

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC,
KOLLEGALA.**

Dated 08th day of October, 2025

O.S. No. 26/2016 & O.S. No. 43/2017

Plaintiffs : Syed Ismail Sha Khadri
and another

Vs.

Defendants : C.K. Anwar Khan and others

I.A. No. XVII

Applicants : Syed Ismail Sha Khadri
and another

Vs.

Opponents : C.K. Anwar Khan and others

ORDER ON I.A. No. XVII

IA No. XVII was filed on 15-03-2025 by the applicants/plaintiffs under Section 151 of CPC seeking permission to perform Sandal Shariff (Gandothsava) and other rituals in the suit premises.

2. In the accompanying affidavit, it is stated that the total extent of the suit schedule property is 8 acres, which was owned and possessed by Syed Peer Rasool

Shah Khadri, a Dharma Guru. He passed away on 19-01-2020. After his demise, a dispute arose between the plaintiffs and the defendants. Due to this dispute, criminal cases were registered against each other. The jurisdictional police submitted a report to the Taluka Magistrate regarding the dispute, especially with respect to the claim of succession over the said land, stating that it was creating law and order issues. They requested the Taluka Magistrate to appoint a receiver.

3. Based on the request of the jurisdictional police, the Taluka Magistrate issued an official memorandum, stating that he had taken possession and control over the property, and appointed Mahadevappa, the Revenue Inspector, as the Receiver of the Dargah.

4. Despite the appointment of the receiver, further law and order problems arose, and more criminal cases were filed, which are now pending adjudication. In the meantime, the police have locked the Dargah and are not allowing anyone to enter the premises.

5. The Sandal Shariff (Gandothsava) of the Dargah is an annual event. However, since the Dargah has been locked for the past 6 to 7 years, the plaintiffs and other

devotees have not been able to perform the rituals. The performance of Sandal Shariff is essential and necessary as per religious customs.

6. Being law-abiding citizens, the applicants are unable to perform Sandal Shariff without the permission and aid of this Court. It is submitted that if the application is allowed, no harm will be caused to the defendants, but if not allowed, the plaintiffs will suffer irreparable loss and injury. Therefore, the applicants pray for the application to be allowed.

7. This application is opposed by defendant Nos. 2 to 9 on 16-04-2025, who have contended that the plaintiffs have filed a false and vague application only to delay the proceedings and to harass the defendants. They state that the plaintiffs have filed the main suit seeking declaration of title over the suit schedule properties, in which they have no right, title, claim, or interest. The present application is filed to seek permission to perform the yearly Sandal Shariff (Gandothsava). However, the yearly Sandal Shariff event has already concluded on 10-04-2025, and therefore, the present application has become infructuous, and on this ground alone, it is liable to be dismissed.

8. It is further stated the plaintiffs have already been partly cross-examined in the main suit. A perusal of the portion of the cross-examination clearly reveals the plaintiffs have no right, title, or interest in the suit schedule properties. Furthermore, the plaintiffs are seeking the main relief through an interim application, which is not legally permissible at this stage of the case. Hence, the defendants pray that the application be dismissed with exemplary costs.

9. Heard arguments from both sides.

10. The following point arise for my consideration:

- 1) *Whether the applicant has made out any ground to allow the application?*
- 2) *What order?*

11. My findings to the above point is:

Point No.1: In the negative

Point No.2: As per final order for the following:

REASONS

12. Point No. 1: This is an application filed under Section 151 of the CPC by the plaintiffs/applicants seeking permission to perform the annual Sandal Shariff (Gandothsava) and other associated rituals in the suit

schedule premises, stated to be a Dargah situated in an extent of 8 acres.

13. The plaintiffs have contended that the suit property originally belonged to one Syed Peer Rasool Shah Khadri, a revered Dharma Guru, who passed away on 19.01.2020. Following his demise, disputes arose between the plaintiffs and the defendants with respect to the succession and control over the said property. Due to the said disputes, criminal proceedings were initiated between the parties, and the jurisdictional police reported the matter to the Taluka Magistrate, expressing concern over public order and succession-related conflict. Consequently, the Taluka Magistrate, acting on the report of the police, issued an official memorandum and took possession of the property, appointing one Mahadevappa, the Revenue Inspector, as the Receiver of the Dargah premises. The plaintiffs have further averred that the Dargah has remained under lock and key for the past 6 to 7 years and the devotees, including the plaintiffs, have not been permitted to enter the premises. It is stated that the annual Sandal Shariff, a significant religious event, has not been performed during this time, and the inability to perform the same has caused distress

and irreparable loss to the plaintiffs and the community at large. It is prayed that permission be granted by this Court for the performance of the rituals under due supervision and assistance from the authorities.

14. The application is opposed by defendant Nos. 2 to 9, who contend that the plaintiffs have no right, title, or interest in the suit schedule property. It is further submitted that the plaintiffs are attempting to seek the main relief through an interim application, which is impermissible. They argue that the annual Sandal Shariff has already concluded on 10.04.2025, thereby rendering the application infructuous. It is also contended that the plaintiffs are attempting to delay the proceedings and harass the defendants.

15. The Court has perused the application, the objections, and the case records. It is evident that the main suit is pending adjudication wherein title and rights over the suit schedule property are in question. A Receiver has been appointed over the said property and is in possession of the same as per orders of the competent authority. It is not disputed that Sandal Shariff is a religious ritual associated with the Dargah and holds significance for the devotees. However, the

conduct of such religious events must be balanced against the prevailing circumstances, including law and order considerations and the disputed nature of the property.

16. It is also noted that the application was filed on 15.03.2025, whereas the objectors have stated that the Sandal Shariff event has already concluded on 10.04.2025. There is no material placed by the plaintiffs to counter this assertion or to show that the event has not occurred. In the absence of specific rebuttal or a prayer to perform the ritual on an alternative date, the application, in its present form, appears to have lost its immediate relevance.

17. Moreover, the plaintiffs are seeking a substantive relief through an interim application in a suit where the rights of the parties are yet to be adjudicated. Granting such a relief at this stage would indirectly amount to recognizing the plaintiffs' right over the suit schedule property, which is not permissible in law. However, this Court is conscious of the religious sentiments involved and is of the opinion that, subject to the outcome of the main suit and appropriate application at the relevant time, such religious events may be

considered in consultation with the Receiver and appropriate authorities to ensure law and order is maintained. Therefore, **I answer point No.1 in the Negative.**

18. Point No.2: For the aforesaid reasons, I proceed to pass the following:

ORDER

The I.A. No. XVII filed by the applicant/plaintiffs under Section 151 of CPC is hereby dismissed as infructuous.

No order as to cost.

(Dictated to the stenographer directly on the system, transcribed by her, corrected and then pronounced by me in the open Court on 08th day of October, 2025).

(SUNITHA)
Senior Civil Judge and JMFC,
Kollegala.