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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of decision: 16<sup>th</sup> April, 2021*

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

**BISHAN SWAROOP** ..... Petitioner

Through: Mr. Thakur Sumit, Advocate.

versus

**MAHENDER KUMAR PANDEY** ..... Respondent

Through: Mr. Ranjeet Mishra, Proxy counsel  
for Mr. Subrat Deb, Advocate.

Mr. K.G. Chokkar, Advocate for R-  
17.

Mr. Ravi Sharma, Advocate.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J.(Oral)**

1. This hearing has been done through Video Conferencing.

**CM APPLs. 14179-81/2021(for exemptions)**

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

**CM(M) 323/2021 & CM APPL. 14178/2021 (for appointment of receiver)**

3. The present petition relates to the *Mandir Shree Kalkaji* and is a dispute amongst the various factions (*baridaars*) claiming rights for conducting the *puja sewa*, share in the offerings and revenues from other moveable/immovable assets including *teh-bazari* rights, in relation to their *shashmahi bari*, which comes every 12 years during the two *Navratri* periods.

4. A suit was filed by the Respondent in the present petition, in which a final judgment was passed by the Civil Judge-5, West District, Tis Hazari Courts, New Delhi, on 28th October, 2014, wherein it was held as under:

*“19. While deciding issue no.5 it has already been held that the females are entitled to perform pooja sewa at the Mandir Shri Kalkaji and to receive offerings and tehbazari. Accordingly, late Smt. Bishan Devi, i.e., daughter of late Sh. Ram Swaroop and mother of defendant no.23, had a right to perform pooja sewa and to receive tehbazari, offerings etc. by employing a deputy in this regard. After death of late Smt. Bishan Devi, the said right was inherited by defendant no.23 being her son and, therefore, plaintiff has no right to realize the 1/6th share of late Sh. Ram Swaroop.”*

*In view of above said, it is held that plaintiff is not entitled for decree of permanent injunction, as prayed for. Issue no.6 is decided accordingly.*

*20. It is already held while deciding issue no.5 and 6 that defendant no.23 inherited the right of realization of 1/6th share of late Sh. Ram Swaroop in offerings and tehbazari, from his mother, who was daughter of late Sh. Ram Swaroop and, therefore, he is the heir of late Sh. Ram Swaroop, in this regard.”*

5. The dispute is in respect of the heirs of late Mr. Ram Swaroop. The Petitioner is the Defendant No.23 in the said suit and his mother was late Mrs. Bishan Devi. The Petitioner's share was clearly determined to be 1/6th share in the judgment of the Trial Court dated 28<sup>th</sup> October 2014, and after holding so, the suit of the Plaintiff i.e., Respondent No.1 was dismissed by the said Court. The Plaintiff/ Respondent No.1 is stated to have filed an appeal against the said judgment dated 28<sup>th</sup> October 2014, before the District Judge, which is pending, however, there is no stay that has been granted on the judgment passed by the Civil Judge.

6. The *shashmahi bari* was during the Dussehra *Navratra* period in October, 2020, as also the current bari during the *navratras* which

commenced on 24/15<sup>th</sup> March and ends on 22/23<sup>rd</sup> April, 2021.

7. The grievance of the Petitioner is that he is not being permitted to exercise his rights in the current *bari* because his mother, late Mrs. Bishan Devi, being a woman, is being considered as a person who cannot exercise her rights *qua* the said *bari*, being a female heir. This is despite the judgement passed by the trial court.

8. Mr. Thakur Sumit, Id. Counsel for the Petitioner also submits that the Respondent No.1 himself has filed applications for appointment of court receivers before the Trial Court, however, both the applications are still pending. In the current *bari* also, the Petitioner, is not being permitted to participate and take his fair share, which has been determined as 1/6<sup>th</sup> by the Trial Court, in the said *bari*. The Petitioner, accordingly prays for appointment of a court receiver so that his rights *qua* the said *bari* are secured and it is ascertained as to how much money would be due to the Petitioner, by virtue of his fair share.

9. On behalf of Respondent No.17 also, an application is stated to have been filed for appointment of court receivers. Further, it is also argued by Mr. Chokkar, Id. counsel for Respondent No. 17, that Respondent No.1 has monopolised the entire *bari* by use of force and is not permitting any other *baridar* to enjoy their *bari* and rights at the *Kalkaji Mandir*.

10. On behalf of Respondent No.16(i) i.e., Mr. Ashok Kumar, who is one of the legal heirs of late Mr. Narain Singh, Mr. Ravi Sharma, Id. Counsel, submits that the entire dispute is between heirs of late Mr. Ram Swaroop and there is no dispute in respect of the other branches of the family. He submits that the said branches can, however, file their accounts in order to determine as to what would be the share of late Mr. Ram Swaroop, which

can then be shared amongst the legal heirs of late Mr. Ram Swaroop.

11. On behalf of the Respondent no.1 firstly, it is submitted that the main counsel and his family is unwell. The Id. Counsel Mr. Mishra who appears submits that his client would file the proper accounts before the Court. He further submits that the trial court judgement relied upon by the Petitioner, finally only resulted in dismissal of the suit. The decree sheet was one of dismissal of the suit and not a decree recognising the Petitioner. Detailed arguments can however be addressed only by the main counsel.

12. This Court has had the occasion of considering a similar case, in respect of various *baridars* in the *Kalkaji Mandir*, during the months of January and February. Owing to the various issues relating to mismanagement at the *Kalkaji Mandir*, and the complete lack of any facilities for devotees, a detailed order was passed on 5<sup>th</sup> February, 2021 in ***FAO 36/2021*** titled ***Neeta Bhardwaj and ors. v. Kamlesh Sharma***. In the said order, this court has clearly held that women, who are legal heirs, would be entitled to exercise their *bari* and perform the puja rights. Further, this Court had appointed receivers to take over the assessment of various donation boxes and the offerings which were being received at the temple, during the said *bari*, and several directions were issued to the following effect:

*“18. ....The Defendants, under the garb of being the male heirs have managed to retain control over the running of the temple and are also currently appropriating all the offerings. Ld. Counsel for the Defendants submits that the Plaintiff would be given her 1/6th share, but in reality, no share has been given to the Plaintiff. The offerings at the temple are substantial and there needs to be an account of the*

*collections. The giving of share to the Plaintiff cannot be at the whims of the Defendants, merely on the ground that they are male heirs and the Plaintiff is a female.*

.....

*20. The following arrangement shall accordingly operate w.e.f. 6th February 2021:*

- a. In so far as the performance of the puja sewa w.e.f. 6th February, 2021 to 24th February, 2021 is concerned, the same shall now be performed by Mr. Rakesh Bhardwaj, who is the authorized nominee of the Plaintiff. The Plaintiff is permitted to appoint any other persons along with Mr. Rakesh Bhardwaj for the performance of puja sewa in accordance with the customs and traditions in the Kalkaji Mandir;*
- b. The pujari room shall be vacated by Mr. Sanjay Bhardwaj and Mr. Himanshu Bhardwaj with immediate effect. The said room shall be occupied by Mr. Rakesh Bhardwaj, during the Plaintiff's bari;*
- c. The hoardings in the temple precincts and on the donation boxes shall be immediately removed, under the supervision of the Court Receivers.*
- d. All the donation boxes shall now be locked by the Court Receivers and the keys shall be retained with them. For the purposes of identifying and properly securing the donation boxes, Ms. Manmeet Arora, the Local Commissioner shall assist the Receivers.*
- e. The donation boxes shall be opened only once everyday at the time fixed by the*

*Receiver/s either late evening or in the morning.*

- f. The donation boxes shall only be opened in front of the Court Receivers, in the presence of two representatives of the Plaintiff and the Defendants. The amount shall be counted as directed by the Court Receivers and 1/6th share shall be handed over to the Plaintiff's representative. The remaining amount shall be deposited in the bank account of the Registrar General, Delhi High Court, maintained at the UCO Bank, Delhi High Court branch. The Receivers are free to finalise the modalities for counting of the offerings, and seek the assistance of any persons as they may deem fit for the said purpose.*
- g. A full account of all the offerings being received until 24th February 2021, shall be filed before this Court.*
- h. All the CCTV cameras shall be made operational and the footage shall be in the custody of the Receivers. The CDs containing the CCTV footage shall be handed over by the technician to the Receivers on a daily basis, without tampering the same in any manner.”*

13. The above-mentioned order was challenged before the Supreme Court vide *SLP(C) No. 3017-3018/2021*, wherein, the said order of this court was upheld vide order dated 22<sup>nd</sup> February 2021. The Supreme Court held:

*“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 petitioners are before the High Court where the suit is pending, where their submissions can be urged.*

*3. The Special Leave Petitions are dismissed.”*

14. The dispute between the various *baridaars* in the *Kalkaji Mandir* has resulted in multiple litigations being filed before the Trial Courts. In the earlier petition mentioned above, i.e., *FAO 36/2021*, this Court has been informed that there are over 70 litigations which are pending in respect of the *Kalkaji Mandir*. Various branches of families, and the various *baridaars* who are hundreds in number, keep filing applications/ proceedings before the trial courts, which has resulted in enormous confusion and complete mismanagement at the *Kalkajii Mandir*. The *baris* are even auctioned and there are purchasers who have bid for exercising the *baris*. Owing to this, this Court is already seized of the matter in *FAO 36/2021*, for passing appropriate directions.

15. In the present petition, the share of Mr. Bishan Swaroop, who is one of the *baridaars* during the *navratra* period, is in dispute. There can be no dispute about the fact that during the *navratra* period, offerings and the donations which are given at the *Kalkaji Mandir* are extremely high. This is also clear from the reports received in the earlier petition where the Local Commissioner and the Receivers, who were appointed, have informed this Court that during the *navratra* period, the footfall in the temple is quite large.

16. In view of this, it is *prima facie* clear at this stage, that Respondent No.1 seems to have monopolised the *bari* and the related rights, and is also not giving any proper accounts *qua* the said *bari*. Further, Respondent No.1, admittedly, had himself moved for appointment of receivers, before the Trial

Court, which has not yet been considered by the Trial Court.

17. Accordingly, in the overall facts and circumstances of this case, considering their prior experience in assessing the donations and offerings etc., in the *Kalkaji Mandir*, Mr. H.S. Sharma, Retd District & Sessions Judge (M: 9910384647) and Mr. Anurag Ahluwalia, Advocate (M:9811418995), who had earlier been appointed as Court Receivers, are again appointed as Court Receivers for the period till 22/23rd April, 2021.

18. The said two Receivers are permitted to visit the *Kalkaji Mandir* tomorrow i.e., on 17th April, 2021, in order to put locks on the donation boxes and take all required steps to assess the offerings and donations as also the *teh-bazari*. The directions passed to the Receivers in order dated 5<sup>th</sup> February 2021 would apply *mutatis mutandis* for the current *bari*. Accordingly, the following directions shall also apply:

- a. *All the donation boxes shall now be locked by the Court Receivers and the keys shall be retained with them.*
- b. *The donation boxes shall be opened only once everyday at the time fixed by the Receiver/s either late evening or in the morning.*
- c. *The donation boxes shall only be opened in front of the Court Receivers, in the presence of two representatives of the Plaintiff and the Defendants. The amount shall be counted as directed by the Court Receivers and 1/6th share shall be handed over to the Plaintiff's representative. The remaining amount shall be deposited in the bank account of the Registrar General, Delhi High Court, maintained at the UCO Bank, Delhi High Court branch and shall be*



*converted into an FDR on auto renewal mode, after the payment is made to the receivers and other expenses are met. The fee of the receivers shall be paid out of the deposits made in the Registrar General's account.*

- d. The Receivers are free to finalise the modalities for counting of the offerings, and seek the assistance of any persons as they may deem fit for the said purpose.*
- e. A full account of all the offerings being received until 23rd April 2021, shall be filed before this Court.*

19. The Receivers shall also determine as to who is currently running the *bari* and the manner in which the same is being run, and shall file a detailed report to this effect, after the period of the *bari* is over on 22nd/23rd April, 2021.

20. The SHO P.S. Kalkaji shall render all assistance to the Receivers to comply with this order and also to maintain law and order. The Receivers fees shall be fixed as Rs.3,00,000/- (Rs.2,00,000/- for Mr. Sharma and Rs. 1,00,000/- for Mr. Ahluwalia). All the offerings and donations shall henceforth be deposited with the Registrar General till 22/23rd April, 2021.

21. If the Receivers are unable to go to the *Kalkaji Mandir* on 17<sup>th</sup> April, 2021, due to the lock-down restrictions that have been imposed, they are permitted to do carry out the directions on 19<sup>th</sup> April, 2021.

22. List on 10<sup>th</sup> May, 2021 along with ***F.A.O 36/2021***.

**PRATHIBA M. SINGH  
JUDGE**

**APRIL 16, 2021/dj/Ak**