



HIGH COURT OF JUDICATURE AT ALLAHABAD

ORIGINAL SUIT No. - 7 of 2023

Shri Bhagwan Shrikrishna Lala Virajman And 4
Others

.....Plaintiff(s)

Versus

U.P. Sunni Central Waqf Board 3a And 3 Others

.....Defendant(s)

Counsel for Plaintiff(s)	:	Amit Kumar, Anil Kumar Singh, Anil Kumar Singh Bishen, Damodar Singh, Devendra Vikram Singh, Leena Srivastava, Mahendra Pal Singh Gaur, Manish Kumar, Naman Kishor Sharma, R.U. Rinki Renu, Rana Singh, Sachin Singh, Satya Pal, Suman Srivastava, Sunil Singh, Vivekanand Yadav
Counsel for Defendant(s)	:	Afjal Ahmad, Azim Ahmad Kazmi, Hare Ram, Nasiruzzaman, Pranav Ojha, Punit Kumar Gupta

Court No. - 92

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. Heard Shri Anil Kumar Singh and Shri M.P. Singh Gaur, learned counsel for the applicants and Ms. Reena N. Singh, learned counsel appearing for plaintiff no. 1.
2. Plaintiffs no. 2 to 5 in present suit have filed an application under Section 151 C.P.C. for deletion of name of next friend of plaintiff no. 1 namely Shri Kaushal Kishore Thakur Ji @ Kaushal Singh Tomar who has arrayed himself as next friend of plaintiff no. 1, i.e., Shri Bhagwan Shri Krishna Lala Virajman, Deeg Gate, District and City Mathura.
3. OSUT No. 7 of 2023 was initially filed in the Court of Civil Judge (SD) Mathura as OS No. 317 of 2023, and after transferred to this Court alongwith other suits related to subject matter it was registered as OSUT No. 7 of 2023. Suit was filed by Shri Bhagwan Shri Krishna Lala Virajman Janamsthan, Deeg Gate, District and City Mathura through Shri Kaushal Kishore Thakur Ji @ Kaushal Singh Tomar, 266 Mahdavi Vilas, Manav Seva Sangh Ashram, Vrindavan, Mathura, 2. Yogeshwar Shri Krishna Janamsthan Seva Sangh Trust, District Office – 6, Radha Krishna Vatika, Mathura through Ajay Pratap Singh, advocate, 3. Kshatriya Shaktipeeth Vikas Trust, District Office-6, Radha Krishna Vatika ,

Mathura, 4. Ananjay Kumar Singh, Member-Yogeshwar, Shri Krishna Janamsthan Seva Sangh Trust, 5. Ajay Pratap Singh advocate, President Yogeshwar Shri Krishna Janamsthan Seva Sangh Trust against U.P. Sunni Central Waqf Board, Management Committee, Shahi Masjid Idgah, Deeg Gate, Mathura, Shri Krishna Janambhoomi Trust Janambhoomi Mandir, Deeg Gate, Shri Krishna Janamsthan Seva Sangh Sansthan, Katra Keshav Dev, Janambhoomi Marg, Mathura.

4. The plaintiffs have prayed for declaratory relief to the effect that the plaintiffs be declared as owner of disputed property on which Shahi Idgah Masjid situates. They have also prayed for relief of permanent injunction in respect of disputed property marked by letters in site plan appended to the plaint.

5. The application marked as A-31 was filed on 12.02.2024, to which, Ms. Reena N. Singh, counsel for plaintiff no. 1, has filed objection. Written arguments have also been filed on behalf of applicant plaintiff no. 2 to 5 on said application under Section 151 C.P.C. on the basis of oral and written submissions made on behalf of applicants i.e., plaintiff no. 2 to 5 and grounds taken in aforesaid application, following points are pressed on behalf of the applicants:-

5.1. Plaintiff no. 1 is the deity described as Bhagwan Shri Krishan Lala Virajman, Shri Kaushal Kishore Thakur Ji represented the deity as next friend in the plaint, who is plaintiff no. 1. The plaint bears signature of all the plaintiff's counsel.

5.2. The deity is considered as perpetual minor and it is settled law that suit can only be filed on behalf of deity through next friend.

5.3 On 29.01.2024 said Shri Kaushal Kishore Thakur, the next friend of plaintiff no. 1 and advocate Ms. Reena N. Singh filed a new civil suit before Civil Judge, Senior Division, Mathura on behalf of Shri Krishan Lala and Radha Rani, which may be transferred to this Court for further proceedings. The certified copy of plaint of said suit has been filed by the applicants for perusal of the Court, which reveals that Bhagwan Shri Keshav Dev, Khevat No. 255, Deeg Gate, Mathura, Uttar Pradesh through next friend Kaushal Kishore Thakur Ji are resident of 266 Madhav Vilas, Vrindavan, Mathura is arrayed as plaintiff no. 1 and present plaintiff no. 1 is arrayed as plaintiff no. 2 in the said suit. Shriji Radha Rani through next friend Reena N. Singh is arrayed as plaintiff no. 4 and Sanatan Dharm

Raksha Peeth has been arrayed as plaintiff no. 5 through its precedent Kaushal Kishore Thakur Ji.

5.4 U.P. Sunni Central Waqf Board through Chairman, Committee of Management Trust alleged Shahi Masjid Idgah through Secretary and two others are arrayed as defendants in said suit, in which, the prayer for cancellation of decree dated 20.07.1973 passed in Civil Suit No. 45 of 1967 by Civil Judge Mathura, declaration, permanent injunction and removal of encroachment and handing over the vacant peaceful and physical possession to Bhagwan Shri Krishan Lala Janamsthan is made.

5.5 The intention and conduct of Shri Kaushal Kishore Thakur Ji and Ms. Reena N. Singh is against the interest of Krishan Lala, they are just destroying the nature and structure of present suit, i.e., Suit No. 7 of 2023. They are not working to protect the interest of Shri Bhagwan Shri Krishan Lala Virajman but they are working for their own interest, they are even continuing to spread fake news about the proceedings of this Hon'ble court to gather attention of print and electronic media. The copy of extracts of newspaper Uttar Pradesh are filed as Annexure 2 to the affidavit filed in support of the application.

5.6 Shri Kaushal Kishore Thakur Ji represents Lord Shri Krishna in two cases which is against law. Shri Kaushal Kishore Thakur Ji and Ms. Reena N. Singh continuously took different stand in two suits which is against the nature and structure of the present suit.

5.7 Shri Kaushal Kishore Thakur Ji was a member of Yogeshwar Shri Krishna Janamsthan Seva Sangh Trust, which is presided by Shri Ajay Pratap Singh, advocate, who represents plaintiff no. 2 in present suit. However, his membership was terminated on 01.10.2023 by resolution passed by said Trust, which is signed by Shri Ajay Pratap Singh, President and Shri Narendra Singh, Secretary of the Trust.

5.8 Shri Kaushal Kishore Thakur was impleaded as next friend to plaintiff no. 1 on strength of being a member of Yogeshwar Shri Krishan Janamsthan Seva Sangh Trust Mathura, but after being removed from the Trust, he can no longer represent the plaintiff no.1, the deity. His continuation as next friend of plaintiff no. 1 is contrary to law and against the interest of deity.

5.9 In view of misconduct of next friend Shri Kaushal Kishore Thakur Ji who has been working against the interest of deity, Shri Bhagwan Shri

Krishan Lala Virajman, his name may be deleted from the present suit.

5.10 The plaint and all the necessary applications in present suit are signed by Shri Ajay Pratap Singh, who represent plaintiff no. 2 in present suit. He collected relevant documents and evidence before filing of present suit from various sources like District Gazateer, Archaeological Survey of India and also through Right to Information Act. Infact, plaintiff no. 5, Shri Ajay Pratap Singh, is the main plaintiff in present suit and all averments of the OSUT No. 7 of 2023 are based on the research carried out by him which are pleaded in the plaint and nature and structure of the suit. He is also deponent of the plaint. A letter head of plaintiff no. 2 Trust by which a letter was issued to District Magistrate, Mathura reveals that Kaushal Kishore Thakur Ji was a member of the Trust on 14.07.2023 along with other members. That in OSUT No. 7 of 2023 the word “Member Yogeshwar Shri Krishan Janamsthan Seva Sangh Trust” after the name of next friend, Kaushal Kishore Thakur Ji @ Kaushal Singh Tomar, has got missed due to clerical error and next friend Kaushal Kishore Thakur Ji is taking advantage of this clerical error for his personal benefit. However, he seems to be a member of Trust but was removed on 01.10.2023 for reasons that he acted against the interest of deity.

5.11 A litigant cannot take contradictory stand in the same case but Kaushal Kishore Thakur Ji had expressed his no objection on behalf of plaintiff no. 1 on application under Order 1 Rule 10 C.P.C moved on behalf of the applicant Radha Rani to implead her as party to the suit.

5.12 The essential fact of the present suit is that the temple of Lord Shri Krishna is in dismantled condition, which is standing on an octagonal platform.

5.13 In the application for impleadment of Radha Rani, the total area of suit property is shown as 13.37 acres. Shri Kaushal Kishore Thakur Ji has filed another impleadment application in the name of Rukmini Devi on 21.05.2025 through his team member Nitu Chauhan. Shri Kaushal Kishore Thakur Ji has also filed another Civil Suit in Agra, in which, petitioners are Sanatan Dharam Rakhsha Peeth, Reena N. Singh, Nitu Chauhan, Sonia Thakur @ Sonia Singh, thus the next friend Shri Kaushal Kishore Thakur Ji has made the present suit a game of chess. He has not come before the Court with clean hands.

5.14 Learned counsel for the applicants placed reliance on judgments of Hon'ble Supreme Court in **Ramjas Foundation and anothers Vs. Union of India (10) 14 SCC 38** wherein Hon'ble Supreme Court has held that -

“The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every Court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have bearing on adjudication of the issue(s) arising in the case.”

With above submissions, applicant/plaintiff no. 2 to 5 have prayed for deletion of the name of next friend Shri Kaushal Kishore Thakur and to add Ajay Pratap Singh as next friend of plaintiff no. 1, so that the nature and structure of suit may be saved.

6. Ms. Reena N. Singh appearing on virtual mode pressed the written objection filed on behalf of Shri Kaushal Kishore Thakur, the next friend of plaintiff no. 1 submitted that the application of plaintiff no. 2 to 5 to delete the name of next friend of deity (plaintiff no.1 is against the provisions of Order 32 Rule 1 C.P.C.) as deity is always a minor and can only be represented through next friend. Shri Ajay Kumar Singh has already been appearing on record as plaintiff no. 5 and he represents plaintiff no. 2 and 3 in present suit. She further submitted that main basis of seeking the deletion of name of next friend of plaintiff no. 1 is itself erroneous as Shri Kaushal Kishore Thakur Ji has not projected himself as next friend of the plaintiff no. 1 in the capacity of the member Yogeshwar Shri Krishan Janamsthan Seva Sangh Trust, Mathura and instead has shown himself as next friend in individual capacity and R/o 266 Madhav Vilas, Manav Seva Sangh Ashram, Vrindavan Mathura. In-as-much as in the trust deed of Yogeshwar Shri Krishan Janmsthan Seva Sang Trust, its date of issuance is shown as 04.03.2023 and registered office is shown as 14, Krishan Garden Agra. Shri Ajay Pratap Singh is shown as President and Narendra Singh and Shri Dharmendra Kumar are shown as Secretary and Treasurer respectively. The name of Shri Kaushal Kishore Thakur

does not find place in Trust deed dated 04.03.2023. In fact, he was never a member of said Trust.

7. She next submitted that the applicants have given false statement in the affidavit filed in support of the application, which is a punishable offence. In resolution of the trust of plaintiff no. 2 dated 16.08.2023, the said next friend is shown as President of Sanatam Dharm Raksha Peeth Thakur whereas said Trust was not in existence on 16.08.2023 and it was created only on 27.04.2024 which reflects the false side of applicants as annexure no. 8 to the written arguments filed on behalf of the applicants. According to the Purans and religious scriptures, Bhagwan Shri Krishan had multiple wives reflecting both spiritual symbolism and religious duty. Radha Rani is regarded as his foremost and eternal consort, representing the supreme devotee and the highest spiritual union of other wives. She next submitted that due to the deletion of name of the next friend of plaintiff no.1 in array of parties would make the deity unrepresented which is legally impermissible. Creation of parallel body or committee by private individual to replace or supplant an interesting next friend of a deity is impermissible and contrary to law, as once a deity is recognized as juristic person its representation must be consistent, lawful and through duly authorized trusty, shebait is all recognized next friends and not through constituted group. Once the representation is validly instituted, it cannot be displaced by subsequent formations. The disputes, rivalries or ego clash between the plaintiffs cannot be allowed to disturb the representation of the deity as the deity is a juristic person whose proprietary and legal interest can only be represented through a duly recognized shebait or next friend, as held by privy counsel in **Pramathanath Mullick v. Pradyumna Kumar Mullick**, AIR 1925 PC 139,; **M. Siddiq (D) through Lrs v. Mahsant Suresh Das**, (2019) 18 SCC 1- **Deokinandan v. Murlidhar**, AIR 1957 SC 133, and **Ram Jankijee Deities v. State of Bihar** 1999 5 SCC 50.

8. Multiple plaintiffs may maintain separate suits in respect of the same subject matter if their cause of action and relief are distinct. The principles laid down by Hon'ble Apex Court in **Bal Krishna v. State of Maharashtra** AIR 1965 SC 153 and **K.K. Verma v. Union of India** , AIR 1970 SC 1082 reflect the principle that the juridical personality, proprietary rights and spiritual sanctity of the deity are fully protected

while allowing multiple plaintiffs with distinct causes of action, provided that such proceedings do not disturb validly instituted representation through revised next friend or shebait. Consultation or parallel filing is permissible but substitution of representation of deity is impermissible under law. The continuity of representation of deity is essential to safeguard the proprietary and spiritual rights of the deity and , therefore, in the garb of of deletion and interference in the form of substitution would violate settled legal principles and jurisprudence regarding the protection of deity as a juristic person. The rights of deity, who is a perpetual minor, can be only protected through next friend. The deity's representation through Shri Kaushal Kishore Thakur Ji is valid and cannot be substituted, deleted or altered by newly created Trust, parallel bodies, or rival plaintiffs.

9. With above submissions learned counsel prayed for dismissing the application.

10. I have given a thoughtful consideration to the submission made by learned counsels for the parties.

11. The provisions of C.P.C. 1908 as contained under Order 32 are relevant for the purpose of consideration of the issues highlighted in present application and objection filed there on.

12. Order 32 Rule 1 Civil Procedure Code,1908 provides that every suit by a minor shall be instituted in his name by a person who in such suit shall be called the next friend of the minor. The next friend can be any person, not necessarily any of the guardians enumerated in Section 4 of the Hindu Minority and Guardianship Act, 1956. For institution of suit by next friend, Court's permission is not necessary, if next friend is not otherwise disqualified. Any person can act as next friend if he has no adverse interest against minor. Concept of guardian under Hindu Minority and Guardianship Act is different from that of next friend or guardian *ad-litem* under Order 32 C.P.C as purpose of next friend/guardian *ad-litem* is limited only to looking after interest of minor in a particular suit.

13. Rule (3) of Order 32 provides that where the defendant is minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be a guardian for the suit for such minor.

14. Rule 3A provides that no decree passed against the minor shall be set-aside merely on the ground that the next friend or guardian for the suit of

minor had an interest in the subject matter of the suit adverse to that of the minor. But if it shown that such adverse interest of the next friend or guardian has caused prejudice to the interest of the minor it shall be a ground for setting aside the decree.

15. Rule (4) provides that any persons who is of sound mind and has attained majority may act as next friend of minor or as his guardian of the suit provided that the interest of such person is not adverse to that of minor and that he is not, in the case of a next friend, a defendant, or, in the case or guardian for the suit, a plaintiff, or for other reasons to be recorded, court considers him unfit to act. The court may in his discretion or reasons be recorded award cost of the suit or compensation under Section 85 A or Section 95 against the next friend personally as if he were plaintiff. Rule 5 provides that every application to the Court on behalf of the minor, other than an application under Rule 10 sub-rule (2), shall be made by his next friend or by his guardian for the suit.

16. In present context Rule 9 of Order 32 is relevant which reads as under :-

16.1 Where the interest of the next friend of a minor is adverse to that of the minor or where he is so connected with a defendant whose interest is adverse to that of the minor as to make it unlikely that the minor's interest will be properly protected by him, or where he does not do his duty, or, during the pendency of the suit, ceases to reside within (India), or for any other sufficient cause, application may be made on behalf of the minor of by a defendant for his removal; and the Court, if satisfied of the sufficiency of the cause assigned, may order the next friend to be removed accordingly, and make such other order as to costs as it thinks fit.

16.2 Where the next friend is not a guardian appointed or declared by an authority competent in this behalf, and an application is made by a guardian so appointed or declared, who desires to be himself appointed in the place of next friend, the Court shall remove the next friend unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor, and shall thereupon appoint the applicant to be next friend in his place upon such terms as to the costs already incurred in the suit as it thinks fit.

17. Rule 10 provides that on the retirement, removal or death of the next

friend of minor, further proceedings shall be stayed until the appointment of next friend in his place where the pleader of such minor omits, within a reasonable time, to take steps to get a new next friend appointed any person interested in the minor or in the matter in issue may apply to the Court for the appointment one, and the Court may appoint such persons as it thinks fit. Only on ground that the next friend with some other co-plaintiffs has filed a separate suit in respect of subject matter of present suit and he has got an impleadment application filed by a female deity, he has destroyed the structure and nature of present suit. However, this fact cannot be denied that filing of multiplicity of suits in connection with same cause or matter in controversy is a great bottleneck in the early disposal of main suits(s). On perusal of provisions of Rule 9 which lays down the statutory legal position for removal or next friend, it is quite clear that a next friend can only be removed on grounds mentioned in said provision. In present case it cannot be conceded that the interest of the said next friend is adverse to that of deity or he is in any manner connected with the contesting defendant so as to make it unlikely that the minor's interest will be protected by him or he fails to do his duty in the suit in instant case. Applicants have failed to show sufficient cause which would make it expedient for removal of next friend. The cause shown in application for deletion of next friend which is in essence, a prayer for removal of next friend does not appear to be sufficient.

18. Consequently the grounds taken in application are not sufficient for removal of next friend which is a drastic action and can only be taken when it is proved that the next friend is acting against the interest of the deity.

19. The application is hereby **dismissed** with the above observations.

20. List on 9.10.2025 at 2:00 PM alongwith leading OSUT No. 01 of 2023.

(Ram Manohar Narayan Mishra,J.)

September 26, 2025

Dhirendra/Rashmi