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

Date of Decision: 31st January, 2022

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RFA 411/2021

ASHOK BHARDWAJ

..... Appellants

versus

DINKAR BHARDWAJ AND ORS

..... Respondents

With

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RFA 413/2021

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RFA 414/2021

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CS (OS) 511/2021

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CS (OS) 512/2021

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CS (OS) 517/2021

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CS (OS) 518/2021

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CS (OS) 524/2021

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CS (OS) 528/2021

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CS (OS) 531/2021

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CS (OS) 545/2021

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CS (OS) 546/2021

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CS (OS) 552/2021 & I.As. 16148-49/2021

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CS (OS) 553/2021

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CS (OS) 557/2021

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CS (OS) 559/2021

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CS (OS) 588/2021

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CS(OS) 641/2005 & I.As. 19445/2014, 24296/2015

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CS (OS) 642/2005 & I.As. 19847/2012, 16501/2014, 16502/2014, 19512/2014, 2234/2015, 24297/2015, 4478/2019, 8339/2020

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CS (OS) 683/2021

Appearances:-

Mr. R.K. Bhardwaj, Advocate (M:9312710547) for Appellant in FAO 36/2021

Mr. K.G. Chhokar, Advocate in CM(M) 323/2021, FAO 36/2021 & 575/2021

Ms. Kawalpreet Kaur, Advocate for impleaders in FAO 36/2021.



(M:8287908688)

Mr. Harvinder Kumar alia Sanjay Bhardwaj in person.

Mr. Neeraj Bhardwaj, Advocate.

Mr. Yogender Nath Bhardwaj in person.

Mr. Kush Bhardwaj, Advocate. (M:9891074686)

Mr. Luv Bhardwaj, Advocate. (M:9990693140)

Mr. Nakul Bhardwaj in person. (M:9971328006)

Mr. Yoginder Singh, Advocate. (M:9999735003) for impleader Mr. Shailender Kumar Gautam.

Mr. Ravi Sharma, Advocate. (M:9654665565)

Mr. Rohit Kishan Naagpal & Mr. Dipanshu Gaba, Advocates. (M:9212786555)

Mr. Avinash Chaurasia, Advocate for Defendant. (M:9811841262)

Mr. Anuroop P.S & Mr. Gaurav Bidhuri, Advocate. (M:9582818838)

Mr. Kamal Kant Bhardwaj, Advocate for Thulla Bahadur. (M:9999438838)

Mr. Sarvesh Bhardwaj, Advocate for Defendant. (M:9350301058)

Mr. Ashok Bhardwaj and Mr. Dinkar Bhardwaj, Advocates.

Ms. Smita Mann, Advocate.

Mr. A. Mehta, Advocate.

Mr. Thakur Sumit, Advocate. (M:9968454481) in CS (OS)s 528/2021, 531/2021, 553/2021, 683/2021 & CM (M) 323/2021

Mr. Navin Rawat, Advocate for Mr. O.P. Saxena, Advocate. (M:9315062091)

Mr. Pardeep Kumar Gulia, Advocate.

Ms. Rakshika Bhardwaj, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. These matters pertain to the *Shri Kalkaji Mandir*, which this Court has been hearing from time to time. These are part heard matters.

CS (OS) 552/2021 & I.As. 16148-49/2021

3. In this matter, Mr. Avinash Chaurasiya, Id. Counsel for the



Defendant, submits that Defendant No.15-Mr. Dinesh Bhardwaj, who succeeded in the auction conducted on 4th October, 2019 for the *Bari* to conduct *puja* amongst members of *Thulla Bahadur* has not deposited the share of Defendant No.54 – Mr. Naveen Bhardwaj.

4. Accordingly, issue notice to Mr. Lokesh Bhardwaj (Mob. No.9971576388), Id. Counsel and to Defendant No.15 – Mr. Dinesh Bhardwaj (Mob. No.9717252688 & 9818760009). Mr. Dinesh Bhardwaj shall join the proceedings on the next date of hearing and explain as to why the share of Defendant No.54 has not been deposited.

5. Mr. Kush Bhardwaj, Id. Counsel, submits that an FDR of Rs.4,22,500/- bearing no.488944 dated 7th October, 2019, is lying deposited with the trial court. Registry to put up a report in this regard after ascertaining from the concerned Nazir.

6. List on 7th March, 2022.

7. On the said date, *I.A. 16148/2021* filed by Defendant No.54, shall also be taken up for hearing.

CS(OS) 518/2021

CS(OS) 520/2021

CS(OS) 521/2021

CS(OS) 546/2021

8. List these matters along with *CS(OS) 552/2021* titled “*Naval Bhardwaj v. Brij Mohan*” on 7th March, 2022.

CS (OS) 545/2021

9. None appears for either of the parties.

10. Accordingly, list on 13th April, 2022.

CS(OS) 511/2021

CS(OS) 512/2021



11. In these matters, the question is whether the Defendant is an eligible legal heir, in view of the fact that he claims rights through adoption.

12. **CS(OS) 512/2021** is stated to be connected with **RSA 109/2018**.

13. Accordingly, list these matters on 13th April, 2022, along with **CS(OS) 545/2021 and RSA 109/2018**.

CS(OS) 517/2021

14. None appears for the Plaintiff.

15. This suit relates to the exercise of *Bari* rights at *Shri Kalkaji Mandir*. However, the said *Bari* was scheduled between the midnight intervening 22nd April, 2021-23rd April, 2021 and ending on the midnight intervening 21st May, 2021-22nd May, 2021.

16. The reliefs sought in this matter were as under:

“A. Pass a Decree of Perpetual Injunction in favor of the Plaintiff and against the Defendants thereby restraining the Defendants, their servants, agents, employees etc. from causing any interference, hindrance, obstruction, or disturbance in the right and title of the Plaintiff to exercise Baari Rights at Shri Kalkaji Mandir during the Baari Term i.e. from the midnight intervening 22.04.2021 - 23.04.2021 and ending on the midnight intervening 21.05.2021 - 22.05.2021.

B. Pass an order thereby auctioning Baari rights amongst the Male members of the above mentioned particular subsect of Thulla Rambaksh wherein the highest bidder shall be given exclusive Baari Rights during the Baari Term i.e. from the midnight intervening 22.04.2021 - 23.04.2021 and ending on the midnight intervening 21.05.2021 - 22.05.2021 and thereby restraining all other Priest / Pujaris their agents,



servants, assignees, representatives etc. from interfering with the exercise of the same during such period.”

17. An application under Order VII Rule 11 CPC is also stated to have been filed by the Defendant in this matter.

18. Considering that the period in respect of which the relief has been sought in the suit has already expired, the suit has been rendered infructuous. Accordingly, the suit is disposed of as infructuous. All pending applications are also disposed of.

19. It is made clear that this Court has not examined the merits of the contentions of the parties.

CS (OS) 519/2021

20. None appears for the Plaintiff.

21. This suit has been filed by members of *Thulla Tansukh* relating to *Bari* rights in Shri Kalkaji Mandir. However, the said *Bari* was scheduled between the midnight intervening 24th-25th December, 2020 and ending on the midnight intervening 23rd-24th January, 2021.

22. The prayers in this suit were as under:

A. Pass a Decree of Perpetual Injunction in favor of the Plaintiff and against the Defendants thereby restraining the Defendants, their servants, agents, employees, etc from causing any interference, hindrance, obstruction or disturbance in the right and title of the Plaintiff to exercise Baari Rights at Shri Kalkaji Mandir during the Baari Term i.e., from the midnight intervening 24th December 2020 – 25th December 2020 to the midnight intervening 23rd January 2021 – 24th January 2021;

OR



B. *In the alternative, pass an order thereby auctioning Baari Rights amongst the male members of the above mentioned particular subsect of Thulla Tansukh wherein the highest bidder shall be given exclusive Baari Rights during the Baari Term i.e., from the midnight intervening 24th December 2020 – 25th December 2020 to the midnight intervening 23rd January 2021 – 24th January 2021 thereby restraining all other Priests / Pujaris from interfering with the exercise of the same during such period.*

AND/OR

C. *Order any other relief which this Hon'ble Court deems fit and proper in the interest of Justice, Equity and Good Conscience.*

23. Mr. Neeraj Bhardwaj, Id. Counsel appearing for Defendant No. 32, Mr. Tanmay Swaroop, submits that the suit is infructuous.

24. Considering that the period in respect of which the relief has been sought has already expired, the suit has been rendered infructuous. Accordingly, the suit is disposed of as infructuous. All pending applications are also disposed of.

25. It is made clear that this Court has not examined the merits of the contentions of the parties.

RFA 413/2021

26. Mr. Anuroop and Mr. Sumit Thakur, Id. Counsels appearing for the parties, submit that the issue in this case relates to the rights of female legal heirs to conduct *puja sewa* and collect their share of the *Bari*.

27. Accordingly, list along with matters raising similar issues relating to female heirs, on 16th February, 2022.

**CS (OS) 524/2021**

28. Mr. Naagpal, Id. Counsel for the Plaintiff-Smt. Monika Ganguly submits that the Plaintiff is claiming rights in *Puja Sewa* as also a share in the *Bari* in respect of *Shri Kalkaji Mandir*.

29. List along with matters raising similar issues relating to female heirs, on 16th February, 2022.

CS(OS) 528/2021**CS(OS) 531/2021****CS(OS) 553/2021****CS(OS) 683/2021**

30. These are four suits in which the rights relating to female heirs in respect of the *Shri Kalkaji Mandir* have been raised.

31. Considering that the issues raised would be similar to the other matters, list these matters for hearing, on 16th February, 2022.

RFA 414/2021

32. This matter relates to the issue of *Baridaars* claiming rights in *Puja Sewa* as also a share in the *Bari* in respect of *Shri Kalkaji Mandir*, through adoption.

33. List for hearing on 25th February, 2022.

CS (OS) 557/2021

34. Mr. Ravi Sharma, Id. Counsel submits that this matter is connected with *RFA 414/2021* titled *Satish Kumar v. Mahesh And Ors.*

35. Accordingly, list this matter along with *RFA 414/2021* on 25th February, 2022.

CS (OS) 559/2021

36. Mr. Chhokar, Id. Counsel submits that this suit is connected with *RFA*



414/2021 titled *Satish Kumar v. Mahesh And Ors.*

37. Accordingly, list this matter along with **RFA 414/2021** on 25th February, 2022.

CS(OS) 588/2021

38. Mr. Kamal Mehta, Id. Counsel appearing for Defendant No.10 submits that on 22nd October, 2001, a settlement was arrived at before the Trial Court. In terms of the said Settlement, a sum of Rs.1 crore is lying deposited with the treasury in Tis Hazari Courts, Delhi.

39. As per the order dated 14th January, 2022, all the amounts lying deposited in relation to *Shri Kalkaji Mandir* were to be transferred to the account maintained by the Registrar General of this Court. A report in respect of the same has been called for from the Registrar General.

40. List on 1st February, 2022.

CS(OS) 641/2005 & I.As. 19445/2014, 24296/2015

CS (OS) 642/2005 & I.As. 19847/2012, 16501/2014, 16502/2014, 19512/2014, 2234/2015, 24297/2015, 4478/2019, 8339/2020

41. These are suits pending before the Original Side of this Court. The same have been listed along with the other matters pertaining to *Shri Kalkaji Mandir*.

42. Ms. Maan, Id. Counsel, submits that there are two applications i.e., **I.A. 4478/2019** has been filed by Defendant Nos.15 and 16 and **I.A. 8339/2020** which has been filed by Defendant No.14, who are women belonging to *Thulla Bahadur*. It is their case that they are entitled to conduct *puja sewa* and also enjoy the *Teh Bazari* rights along with their share in the *Bari*. The same is being disputed by Defendant Nos.7 to 11.

43. Defendant Nos.8 and 10 are stated to have passed away. Let Mr.



Mehta, Id. Counsel for the Plaintiff, take steps to implead the legal heirs of Defendant Nos.8&10 and file an amended memo of parties within one week.

44. Mr. Neeraj Bhardwaj, Id. Counsel who is representing Defendant Nos.7 to 11, also seeks an adjournment to argue the applications being ***I.A. 4478/2019*** and ***I.A. 8339/2020*** on the next date. He requests for copies of the applications and the replies. Ms. Maan, Id. Counsel, to supply the same to Mr. Neeraj Bhardwaj, before the next date of hearing.

45. Mr. Mehta, Id. Counsel, submits that he has filed a fresh application on behalf of the Plaintiff in ***CS(OS) 642/2005***, being ***I.A. 1664/2022***. Let the said application be brought on record and copies of the same be supplied to Ms. Maan and Mr. Neeraj Bhardwaj, Id. Counsels. If they wish to file a reply to the same, they are permitted to do so within a period of two weeks, along with service of an advance copy on the other parties. The said application shall also be taken up on the next date of hearing.

46. List these matters on 16th February, 2022, in the main list, at the end of the board.

RFA 411/2021

47. The present appeal arises out of a suit for permanent injunction wherein vide judgment/decreed dated 7th January, 2020 in ***CS SCJ 702/17*** titled ***Ashok Bhardwaj & Anr. v. Dinkar Bhardwaj***, the suit of the Plaintiffs/Appellants (*hereinafter "Appellants"*) was rejected by the Trial Court.

48. Mr. Sarvesh Bhardwaj, Id. Counsel representing all the Respondents, submits that the Appellant was running a shop in the premises of Shri Kalkaji Mandir, which has now been removed in view of the various orders passed by this Court in connected matters.



49. Accordingly, the present appeal is disposed of as infructuous. All pending applications are also disposed of.

50. It is made clear that this Court has not examined the merits of the contentions of the parties.

PRATHIBA M. SINGH
JUDGE

JANUARY 31, 2022
Rahul/Aman/dj/MS/AD

