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

+ **RFA 264/2024 & CM APPL. 48961/2024**

**JAMA MASJID SHAHEEN BAGH TRUST THROUGH ITS
TRUSTEE INAMULLAH**

.....Appellant

Through: Appearance not given.

versus

MEHRUDDIN & ORS.

.....Respondents

Through: Respondent No.1, 3, 4 and 5 in
person.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

05.09.2024

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1. The prayers made by the Appellant in his plaint read as follows:

“i. Pass a decree of Permanent Injunction in favour of the plaintiff and against the Defendants restraining the Defendants and their associates/goons/muscle men from interfering in the management and administration of day to day affairs of the Trust and the “JAMA MASJID SHAHEEN BAGH”. To further restrain them from causing violence, rioting or vitiating the atmosphere and causing any hindrance in purely non violent religious activities of the Trust.

ii. Pass a decree of Permanent Injunction in favour of the plaintiff and against the Defendants restraining the Defendants and their associates from staying inside the “JAMA MASJID SHAHEEN BAGH” at night /setting up shops inside the premises or using the Microphones by force or un-authorisedly for any purpose.

iii. Pass a decree of Permanent Injunction in favour of the plaintiff and against the Defendants restraining the Defendants and their associates from raising any unauthorized and illegal construction on the vacant piece of land of the plaintiff Trust adjacent to the said Masjid.



iv. Pass a decree of Permanent Injunction in favour of the plaintiff Trust and against the Defendants restraining the Defendants and their associates from appointing any Imam in the said Masjid.”

2. This Court had issued Notice in the Application for condonation of delay being CM APPL. 48961/2024 on 22.07.2024. The only ground taken for condonation of delay in the said Application is that the files of the case had been entrusted to an Advocate (whose name is not mentioned) for obtaining the certified copies, however, he took a month's time in returning the files, causing the delay. Thereafter, it is contended that the Appellant's case was entrusted to a second Advocate who took the files to his native place and did not file any Appeal.

3. Although, the reasons for the delay are clearly not sufficient, in view of the fact that the Respondent Nos. 1, 3, 4 and 5 have physically appeared before the Court today, this Court has taken up for hearing and disposal at the request of and with the consent of the parties.

4. Learned Counsel for the Appellant fairly concedes that so far as concerns his prayer (i) in the Plaint, the same was barred by the provisions of the Waqf Act, 1995. He, however, submits that there is an illegal and unauthorised construction being carried out by the Respondents on the land adjacent to the Jama Masjid, Shaheen Bagh, Delhi [hereinafter referred to as the “subject land”]. Learned Counsel for the Appellant acknowledges that a Coordinate Bench of this Court, by its order dated 11.10.2013 in CS (OS) 1991/2013, has already granted relief to the Appellant. Learned Counsel for the Appellant, thus, restricts his submissions in the present Appeal to the grant of prayer (iii) as reproduced above.

5. Respondents No.1, 3 to 5 submit that the Respondent No. 2 is no longer alive.



5.1 Learned Counsel for the Appellant does not seek any relief against Respondent No.2.

6. Learned Counsel for the Appellant further submits that so far as concerns his remaining grievances, the Appellant will approach the appropriate forum.

7. Given this concession, the Court has enquired from the Respondent Nos. 1, 3, 4 and 5 as to whether they are raising unauthorised construction. They jointly submit that since they do not own any land next to the Jama Masjid, there is no question of their undertaking any unauthorised construction on the subject land.

7.1 The statement of Respondent Nos. 1, 3, 4 and 5 is taken on record and these Respondents are bound down by their statement.

8. The Appeal and all pending Applications are disposed of in the aforesaid terms.

9. Parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

SEPTEMBER 5, 2024/SA

Click here to check corrigendum, if any