.</i>
16.	<i>Mr. Rajesh Bahal</i>	<i>Retd. Executive Director, NBCC</i>
17.	<i>Mr. Vishal Bhardwaj</i>	<i>Pujari (through VC)</i>

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13. Pursuant to the said demarcation plan, Mr. Chauhan, Architect submits that the redevelopment plan is slightly modified and is now finalized between the stakeholders.
14. The Surveyor as recommended, namely, M/s. Foundtek Consultants (P) Limited be engaged for the said purpose for conducting a tree survey at a cost of Rs.73,200/-. After the Surveyor's report is received, let the applications be made to the MCD for the purpose of approval of plans for redevelopment.
15. Insofar as the division of the work between Mr. Chauhan and Ms. Kaushik is concerned, let a meeting be held and their respective roles be delineated for the purpose of applying to the MCD and obtaining other approvals in respect of the plan. Both Mr. Chauhan and Ms. Kaushik submit that by the last week of March the applications for sanction of the plan would be made by them. The Id. Administrator may take a decision after consulting with the members of the Oversight Committee and the two Architects.
16. The Id. Administrator has also submitted that Mr. Rajesh Bahl has been appointed as the Head of Contracts under the aegis of the office of Id. Administrator. This has been also agreed to by all the stakeholders who were present in the 11th January, 2024 meeting. Accordingly, let the Id. Administrator engage Mr. Rajesh Bahl for the purposes of creation of contracts and for monitoring of the projects.
17. The Id. Administrator seeks a space for the office for the redevelopment work. The Id. Administrator's report states as under:

“9. The undersigned suggested that going forward, a project office space would be required to be set up at the Mandir for the redevelopment work, as well as for convening meetings of the Oversight Committee, etc. The space at the office of the Administrator is not



adequate for this purpose. The anterior area of the hall adjoining the office of the Administrator, which is presently

***Office of the Ld. Administrator Kalkaji Mandir
Email ID:***

officeofadmnkalkajimandir@gmail.com

lying vacant, would be suitable for the said purpose. The said area is under the control of the Mahant. The pujaris were in agreement that a project office should be created for the purpose of the redevelopment project.”

18. The hall which the Id. Administrator requires for the purpose of office space for the redevelopment is stated to be under the control of the Mahant. The affidavit extracted above of the *Mahant* makes it clear that he does not dispute that the entire administration and control of the Kalkaji Mandir premises is with the Id. Administrator.

19. Mr. Mishra, Id. Counsel appearing for the Mahant objects on the ground that the Mahant's hall cannot be permitted to be used by the Id. Administrator. It is again made clear that no part of the *Kalkaji Mandir* can be exclusively under the control of any one person. The entire *Mandir* has to be used for the purpose of welfare of the devotees. Presently, the redevelopment work is of utmost importance for the safety, welfare and security of the devotees. Accordingly, the hall which is lying vacant as per the Id. Administrator's report be used as the office for redevelopment.

Street Vendors

20. Insofar as the street vendors are concerned, Mr. Aditya Kumar working as an Assistant Commissioner, MCD has filed a status report stating that the MCD officials, police personnels and representatives of the Id. Administrator



were present on 17th February, 2023, and the vendors have been removed from the periphery of the Kalkaji Mandir. The said extract of the affidavit reads as under:

“3. That it is humbly submitted that as per the direction of this Hon'ble Court the Officials of the answering department (MCD) along with the Police personnels and representative of the Ld. Administrator were present on 17.02.2023 on the site and vendors were removed from the periphery of Kalkaji Temple from Ram Piau to Shamshan Ghat and Modi Mill site. Copies of photographs are annexed herewith and marked as Annexure- A (Colly).

4. That it is further submitted that this Hon'ble Court has directed the answering Respondent to move the 51 street hawkers in the periphery of the Kalkaji Mandir, to a designated area as may be identified by MCD. In this regard it is submitted that the answering Respondent cannot decide or approve and allot any designated area/space to these vendors as the same falls within the purview of the Town Vending Committee (TVC). It is the Town Vending Committee (TVC) who can decide on designated area and further allot the designate space to the vendors. Therefore, except these 51 vendors all others unauthorised vendors/hawkers have been removed from the periphery of Kalkaji Mandir and lots of vendors/hawkers are approaching this office with registered slip of TVC shows that these numbers may also increase.”

21. Some photographs have also been annexed along with the affidavit. However, the stand of the *pujaris* and the *baridaars* is that there are more than 100 vendors who are operating outside the Kalkaji Mandir premises and on weekends, there is a large commotion outside the Mandir due to the swelling crowd.

22. The *baridaars* shall place on record photographs of the said area. Let



Mr. Aditya Kumar conduct a proper survey of the area and place a comprehensive report as to the total number of vendors who are operating around the entire Kalkaji Mandir premises and on what basis, along with the photographs. The SHO to also file a status report in this regard. Mr. Aditya Kumar shall also remain present in Court on the next date of hearing.

Supervisory/ Oversight Committee

23. As far as the appointment of the Oversight Committee is concerned, let a complete chart of all the *Baridaars* and the group to which they belong be compiled and be placed on record by the Id. Administrator's office, after which the constitution of the Oversight Committee shall be considered.

Demolition of Chabutras

24. Insofar as the removal of chabutras, removal of malba and levelling of premises is concerned, the Court is informed that in terms of the previous order dated 12th January, 2024, the said action has not been taken.

25. On behalf of Id. Administrator, it is submitted that the contractor who had quoted Rs.9 lakhs is not willing to do the said work at Rs. 9 lakhs and, therefore, currently the Id. Administrator is exploring the possibility of other Contractors. Let the Id. Administrator take a quick decision within a week in this regard, and finalise a Contractor for commencement of the said removal work.

Parking

26. The Delhi Development Authority (DDA) has not filed its affidavit in respect of the parking despite repeated orders. Last and final opportunity is



granted to the DDA to file the same by 5th March, 2024.

Failing which right to file the affidavit shall automatically stands closed. This too shall be subject to deposit of Rs. 10,000/- as costs with the Development Fund.

27. Mr. Birbal, Id. Counsel makes it clear that insofar as the rehabilitation of the *jhuggi* dwellers is concerned, whatever communication has already been communicated to the said persons is the final stand of the DDA and there is no change in this regard. If the *jhuggi* dwellers wish to purchase the flats which are available for the Economically Weaker Section ('EWS') category they are free to do so.

28. The street vendors are also permitted to file a separate affidavit.

29. For the purposes of removal of chabutras and street vendors, list on 12th March, 2024.

CS(OS) 518/2021, CS(OS) 520/2021, CS(OS) 521/2021 & CS(OS) 546/2021.

30. Let the evidence in these matters continue before the Joint Registrar.

31. List before the Joint Registrar on 20th March, 2024.

32. List before Court on 15th July, 2024.

RFA 412/2021

33. List on 26th April, 2024.

**PRATHIBA M. SINGH
JUDGE**

FEBRUARY 20, 2024

Rahul/dj/bh/ks