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

*Pronouncement of Orders: 27<sup>th</sup> September, 2021*

22

+ **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**

**NEETA BHARDWAJ & ORS.**

..... Appellants

Through: Mr. R.K. Bhardwaj with Mr.Dheeraj Bhardwaj, Advocates.  
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-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. Insp. Virendra Singh, SHO/Kalkaji and SI Manu Dev, PS Kalkaji.

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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.

23

With

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

MAM CHAND ..... Petitioner  
Through: Mr. Krishan Gopal Chhokar, 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 LRs of R-58.  
Mr. Kamal Kumar, Advocate for R-22 & 25.

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And

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**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 for various baridaars:-**

Mr. Vishal Bhardwaj, Advocate in FAO 36/2021.

Mr. Kamal Kant Bhardwaj, Advocate.

Ms. Smita Maan, Advocate.

Mr. Vishal Maan and Mr. R.S. Verma, Advocate

Mr. Ashok Kumar, Advocate.

Mr. Atul Bandhu, Advocate.

Mr. Kush Bhardwaj, Advocate.

Mr. Luv Bhardwaj, Advocate.

Mr. Sanjay Bhardwaj.

Mr. R.K. Gupta, Advocate.

Mr. R.K. Bhardwaj, Advocate.

Mr. Lakshay Bhardwaj, 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.

Mr. D.K. Singhal, Advocate

Mr. Yoginder Nath Bhardwaj, Advocate

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J.**

1. The subject matter of these disputes is the *Mandir Shri Kalkaji* – a *Mandir* of historical significance, located in South Delhi. The *Mandir*'s deity is believed to be the Hindu Goddess – *Maa Kaali*, who is also referred to as *Kaalika*. As per legend, the name of the *Mandir* derives itself from the name of the self-manifested deity *Maa Kaali*.
2. The *Mandir* itself has a long history, however the present order is not concerned with the same. It is sufficient to state that the *Mandir* is historically run by various persons belonging to one of two groups, namely the *Thok Brahmins* and *Thok Jogians*. Within these groups, there are various sub-groups, named as follows:

***Thok Brahmins***

Thulla Jasram    Thulla Bahadur    Thulla Tansukh    Thulla Rambaksh

***Thok Jogians***

Garbari Jogi (Sanjogis)    Kanphatta Jogis

3. Disputes between the members of these groups have engaged courts and authorities for more than 150 years. In the *inter se* disputes amongst these groups, several issues have been raised from time to time with regard to claims to the following two rights:
  - Right to conduct/perform *puja sewa*
  - Right to realise the offerings and donations collected in the *Mandir*, as also claims to *tehbazari* rights.

4. There are a large number of interim orders and final judgments that have been passed by Civil Courts, District Courts, and the Delhi High Court, in the various disputes filed amongst the co-sharers in these rights, also called the *Baridaars*. This Court, for the purpose of the present order is, however, only concerned with the administrative and management issues which are being faced at the *Mandir*, and not the specific *inter se* disputes that have been raised, in respect of which the hearings are not yet concluded.

**Proceedings before this Court and Orders passed**

5. *FAO 36/2021*, titled *Neeta Bharadwaj and ors. v. Kamlesh Bharadwaj and ors.*, which is one of the appeals listed before this Court, was first listed on 1<sup>st</sup> February, 2021. The said appeal challenges an order passed by the Id. ADJ, South East, Saket Courts New Delhi, dated 16<sup>th</sup> January 2021, wherein an issue relating to the rights of female members of the factions to conduct *puja sewa* and enjoy shares in the offerings, was in question. On the said date, after hearing the parties briefly, a Local Commissioner (*hereinafter*, 'LC') was appointed by this Court, to ascertain the following:

- Who has been conducting the *puja sewa* and collecting the *Dakshina*/offerings for the period of the said *bari*;
- Who is in control and has custody of the donation boxes located in the precincts of the *Kalkaji Mandir*;
- Are there any accounts maintained in respect of the amounts collected;
- Details of the donations received in the *Mandir*;
- Average number of devotees who visit the *Mandir* daily.

6. In terms of the said order, the report of the LC was received, and the same revealed an extremely disturbing situation on ground at the *Mandir*. The report revealed that the *Mandir* had almost become a commercial enterprise, with auctioning of *puja* rights to third parties, large scale irregularities in collection of offerings/donations, hoardings and advertisements of various businesses being displayed within the precincts of the *Mandir*. The report also revealed that the donation boxes at the *Mandir* are under the control of a few individuals. It was also reported that there are hardly any facilities for the devotees such as clean toilets, drinking water, resting areas, *langar/ prashada* areas etc. The report of the LC also showed that there is unhindered, unauthorised construction in and around the *Mandir* premises and certain individuals had come in control of the *Mandir* and have been illegally collecting *tehbazari* and other monies from unauthorised occupants etc. It was also revealed that the *bari* in the *Mandir*, supposed to be exercised by the various *baridaars* mentioned above, was also being auctioned to the highest bidder, and in this manner, these individuals had taken control over all the *baris*, and the functioning of the *Mandir*.

7. In view of the report of the LC, and in order to ensure that *baris* and the donations received are not usurped by a few individuals, who *prima facie*, clearly appeared to be in control of the *Mandir*, directions were passed on 5<sup>th</sup> February, 2021 appointing two Court Receivers. Various directions were given to the Court Receivers, in the said order, including to lock the donation boxes, and to completely account for all the donations and other offerings that were being received over the course of the *bari*. A report was called from the Court Receivers, in respect of the amounts received, functioning of the *Mandir*, as also various other intricate issues being faced

at the *Mandir*. The *Sh. Kalkaji Mandir Prabandhak Sudhar Committee*, which was stated to be the representative body of the office bearers and responsible for the maintenance of the *Mandir*, was then impleaded in the matter, in order for the Court to get a clear picture of the manner in which the donations were being collected at the *Mandir*, as also the day-to-day functioning and conduct of *puja sewa* at the *Mandir*.

8. This order dated 5<sup>th</sup> February 2021, appointing the Court Receivers was assailed before the Supreme Court by the Appellants in *SLP (C) Nos. 3017-3018/2021*. The said SLP was dismissed by the Supreme Court, vide order dated 22<sup>nd</sup> February 2021, with the following observations:

*“1. The Special Leave Petitions arise against an interlocutory order of a Single Judge of the High Court of Delhi. The order dated 5<sup>th</sup> February 2021 of the High Court is to remain in operation until the next date of listing and the proceedings have been directed to be listed on 25<sup>th</sup> February 2021.*

*2. The order of the Single Judge is well reasoned. Moreover, having regard to the fact that the impugned order is an interlocutory order, it is wholly inappropriate for this Court to entertain the Special Leave Petitions under Article 136 of the Constitution. The petitions are before the High Court where the suit is pending, where their submissions can be urged.*

*3. The Special Leave Petitions are dismissed,*

*4. Pending applications, if any, stand disposed of.”*

9. In terms of the order dated 5<sup>th</sup> February 2021, passed by this Court, the report of the Court Receivers was received which, notably, also revealed an extremely sorry state of affairs at the *Mandir*. The Receivers’ report also highlighted the dismal state of cleanliness and the lack of basic civic

amenities in the *Mandir*, apart from clarifying the *modus* of collections at the *Mandir*. Vide order dated 15<sup>th</sup> March 2021, this Court had noted the imminent need to take steps for maintaining cleanliness, hygiene, water and other facilities for the devotees at the *Mandir*, as also for proper administration of the *Mandir*.

10. Since then, this Court has passed various orders in an attempt to understand the various disputes which are pending in respect of *Kalkaji Mandir* in the Civil Courts and the District Courts. Initially, one appeal was listed before this Court, however three more petitions have now been filed and have been tagged, as they also concern rights of *baridaars* and issues pertaining to the same *Mandir*.

11. Vide order dated 16<sup>th</sup> July, 2021, the Local Commissioner was appointed again to pay surprise visits at the *Mandir* in order to ascertain the manner in which donations and offerings were being collected and distributed, and the persons who were conducting *puja sewa* in the *bari* which commenced on the midnight of 19<sup>th</sup> and 20<sup>th</sup> July. The Local Commissioner was also directed to provide a further report on issues being faced at the *Mandir*, concerning the interests of the devotees, i.e., in respect of cleanliness, hygiene etc., which was all the more essential due to the COVID-19 pandemic. The Court also noted the three major issues being faced in respect of the *Kalkaji Mandir*, the same being:

*“i. The issue of renovation/re-development of the Mandir premises, and provisions of civic amenities, cleanliness, etc. in and around the Mandir 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 the baridaars and the puja sewa rights, inter se amongst the various groups, as also the rights of women to conduct puja sewa at the Mandir.”*

In the said order, this Court also noticed the dismal condition of the *Mandir*, as per the LC and the Court Receivers’ reports, in relation to cleanliness, sanitation and infrastructure of the *Mandir* and the resultant inconvenience of the devotees. On the said date, as recorded in the order, all *baridaars* appearing agreed that the *Mandir* complex needs to be re-developed and cleanliness etc. ought to be maintained and civic amenities ought to be provided for the devotees, who visit the *Mandir*. This Court also observed the fact that the pendency of matters related to the *Kalkaji Mandir* before different Courts in Delhi appears to have delayed the adjudication of the issues that have arisen. The Court noted the need to streamline these proceedings for a quick and efficient resolution of the disputes, to avoid multiplicity of litigation, to save judicial time and to ensure the smooth functioning of the *Mandir*. Accordingly, further directions were issued in the said order, in respect of the various cases pertaining to issues concerning the *Kalkaji Mandir*, in respect of *puja sewa* rights, *tehbazari* rights, unauthorized occupation and shopkeepers that were pending before the Civil and District Courts. Notices were directed to be issued to all the parties appearing in various civil suits before the District and Civil Courts, through the respective Courts where the matters are pending.

12. Thereafter, records of some of the suits, which are pending before the

District and Civil Courts, have already been received. Various Id. Counsel appearing before the District and Civil Courts in matters pertaining to *Kalkaji Mandir* have also tendered appearance in these matters, as noted in order dated 3<sup>rd</sup> August 2021. This Court, vide orders dated, 10<sup>th</sup> May 2021, 16<sup>th</sup> July 2021 as also 3<sup>rd</sup> August 2021 had also directed parties appearing to place on record proposals in respect of maintaining cleanliness, providing civic amenities, re-development and renovation at the *Mandir* premises.

13. Various proposals have been received from the parties.

14. Vide orders dated 17<sup>th</sup> August 2021 and 8<sup>th</sup> September 2021, reports were also called from various civic agencies, namely the Delhi Jal Board, South Delhi Municipal Corporation and the Delhi Police to ascertain the prevailing state of affairs on the ground, in respect of the *Mandir*.

15. Whenever issues relating to *inter se* disputes among the *baridaars*, in respect of their respective *baris*, was raised, the Court has appointed an LC to resolve the issues and ensure that the amounts of offerings are properly and fairly distributed.

16. Further, submissions have been heard in respect of these issues from time to time, on behalf of various parties appearing before this Court in these cases, as also various cases pending before the District Courts pertaining to the *Kalkaji Mandir*.

**Submissions of the parties on the aspects of cleanliness, maintenance, administration and governance of the Kalkaji Mandir**

- **Mr. R.K. Bhardwaj, Id. Counsel for the Appellants, as also belonging to Thulla Tansukh.**

17. Mr. R. K Bhardwaj, Id. Counsel, submits that there are amounts lying deposited, pursuant to court orders, in various trial Courts, before whom,

proceedings are pending. He submits the said amounts should also be collected into one fund so as to assist in the re-development programme of the *Mandir*.

18. In respect of the Supreme Court's stay order in *SLP 32452-453/2013* titled *Kalkaji Mandir Vikreta Sangathan v. Piyush Joshi and Ors.*, he submits that the Supreme Court has not subsequently continued its initial order, and vide order dated 11.9.2017, the Supreme Court has clarified that the right, title and interest of any shop owners are not being dealt with in the said SLP.

19. Subsequent to the said order of the Supreme Court, Mr. Bharadwaj submits that about 73 shop keepers had also preferred suits before the Trial Court being *CS SCJ No. 597293/16* titled *Geeta Devi v. Shri Kalkaji Mandir*. He submits that all the suits filed by the Shopkeepers were dismissed by the Trial Court – Civil Judge- 06, Central, Tis Hazari Courts, vide a common order dated 2.06.2018, and the Review Application, against the said order has also been dismissed vide order dated 29.04.2019. He submits that subsequently, similar suits which were filed by some 46 shop keepers, were also dismissed as withdrawn. There has been no appeal preferred subsequent to the same.

20. He finally submits that there are orders of the Supreme Court which clearly direct that the *pujaris, sewaks, archakas* at the *Kalkaji Mandir* cannot create any third-party interest in the land and cannot indulge in any alienation of any portion of the *Mandir's* property or the public land which surrounds the property. He further submits that it was also directed by a Id. Single Judge of this Court (Justice S.K. Mahajan) in November 2000 that none of the structures inside the *Mandir* premises would be used for

commercial purposes. In the said order the Union of India and all the necessary civic agencies like the DDA and MCD were made parties.

- **Mr. Rohit Kishan Naagpal, ld. Counsel for baaridars in Thulla Jasram and Thulla Bahadur, appearing along with Mr. Rakesh Bhardwaj who belongs to Thulla Jasram.**

21. Mr. Naagpal submits that the re-development of the *Mandir* is very much needed. He further submits that disputes arise between the *baridaars* because of the large amount of cash which is collected in the *Mandir*. He further submits that there ought to be a trust which is accountable as there is enormous siphoning off and theft of the money. He accordingly submits that the trust should be formed and held accountable by the Court.

- **Mr. Neeraj Bhardwaj, ld. Counsel appearing for Thulla Tansukh, as also on behalf of Mr. Vipul Gaur**

22. Mr. Bhardwaj, ld. Counsel, submits that there are various areas which need improvements in the *Mandir*, including the parking, the tin sheds etc. The tin sheds which are covered also pose a big threat. The fire department also ought to be involved and encroachments around the *Mandir* complex should be removed.

23. He submits that the DDA, which was to construct the parking several years ago, was to beautify the area and hand over to the *Mandir*, however, the same has not been done. Ld. Counsel further submits that all the *pujaris* and *baridaars* are willing to contribute for the beautification of the *Mandir*, however none of the civic agencies are cooperating in this regard.

24. Along with him Mr. Vipul Gaur, who is the current *baridaar*, appears and submits that he has filed an affidavit on record highlighting all the

problems being faced in the *Mandir*. The cleanliness of the *Mandir* is a very big issue, according to him. He submits that if there is a Committee which is formed to manage the *Mandir*, the *baridaars* can make payments and get the *Mandir* cleaned and maintained in good condition.

• **Ms. Smita Mann, Id. Counsel on behalf of baridaars in Thulla Bahadur**

25. Ms. Mann, Id. Counsel, has relied upon an affidavit filed by her which is deposed by one Sh. Vipin Bhardwaj who represents some *baridaars* of *Thulla Bahadur*. Her clients claim to have 25% share in *Thulla Bahadur*'s share of the *Mandir baris*.

26. She firstly submits that she has placed on record an affidavit dealing with the aspects relating to the *Kalkaji Mandir* and has also given suggestions thereof. The broad heads of the issues are:

- 1) *Removal of the illegal and unauthorized stalls/shacks from the Mandir Complex*
- 2) *Proposal for renovation and development of the Mandir Complex*
- 3) *Formation of a Management Committee to look after, control, regulate, supervise the day-to-day affairs of the Mandir Complex*
- 4) *Proper distribution of the offerings from Puja Sewa and Tehbazari amongst the baridaars*

27. She submits that one of the biggest issues being faced in the *Mandir* is the unauthorized encroachment in and around the *Mandir* complex. There are stalls, shacks and *tehbazaari* holders who have encroached the area. Some of the *tehbazaari* holders pay amounts to the *pujaris*. However, apart from the originally approved *tehbazaari* holders, there are large numbers of them who are stated to have now encroached in the area in collusion with

the local police. None of these shops, shacks are authorized by the *baridaars* and they do not pay any *tehbazaari* / license fee also.

28. Ld. Counsel submits that along with the shops, residences have been built by the unauthorized occupants. Out of the four entrances to the *Mandir*, the South entrance has been completely blocked due to the encroachments. She has placed on record a site plan showing the layout of the *Mandir* and its complex and submits that the gate known as G-2 has been blocked. She submits that the *baridaars* themselves have lost control over the premises. The Entry and Exit of the *Mandir* is regulated by the local police, who, in her submission, permit these unauthorized vendors to set up shop. She relies upon various photographs to show that the three entrances of the *Mandir* have been merged into one long lane with three divisions by metal barriers. The entire entrance has been lined with shops and the other gates are not in use.

29. Insofar as the administration is concerned, the so-called committee which is being formed, *Sh. Kalkaji Mandir Prabhandak Sudhar Committee*, is a private society and does not represent all the *baridaars*. According to her, the Committee is under the control of certain groups with vested interests. It is her submission that a properly constituted management committee should be formed to look after the renovation, regulation, administration and maintenance of the entire *Mandir* complex. The day-to-day affairs of the *Mandir* should also be run by this reformed committee.

30. Ld. counsel then brings out a distinction between the *Kalkaji Mandir* complex, on the one hand, and the functioning of the main *Bhavan* on the other. She submits that the main *Bhavan* is well maintained by the various *baridaars* who perform the *puja sewa*. She submits that disputes arise

between the *baridaars* as there is no proper distribution of the offerings from the *puja Sewa* and the *tehbazaari* among the *baridaars*. Thus, there is a need to have a proper system in this respect as well.

31. Ms. Mann, Id. Counsel, further submits that the system of auctioning of the *baris* has already been recognized by various Court orders, and so long as one of the *baridaars* himself is the person who takes the responsibility of paying the share to all the *baridaars* for a pre-determined sum, i.e., the bid amount, it should not be stopped. The *baridaars* in various groups are several in number and each one of them cannot perform the *puja* and take their *bari* individually. Hence, in her submission, auctioning within the *baridaars* ought to be permitted.

32. She finally submits that the shopkeepers and the other occupants of the *Mandir* complex, as also in its periphery, are not contributing in any manner to the *Mandir*. It is not clear as to who is collecting the *tehbazari* amounts from them. According to the *baridaars*, there is collusion between the shopkeepers and the police. *Jhuggi* clusters have also come up and there are various illegal occupants even within the *Mandir* complex. It is submitted that the main passage and dome area have also been encroached upon and the backyard of the shops are being used for residential purposes including the DDA park.

- **Mr. Kush Bhardwaj, Id. Counsel, for Mr. Naval Bhardwaj appearing in CM(M) 323/2021 – belonging Thulla Tansukh, and himself a pujari.**

33. Mr. Bhardwaj, Id. Counsel, supports the Committee that already exists, i.e., the *Sh. Kalkaji Mandir Prabhandak Sudhar Committee*, and submits that the said Committee exists since 1968. He submits that elections

are conducted after every three years and the next election is slated for 12<sup>th</sup> September, 2021. Mr. Vipin Gaur is the Chairperson of this Committee. Two election officers have been elected i.e., Mr. Rajesh Bhardwaj and Mr. Brij Mohan Bhardwaj.

34. He submits that insofar as the ownership of the land is concerned, the same was decided in 1955 by Sh. G.C. Jain, as a District Judge which was appealed to the High Court. The land belongs to *Thok Jogians* and *Thok Brahmans* who constitute all the pujaris of the *Kalkaji Mandir*. In his submission, the property does not belong to any particular group.

• **Mr. Aly Mirza, Id. Counsel appearing for Thulla Kanphatta Jogi - Mahant Surender Nath**

35. Mr. Mirza, Id. Counsel, submits that from 1<sup>st</sup> February, 1974 the order of Sh. S.N. Kapur Id. Sub-Judge, (*as he then was*) determines how the *baris* are to be fixed. According to him, the same does not fall within the Committee's purview. Even the Committee which is currently existing is a private society and does not represent all the stakeholders. He points out to the Court that there is an order of the Single Bench of this court directing the removal of encroachments, and the same arose out of *MCA No. 107/2005*, in which there were 51 shopkeepers who had filed a suit against 338 *baridaars* and had obtained an injunction against removal of their shops. This was appealed before the Division Bench, and vide an order of the Division Bench dated 9<sup>th</sup> October, 2013, directions were given for demolition of the said shops. However, the said order came to be stayed by the Supreme Court in *SLP 32452-453/2013* titled *Kalkaji Mandir Vikreta Sangathan v. Piyush Joshi and Ors.*, Accordingly, the appeal got disposed of on 27<sup>th</sup> August,



2014, in view of the pendency of the SLP. He further submits that since there are many shopkeepers and families living in the said complex area, some rehabilitation would have to be resorted to. However, in 70 odd suits, there is currently no injunction and the encroachments can be removed.

36. Insofar as the ownership of the land is concerned, he submits that the same belongs to the *Thok Jogians* and in any event, that the ownership of the land is not an issue that should be gone into in these petitions. The *Mandir*, in his submission, is a private *Mandir*. He submits that there is a distinction between the sharing of *puja sewa* on one hand and the ownership of the land on the other and the same ought not to be confused with each other.

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

• **Mr. Vishal Bhardwaj, ld. Counsel, for members of Thulla Tansukh**

38. Mr. Bhardwaj, ld. Counsel, submits that in the olden times, one rupee was divided into 192 pies. On the basis of this division, the various shares of the groups were determined for the *baris*. Out of 192 pies the following four groups had 36 pies. *Thulla Jasram, Thulla Bahadur, Thulla Tansukh and Thulla Rambaksh*. Out of the *Thok Jogis, Gharbari Jogis* enjoyed 16 pies and *Kanphatta Jogis* enjoyed 32 pies. He submits that this is the manner in which the *baris* are also determined.

39. On the aspect of renovation, he submits that apart from the internal *Mandir* complex and the *Bhavan*, renovation of the pavements is also needed as the same are congested and there are a large number of encroachments. He submits that some *baridaars* control these *tehbazaari*

holders.

40. Insofar as the Committee which is functioning is concerned, he submits that there is no accountability, and therefore a committee ought to be constituted by the Court, which is accountable in some form. He submits that if the *baridaars* themselves undertake the re-development, there would be no transparency. He urges the Court to appoint an independent body for the purpose of the said re-development, which can be made accountable to the Court. He submits that the same is essential to ensure that the re-development takes place in a fair and transparent manner, so that the devotees are ultimately benefitted.

- **Mr. Kamal Kant Bhardwaj, Id. Counsel for Thulla Jasram**

41. Mr. KK Bharadwaj, Id. Counsel, submits that the removal of the encroachments around the *Mandir* will regulate and beautify the entire *Mandir* complex.

- **Mr. Sarvesh Bhardwaj, who is from Thulla Rambaksh and is a committee member representing Mukesh Bhardwaj.**

42. Mr. Bhardwaj, Id. Counsel, submits, supporting the existing Committee, that the Committee is properly functioning. However, according to him, the issue is that the Committee, does not get any assistance from the civic agencies.

**Reports of the Local Commissioner as also the Court Receivers appointed by various orders of this Court.**

43. From the reports that have been filed by the Local Commissioner, from time to time, as also the final report submitted by the Court Receivers, the following facts are noted:

**(i) Report of the Local Commissioner dated 4<sup>th</sup> February 2021**

- ❖ The number and inflow of devotees is almost back to the volume as in pre-COVID-19 days. On an average the number of visitors on weekdays is 10,000 and on weekends the number could be 20,000, even by conservative estimates.
- ❖ The *Sh. Kalkaji Mandir Prabandhak Sudhar Committee* is stated to be the representative body of office bearers and is in charge of all arrangements and maintenance of the *Mandir*.
- ❖ There are 38 donation boxes in the *Mandir* area, which are locked with padlocks. The donation boxes are under the direct supervision of the *pujari* performing the *puja sewa*. No account books are maintained *qua* donations and offerings received in the past nine days.
- ❖ Large posters of Mr. Sanjay Bhardwaj, Mt. Himanshu Satish Bhardwaj, Mr. Sukhlal Bhardwaj and Mr. Praveen Bhardwaj are prominently affixed on the donation boxes as well as various point in the *Mandir* describing them as *Mukhya Pujaris*. Hoardings state that devotees can ‘only’ contact Mr. Sanjay Bhardwaj for donations and offerings.

- ❖ The offerings in the *Mandir* are between Rs.10,00,000/- to Rs.20,00,000/- on a daily basis and during festive season, like *Navratris*, it is higher.
- ❖ The shopkeepers have made unauthorized construction and also placed their *Samagri* etc., in the passage abutting the passage for the devotees.
- ❖ The *garbha griha* (sanctum sanctorum) does not have proper access and there is enormous congestion right till the *Bhavan* complex. Obstructions have been caused both with temporary and permanent construction by the shopkeepers. Most of the shopkeepers are illegal and unauthorized occupants and do not even pay *tehbazari* or license fees to any authority.
- ❖ The *Dharamshalas* are in a dilapidated condition and the shopkeepers/ trespassers have occupied the said *Dharamshalas*. There are no resting places for the devotees and pilgrims who come from Delhi and neighboring areas to pay obedience to the deity.

(ii) **Final Report of the Court Receivers dated 9<sup>th</sup> March 2021**

- ❖ There are extremely unhygienic conditions around the *Mandir*. Beggars, stray cats and dogs, filth, used plastic bottles, glasses, paper pieces, used bags, garbage etc. were noticed all around the *Mandir* by the Receivers.
- ❖ No concrete evidence on the fact as to who is managing the cleanliness/ hygienic conditions in an around the *Bhavan*.
- ❖ Several *halwai* shops, flower shops, *chunni* shops, artificial jewelry shops, coconut shops etc. were found, however despite best efforts,

the Receivers could not collect evidence to verify the nature of possession of these shopkeepers. Whether they are paying rent or license fee or any other charges to *baridaars* or other person are not known.

- ❖ On enquiry, some shopkeepers anonymously informed the Receivers that most of the shopkeepers pay some amount to the *baridaars* for staying in possession.
- ❖ One of the *baridaars* not being a party also anonymously informed that huge amounts of money are paid by these shopkeepers to *baridaars*, however no account is maintained.
- ❖ Further, it was also brought to notice that devotees sometimes donate valuable ornaments ranging from Rs. 10 Lakhs to Rs 70 Lakhs, however this is not being normal practice.
- ❖ Yet another source of income is stated to be VIP/VVIP darshans, for preferential visits, which also involve huge sums of money.
- ❖ Another source of income is through the devotees who are allowed to enter the “*garbh griha*” although for a very short period. This also involves a huge sum.
- ❖ How the affairs are managed after purchasing the *bari* is also not clear. Above gate 4 of the *bhavan*, there is “*Pt. Kanti Prasad Gaur Charitable Trust*” embossed in silver sheet. No ascertainment as to whether this trust is a namesake or exists even today. No one was willing to divulge any details thereto.
- ❖ On enquiry, one shopkeeper disclosed that now a days people do not stay in *dharmshalas*. They come in their own vehicles and after their *darshan*, they leave. There are iron barricades which have been

apparently illegally put in the area beside the shops. There was supposedly a fire in the area around sometime in 2004, and since then that route was earmarked for free access of the fire brigade.

- ❖ The shopkeepers said some part of the *dharmshala* is being used as shops, however, who is running these shops could not be ascertained.

(iii) **Report of the Local Commissioner dated 1<sup>st</sup> August 2021**

- ❖ The Local Commission was executed over two surprise inspections. The 1<sup>st</sup> inspection took place on 24 July 2021 from 10:00 am to 2:00 PM and the 2<sup>nd</sup> one took place on 29 July 2021. The inspections took place during the *bari* of Mr. Bishan Swaroop which commenced on 20<sup>th</sup> July at 12:01 am and concluded on 19<sup>th</sup> August at 11:59 pm.
- ❖ Committee members informed the LC that the *baridaars/Mukhi Pujari* also receive income from awarding *theka* for *mundan gali* and the parking lot adjacent to the *Ram Piyao* entry.
- ❖ During the first inspection of the *pujari* room, 6 out of 8 CCTV cameras were found functional. It was noted that the footage of the CCTV cameras was not being recorded in a hard disk and the hard disk in the DVR had been disconnected. The LC found it inexplicable why the footage from the *pujari* room was not being recorded as it would enable the Court and the Court Receivers to monitor the collections.
- ❖ Most devotees at the *Kalkaji Mandir* arrive from the main road, popularly called the *Ram Piyao* entry. The queue for *Darshan* starts from the doors of the *Bhawan* where the deity resides and extends to the *Ram Piyao* entry, on busy days the queues extend from the main

road till the Lotus Temple. Devotees around in particularly large numbers on auspicious days such as Saturdays, Sundays and Tuesdays. The entry and exit from the *Kalkaji Mandir* metro station also bring devotees to the same passage. There is a parking lot next to this entry on DDA land and this parking lot is in the control of the *baridaar* and he awards the *theka* for parking. The entry has been barricaded by the police to discourage vehicular movement in the passage.

- ❖ There are no toilet facilities available to the devotees in the 750m passage from the *Ram Piyao* entry. There is no facility for filtered drinking water or potable water in the passage. There are two water dispensing points known as *Ram Piyao* and *Shambhu Piyao*. However, the water at these points is directly pumped from the boring well and is unfiltered. There are two facilities for devotees to keep their footwear. The first is right at the entry near *Ram Piyao*. The other facility is at about the halfway point. Devotees also have the option to keep their footwear at the shop where they purchase the *puja saman*. There is only resting facility known as *vishram sthal* at about halfway point in the passage. It is in an open-air space with ramshackle benches. There are also no COVID related measures such as the availability of masks and sanitizer.
- ❖ The cleanliness of the *Ram Piyao* passage is ensured by sweepers hired by Committee; however, the sweepers are paid by the *pujari* as per his *bari*. These workers are paid Rs. 8000/- per mensem by the *pujari* but they answer to the Committee and the *pujari* has no real administrative control over them.

- ❖ The state of cleanliness and hygiene in the passage was dismal. Garbage, litter, waste and trash was found all along the passageway. The garbage is stated to have been caused by Devotees, shopkeepers, beggars and the *Bhandara* service. The Committee members had hired two sweepers to collect garbage from the passageway and sweep the same. The LC did not see any sweeping during either of the 2 visits. The members claimed that they would need at least 10 sweepers to maintain the *Mandir* complex and they lack the funds to pay them as they are not being given rent, due to pendency of legal disputes.
- ❖ The market way passage is the second most accessed at the *Mandir*. Its cleanliness is maintained under the supervision of the shopkeepers of this passage. Mr. Jai Prakash is the president of the shopkeepers on the Market way. The committee members admit that there is no supervision of cleanliness on the Market way as the shopkeepers have stopped the payment of rent and *tehbazari* to the *baridaar*. The market way needs repair and maintenance as there are broken-down steps. There is also a need for a railing for the devotees for safe and equitable access. However, no maintenance or repair is undertaken as a result of the disputes between the *baridaars* and the shopkeepers. There is a *Piyao* on the market way, however it has been covered by a shop that obstructs access to it. The committee members alleged that the shop is an illegal encroachment and has existed for several years now. The obstruction of the *Piyao* evidences the disregard for the facilities for devotees. Similar disrepair and lack of cleanliness prevails in the passageway from the *Shambhu Bazaar* entry. The



SDMC is unable to supervise cleanliness in these passageways and the *Mandir* complex as it is stated to be private land. As a result, the corporation is also unable to *challan* the shopkeepers and enforce cleanliness.

- ❖ Other than the passageways, the state of cleanliness in the entire *Mandir* complex is in a state of disarray. There is no person responsible for the cleanliness of the *Mandir* Complex and there were no volunteers seen cleaning the complex other than the *Bhavan*.
- ❖ There are three (3) toilet facilities on the periphery of the *Mandir* complex constructed by the SDMC, all of these are pay and use toilets that are maintained by two NGO's and Ayush Cleaning Corporation Ltd. The *Mandir* complex itself has a toilet structure which has five (5) facilities each for men and women. This is on the passageway called the *Navratra* entry and is opened only during *Navratri* days. The facility is managed by one Ms. Seema Devi of her own accord, and she also charges for the facilities.
- ❖ It was observed by the LC that about eight (8) hoardings with prominent photographs of Mrs. Sudha Bhardwaj, the President of the *Jai Mata Di* Welfare Society had been removed. While the same were removed after the first inspection new hoardings had been put up and Mrs. Bhardwaj stated that they had been put up as they did not contain any advertisement.

(iv) **Report of the Local Commissioner dated 28<sup>th</sup> August 2021**

- ❖ The Commission was executed on 20<sup>th</sup> August as a surprise inspection.

- ❖ The *tehbazari* rights were identified with respect to the following:
  - Parking lot adjacent to the *Ram Piyao* entry which includes the right to collect parking charges for the vehicles and the *tehbazari* from the shops operating in the said parking area.
  - *Mundan Gali* and *Hawan kund*.
  - *Jutta chappal* stand at *Titri More* in the *Ram Piyao* passage.
  - *Parikrama* at the roof of the *Bhawan*.
  - *Devta* in *Parikrama*.
  - *Dorri* and *mahurat* of new cars.
- ❖ There are eight (8) CCTV cameras, of which seven (7) were found to be working. It was noticed that there was no effort to improve the cleanliness and the *Vishram Sthal* since the last inspection, which is the only resting place for the devotees in the *Ram Piyao* passage. The hygiene and cleanliness continue to remain dismal.
- ❖ There is no Medical Centre in the *Mandir* complex. Some immediate repairs are needed to be carried out to ensure the safety of the devotees as the structure are in a dilapidated condition.
- ❖ There is no fire tender nearby the area and the manner in which the *Mandir* and the whole complex is congested can prove quite hazardous. The public land surrounding the *Mandir* land is also not in a good condition and has been occupied by unauthorized occupants.

**Proposals for maintenance, cleanliness and re-development of Mandir premises submitted by various parties**

44. Pursuant to orders passed by this Court seeking proposals from various parties on the manner in which the re-development and governance

of the *Kalkaji Mandir* ought to be directed, the following proposals have been filed:

(i) **Proposal by Shri Kalkaji Mandir Prabandak Sudhar Committee** –

The Committee, which represents some of the *baridaar* groups has stated that the *pujaris* and *baridaars* are ready and eager to provide basic facilities for the devotees visiting the *Mandir*. The committee has highlighted various issues and steps needed to be taken at the *Mandir* such as –

- ◆ That various items are carried into the *Mandir*, in an unregulated manner, because of lack of a robust security provision, which could be used by anti-social elements or criminals/ terrorists who may cause havoc in the *Mandir*.
- ◆ That vendors do not cooperate in regulating the manner in which the devotees enter the main *Mandir* to pay their obeisance.
- ◆ Shopkeepers and vendors are major source of dirt in the *Mandir* premises, and they do not contribute a single penny for cleanliness in the *Mandir*.
- ◆ A large number of shopkeepers have filed injunction suits and despite their suits being dismissed they have not vacated the premises.
- ◆ Despite, the initial stay order given by the Supreme Court, dated 12<sup>th</sup> October, 2013 having been modified, the shopkeepers have opened more and more shops and stalls and resist any steps towards removal of encroachment on the basis of the said order.
- ◆ In view of the encroachment, devotees do not even have free space to move about in the complex.
- ◆ Despite repeated complaints to the Delhi Police and other

Government agencies, encroachments continue to exist.

- ◆ There are large number of beggars who create obstructions to the devotees.
- ◆ The entire land ought to be safeguarded from being encroached.
- ◆ Persons are needed for house-keeping, regulation of footwear, providing of cleaning equipment, garbage disposals, dustbins and toilet facilities.
- ◆ Proper house-keeping agency is also required.
- ◆ Steps are also required to be taken so as to enable fire brigade and ambulance to reach the *Mandir* complex, in cases of emergency, for the purpose of proper evacuation.
- ◆ Water facilities, round the clock, ought to be provided. The amount of Rs.4.50 crores deposited with the Delhi Jal Board has not been fully utilised and proper sewer facilities have not been provided by the Delhi Jal Board.
- ◆ The *Dharmshalas* are all very old and in a very dilapidated condition. Various *Chabutras* attached with *Dharamshala* have also been occupied by the vendors and shopkeepers which ought to be vacated.
- ◆ A proper parking area is required to be constructed after removal of all the encroachments.
- ◆ A single queue system ought to be created to avoid incident like stampede and pick-pocketing.
- ◆ The *baridaars* ought to be directed to pay the amounts for the maintenance and upkeep of the Mandir.

(ii) **Proposal by Shri. Vipul Gaur - baridaar belonging to Thulla Jasram**

- ◆ *Pujaris* and *baridaars* are keen to develop the *Mandir* for the benefit of pilgrims and devotees.
- ◆ The cleanliness and hygiene are of grave concern to the *baridaars*.
- ◆ There are large number of stalls run by shopkeepers which are the main reason for uncleanness and unhygienic conditions. The said vendors who have their stalls have erected the *tarpaals* and have covered open sky areas hence there is no direct sunlight at all.
- ◆ The vendors have also narrowed the passage for the devotees which can lead to a stampede. Vendors are also indulging in consumption of articles such as *paan*, *gutka*, enabling spitting in the *Mandir* which has further aggravated the unhygienic conditions.
- ◆ That no stall or commercial activity ought to be permitted within 250 metres of the *garbha griha* (sanctum sanctorum) and the existing stalls should be removed.
- ◆ Shoe stalls ought to be erected.
- ◆ Ten to fifteen house-keeping persons would be required to get the *Mandir* clean.
- ◆ Separate halls ought to be made for *Bandra/ langar*, *kirtan* and *jagran* and other religious facilities.
- ◆ A parking space for at least 500 vehicles ought to be constructed. The area should be beautified.
- ◆ Security guards would be required for managing the *Mandir*.
- ◆ BSES ought to erect proper polls in the premises with lighting.
- ◆ Construction of resting places and benches would be needed.

- ◆ *Piyaos* should be constructed at every 100 metres with water coolers.
- ◆ Banners/ hoardings ought not to be permitted.
- ◆ *Baridaars* should be made to contribute Rs.4,00,000/- per month during normal months and Rs.8,00,000/- during *Navratra* months for all re-development and beautification work that maybe done.
- ◆ The proposal concludes as under:

*“The task of cleanliness and hygiene must be permitted to be outsourced to any housekeeping agency and for the development / renovation an architect must be appointed who shall prepare a plan for the development of Mandir, Sri Kalkaji and the money for development shall be borne by the Baridars / Pujaries”*

**(iii) Proposal by Shri. Vipin Bhardwaj- baridaar belonging to Thulla Bahadur in CM (M) 323/2021.**

- ◆ Shri. Vipin Bhardwaj, in his proposal, states that he is one of the *baridaars* belonging to the *Thulla Bahadur* group. He is stated to be personally performing *puja seva* in the *Mandir* including the ritual of *aarti* at both times and *bhog* and *prashada* distribution etc., and thus, he claims to be closely involved in the affairs of the *Mandir*. He is a Tourist Guide by qualification.
- ◆ He proposes that there is a need to remove illegal and unauthorized shacks/stalls from the *Mandir* complex.
- ◆ The gamut of issues include overcrowding, lack of sanitation, drainage/sewerage facilities, absence of cleanliness and hygiene, could lead to a stampede due to the heavy occupation by the shopkeepers and the stall owners etc. The *Mandir* complex is spread

over 50 *bigas* consisting of a *Dome*, *Bhawan* and *garbh griha* and its premises *veranda* and the same is also surrounded by open space.

- ◆ Some authorised *tehbazari* holders were allowed to put up their shops on the eastern side of the *Mandir* at a distance from the *garbh griha* (sanctum sanctorum), however, recently all the open areas and open spaces of the *Mandir* complex surrounding the main *Doom*, *Bhavan*, *griha veranda* have been encroached upon by installing more and more shops.
- ◆ The entire open space of the *Mandir* now stands encroached and is spread over more than 20 *bighas* i.e., 4 acres of the *Mandir* complex. The said shop owners do not give any *tehbazari* to the *baridaars/pujaris*. They have also constructed temporary residential shelters/houses in the back lanes. The encroachment also extends to the DDA Park surrounding the complex. The east side entry has been shut down because of such unauthorised construction which reduces the space available for access to the devotees. On most occasions stampede like situation is created.
- ◆ The unauthorised encroachment is the cause of poor sanitation sewerage problems relating to cleanliness and other civic infrastructure facilities being overburdened.
- ◆ Though, adequate money was deposited with the Delhi Jal Board, the sewerage/ drainage facilities are not functioning properly. The areas apart from the *bhavan* and the inner complex are under the supervision of the local police but the same is completely unregulated. The safety and convenience of devotees and visitors has been ignored.
- ◆ The east-side of the *Mandir* has been completely encroached upon.

Though there are other entry gates but they are non-functional. All devotees converge on the West- side gate only.

- ◆ Directions ought to be issued to the Municipal Corporation of Delhi, and local police to take action for removal of illegal and unauthorised encroachment/construction.
- ◆ For the purposes of the re-development and renovation of the *Mandir*, it is proposed that modern civic facilities and infrastructure facilities should be made available once the encroachments are removed. The *Mandir* Complex requires substantial increase in the number of public toilets at different places keeping it proportionate to the inbound visitors visiting the Mandir on daily basis.
- ◆ Help desk/ Information desks ought to be set up.
- ◆ Online passes can also be issued for devotees.
- ◆ Waiting halls and lounges ought to be developed to avoid overcrowding.
- ◆ Fire extinguishment equipment and facilities ought to be erected.
- ◆ Separate areas of *langar/ Prasad/ pujari* office room etc. need to be constructed.
- ◆ For all of the above purposes, an elected body in the form of a Managing Committee ought to be formed. Proposals have been given in respect of how the elected body should function.
- ◆ Proper distribution of the offerings from *puja sewa* and *tehbazari*, amongst the *baridaars*, ought to take place. The four *Thullas* are stated to be consisting of more than 5000 families, all members whereof are the *baridaars*. Every month the *bari* is shared by 20 to 25



families i.e., around 200 *baridaars*. Since all *baridaars* cannot perform *puja* at the same time, they should be permitted to nominate a representative from amongst themselves to perform the *puja sewa*. The said nominated representative or *thekedar* can, on a general estimate of offerings, pay all the *baridaars* and also meet expenses for the functioning and up keeping of the *Mandir*.

(iv) **Proposal by Shri. Rakesh Bhardwaj- baridaar/pujari belonging to Thulla Jasram**

- ◆ The said proposal opens with the following introduction:

**“1. NECESSITY OF REDEVELOPMENT PLAN**

*The proposal for redevelopment and management of Kalkaji Mandir is necessitated in view of the need to provide better civic amenities to pilgrim and devotees. The Kalka ji Mandir requires planned redevelopment work since no efforts have been made to improve or provide basis civic amenities in and around the temple for the pilgrims and devotees which is also indicated in the reports of Local Commissioner and Court Receivers appointed by this Hon’ble Court. The lack of proper management in administration also poses serious problems for devotees and pilgrims.*

**2. OBJECTIVES OF THE REDEVELOPMENT PLAN**

*To provide for a structured and efficient system of management of Kalka ji Mandir and its surroundings in order to ensure **firstly** good administration of the Kalka ji Mandir, **secondly**, to lessen the hardship of the pilgrims and devotees by providing all necessary civic amenities and strengthening safety and security of the temple and*

for those visiting the same, **thirdly** to establish the Shri Mata Kalkaji Mandir as a model temple with world class infrastructure and to provide expansive, unobstructed corridors/area around the Shri Mata Kalkaji Temple for giving an opportunity to the devotees and pilgrims to have visual connect with the temple.”

- ◆ Thereafter, various suggestions have been given to provide civic amenities, including two drinking facilities that is the *Ram Piyao* and *Subhash Piyao*, which ought to be upgraded. The *Ram Piyao* is stated to be constructed by a trespasser whose name cannot be ascertained, and does not belong to any *baridaar* or *pujari*.
- ◆ There is an imminent need to identify suitable places for setting up a portable water dispenser.
- ◆ *Vishram sthal* ought to be revamped to be ably used by devotees.
- ◆ The *Shri Kalkaji Mandir Prabandak Sudhar* Committee is a defunct body.
- ◆ The security points at the *Mandir* need to be strengthened, with metal detectors etc. being installed.
- ◆ Free public toilets ought to be constructed.
- ◆ An emergency lane ought to be created for movement of fire tenders/ambulances.
- ◆ New sweepers and security guards ought to be engaged.
- ◆ The proposer has given two re-development plans with his affidavit. As per the proposal, the *baridaars* ought to contribute, on a monthly basis, at least 20% of the total donations for the said *bari* for the purpose of re-development. Donations could also be sought from

devotees against receipts.

- ◆ A trust by the name of *Mata Barahi Mandir* Trust which has an exemption under Section 80-G the Income Tax Act, can collect the donations.
- ◆ First Aid facilities and potable medical room ought to be constructed.
- ◆ *Dharamshala*, unauthorised shops, and occupants ought to be removed.
- ◆ All four entry gates should be provided for the devotees.
- ◆ A proper *haat bazaar* ought to be set up to be run by the trust/Committee.
- ◆ *Dharmshalas* and rest houses for pilgrims, as also adequate pathways, should be constructed.
- ◆ A convention hall, spiritual museum administration halls media centre and a spiritual library ought to be created in the re-development.
- ◆ Gardens ought to be made around the *Mandir* complex and proper signage should be provided for navigation and movement.
- ◆ Multi-purpose audio-video system for addressing the devotees in case of emergency and also for playing of *bhajans* etc., ought to be set up.
- ◆ Sanitation machines ought to be set up at every entry, with COVID-19 precautionary facilities and equipments like sanitizers and disposable masks etc.
- ◆ Twenty-four hours CCTV surveillance ought to be ensured.
- ◆ Solar panels should be installed for making the *Mandir* complex environment friendly. Light bulbs should be run using solar panels.
- ◆ A school for needy children, to be managed by the Committee of

*Kalkaji Mandir*, ought to be set up.

- ◆ An open-air theatre is a part of the re-development plan, for the purpose of cultural and spiritual programmes.
- ◆ Information kiosks and information centres ought to be constructed.
- ◆ Hawkers and vendors ought not to be allowed in the *Mandir* complex. No banners or hoardings should be permitted.
- ◆ The *Mandir* buildings ought to be beautified. In order to re-develop and beautify the *Kalkaji Mandir*, a development committee ought to be constituted
- ◆ The management of the said committee should consist of elected representatives from each of the *baridaars*, which should be responsible for re-development, as also running and managing the *Mandir* on a day-to-day basis.

**Proceedings before the Supreme Court in SLP (C) No. 32452-453/2013 titled Kalkaji Mandir Vikreta Sangathan v. Piyush Joshi and Ors.**

45. Ld. Counsel for the parties have made submissions in respect of the proceedings in *SLP (C) No. 32452-453/2013* titled *Kalkaji Mandir Vikreta Sangatahn v. Piyush Joshi and Ors.*

46. The brief background of the said petition is that a writ, bearing *W.P. (C) 4924/2013*, titled *Piyush Joshi v. Union of India & Ors.*, was filed before the Delhi High Court. In the said writ, which was listed before the Division Bench of this Court, on 7<sup>th</sup> August, 2013 it was directed as under:

*“This writ petition concerns the unhygienic conditions prevailing, inter-alia, around the Kalkaji Mandir, at Kalkaji, New Delhi. Insofar as the conditions within the Mandir Complex are concerned, we are not*

inclined to entertain this writ petition and the petitioner may have other remedies available to him under law. However, outside the Kalkaji Mandir Complex it is the duty of the Municipal Corporation to maintain cleanliness and to ensure that there is no unauthorised Tehbazari taking place or any illegal/unauthorised construction. For this limited purpose, we are issuing notice. Notice is accepted by the learned counsel appearing for the South Delhi Municipal Corporation as well as by the learned counsel for the DDA, the learned counsel for the Union of India and the learned counsel for respondent nos. 3, 7, 8 and 9.

There is also an issue with regard to fire safety. The concerned respondents would file their status reports with regard to the allegations made in the writ petition on the above issues. The Delhi Police should also file a status report indicating the security arrangements made for visitors to the temple. The status report be filed within four weeks.

Renotify on 18.09.2013.”

47. Vide order dated 9<sup>th</sup> October, 2013, the Court, after perusing the photographs of the *Kalkaji Mandir* complex, directed as under:

“Present writ petition has been filed seeking amongst other reliefs a direction to demolish unauthorised construction in and around *Kalkaji Temple*.

This Court has perused the photographs placed on record and is of the view that the situation in and around *Kalkaji Temple* is appalling. Accordingly, we direct the MCD and the Fire Department to remove all unauthorised construction in and around *Kalkaji Temple* (except the sanctum sanctorum) before the next date of hearing in accordance with law.

The Food and Sanitation Inspectors of the MCD are also directed to forthwith visit the temple complex and ensure that proper sanitation is maintained as well as

*hygienic food and prasad are sold/distributed. If any shopkeeper or anyone else is found contravening the law, MCD is directed to take action against him in accordance with law. Police is directed to render all assistance to the officials of MCD in implementing the aforesaid directions.*

*MCD is directed to comply with the aforesaid directions notwithstanding any orders passed in Suit Nos. 443/2003 and 33/2004 stated to be pending in the Court of Civil Judge, Tis Hazari Courts, Delhi as the present order has been passed in public interest in exercise of constitutional power.*

*List on 11th December, 2013.*

*Order dasti under signature of Court Master.”*

48. From a perusal of the above extracted two orders, it is clear that the Division Bench of this Court, was dealing only with the condition outside the *Kalkaji Mandir* complex in respect of maintenance of cleanliness and the unauthorized *tehbazari*/ illegal construction which had taken place. Vide order dated 9<sup>th</sup> October 2013, the Court had directed the MCD and the Fire Department to remove all unauthorized construction in and around *Kalkaji Mandir* and it was also directed to ensure that proper hygienic food/*prashada* is served in a hygienic manner, and proper sanitation is also maintained.

49. This order was challenged before the Supreme Court on 12<sup>th</sup> October 2013, in an SLP. Vide the order of the Supreme Court passed in the said SLP on 12<sup>th</sup> October 2013, the order of the Division Bench of this Court, dated 9<sup>th</sup> October 2013, was stayed. The said order reads:

*“Permission to file SLP is allowed. Heard learned counsel for the petitioner. This is a case where great urgency is shown that demolition is likely to take place immediately, therefore we entertain this*

*petition at residence. However, after going through the record and hearing the learned counsel for the petitioner, we are satisfied that every person occupying part of premises inside the temple is neither authorised occupant or tenant, however, some of them have been authorised to settle either by the Pujaris illegally or anybody else. The case is required to be heard as how the occupants etc. are being there and who has authorised/legal control over the properties if the same belong to the deity.*

*Thus, in view of the above, issue notice to all the respondents returnable on 21.10.2013 as a part heard as the matter has been heard at great length. In the meanwhile, operation of the High Court judgment is stayed only till 21.10.2013.”*

50. The matter was thereafter taken up from time to time by the Supreme Court. A direction was given on 21<sup>st</sup> October 2013 to file an affidavit clarifying various issues relating to the ownership, title, entitlement of the land inside the *Mandir* and around the *Mandir* and its area. The said affidavit was to also clarify who the donor of the land was and whether the land was donated to the deity or the *pujaris*. Further, in case the land was donated to the deity, the Supreme Court directed the affidavit to clarify the circumstances under which the administration remained a silent spectator when illegal encroachment had been made on the land, and the circumstances in which the *pujaris* were accepting rent from the tenants.

51. On 18<sup>th</sup> July 2014, the Id. ASG's submission is recorded by the Supreme Court, that with instructions from Delhi Government and with the help of authorities, a scheme would be filed before the Supreme Court so that the temple, namely, the *Kalkaji Mandir* is appropriately managed. The Supreme Court clarified that the Court had given a suggestion to the Id.

ASG for coming up with a scheme for proper management and that any aspect relating to right, title or interest was not being adverted to.

52. On 25<sup>th</sup> August 2014, the Id. ASG's further submission is recorded that the records showed the land where the *Mandir* was situated, and the nearby properties really belong to a trust and that it would be in the fitness of things where a scheme would be framed so that collection of rent or offerings to the deity are regulated.

53. On behalf of some of the pujaris and sects, a submission was made that the *Mandir* is a private *Mandir*, which belongs to "*Thok Jogians*" and "*Brahmins*". The same was controverted by the Id. ASG whose submission has been recorded to the effect that no *Mandir* can be a private one once it becomes amenable for public *Darshana* and accepts public offerings. On this aspect, the Supreme Court then observed as under: -

*"Prima facie, we are inclined to think, a temple of this nature would come within the concept of a public temple or a public religious endowment as the public at large have been enjoying the right to have darshan for centuries and give offerings."*

54. On 17<sup>th</sup> September 2015, a submission of the Id. ASG appearing for NCT of Delhi is recorded to the effect that the State Legislature intends to bring a legislation relating to the management of the *Kalkaji Mandir*. No specific observation was made on this issue by the Supreme Court. However, the Supreme Court was also informed of the unhygienic conditions both in Sanctum Sanctorum as also in the *Mandir* complex and its vicinity. Directions were issued to the corporations to visit the area and to submit a report to the Court. The matter was adjourned for only considering the issue pertaining to the maintenance of hygiene and cleanliness. The



relevant portion of the said order reads:

*“Ordinarily, we would have adjourned the matter to another date straightaway but, at this juncture, Dr. Dhavan, learned senior counsel appearing for the respondent no.19 and Mr. Bhardwaj, learned senior counsel, appearing for the respondent no.3 submitted that the hygienic condition outside the sanctum sanctorum is atrocious, for no one has ever bothered to keep the area clean.”*

*A temple or any religious institution must not only stand for purity and sanctity but must also exhibit cleanliness. As submitted by Dr. Dhavan and Mr. Bhardwaj, learned senior counsel, the area in vicinity of Kalkaji temple and some part of the temple except the sanctum sanctorum is really unclean and some attention has to be given.*

*Regard being had to the aforesaid submission; we direct the Commissioner of South Delhi Municipal Corporation to depute a competent officer along with the Sanitary Inspectors to visit the area and submit a report to this Court. When we direct for submission of a report, definitely it includes giving suggestions in that regard. Needless to say, the suggestions would not touch anything with regard un authorised occupation or illegal occupation as that is being debated in the Court.*

*Ms. Pinky Anand, learned Additional Solicitor General is requested to send a copy of this order to the concerned Commissioner so that he can take appropriate steps as directed hereinabove and submit the report to this Court within ten days hence.”*

55. On 28<sup>th</sup> October 2015, the inspection report had revealed that

cleanliness of the internal portion of the *Mandir* complex was not satisfactory and even the sanitation was not satisfactory. The Supreme Court then called for suggestions from all the parties for maintaining the cleanliness of the *Mandir* complex. A list of 28 persons was recorded by the Supreme Court for maintaining cleanliness in batches of 7, as volunteers. The corporations and the civic authorities were directed by the Court to nominate an officer for maintaining the *Mandir* complex. Various further directions were passed for maintaining cleanliness. Vide the said order dated 15<sup>th</sup> December 2015, a committee consisting of three (3) Advocates was also appointed by the Court for the exclusive purpose of verifying the state of cleanliness and hygiene in the *Mandir*.

56. On 15<sup>th</sup> February 2016, submissions were made by the Corporation and the DDA as to the steps taken by them. On 16<sup>th</sup> March 2016, the committee's report was taken into consideration which revealed the large-scale problems being faced in the cleanliness and maintenance of the *Mandir*.

57. On 18<sup>th</sup> July 2016, the committee's recommendations were considered by the Supreme Court. The Supreme Court directed that contributions of Rs. 13,00,000/- were to be made by the *baridaars*, on a monthly basis as per their turn, on a rotation basis, to the Delhi Jal Board for a period of 36 months to address the dire sewage situation in the *Mandir*. The Court also clarified that no depositor could claim any equity regarding any right, title and interest before any court as the deposits were to be made by way of a service to the people with a charitable purpose and nothing else. The court further clarified that the terms “*Mahant*” and “Trustee” used by the Committee did not confer any status to any party.

58. On 1<sup>st</sup> March 2017, the Supreme Court passed further directions for coordination between the Delhi Development Authority, South Delhi Municipal Corporation and Delhi Jal Board. On the sewage issue, the court recorded that a sum of Rs. 91,00,000/- stood deposited with the Delhi Jal Board, however, a tender for the same could not be finalised as there was only one bidder.

59. On 11<sup>th</sup> September 2017, the Supreme Court directed that the two suggestions given by the committee were to be implemented by the Delhi Police. The Court added that the steps taken shall not affect the right, title, and interest of the shop owners as the Court observed that it was not inclined to deal with the right, title, and interest of any shop owner in the petition. The order of the Supreme Court dated 11<sup>th</sup> September 2017, reads as under:

*“ The Committee appointed by this Court, after due deliberation has submitted a report suggesting certain aspects.*

*Mr. Ashok Gupta, learned senior counsel, Mr. Gaurav Agarwal and Mr. Gopal Sankarnarayan, learned counsel, the Chairman and Members of the Committee have recommended the following measures which shall resolve the issues that relates to indiscipline and possibility of stampede. The recommendations read as follows:-*

*“6(a) The barricade that exists coming towards the sanctum sanctorum of the temple from the Metro station side be permitted to be extended by the Police authorities up to the sanctum entry by using temporary structures, especially on Saturdays, Sundays, Ashtami and Navratras, so that devotee movement may*

*be unhindered.*

*(b) The existing shops to be restricted to the perimeter of the walking paths without being allowed to jut into them.”*

*Be it noted, these two suggestions have been stressed upon for the present.*

*Having heard learned counsel for the parties, we direct that the Delhi Police shall carry out the said suggestions treating them as directions of this Court with quite promptitude so that the discipline and cleanliness are maintained. Needless to emphasize, any kind of unruly attitude within the temple is impermissible and inconceivable.*

*As we have passed this order, it shall supersede any order passed by the High Court. Needless to say, the steps taken shall not affect the right, title and interest of any of the shop owners, for we are not inclined to deal with the right, title and interest of any shop owner in these special leave petitions.*

*List the matter in the last week of November 2017.*

60. A perusal of the above order clearly shows that the Supreme Court clearly held that the issues relating to right, title and interest of any shop owners were not being gone into in the said SLP. Thus, the focus of the Supreme Court in the said SLP was primarily in respect of cleanliness, sanitation and other civic amenities, for which directions have been given from time to time.

61. On 27<sup>th</sup> November 2017, further issues relating to the reorganization in the *Mandir* complex, repairs etc. were considered and directions were given for compliance of installing of metal barriers, fire safety and repair on

the sewage. Insofar as garbage cleaning was concerned, the South Delhi Municipal Corporation had stated that it would employ people to clean the outside area subject to the *baridaars* paying the said people on a month-to-month basis.

62. In the order dated 2<sup>nd</sup> April 2018, further time was sought by Delhi Jal Board to comply with the order dated 27<sup>th</sup> November 2017. Time was extended till June 2018 and the SDMC was directed to submit a scheme within 3 weeks. Ld. Counsel appearing before this Court have submitted that the matter has not been listed thereafter.

#### **Developments post the orders of the Supreme Court in 2018**

63. After 2018, despite repeated orders of the Supreme Court, as captured above, none of the civic agencies or the *baridaars* appear to have taken any steps for maintaining the *Mandir* complex and providing clean and hygienic conditions for the devotees. The reports of the LC, Court Receivers and the affidavits/proposals filed by various parties to these litigations, and their submissions establish this beyond any pale of doubt.

64. This Court has been informed by Mr. R.K. Bhardwaj, ld. counsel, that subsequent to the orders of the Supreme Court, suits preferred by 73 shopkeepers before the Trial Court being *CS SCJ No. 597293/16* titled *Geeta Devi v. Shri Kalkaji Mandir*, were dismissed vide order dated 2<sup>nd</sup> June, 2018. The Review application against the said dismissal has also been dismissed on 29<sup>th</sup> April 2019. Subsequently, similar suits filed by 46 shopkeepers were also dismissed as withdrawn and no appeals are stated to have been preferred against the said dismissal orders.

65. As can be ascertained from a perusal of the LC's Reports, and well as the reports of the Court Receivers, the situation as on ground in the *Mandir* is quite troubling and disturbing. The Supreme Court had, vide order dated 16<sup>th</sup> March, 2016, given the following directions to various civic agencies, in the SLP before it:

- i) SDM to install a demarcating barricade by which non-temple area is carved out. It shall not affect the right title and interest which is being litigated in various courts. Only to facilitate cleanliness.*
- ii) SDMC to operationalize and maintain the three toilet blocks. The SDMC to see that the toilet blocks are appropriately maintained.*
- iii) DDA to fence the green belt qua the suggestion and to make efforts qua beautification*
- iv) SDMC to depute staff to clean the parking area and areas around the temple.*
- v) Delhi Jal Board to plug the leakage. SDMC to cover the drains and prevent open bathing and washing of clothes.*
- vi) Delhi Jal Board has submitted that it has sanctioned 1.38 crores for peripheral sewerage and internal must be borne by the temple for which respondent RK Bhardwaj and etc. shall take instructions.*
- vii) Volunteers deputed by previous order to inform about the steps taken qua cleanliness inside the temple.*
- viii) Three entry/exit points to exist which should be appropriately barricaded so that devotees enter in queue and come back in queue. Discipline to be maintained.*

66. However, the various reports and submissions on record make it clear that these directions have effectively not been complied with, and the

*Mandir* continues to have dismal hygienic conditions with hardly any civic amenities for the devotees.

**Report by the Delhi Jal Board**

67. After perusing the orders passed by the Supreme Court in *SLP (C) No. 32452-453/2013*, it is clear that amounts were directed to be deposited by the *baridaars* with the Delhi Jal Board for the upkeep and maintenance of the *Mandir* complex, as also for laying of sewage and providing sanitation. This Court had, accordingly, to ascertain the status of the said amounts, issued notice to the Delhi Jal Board vide order dated 17<sup>th</sup> August 2021.

68. Pursuant to the said notice, Ms. Sangeeta Bharti, Id. Standing Counsel, for Delhi Jal Board entered appearance on 1<sup>st</sup> September 2021 and was informed of the order dated 18<sup>th</sup> July 2016, passed by the Supreme Court in *SLP (C) No. 32452-453/2013*, in which directions were given to all *baridaars* to deposit Rs. 13 Lakhs per month to the Delhi Jal Board for 36 months, on a rotation basis as per their turns. Ms. Bharti, Id. Standing Counsel, was directed to take instructions on the following aspects, and report to the court on the next date:

*“i) Total amount of money received from the baridaars of the Kalkaji Mandir, for the purposes of commencement of the sewage repairs and laying of the sewage pipelines as also the details of the persons from whom such amounts have been received;*

*ii) Whether any tender was floated, and any work was undertaken by the Delhi Jal Board pursuant to the order of the Supreme Court or not, and if it was, what is the status of the same.”*

69. Pursuant to the said order, on 3<sup>rd</sup> September 2021, Ms. Bharti, Id. Standing Counsel filed an affidavit giving details of the amounts deposited by each of the *baridaars* pursuant to the orders of the Supreme Court. She submitted that the amount received by the Delhi Jal Board from the various *baridaars*, as on date is Rs. 4,57,73,005/-. She submitted that in addition to the said amounts two more cheques had been received on 2<sup>nd</sup> September 2021, one of which was a post-dated cheque of 15<sup>th</sup> September 2021. If the same were encashed, the total receipts would amount to Rs. 4,61,52,172/-.

70. Under instructions from Mr. Ashok Kumar, Executive Engineer, DJB, she further submitted that a total sum of Rs. 4.57 Crores had already been spent by the Delhi Jal Board on the following heads:

- i) *P/L of internal sewer system inside Kalkaji Mandir Complex under EE(S)-II (AC-51 Kalkaji) - Rs.103,11,083/-.*
- ii) *P/L of Peripheral sewer system at Kalkaji Mandir Complex (From Kalkaji Mandir to Govindpuri Trunk Sewer) under EE(S)-II (AC 51 Kalkaji) - Rs.88,19,781/-.*
- iii) *Infrastructure Charges for Conveyance and treatment of sewage - Rs. 3,28,50,300/-.*

71. In response to the said affidavit, it was submitted by almost all the Counsel appearing in these matters, that the sewerage system in the area of the *Kalkaji Mandir* is not in a good working condition. And most of the pipelines which were laid, are blocked. Further, at the time of the construction of the Modi Mill Flyover, the peripheral lines which were constructed are stated to have been damaged/demolished.

72. The situation is clear. Despite all *baridaars* having deposited a substantial sum with the Delhi Jal Board, no effective sewerage system is in



place. It is also unclear as to whether a tender was floated or not, however Ms. Bharti, Id. Counsel has sought another week's time to get back on the same. Be that as it may, it is clear that there is an urgent need to also implement the directions issued by the Supreme Court for laying out proper sewerage and sanitation in the *Mandir* complex so that proper and adequate facilities can be provided to the devotees.

**Joint Inspection conducted by Delhi Police and SDMC**

73. Noting the said issues and lack of implementation of the directions of the Supreme Court, this Court had, vide order dated 8<sup>th</sup> September 2021, directed a joint inspection to be conducted by the Delhi Police and the SDMC, in respect of the extent of unauthorised construction and unauthorised occupation in the entire complex of the *Kalkaji Mandir*. This Court had asked the Delhi Police and SDMC to place a report in respect of the same, as also highlighting upon the prevalent situation at the *Mandir*. Recommendations were sought from the Delhi Police and the SDMC as to how the access to and movement in the *Mandir* could be made smoother for the devotees and regulated better, especially during the forthcoming *Navratras*. Mr. Arun Birbal, Id. Counsel for SDMC was also directed to place on record any plan which the SDMC had prepared for the re-development and beautification of the *Kalkaji Mandir*.

74. At the outset, Mr. Birbal, Id. Counsel, has submitted that the DDA has not handed over the *Kalkaji Mandir* to SDMC. Further, he has also submitted that no beautification/re-development plan has been developed by the SDMC in respect of the *Mandir*, however, he confirmed that a joint inspection with the Delhi Police was conducted by the SDMC officials.

75. The joint inspection report has been placed on record by Mr. Sanjay Lao, Id. Standing Counsel (Criminal) for the Delhi Police. The said report reveals as under:

1. **“Kalkaji Temple is thronged by huge numbers of devotees daily.** The throng becomes manifold during the Navratri festival celebrations. The main temple is surrounded by several dharamshalas and shops. There are two entry points for the temple and to regulate the devotees.
2. There are about 91 shops on the Main Bazar way and 52 on the way from Ram Piyau to main bhawan these shops have been covered with curtains which are very vulnerable to fire. **In the year 2005, a fire broke out in the Main Bazar during Navratra festival in which one person lost his life.** Therefore, each shopkeeper must have the fire extinguishers in their shops to be used in case of any fire incident. Some trained fire fighters should be engaged by the Kalkaji Mandir Committee especially during the days of heavy crowd of devotees.
3. The hawkers/shoppers are sitting very close to sanctorum which causes congestion near the main temple which **may lead to stampede** at any time. **Therefore, the shops/hawkers close to the main sanctorum should be removed for smooth ingress and egress of the devotees.**
4. The **shopkeepers on both the ways approaching main bhawan (main market & Rampiyau way) have extended their shops which is causing obstruction in the smooth flow of the devotees.** It may cause any untoward incident during heavy footfall of devotees.
5. There are about **46 old Dharamshalas/buildings around the main temple which are in very dilapidated condition.** As per observation of official of DDMA/SED, these **Dharamshalas & building can collapse anytime.**

6. *There should be DFMDs and HHMDs at entry points. Each visitor must be checked with the help of HHMDs as well as manually by the trained security guards to be deployed by the Kalkaji Mandir Committee to beef up the security of Kalkaji Mandir as well as the devotees.*
7. *There is **urgent need of multilevel parking of vehicles** for the devotees so that the main arterial roads can be kept free for normal traffic as well as for **vehicles for exigent services like Ambulance, Fire, police, DDMA etc.**”*

### **DIRECTIONS**

76. This Court is seized of the disputes relating to the *Shri Kalkaji Mandir*. The disputes are of various hues and primarily relate to collection of offerings/donations, their division and distribution among the *baridaars*. Thus, there is a need to streamline the manner in which offerings and donations are made in the *Mandir* by the devotees. As part of resolving these disputes, the interests of the deity and the devotees are paramount. The Court cannot turn a blind eye to the situation on ground, which appears to be a result of the multifarious disputes between the *baridaars* and the litigations filed, in respect thereof, before various Courts. This Court is also bound to give effect to the spirit of the orders passed by the Supreme Court in *SLP (C) No. 32452-453/2013*, vide which, the Supreme Court, has repeatedly emphasised on the need for taking cleanliness and safety-related measures at the *Mandir*. Owing to encroachments, unauthorised constructions, lack of unity amongst the *baridaars*, the callous conduct of the civic agencies and the police, there is no doubt that the *Mandir* and the complex surrounding the same could lead to untoward incidents. The *Navratra* festival when the devotees at the *Mandir* could exceed even one lakh per day begins from 7<sup>th</sup>

October 2021 to 15<sup>th</sup> October 2021. There has already been a fire incident in the past. The report of the Delhi police is clear that there is no space for fire tenders to even enter in case of any unfortunate incident. Moreover, the number of devotees who may visit the *Mandir* during the *Navratra* season could be in lakhs. Emergent remedial measures are therefore required to be taken especially in the interests of the lakhs of devotees who visit the *Mandir* and who are unrepresented before the Court.

77. On the basis of all the submissions, reports and proposals, it is clear that directions are required to be issued, in order to ensure that the safety and security of the devotees, who come in large numbers on a daily basis, is safeguarded, and also to provide them with proper convenience and civic amenities. Further there is an essential need to streamline the resolution of disputes pertaining to the *bari* rights, to save judicial time, as also ensure and maintain the smooth functioning of the *Mandir*.

78. The issues, *qua which*, this Court is issuing directions, at this stage, in the present order are:

- I. Streamlining the process of resolution of various *inter se* disputes between the *baridaars*;
- II. Removal of unauthorized occupation by vendors, hawkers, shopkeepers, *Chabutara* holders and Removal of unauthorised construction and encroachments;
- III. Administration, Governance and Maintenance of the *Mandir* premises, and co-ordination with civic agencies in respect thereof.

**Streamlining the process of resolution of various inter se disputes between the baridaars**

79. At this stage, this Court refrains from going into the issue as to whether the *Kalkaji Mandir* is a private or public *Mandir*. The court has also at this stage, not examined the submissions relating to the title of the land and the division of the *baris*. During the course of the hearing before this Court, it has been noticed that broadly, the division of the *baris* amongst the various *baridaars* is agreed upon, on the basis of previous orders which have been passed in various *inter se* litigations involving the *baridaars*.

80. One such judgment dated 1<sup>st</sup> February 1974, was passed by Sh.S.N. Kapur, who was the then sub-judge, Delhi. The monthly *baris* of the *pujaris* and the various *baridaars* as per the said order commences on the *Shudh Ekaadashi* of each month and ends on the *Shudh Dashmi* of the subsequent month. The current *bari* commenced on the midnight of 16<sup>th</sup>/17<sup>th</sup> September and shall go on till 15<sup>th</sup>/16<sup>th</sup> October. This *bari* includes the *Navratras* and is currently being performed by members of the group belonging to *Thulla Jasram*.

81. However, in most of the *Thullas*, there are minor disputes which arise from time to time in respect of the division of the offerings/donations and these disputes are usually raised before the Courts in the form of applications, which leads to Courts directing deposit of amounts with the Court, subject to further adjudication.

82. Thus, apart from the beautification, cleanliness, maintenance and re-development of the *Kalkaji Mandir*, some mechanism ought to be put in place for the purposes of resolving smaller disputes which arise amongst the *baridaars* in order to avoid all such disputes reaching Courts. Only if the

same are incapable of being resolved should the Courts be required to adjudicate on these issues.

83. There are various proceedings pertaining to such *inter se* disputes in relation to various rights that are currently pending before various District Courts in Delhi. Broadly, there are three categories of such civil and criminal disputes that are pending:

- *Inter se disputes between baridaars* - These disputes include issues relating to rights of female heirs to conduct *puja sewa* as also get shares in the offerings and donations that are collected. These disputes also include questions regarding the rights of certain persons who have been adopted by the family members.
- *Suits which have been filed by various occupants of the Mandir and the Mandir complex-* These disputes involve cases relating to occupation of the *Bhavan*, unauthorised construction of shops and recovering of *tehbazari* etc.
- *Criminal cases in respect of baridaars of Kalkaji Mandir.*

84. Vide various orders, this Court had asked all the parties appearing before the Court to provide details of all these cases pending before various District Courts in Delhi. The following details have been received:

**Cases related to the occupation of the Dharamshala, unauthorized shopkeepers and recovery of tehbazaari amounts, pending before various District Courts**

| <i>S. No.</i> | <i>Case Number</i>   | <i>Case title</i>  |
|---------------|--|--|
| 1             | <i>CS DJ 210196/2016<br/>(ADJ, South East,<br/>Saket Courts)</i> | <i>Sapan Bhardwaj v. Ram Vishal Shakti<br/>and Anr.</i>  |
| 2             | <i>CS SCJ 572/2017<br/>(SCJ, South East, Saket<br/>Courts)</i>   | <i>Chunnu Singh v. Naveen Kumar</i>  |
| 3             | <i>RCA SCJ/1/2020<br/>(SCJ, South East, Saket<br/>Courts)</i>    | <i>Ashok Bhardwaj v. Dinkar Bhardwaj and<br/>Ors.</i>  |
| 4             | <i>CS SCJ/ 221/2021<br/>(SCJ, South East,<br/>Saket)</i>         | <i>Sumit Kumar Sharma and ors. v. Shri<br/>Kalkaji Mandir Prabandhak Sudhar<br/>Committee and ors.</i> |
| 5             | <i>CS DJ/613623/2016<br/>(SCJ, South East,<br/>Saket)</i>        | <i>Bhagwan Devi v. Ved Prakash and ors.</i>  |
| 6             | <i>CS SCJ/ 51158/2016<br/>(SCJ, South East,<br/>Saket)</i>       | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Dhanpati</i>                             |
| 7             | <i>CS SCJ/51157/2016<br/>(SCJ, South East,<br/>Saket)</i>        | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Suman Sahi and<br/>Ors.</i>              |
| 8             | <i>CS SCJ/ 50829/2016<br/>(SCJ, South East,<br/>Saket)</i>       | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Arun Kumar<br/>Podwal and Anr.</i>       |
| 9             | <i>CS SCJ/50830/2016<br/>(SCJ, South East,<br/>Saket)</i>        | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Dinesh Bhardwaj</i>                      |
| 10            | <i>CS SCJ/51159/2016<br/>(SCJ, South East,</i>                   | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Ajay Bhardwaj</i>                        |

|    |   |  |
|----|---|--|
|    | <i>Saket)</i>   | <i>and Anr.</i>  |
| 11 | <i>CS SCJ 51233/2016<br/>(SCJ, South East,<br/>Saket)</i> | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Balwan Singh &amp;<br/>Anr.</i>  |
| 12 | <i>CS SCJ 51842/2016<br/>(SCJ, South East,<br/>Saket)</i> | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Subhash</i>                      |
| 13 | <i>CS SCJ/51381/2016<br/>(SCJ, South East,<br/>Saket)</i> | <i>Shri Kalkaji Mandir Shamlat Thok<br/>Jogian and Brahmin v. Satish Bhardwaj<br/>and ors.</i> |
| 14 | <i>CS SCJ/200/2017<br/>(SCJ, South East,<br/>Saket)</i>   | <i>Rakesh Bhardwaj v. Vinod Kumar</i>  |
| 15 | <i>CS SCJ/ 1571/2018<br/>(SCJ, South East,<br/>Saket)</i> | <i>Mukhtiyar Singh v. Sunil Sahu @ Sunil<br/>Kumar</i>   |
| 16 | <i>CS SCJ/1570/2018<br/>(SCJ, South East,<br/>Saket)</i>  | <i>Mukhtiyar Singh v. Prem Chand</i>   |
| 17 | <i>CS SCJ/1569/2018<br/>(SCJ, South East,<br/>Saket)</i>  | <i>Mukhtiyar Singh v. Ram Narain</i>   |
| 18 | <i>CS SCJ/1567/2018<br/>(SCJ, South East,<br/>Saket)</i>  | <i>Mukhtiyar Singh v. Pyare Lal</i>  |
| 19 | <i>CS SCJ/1566/2018<br/>(SCJ, South East,<br/>Saket)</i>  | <i>Mukhtiyar Singh v. Rajender Aggarwal</i>  |
| 20 | <i>CS SCJ/1568/2018<br/>(SCJ, South East,<br/>Saket)</i>  | <i>Mukhtiyar Singh v. Rajesh Grover @<br/>Rajesh Kumar</i>                                     |
| 21 | <i>CS SCJ/1733/2019<br/>(SCJ, South East,<br/>Saket)</i>  | <i>Mandir Shri Kalkaji v. Pyare Lal</i>  |
| 22 | <i>CS SCJ 1729/2019</i>                                   | <i>Mandir Shri Kalkaji v. Jai Prakash</i>  |



|     |  |  |
|-----|--|--|
|     | (SCJ, South East, Saket)                                     | Sharma   |
| 23  | CS DJ/209016/2016 (ADJ, South East, Saket Courts, New Delhi) | Kalkaji Mandir Prabandhak Sudhar Committee and Anr. v. Saraswati and Ors.            |
| 24. | CS SCJ/52159/2016 (SCJ, South East, Saket Courts, New Delhi) | Kalkaji Mandir Shamlat Thok Jogians and Brahmins v. Kalkaji mandir Vikreta Sangathan |
| 25. | CS/SCJ/838/2017 (SCJ, South East, Saket Courts, New Delhi)   | Shri Kalkaji Mandir Prabandhak Sudhar Committee v. Mohan Singh and Anr.              |
| 26  | CS/SCJ/51320/2016 (ACJ, South East, Saket Courts, New Delhi) | Sarvesh Bhardwaj v. Suman Sahi   |
| 27  | CS/SCJ/51891/2016 (ACJ, South East, Saket Courts, New Delhi) | Suman Sahi v. Sarvesh Bhardwaj   |
| 28  | CS/838/2017 (ACJ, South East, Saket Courts, New Delhi)       | Shri Kalkaji Mandir v. Mohan Singh   |
| 29  | CS No. 832/19 (ACJ, South East, Saket Courts, New Delhi)     | Narender Kumar v. Lakshmi Chand  |

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

| <b>S. No.</b> | <b>Case Number</b>                               | <b>Case title</b>                              |
|---------------|--|--|
| 30            | CS SCJ/1437/2019 (SCJ, South East, Saket Courts) | Naval Bhardwaj v. Brij Mohan Bhardwaj and ors. |
| 31            | CS SCJ/1203/2020                                 | Narsh Chand v. Peeyush Kaushik and             |

|    |   |  |
|----|---|--|
|    | <i>(SCJ, South East, Saket Courts)</i>                      | <i>ors.</i>  |
| 32 | <i>CS SCJ/579/2021<br/>(SCJ, South East, Saket Courts)</i>  | <i>Prem Chand Bhardwaj v. Sapan Bhardwaj and ors.</i>    |
| 33 | <i>CS SCJ/835/2020<br/>(SCJ, South East, Saket Courts)</i>  | <i>Mukesh Bhardwaj v. Ajay Sharma</i>                    |
| 34 | <i>CS SCJ/40/2018<br/>(SCJ, South East, Saket Courts)</i>   | <i>Sunny Bhardwaj v. Master Anurag Bhardwaj and ors.</i> |
| 35 | <i>CS DJ/1010/ 2018<br/>(ADJ, South East, Saket Courts)</i> | <i>Kamlesh Sharma v. Neeta Bhardwaj</i>                  |
| 36 | <i>MCA DJ/23/2018<br/>(ADJ, South East, Saket Courts)</i>   | <i>Rakesh Bhardwaj v. Mahant Surender Nath</i>           |
| 37 | <i>CS SCJ/597970/2016<br/>(SCJ, Tis Hazari Courts)</i>      | <i>Naveen Kumar v. Lakhpat Ram</i>                       |
| 38 | <i>CS SCJ/596035/2016<br/>(SCJ, Tis Hazari Courts)</i>      | <i>Naveen Kumar v. Lakhpat Ram</i>                       |
| 39 | <i>CS SCJ/ 594228/2016<br/>(SCJ, Tis Hazari Courts)</i>     | <i>Naveen Kumar v. Lakhpat Ram</i>                       |
| 40 | <i>RCA 60746/2016</i>                                       | <i>Satish Kumar v. Mahesh and ors.</i>                   |

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|----|--|--|
|    | (ADJ, Tis Hazari Courts)                                       |  |
| 41 | RCA DJ/60794/2016<br>(ADJ, Tis Hazari Courts)                  | Mahender Kumar Pandey v. Gungan Chand and ors. |
| 42 | Misc. SCJ 29894/2016<br>(ACJ/ARC, Tis Hazari Courts)           | Ganpathnath v. Gungan Chand                    |
| 43 | CS (OS) No. 641/2005   | U.N. Bhardwaj Vs. Y.N. Bhardwaj & Ors          |
| 44 | C.S.(OS) No. 642/2005  | U.N. Bhardwaj vs. Y.N. Bhardwaj & Ors          |
| 45 | C.S(OS) No. 618498/2016, (ADJ, Central, Tis Hazari, New Delhi) | Satdev and Ors. v. Vijay Lakshmi.              |
| 46 | C.S(OS) No. 618489/2016, (ADJ, Central, Tis Hazari, New Delhi) | Vijay Lakshmi v. Satdev and Ors.               |
| 47 | C.S(OS) No. 614420/2016, (ADJ, Central, Tis Hazari, New Delhi) | Satdev and Ors. v. Vijay Lakshmi.              |
| 48 | CS(OS) No. 82320/2016 (CJ, Saket Courts, New Delhi)            | Mam Chand v. Inderjit and Ors.                 |

**Criminal cases in relation to the bari of the Kalkaji Mandir**

| <b>S. No.</b> | <b>Case Number</b> | <b>Case title</b>             |
|---------------|--------------------|-------------------------------|
| 49            | Cr. Cases No.      | State v. Mahant Surender Nath |

|    |   |  |
|----|---|--|
|    | 7622/2018; FIR No. 24/2008 P.S. EOW u/s 406,420,465,468,471, 120B IPC (ASJ, South East, Saket Courts) |  |
| 50 | CT Cases No. 614451/2016 (MM, South East, Saket Courts)   | Rakesh Bhardwaj v. Mahant Surender Nath  |
| 51 | CT Cases/631858/2016 (MM, South East, Saket Courts, New Delhi)  | Shri Kalkaji Mandir Shamlat Thok Jogians and Brahmins v. Kalkaji Mandir Vikreta Sangathan II |
| 52 | CT Cases/2164/2017 (MM, South East Saket Courts, New Delhi)   | Shri Kalkaji Shamlat Thok Jogian and Brahmins v. Rajender Aggarwal                           |

85. A perusal of the above list shows that there is a large quantum of litigation in respect of the *Kalkaji Mandir* that are pending and spread across District and Civil Courts, being dealt with by Judicial Officers in Delhi. Enormous judicial time is being spent in adjudication of various applications and the proceedings in some of these suits. This Court had summoned records of a few of the suits from the above list, and a perusal of the same shows that these disputes, which raise almost similar issues, have been pending for a long time, and have resulted in enormous multiplicity of litigation. A large amount of money is also stated to be deposited with various District Courts, in lieu of the said disputes. The said monies ought to be ably used for disbursement to right holders, if any, or for the development and maintenance of the *Kalkaji Mandir* premises. The number of parties in

some of the cases, are more than 200 in each case and thus the number is unmanageable. The task of adjudication of these suits requires to be consolidated and streamlined. Further, due to the pendency of all these disputes, various further disputes and impediments towards the maintenance of the *Mandir* have arisen, and these ought to be resolved for the smooth functioning of the *Mandir*.

86. Considering the fact that all these cases relate to only one *Mandir* i.e., *Sh. Kalkaji Mandir*, and issues which arise in all these cases are similar and overlapping, a large amount of judicial time is being consumed by all the District Courts, which are adjudicating these cases separately and individually.

87. Accordingly, this Court is of the view that this is a fit case for exercise of powers under Section 24(1)(b) of the Civil Procedure Code, to withdraw all the cases from their respective District and Civil Courts, and consolidate them after examining the issues which have been raised in the said cases.

88. In *Abdul Rahman v. Prasony Bai and ors.*, (2003) 1 SCC 488, the Supreme Court has held in respect of the power of transfer under Section 24(1)(b) of the Act as under:

“18. A bare perusal of the said provision leaves no manner of doubt that the High Court had the requisite jurisdiction to suo motu withdraw a suit to its file and adjudicate itself all or any of the issues involved therein.”

89. Further, even the Calcutta High Court in *Krishna Kumar Damani v. Ramnarain Agarwal*, AIR 1985 Cal 162, has held:

“41. The third line of reasoning which also finds favour with this court in repelling the contention of the learned counsel for the respondent is that the language of Section 24 of the Civil Procedure Code is clear and unambiguous and no restriction and/or impediments have been placed in the way of the High Court and/or District Court when exercising its power of withdrawal of any suit, appeal or proceeding from a subordinate court to itself under Section 24(1)(b) of the Code and/or prevent it from trying and/or disposing of the same under Section 24(1)(b)(i) or 24(2) after such withdrawal.

42. It is to be noticed that the legislature in its wisdom enabled both the High Court and district court to transfer any appeal or other proceedings pending before it for trial or disposal to any court subordinate to it but necessarily competent to try the same thereby restricting the powers of the High Court and/or district court from transferring a suit or proceedings before it to a subordinate court which lacked jurisdiction or competency to entertain the same. No similar restriction has been placed on either the High Court or the district court's powers for withdrawing to itself any suit, appeal or proceedings pending in any court subordinate to it.”

90. Therefore, in order to streamline and accelerate the hearings in all these matters mentioned above, this Court exercises power under Section 24(1)(b) of the Code of Civil Procedure, 1908, and directs the transfer of all Civil Cases, i.e., Nos. 1-48 in the above table, to this Court.

91. Let all these cases, numbered as 1-48 in the above table, be listed before this Court on the next date of hearing. All the Id. Counsel appearing in these matters shall be intimated by the respective Courts and Judicial Officers, about the orders passed today, in order to enable them to appear before this Court on the next date of hearing.

92. The respective Courts where the said proceedings are pending shall transmit the relevant physical/ electronic records to this Court. The same shall be listed along with the present cases for examination of the issues and for further orders. Apart from the above cases, if there are any other cases pending relating to the *Kalkaji Mandir*, a report be put by the concerned District Judge before this Court. Further, in several of these cases, deposits have been directed by the Courts from time to time. While transmitting the records, a report shall be furnished by the District Judge concerned, as to the total amount lying deposited in each of the cases, if any, along with the details thereof, so that the funds belonging to the *Kalkaji Mandir* can also be properly accounted for and directions in respect thereof can be issued after hearing all the parties concerned.

**Removal of Unauthorized occupation by vendors, hawkers, shopkeepers, Chabutara holders and Removal of unauthorised construction and encroachments:**

93. A perusal of the orders of the Supreme Court in *SLP (C) No. 32452-453/2013*, shows that the Supreme Court had appointed a Committee which had submitted various reports in respect of unauthorised occupation, cleanliness and maintenance of the *Mandir*. However, vide order dated 11<sup>th</sup> September, 2017, the Supreme Court had clarified that the rights, title and interest of shop owners was not being gone into in the said SLPs.

94. The Supreme Court has time and again held that no unauthorized constructions or encroachments shall take place in the name of religious places. In *Union of India v. State of Gujarat, (2011) 14 SCC 62*, has taken cognizance of this menace and directed State Governments and Union Territories to take appropriate action in an expeditious manner. The Supreme Court held:

*“As an interim measure, we direct that henceforth no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc. on public streets, public parks or other public places etc. In respect of the unauthorized construction of religious nature which has already taken place, the State Governments and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible.”*

95. Recently, in *Harbhajan Singh etc. v. State of Punjab and Ors. (Civil Appeal No. 3674/2009, decided on 4<sup>th</sup> December 2019)*, the Supreme Court was dealing with tenants who were in occupation of shops located in Gurudwara Singh Sabha, Fatehgarh Sahib, Punjab. There were no formal tenancy agreements in favour of the tenants. The Religious Premises Act, 1998, dealing with eviction of unauthorized occupants from premises belonging to religious institutions, provided for a summary procedure for evicting unauthorised occupants from premises belonging to religious institutions. The legality of the said provision was challenged on the ground that there was no intelligible differentia between `normal tenants' who were protected tenants and tenants of religious institutions. In this context, the Supreme Court affirmed the position that unauthorised occupants of the



premises of a religious institution would form a separate class. The finding of the Division Bench of the High Court, which held that the public at large has an inherent interest in the “religious institutions” which were prone to maladministration and mismanagement, was upheld. It also observed that any person who is in occupation of the premises belonging to a religious institution without a valid allotment, lease or grant is to be treated as an “unauthorised occupant”. The Supreme Court held that:

*“As noticed above, valid grants, leases and allotments are not construed and treated as unauthorised occupation. It is only when the terms of the grant, lease or allotment are not adhered to or have been determined or the period of allotment, lease or grant as fixed has come to an end, that the person in occupation is treated to be in unauthorised occupation. This is a pre-condition which confers the right on the religious institution to seek eviction of a person in unauthorised occupation of the religious premises.”*

96. In ***Bal Bhagwan v. Delhi Development Authority (CM(M) 416/2019, decided on 18<sup>th</sup> December 2020)***, it has been observed that occupants, under the garb of a place of worship, turn the land into a completely unpanned encroachment by hundreds of people, which the authorities ought to curb.

97. In the same vein, it is essential for a *Mandir*, where thousands of devotees visit for conducting *puja* every day, irrespective of its public or private status, to be devoid of unauthorised encroachments, which results in extreme inconvenience and safety as also security concerns for the devotees.

98. Ld. counsel for the various parties appearing before this Court, the Local Commissioner, the Court Receivers, as also the SDMC/ Delhi Police, are all unanimous in their submissions to this Court that the shopkeepers,

*tehbazari* holders and other occupants are not paying proper *tehbazari*/ licence fees either to the Committee, or to the *baridaars*, in a regulated manner. As per the report of the Delhi police, there are more than a hundred shops that are operating from the *Mandir* and making profits.

99. The manner in which the shopkeepers have constructed their shops has created obstructions in the movement of devotees, as is evident from the photographs which have been placed on record. For the purpose of the safety of devotees and others in the *Mandir*, it is essential that unauthorised occupants/shopkeepers/*tehbazari* holders/*Chabutara* holders who do not have any valid legal rights to occupy the same, are liable to be removed in coordination with the Delhi Police and the SDMC.

100. Accordingly, it is directed that all unauthorized occupants/encroachers, who do not enjoy valid *tehbazari* licenses, and who are in unauthorized occupation of the said premises, would be liable to be removed, until and unless there is a Court order protecting the said occupant. All encroachments in the *Mandir* premises, and complex and peripheral areas are also directed to be removed.

101. The SDMC/ DDA and the Delhi Police shall render all necessary assistance in removal of unauthorized encroachments and occupation by unauthorized shopkeepers, vendors, hawkers, etc.

102. In view of the forthcoming *Navratras* festival, the above action shall be taken within a period of five days from today

**Administration, Governance and Maintenance of the Mandir Premises, and Co-ordination with Civic Agencies in respect thereof.**

103. After examining the submissions of the parties, and various reports that have been filed by the LC, Court Receivers and various Civic Agencies, broadly, the following, *inter alia*, are the administrative and maintenance related issues that need to be streamlined at the *Kalkaji Mandir*:

- (i) Measures that need to be taken on an urgent basis for the safety and security of the devotees and pilgrims who visit the *Mandir*.
- (ii) Measures that need to be taken for maintaining cleanliness, hygiene and providing basic civic facilities for the devotees and pilgrims.
- (iii) Consideration of proposals for re-development of the entire *Kalkaji Mandir* complex, as also the land surrounding it.
- (iv) Streamlining the day-to-day management of the *Mandir*.
- (v) Supervising the removal of encroachments and unauthorized occupants in and around the *Mandir* premises.
- (vi) Coordination with various civic agencies including Delhi Jal Board, DDA, SDMC, Delhi Police, Fire Department, Medical Departments, DUSIB etc. for installation of basic public amenities.
- (vii) Streamlining the mode and method of collection of donations and offerings, and to resolve any differences that may arise *inter se* within the *baridaars* and groups, to avoid them repeatedly having to move the Court, unless major issues arise.
- (viii) To provide a mechanism for collection of license fee/ *tehbazari* from the authorized occupants only.

104. At the conclusion of submissions on the above issues, this Court requested all Id. Counsel appearing to nominate two persons for each of the *Thullas* in *Thok Brahmins*, and one member each from one from the two subsets of *Thok Jogian* for a committee that would represent their interests in the maintenance, upkeep and re-development of *Sh. Kalkaji Mandir*. However, considering the large number of persons who form part of these separate groups and their *inter-se* disputes, the Id. Counsel submit that there would be no consensus on who would legitimately represent each of these groups and sub-groups. On a query put by the Court, all the Id counsel representing the parties, are however, in favor of an independent administrator being appointed by the Court. Id. Counsel for some of the parties have also urged that the existing Committee does not represent all the *baridaars* and has no accountability. It is their submission that an independent authority who is accountable to the Court ought to be there, who can also hold the civil agencies responsible.

105. From the submissions and records, it is also clear that the *baridaars* are unable to exercise effective control to administer the *Mandir* and its premises and take measures for the safety and security of the devotees. There is thus, a grave and imminent need to preserve the spiritual sanctity of the *Mandir* and not allow the same to be misused by unwanted elements who may convert it into a commercial enterprise, as has already been noticed by the Court in the previous orders.

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 *Kalkaji 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 Kalkaji 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*.

107. The Id. Administrator shall be assisted by Ms. Manmeet Arora, who has been appointed as the Local Commissioner by this Court in these cases, from time to time, and has submitted various reports on the condition of the *Kalkaji Mandir*. The Id. Administrator may appoint a Secretary-cum-Treasurer to assist him in carrying out his mandate and day-to-day functioning.

108. The mandate of the Id. Administrator and his team shall be to take all measures as set out in para 103 above and shall also include the following:

- (i) To take all steps necessary for the safety and security of the devotees and pilgrims visiting the *Mandir* on a daily basis. This shall include removal of all the unauthorized encroachments and unauthorized occupants from the *Mandir* complex. If any occupants claim any rights to occupy his or her tenement, the said right shall be determined by the Id. Administrator. Unless there is a Court order protecting such occupant/s which shall be shown to the Id. Administrator, they shall not be permitted to retain possession. In this regard, if there is any dispute, the Id.

Administrator shall look into the same. The Id. Administrator/ occupant(s) is also given liberty to approach this Court.

- (ii) The Id. Administrator may direct the SDMC/DUSIB, on a case-to-case basis, to make available any alternate area/premises in case of those persons who are entitled to be rehabilitated, in accordance with law.
- (iii) The Id. Administrator shall supervise the demolition of unauthorized construction and encroachments, to be carried out by the SDMC/DDA and Delhi Police, as has already been directed above in paragraphs 99-102 of this Order.
- (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.
- (v) Owing to the forthcoming *Navaratra* season from 7<sup>th</sup> October 2021 to 15<sup>th</sup> October 2021, the Id. Administrator shall take immediate steps to create all necessary facilities for the devotees and pilgrims including -
  - Demarcated queuing up areas;
  - Maintenance of discipline so as to avoid over-crowding or a stampede like situation;
  - Proper access to the sanctum sanctorum;
  - Potable water facilities and at least at least one toilet

complex shall be refurbished on an urgent basis to be made available for devotees and pilgrims;

- Urgent provision shall be made for dispensing masks /sanitizers to the extent possible. The Id. Administrator to take steps so that *baridaars*, devotees, authorized occupants and all visitors of the *Mandir* and all present in the *Mandir* follow COVID—19 related norms.

- (vi) In consultation with the fire department, fire tender access shall be provided.
- (vii) Immediately, a medical center, with at least one Doctor and two paramedics shall be set up.
- (viii) The Id. Administrator and his team shall immediately open a bank account, the details of which shall be put up in the *Mandir* premises. All such devotees who wish to donate for the re-development of the *Mandir* would be entitled to make payments in the said bank accounts, by any online mode.
- (ix) For immediate provision of potable water, sewage and other facilities, the concerned agencies including the Delhi Jal Board, SDMC, PWD shall extend cooperation to the Id. Administrator.
- (x) Almost all Id. Counsel representing the *baridaars* have submitted that they are willing to contribute for the maintenance and cleanliness of the *Mandir* premises. However, the amounts that have been suggested vary from Rs.5 lakhs to Rs. 20 lakhs. The monthly collections at the *Mandir*, are, on an average, between Rs.1 crore to Rs.2.5 crores, depending on the month. During *Navratras*, the amounts collected are on the higher side.

Accordingly, for the purpose of maintaining cleanliness, hygiene, and for providing facilities in the *Mandir*, funds shall be contributed by the *baridaars* on a monthly basis, to enable the Id. Administrator to take steps. The *baridaars* shall, at this stage, contribute a sum of Rs. 15 lakhs every month, generally, and Rs.20 lakhs during the *bi-annual Shashmahi bari (Navratra period)*. The said deposits shall be made prior to the distribution or division of offerings/donations amongst the various *baridaars*.

- (xi) For the purpose of maintaining cleanliness and providing other hygiene related facilities in the *Mandir*, the Id. Administrator and his team may engage workers on a contractual basis, whose salaries shall be paid from the said bank accounts.
- (xii) The Id. Administrator shall also decide the location of all the donation boxes and shall maintain the keys of the donation boxes with himself. The locks of the said boxes need not to be changed every month.
- (xiii) The offerings shall be counted and donation boxes shall be opened in the presence of the Id. Administrator/ his representative, in the presence of representatives of the *baridaars*.
- (xiv) The same shall be collected in a locker, which shall be maintained in the *pujari room* (this Court has been informed that such a locker already exists).
- (xv) At the end of the *bari*, the entire offerings/donations shall be counted, and amounts shall be distributed, in terms of the share, only after depositing Rs. 15 lakhs or Rs. 20 lakhs (as may be applicable in terms mentioned above), in the account to be



- managed by the Id. Administrator.
- (xvi) All expenses incurred for the *Mandir* shall be duly accounted for. The Id. Administrator shall use the services of his appointed Secretary-cum-Treasurer for the same.
  - (xvii) Any differences amongst the *baridaars* or any other members of the groups, in respect of distribution of monies, or *puja sewa* rights/ claim to offerings, *tehbazari* claims and license monies, shall first be brought before the Id. Administrator, who shall attempt to resolve the same. Preferably, only if the said remedy fails, shall the *baridaar*/party approach the Court.
  - (xviii) The Id. Administrator, may, also allocate designated spaces for the purpose of sale of *samagries*, flowers, for ceremonies like *vahan puja/ mundane*, and for the sale of *Agarbattis, prashada*, and other worship related items. An attempt shall be made by the Id. Administrator to allot these designated spaces to occupants who have been operating in the *Mandir* premises for long years. It is made clear that there shall be no residences which shall be permitted to be made with these shops/ designated areas. While allotting such space, it shall be ensured that the access to the *Mandir* would not be impeded in any manner.
  - (xix) The shops/vendors who are authorized and permitted by the Id. Administrator, would pay license fee/ *tehbazari* monthly, which shall be paid directly into the bank account managed by the Id. Administrator. The monthly payment for each shop shall be fixed by the Id. Administrator on the basis of the current relevant practices.

- (xx) All civic agencies like the Delhi Police, SDMC, DUSIB, Delhi Jal Board, BSES, DDA, PWD, Fire Department, Ambulance services, shall render complete cooperation to the Id. Administrator and his team. The concerned SDM of the area shall also render all cooperation to the Id. Administrator.
- (xxi) Delhi Jal Board shall take immediate steps for the laying and maintenance of sewage lines and proper sanitation facilities.
- (xxii) It is made clear that the Id. Administrator shall be the overall in charge of the daily administration of the *Kalkaji Mandir* and is empowered to take all steps that may be required for maintenance of the sanctity of the *Mandir*, and safety, security of devotees, and for making available facilities and amenities for the devotees. The *Sh. Kalkaji Mandir Prabandhak Sudhar Committee*, or any of the *baridaars*, shall not, in any manner, be permitted to obstruct or impede the functioning of the Id. Administrator.
- (xxiii) All civic agencies shall render their full co-operation to the Id. Administrator and his team, in carrying out the mandates, as also other functions which the Id. Administrator directs, in terms of this order.

109. The remuneration of the Id. Administrator is fixed at Rs.3,00,000/- per month. The Assistant of the Id. Administrator – Ms. Manmeet Arora, shall be paid Rs. 1,50,000/- per month, and Secretary-cum-Treasurer shall be paid Rs. 50,000/- per month. The said payments shall be made every month from the contribution of the *baridaars* in the bank account maintained by the Id. Administrator. If required, the Id. Administrator may create a space in the

*Mandir* premises for his functioning, in consultation with the *baridaars*. The Id. Administrator is permitted reasonable secretarial and other expenses.

**Re-development of the Kalkaji Mandir Premises**

110. All parties, including *baridaars*, as is visible from their submissions and proposals noted above, are in favour of re-developing the *Kalkaji Mandir* premises.

111. Therefore, once the unauthorized occupants, unauthorized constructions and encroachments are removed, within the next one week, steps shall be initiated towards re-development of the entire *Mandir* and the complex.

112. Accordingly, this Court also appoints Mr. Goonmeet Singh Chauhan, a renowned Architect who has undertaken various projects of public importance, to submit a re-development plan for the *Kalkaji Mandir* and the entire surrounding complex.

113. The said Architect shall work closely with the Id. Administrator and his team. The Architect shall also consider any proposals and suggestions received from the *baridaars*, as also the various re-developments plans, which have been filed and record and explained above.

114. The said report/plan shall be submitted by the Architect, to this Court, within a period of two months from today.

115. While preparing the re-development plan, the Architect shall bear in mind, the norms for such re-development and seek the inputs of the approving agencies for the SDMC/DDA. The officials of these agencies shall cooperate with the Architect in this exercise.

116. After considering the plan which should be submitted, and after

hearing any responses by the parties herein, further directions would be issued in respect of the budget etc.

117. The remuneration of the Architect for the purposes of preparation of the re-development plan, considering that the same relates to the *Mandir*, is fixed at Rs. 5,00,000/-, which shall be released by the Id. Administrator upon the first report being filed by the Architect.

**Communication of this order**

118. Let a copy of the order be served by the Registry upon all the District Judges of the respective Courts, where the matters in the table mentioned at paragraph 84 are pending.

119. Let a copy of this order be also served to -

- Justice (Retd.) J.R. Midha (M: 9717495003) (Email: jrmidha@gmail.com), who has been appointed as the Id. Administrator,
- Ms. Manmeet Arora (M:9811333871) (Email: manmeet.p.arora@gmail.com), who has been appointed as the Assistant to the Id. Administrator and,
- Mr. Goonmeet Singh Chauhan, Architect (M:9910121973) (Email: goonmeet@dfiarch.com) who has been appointed for the purposes of submitting a plan for the re-development of the *Mandir*.

120. Let a copy of this order be also served to Id. Standing Counsel for the SDMC, DDA, Delhi Jal Board, Fire Department, Ambulance Services, DUSIB, BSES, PWD Delhi Police, etc., to ensure compliance of the directions mentioned. Copy of this order be also served on the SDM of the concerned area by Mr. Sanjay Lao, Id. Standing Counsel (Criminal),

GNCTD. The officials of Delhi Police, SDMC and Delhi Jal Board, who would coordinate with the Id. Administrator are:

- 1) DCP South East, PS Kalkaji (M:8800131100)
- 2) Mr. Patanjali, Assistant Commissioner, SDMC (Central Zone) (M:8585954469) (Email: acgenliccnz@gmail.com; acmcdcentral@gmail.com)
- 3) Mr. Ashok Chaudhary, Ex-Chief Engineer, Delhi Jal Board (M: (88000949500)

121. The Id. Administrator shall submit a report after eight weeks. The Delhi Police/SDMC shall submit a report in respect of the removal of unauthorized encroachments and occupants within two weeks. The Architect appointed shall submit the re-development plan within eight weeks.

122. If any party wishes to seek any further directions, they are permitted to approach this Court, by way of an application.

123. List on 27<sup>th</sup> October, 2021 for further consideration along with the matters transferred from the various Courts as directed above. These are part-heard matters.

भारतमेव जयते **PRATHIBA M. SINGH**  
**JUDGE**

**SEPTEMBER 27, 2021**

*Dj/MR/Ak*