

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

**Dated 08<sup>th</sup> 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. XVIII**

**Applicants** : Syed Ismail Sha Khadri  
and another

**Vs.**

**Opponents** : C.K. Anwar Khan and others

**ORDER ON I.A. No. XVIII**

IA No. XVIII filed by applicants/plaintiffs under Section 151 of CPC seeking permission for the plaintiff to carry out repairs and maintenance of the suit premises, including the Dargah, Masjid, Khankha, and other structures situated therein. It is submitted that the total extent of the suit schedule property is approximately 8 acres, which was owned and possessed by Syed Peer

Rasool Shah Khadri, a revered Dharma Guru. He passed away on 19-01-2020. Subsequent to his demise, disputes arose between the plaintiffs and the defendants concerning succession and possession of the said property. As a result of these disputes, several criminal cases were registered against both parties. The jurisdictional police, observing the escalating tension and law and order issues arising from the succession claims, submitted a report to the Taluka Magistrate, recommending that a receiver be appointed over the suit schedule property.

2. Upon this recommendation, the Taluka Magistrate issued an official memorandum taking possession and control of the property and appointed Mahadevappa, Revenue Inspector, as the Receiver of the Dargah. Despite the appointment of the Receiver, further law and order issues continued, leading to additional criminal cases, which are currently pending adjudication. In the meantime, the police have locked the Dargah premises and are not allowing access to anyone.

3. It is submitted that the Dargah has remained locked for approximately 6 to 7 years, during which time the condition of the structures including the Dargah,

Masjid, Khankha, etc. has deteriorated severely. The paint has peeled off, portions of the buildings have been damaged, rat holes have appeared, and the land has become overgrown with unwanted plants and vegetation.

4. The cleaning, maintenance, and essential repairs of the premises are urgently required to preserve the integrity of these religious and historical structures and to prevent further damage. If the application is allowed, no prejudice or harm will be caused to the defendants. However, if it is not allowed, the plaintiffs will suffer irreparable loss and injury due to continued deterioration. Therefore, the applicants pray that this Court may be pleased to allow the application and permit the plaintiffs to carry out necessary cleaning and repair works.

5. Objections by defendant Nos. 2 to 9 filed on 16-04-2025 contending that the plaintiffs have filed a false, vague, and misconceived application solely to delay the proceedings and to harass the defendants.

6. They submit that the plaintiffs have filed the main suit seeking declaration of title over the suit schedule properties, to which the plaintiffs have no right,

title, interest, or lawful claim. The present application seeks to grant reliefs that are in the nature of the final relief sought in the main suit, and such interim relief is not maintainable in law.

7. It is further submitted that the plaintiffs are strangers to the suit schedule property and, on this ground alone, the application deserves to be dismissed. The defendants point out that the plaintiff has already been partly cross-examined in the main suit. A perusal of the cross-examination clearly reveals that the plaintiffs have no lawful right, title, or interest in the suit schedule property. Therefore, they are not entitled to seek any relief, even interim in nature, pertaining to the same. Accordingly, the defendants pray that the application be dismissed with exemplary costs, as it is devoid of merit.

8. Heard arguments from both sides.

### **ORDER**

9. This is an application filed by the plaintiffs seeking permission of this Court to carry out essential repairs and cleaning of the suit schedule property, which

includes religious structures such as a Dargah, Masjid, Khankha, and other buildings situated within approximately 8 acres of land.

10. The plaintiffs contend that the said property was owned and possessed by one Syed Peer Rasool Shah Khadri, a Dharma Guru, who passed away on 19-01-2020. Post his demise, disputes arose between the plaintiffs and the defendants over the succession and control of the said property, leading to registration of criminal cases against both parties. It is submitted that in light of the prevailing dispute, the jurisdictional police submitted a report to the Taluka Magistrate citing law and order concerns and recommended the appointment of a receiver. Accordingly, the Taluka Magistrate appointed the Revenue Inspector, Mahadevappa, as the Receiver of the disputed religious premises and took possession and control of the same. It is further stated that despite the appointment of the Receiver, law and order issues persisted, prompting the police to lock the Dargah premises, which have remained inaccessible for the past six to seven years. The plaintiffs have placed on record that due to non-maintenance and prolonged closure, the condition of the buildings has deteriorated

severely. Paint has peeled off, portions of the structures have suffered damage, there are rat holes, and the premises have become overgrown with wild vegetation. It is contended that immediate cleaning and minor repairs are necessary to preserve the structures from further decay. The plaintiffs assert that granting the requested relief will not cause any prejudice to the defendants, whereas denial would result in irreparable damage to the religious and historical buildings.

11. On the other hand, defendant Nos. 2 to 9 contended that the plaintiffs have no right, title, or interest over the suit property, and the application is a mere attempt to interfere with the possession of the suit schedule property under the guise of repairs. It is further submitted that the plaintiffs have already filed the main suit seeking declaration of title and that they are attempting to obtain substantive relief through this interim application, which is impermissible in law. The defendants contend that the application is vague and devoid of bona fides and deserves to be dismissed with exemplary costs.

12. Having considered the contentions of both parties and perused the records, including the

appointment of the Receiver by the Taluka Magistrate, and taking judicial notice of the fact that the premises, being religious in nature, hold public significance, this Court is of the opinion that certain minimal protective steps such as cleaning and basic preservation efforts are indeed necessary to prevent irreversible damage to the buildings. However, this Court is also conscious of the fact that title and possession over the suit schedule property is the subject matter of the main suit, and any action which may tilt the balance or be perceived as granting interim possession or control to either party must be avoided. Therefore, in the interest of justice, and to safeguard the integrity of the suit property pending adjudication of the main suit, this Court deems it appropriate to direct the Receiver appointed by the Taluka Magistrate to inspect the premises forthwith and submit a detailed report on the current condition of the Dargah, Masjid, Khankha and other buildings. Upon receipt of the said report, this Court will consider passing appropriate directions for cleaning and basic maintenance under supervision of the Receiver and in presence of both parties, without granting exclusive rights to either side. Accordingly, the present application is disposed of with the following directions:

The Receiver, Mahadevappa (Revenue Inspector), is directed to visit and inspect the suit schedule property within 15 days from the date of this order.

The Receiver shall submit a detailed report to this Court regarding the physical condition of the premises and the nature of repairs, if any, that are urgently required to prevent further deterioration.

The parties are at liberty to assist the Receiver during the inspection but shall not interfere with or obstruct the process.

With these observations, the IA XVIII under Section 151 CPC is disposed of accordingly.

No order as to costs.

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

**(SUNITHA)**  
Senior Civil Judge and JMFC,  
Kollegala.