

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

PIL No.24/2018, IA Nos.4/2018, 3/2018, 2/2018 & 1/2018

Date of order: 31.12.2018

Ajay Kumar Sharma

vs.

State and Ors.

Coram:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE

Appearance:

For the petitioner/appellant (s) : Mr. Aditya Sharma, Advocate.
For the Respondent(s) : Mr. D C Raina, Advocate General with
Mr. S S Nanda, Senior AAG for R-1 to 7.
Mr. Rohit Kapoor, Adv for R-8.
Mr. U K Jalali, Senior Advocate with
Ms. Shivani Jalali, Advocate for R-9.
Mr. Abhinav Sharma, Adv with
Mr. J S Jamwal, Adv for R-10.
Mr. Vikram Rathore, Advocate.

- i) Whether approved for reporting in Law journals etc.: Yes/No
ii) Whether approved for publication in press: Yes/No

IA No.4/2018:

This application has been filed by Mr. Ashish Singh Kotwal, learned counsel, seeking impleadment of Mr. Naresh Kumar Gupta as party respondent claiming to be a senior member of a political party and a member of the Jammu and Kashmir Legislative Council, who submits that he has moved a Private Member's Bill in the Legislative Council on the subject matter of the writ petition.

In our view, the applicant is neither a necessary nor proper party for the adjudication of the subject matter of the writ petition.

This application is **dismissed**.

In case, the applicant has any material, which he feels, deserves to be placed before this Court, it shall be open for him to inform the petitioner of the same and have the same brought on record through the petitioner.

PIL No.24/2018

1. The instant writ petition in public interest has been filed by a practicing lawyer complaining of mis-management and several illegalities regarding the maintenance of the Mata Machail Shrine and Yatra. The writ petition as well as the other pleadings on record refer to the Shrine which is located in village Machail in the Padder Area.
2. Before us, there are disputes between the private respondents with regard to properties which actually form part of the Trusts.
3. In para 10 of the writ petition, the details of the Yatra are referred to. Reference is made to other temples regarding which conflicting claims as to whether they form part of the Yatra are being made by party respondents before us.
4. While there remain conflicting claims by the private respondents with regard to the control of the management as well as the properties and assets, which form part of the Shrine and the Trusts, however, there is no dispute between the parties before us at all that the affairs relating to the Shrine and the Yatra are hopelessly mis-managed. The disputes between the respondents 8 and 9 before us are such that civil litigation is also pending. Not only this, we are informed that in respect of certain illegal offences, several criminal cases are also pending.
5. In this background, all parties before us are agreed that the affairs of the Shrine and the Yatra deserve to be taken over by a Board to be constituted by official respondents in accordance with law. In this regard, we have on record recommendations, first dated 26th September, 2018 made by Shri Angrez

Singh Rana, Deputy Commissioner (District Magistrate), Kishtwar and second dated 4th December, 2018 made by Shri Rahul Sharma, Additional Commissioner, Jammu. This is a matter which brooks no delay at all. We would, therefore, direct the State Government to forthwith examine the matter and urgently take a view thereon. This Court shall be informed about the decision of the State Government on the next date of hearing.

6. We are informed by the writ petitioner that large amounts of monetary donations as well as valuables in addition to management of immovable properties of the Shrine are involved. It, therefore, cannot be denied that in order to enable this court to pass meaningful and effective orders and also to ensure that the property of the Shrine and the Yatra is preserved and optimally managed, it is essential first to have an inventory thereof prepared and a receiver of the same appointed.
7. We are of the view that Shri Sanjeev Verma, Divisional Commissioner, Jammu be appointed as local Commissioner and Receiver in the matter. It cannot be denied that official machinery would be best placed to facilitate the inventorisation of the properties and assets of the Shrine and Yatra and its management for the time being till such time that a final view is taken by the State Government.
8. All parties submit that they support the appointment.
9. We make it clear that the present arrangement is being directed only as an interim arrangement and would abide by further orders which may be passed in the matter.
10. In view of the above, we direct as follows:
 - (i) we, hereby, appoint Shri Sanjeev Verma, Divisional Commissioner, Jammu as a local Commissioner as well as the Receiver who shall forthwith inventorise the entire properties and assets of the Mata

Machail Shrine as well as the Yatra and place a report in this regard thereto before this Court;

- (ii) Shri Sanjeev Verma shall take the entire records and assets of the Shrine and the Yatra into his custody and possession and manage the utilization thereof;
- (iii) Shri Sanjeev Verma shall be at liberty to conduct such inspections as may be necessary;
- (iv) We direct all bank, persons and authorities, where the Shrine and Trusts are holding accounts and assets, which may include fixed deposit receipts, bank lockers, bank accounts or where any property of the Trusts is preserved or stored, to ensure that complete information and access is given to Shri Sanjeev Verma thereof to enable him to prepare a complete inventory in terms of the present order.
- (v) It shall be open for Shri Sanjeev Verma to appoint such persons and officials as he may deem fit and necessary for the purpose of his effectively discharging the responsibilities under this order;
- (vi) Liberty is given to all parties including the petitioner to place such material as they deem necessary in order to enable Shri Sanjeev Verma to take an objective view in the matter;
- (vii) We grant liberty to the private parties to place their objections as well as material in support before Shri Sanjeev Verma who shall take a view in the matter to effectively operationalise the directions herein contained in respect of all properties which according to him form part of the Shrine and the Yatra;

- (viii) Liberty is given to Shri Sanjeev Verma to seek appropriate directions from this Court regarding any difficulties or obstructions caused to him in discharging of his functions in terms of the present order.
- (ix) The State Government shall ensure that adequate personnel and machinery are made available to Shri Sanjeev Verma for discharging his functions under this Order.
- (x) All parties shall fully cooperate with the enquiry and investigation being undertaken by Shri Sanjeev Verma and shall abide by all directions which may be passed by him for production of record and material.
- (xi) If requested, the police shall ensure that protection is afforded to Shri Sanjeev Verma in the steps taken by him.
11. We also direct the Chief Secretary, Govt. of Jammu and Kashmir, Civil Secretariat, Jammu to constitute a Special Investigation Team (SIT) and place its particulars before us so that appropriate orders transferring the criminal cases for investigation to such SIT can be made by this Court.
12. List on 26th February, 2019.
13. Copy of this order under the seal and signatures of the Bench Secretary be supplied to all the counsels for the parties.

(Tashi Rabstan)
Judge

(Gita Mittal)
Chief Justice

Jammu
31.12.2018
Raj Kumar