



HIGH COURT OF JUDICATURE AT ALLAHABAD

ORIGINAL SUIT No. - 4 of 2023

Shrikrishna Janmbhoomi Mukti Nirmaan Trust
And 5 Others

.....Plaintiff(s)

Versus

Shahi Masjid Eidgah Management Committee And
3 Others

.....Defendant(s)

Counsel for Plaintiff(s)	:	Alok Kumar Dubey, Ashutosh Pandey (In Person), Ashvanee Kumar Srivastav, Bipin Kumar Jaiswal, Gaurav Kumar, In Person, Kushagra Agrawal, Rana Singh, Sandip Kumar Agrahari, Tiwari Abhishek Rajesh, Vikram Singh Shrivastava, Vinay Sharma
Counsel for Defendant(s)	:	Afjal Ahmad, Hare Ram, Nasiruzzaman, Pranav Ojha

Court No. - 92

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. Shri Ashutosh Pandey appearing in person through virtual mode for plaintiff no. 1, 2 and 6 pressed the application A-16 filed application under Order 1 Rule 8 C.P.C. bearing date 30.01.2024.
2. Heard submissions of Shri Ashutosh Pandey, in person, Shri Anil Kumar Singh appearing for plaintiff, Ms. Reena N. Singh for plaintiff nos. 3, 4, and 5, Mr. Anil Kumar Singh appearing for plaintiff nos. 2 to 5 in OSUT 7 of 2023, Shri Ajay Kumar Singh appearing for plaintiffs in OSUT 17 of 2023 .
3. Shri Markenday Rai, learned amicus curie is present. He has also submitted that after designating Suit No. 17 of 2023 as representative suit there is no occasion to designate present suit as representative suit when it is already consolidated with Suit No. 1 of 2023.
4. Shri Hare Ram Tripathi appearing for defendant no. 3 and 4 as well as Ms. Tasneem Ahmadi appearing in virtual mode for defendant no. 1 and 2.
5. At the outset this fact has been brought to the notice of this Court by Shri Hare Ram Tripathi appearing for defendant no. 4 and 5 that a similar application under Order 1 Rule 8 CPC was filed by plaintiffs through advocate Shri Hari Shankar Jain in OSUT No. 1 of 2023 which was dismissed as withdrawn with the liberty to file fresh one on 30.01.2024. It is also worthwhile to mention that OSUT No. 17 of 2023 which is not consolidated with suit no. 1 of 2023 an application under Order 1 Rule 8 was moved on behalf of plaintiffs and same was allowed by the order datd

18.07.2025 and which was corrected on 22.07.2025.

6. Shri Ashutosh Pandey the applicant appearing for plaintiff no. 1, 2 and 6 submitted that the plaintiff nos. 1, 2 and 6 have been pursuing the cause of deity with full dedication and they have every right to represent the worshipers of Lord Krishna in present suit. Therefore, the plaintiffs/applicant may be permitted to proceed present suit as representative suit under Order 1 Rule 8 (2) C.P.C. Shri Ashutosh Pandey submitted that in the capacity of president Shri Krishan Janambhoomi Mukti Nirman Trust sought information from the electricity department as to whether there was any valid electricity connection in Shahi Masjid Idgah and if there is such connection, in whose name it exists. He had also filed a complaint that Secretary of Idgah was using electricity in the mosque without valid connection with the theft of electricity. He next submitted that defendant no. 1 claims that the said construction is a waqf property and is in existence since 1669. He also submitted that he is the next friend of deity Shri Krishna Bhagwande Ji and main plaintiff in the suit. He is a religious person and social worker, he is also associated as president and office bearer in various Hindu religious and social organizations including Gau Raksha Sangh. He has resolved to work for liberation of Shri Krishna Janambhoomi since 22.12.2022 and he is prosecuting various civil suits in District Court Mathura, Hon'ble High Court and Hon'ble Supreme Court. On his complaint the electricity department had disconnected power connection of Shahi Masjid Idgah and Rs. 3 lacs penalty was imposed and a case was registered against the Management Committee vide Case Crime No. 842/23 dated 04.02.2023 under Section 135 Electricity Act, 2003 . He further submitted that it being a dispute of fact between two communities and its outcome is likely to affect a huge section of society, therefore, a public notice be issued to public at large regarding this suit so that the person who are interested in the suit may have a chance to sue to put in appearance. He lastly submitted that he may be permitted to prosecute the suit as representative suit on behalf of worshipers of Lord Krishna and for that purpose this Hon'ble Court may direct defendant no. 1 to nominate such persons who are interested to defend the suit on behalf of the Muslim community. With above pleadings learned counsel further submitted that the prayer has been made in the application under Order 1 Rule 8 C.P.C that this suit may be treated as representative suit and the applicant plaintiff may be permitted to proceed with the case on behalf of worshipers, friends and bhaktas of Lord Krishna and a public notice be issued under Section 108 under Order 1 Rule 8 (2) C.P.C.

7. Ms. Tasneem Ahmadi, learned counsel for defendant submitted that the allegations of the plaintiff/applicant in suit no. 4/2023 that there was complaint of theft of electricity against the defendant no. 1. The allegations of theft of electricity levelled against defendant are false . The defendant no. 1 and 2 do not represent entire Muslim Community and they are concerned with subject matter of suit.

8. Shri Ajay Pratap Singh learned counsel for plaintiffs in suit no. 17 of 2023 submitted that present applicants had filed objection in suit no. 17 of 2023 dated 06.02.2024 on application under Order 1 Rule 8, filed in said suit but later on it was not pressed and the same was dismissed by order dated 04.09.2024.

9. Learned counsel further submitted that after dismissal of objection filed by Shri Ashutosh Pandey in said suit, no liberty was granted to him to file fresh objection. Ms. Reena N. Singh appearing for plaintiff no. 3 to 5 raised no objection on prayer made in application under Order 1 Rule 8 C.P.C. filed in this suit and submitted that this suit was filed prior to filing of suit no. 17 of 2023 and the application under Order 1 Rule 8 C.P.C was filed there in on 30.01.2024. Shri Anil Kumar Singh learned counsel for the plaintiff in OSUT No. 17 of 2023 also submitted that as suit no. 17 of 2023 has already been held representative suit by order of this Court dated 18.07.2025 no other suit can be permitted to be proceeded as representative suit because the subject matter in all the suits is same.

10. Shri Hare Ram Tripathi who represents plaintiff in OSUT No. 18 of 2023 appearing for defendant no. 3 Shri Krishan Janambhoomi, Mathura submitted that he represents the main Trust which takes care of Shri Krishan Janambhoomi. He next submitted that he had filed objection on application under Order 1 Rule 8 C.P.C. He had filed objection on behalf of defendant no. 7 on application under Order 1 rule 8 C.P.C. OSUT No. 17 of 2023 and he adopts his objection filed in said suit in support of present suit. He next submitted that the dispute in essence is between Shri Krishan Janambhoomi Trust and Shahi Masjid Idgah Committee in regard to possession of disputed property. He also submitted that in plaint of original suit of Suit No. 4 of 2023 no prayer has been made with regard to permitting the plaintiffs to proceed with suit as representative suit, therefore, subsequent application under Order 1 Rule 8 is not maintainable. Admittedly plaintiff No. 1 is a juristic person and have right to sue and be sued to protect its own property in personal capacity and suit need not be treated as representative suit.

11. He clarified that he neither support the application under Order 1 Rule 8 C.P.C in OSUT No. 17 of 2023 or in any of the other suit. He lastly submitted that the plaintiffs in all the suits which are subject to hearing before this Court should have admitted that it is deity in which property vests and the deity is being sued through next friend in every suits. Deity is entitled to sue through next friend to protect its rights and there is no need of any representative suit to pursue the cause of deity. He next submitted that he is also the plaintiff in suit no. 18 of 2023.

12. Shri Anil Kumar Singh appearing for plaintiff nos. 2 to 5 in OSUT 7 of 2023 vehemently opposed the said application and drawn attention of this Court towards to the provisions of Order 1 Rule 8 C.P.C as well as Order 4A C.P.C which was incorporated through U.P. State Amendment Act 57 of 1976 w.e.f. 01.01.1977. He submitted that this Court consolidated 15 suits by order dated 11.01.2024 and this suit is also one of the suits which is consolidated by said order and OSUT No. 1 was treated as leading case. He next submitted that Order 4A where the Court has already invoked its power under Order 4A and directed joint trial of all these suits, there is no occasion to treat one of the consolidated suits to be as representative suits.

13. Ms. Tasneem Ahmadi has submitted that she pressed her objection already filed on behalf of defendants in OSUT No. 17 of 2023 on application under Order 1 Rule 8 C.P.C.

16. Ms. Reena N. Singh in her concluding argument submitted that OSUT

No. 17 of 2023 has already been treated as representative suit, however any person has a right to move application for impleadment and by virtue of provisions of Order 1 Rule 8 sub-section 3, moved an application for impleadment of the plaintiff/applicant, cannot be raised any objection to such application.

14. The provisions of Order 1 Rule 8 C.P.C provides as under :-

One person may sue or defend on behalf of all in same interest.

(1) Where there are numerous persons having the same interest in one suit,-

(a) one or more of such persons may, with the permission of the Court, sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested;

(b) the Court may direct that one or more of such persons may sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested.

(2) The Court shall, in every case where a permission or direction is given under sub-rule (1), at the plaintiff's expense, give notice of the institution of the suit to all persons so interested either by personal service, or, where, by reason of the number of persons or any other cause, such service is not reasonably practicable, by public advertisement, as the Court in each case may direct.

(3) Any person on whose behalf, or for whose benefit, a suit is instituted or defended, under sub-rule (1), may apply to the Court to be made a party to such suit.

(4) No part of the claim in any such suit shall be abandoned under sub-rule (1), and no such suit shall be withdrawn under sub-rule (3), of rule 1 of Order XXIII, and no agreement, compromise or satisfaction shall be recorded in any such suit under rule 3 of that Order, unless the Court has given, at the plaintiff's expense, notice to all persons so interested in the manner specified in sub-rule (2).

(5) Where any person suing or defending in any such suit does not proceed with due diligence in the suit or defence, the Court may substitute in his place any other person having the same interest in the suit.

(6) A decree passed in a suit under this rule shall be binding on all persons on whose behalf, or for whose benefit, the suit is instituted, or defended, as the case may be.

Explanation-

For the purpose of determining whether the persons who sue or are sued, or defend, have the same interest in one suit, it is not necessary to establish that such persons have the same cause of action as the person on whom behalf, or for whose benefit, they sue or are sued, or defend the suit, as the case may be.

15. The instant original suit was initially filed on 02.01.2023 as OS No. 12 of 2023 in the Court of Civil Judge Senior Division Mathura and subsequently pursuant to order dated 30.05.2023 passed by this Court on transfer application (civil) No. 88/2023. This suit was transferred to this Court and renumbered as OSUT No. 4 of 2023. In present suit plaintiff no. 1 Shri Krishan Janambhoomi Mukti Nirman Trust and deity is shown as plaintiff no. 6 Thakur Keshavdev Ji Maharaj Virajman Mandir Katra

Keshavdev, Tehsil and District Mathura through next friend plaintiff no. 1 to 5. Shri Ashutosh Pandey the main parokar in present suit on behalf of plaintiffs is impleaded as plaintiff no. 2 as president of representative Trusts impleaded as plaintiff no. 1 and 2.

16. Contesting defendants are defendant no. 1 Shahi Masjid Idgah Management Committee and U.P. Sunni Central Waqf Board through Chairman. Plaintiff no. 3 and 4 are Shri Krishan janambhoomi Trust Mathura and Shri Krishan Janamsthan Seva Sansthan. Shri Ashutosh Pandey is also deponent of the plaint in which declaratory relief in respect to declare the judgment and consent decree dated 12.10.1968 in original suit no. 43 of 1967 as null and void on the ground that defendant no.1 and 2 has no right title or interest in said 13.37 acre land of Katra Keshavdev, their total property belongs to plaintiff no. 6 Thakur Keshav Dev Ji Maharaj. A relief of mandatory injunction has also been sought for removal of so called structure in the name of Shahi Masjid Idgah and for that purpose a prayer has been made to direct defendant no. 1 and 2 to remove the said structure within stipulated period prescribed by the Court and handover its rights, possession to plaintiff no. 6. Relief of prohibitory injunction has also been sought against plaintiff no. 1 and 2 to abstain from causing any interference in said 13.37 acre land by raising construction, digging the land or in any manner any claim or right, title or interest after removal of said structure.

17. As many as 18 suits are pending before this Court in which substantially similar relief has been sought in respect of disputed property which is a site of Shahi Masjid Idgah by different persons and organizations, individual as well as office bearers of some Trust to protect the interest of deity which is considered as perpetual minor and may sue through next friend. Present suit is one of the suits consolidated by orders of this Court along with 15 other suits in which suit no. 1 was made as leading case, suit no. 17 of 2023 was not consolidated by said consolidation order wherein a prayer to treat the suit as representative suit was made in the suit itself and application under 1 Rule 8 C.P.C was also filed to treat the suit as representative suit. The said application under Order 1 Rule 8 C.P.C has already been allowed by this Court by order dated 18.07.2025 and said order has been assailed by plaintiffs in suit no. 7 of 2023 through special appeal as well as special leave appeal before this Court and Hon'ble Supreme Court. The purpose of representation of worshipers of Lord Krishna in these suits is fulfilled on account of treating suit no. 17 of 2023 as representative suit by this Court's order passed under Order 1 Rule 8 C.P.C as well on consolidation of present suit alongwith 15 other suits which has already been done. This application under Order 1 Rule 8 has been passed by the applicant after passing of order under application Order 1 Rule 8 C.P.C in OSUT No. 17 of 2023. one suit has already been treated as representative suit of this Court in which almost similar relief has been prayed. No useful purpose of law will be served to treat another suit as representative suit where 18 suits are already pending before this Court in regard to same subject matter and property in dispute.

18. No good ground has been shown in application under Order 1 Rule 8 in present case to treat this suit as representative suit. The application is hereby **dismissed**.

19. List on 9.10.2025 at 2:00 PM alongwith leading OSUT 01 of 2023.

(Ram Manohar Narayan Mishra,J.)

September 26, 2025

Dhirendra/