

Court No. - 91**Case :- ORIGINAL SUIT No. - 1 of 2023****Plaintiff :-** Bhagwan Shrikrishna Virajman At Katra Keshav Dev Khewat
No. 255 And 7 Others**Defendant :-** U.P. Sunni Central Waqf Board And 3 Others**Counsel for Plaintiff :-** Devki Nandan Sharma,Prabhash Pandey,Pradeep
Kumar Sharma**Counsel for Defendant :-** Nasiruzzaman,Gulrez Khan,Hare
Ram,Nasiruzzaman,Punit Kumar Gupta**Hon'ble Mayank Kumar Jain,J.**

1. Heard S/S Harishankar Jain, Prabhash Pandey, Shailendra Singh and Ms. Reena N. Singh through video conferencing and S/s Vishnushanker Jain, Radhey Shyam Yadav, Ashotosh Pandey (in person), Pradeep Kumar Sharma, Anil Kumar Bisen, Leena Srivastava, M.P. Singh Gaur, Mahendra Pratap Singh, Rama Goel Bansal, Vinay Sharma learned counsel for plaintiffs and S/s Nasiruzzaman, Mahmood Pracha (through video conferencing), Hareram Tripathi, Pranav Ojha, learned counsel for the defendants.

2. Shri Vishnu Shankar Jain, learned counsel for the plaintiffs has filed an application under Order IV-A read with Section 151 of Civil Procedure Code,1908 on behalf of the plaintiffs that the present suit was filed before Civil Judge (Senior Division), Mathura on 25.09.2020 which was registered as Original Suit No. 353 of 2022. After filing of this suit, certain other suits of the similar nature concerning the land 13.37 acre of Katra, Keshav Dev and for removal of the disputed structure from the land in question have been filed. In total, till date 18 suits have been filed which are pending before this Court for trial.

3. The plaintiffs filed transfer application no. 88 of 2023 before this Court for transferring the instant suit and other suit to this Court for trial which was allowed vide judgment and order dated 26.05.2023 directing to transfer the present suit i.e. Civil Suit No. 353 of 2022 and with all other

suits of the similar nature to this Court. In view of the provision contained in Order IV-A of C.P.C. of the suits are required to be consolidated in the interest of justice. It is prayed that other 17 suits pending before this court for trial, be consolidated with the suit of the plaintiffs. It is further submitted that by consolidation of the suits the time of the Court as well the expenses of the parties can be saved. This would avoid the possibility of conflicting judgments. Further, it is submitted that the suit may be decided expeditiously in accordance with law.

4. On earlier occasion, Shri Punit Kumar Gupta and Shri Nasiruzzaman, Shri Hare Ram Tripathi and Pranav Ojha appearing on behalf of defendant no. 1 to 4 had submitted that the suits of similar nature and involving same question may be consolidated.

5. Today learned counsel Shri Mahmood Pracha, appearing on behalf of defendant no.2 through video conferencing submitted that he is opposing the prayer for consolidation.

6. Shri Nasiruzzaman, the learned senior advocate reiterated his consent for consolidation of suits on behalf of defendant no. 2.

7. Learned counsels for the defendant no. 3 and 4 submitted that they have no objection if the suit of similar nature are consolidated.

8. The learned counsel appearing on behalf of plaintiffs in OSUT No. 02/2023 to OSUT No. 18/2023 submitted that since the relief claimed by them is similar on the set of fact which are mentioned in the plaint of OSUT No. 01/2023 therefore, their suit may be consolidated.

9. Learned Senior Counsel Shri Hari Shankar Jain, appearing through video conferencing on behalf of plaintiffs submitted that the Court can suo moto consolidate the suits. He further vehemently argued that the consent of any party is not required. The consolidation of suits does not have any effect on the merit of the case and it is the rule of convenience to save the time of the Court, the expenses of the parties and also to prevent conflicting judgments.

10. Order IV-A of Civil Procedure Code provides thus:-

“When two or more suits or proceedings are pending in the same Court, and the Court is of opinion that it is expedient in the interest of justice, it may by order direct their joint trial, where upon all such suits and proceedings may be decided upon the evidence in all or any of such suits or proceedings.”.

11. Perused the record of the present suit as well the other 17 suits which are pending before this Court for trial.

12. The details of the other suits pending before this Court are referred in the following manner :-

Sr. No	High Court Case Number (Original Suit No.)	Lower Court Case Number (Suit No.)	Name of Parties
1	2	3	4
1.	OSUT-1/2023	R.S 176/2020	Bhagwan Shri Krishan Virajman at Katra Keshavdev and Others Vs. U.P. Sunni Central Waqf Board and Others
2.	OSUT-2/2023	R.S 152/2021	Bhagwan Shri Krishan Virajman and Others Vs. U.P. Sunni Central Waqf Board and others
3.	OSUT-4/2023	R.S 12/2023	Shri Krishan Janmbhoomi Mukti Nirman Trust Central Office and others Vs. Shahi Masjid Idgah Management Committee and others
4.	OSUT-5/2023	R.S 683/2021	Gopal Giri Maharaj Chela and others Vs. U.P. Sunni Central Waqf Board and Others
5.	OSUT-6/2023	R.S 839/2022	Bhagwan Bal Shree Krishna Virajman Thakur Keshav Dev Ji Maharaj and others Vs. Intzamia Committee, Shahi Masjid Idgah and Others
6.	OSUT-7/2023	R.S 317/2023	Shri Bhagwan Shri Krishan Lala Virajman and others Vs. U.P. Sunni Central Waqf Board Lucknow and Others
7.	OSUT-8/23	R.S 603/2022	Thakur Keshav Dev Ji Maharaj and others

			Vs. U.P. Sunni Central Waqf Board through its Chairman and Others
8.	OSUT- 9/2023	R.S 620/2021	Bhagwan Shri Baal Krishan 'Keshav' Dev Virajman and others Vs. U.P. Sunni Central Waqf Board through its Chairman and Others
9.	OSUT- 11/2023	R.S 423/2023	Shri Krishan Bhagwan @ Shri Krishan Lala @ Thakur Keshav Dev Ji Maharaj and others Vs. U.P. Sunni Central Waqf Board through its Chairman and Others
10.	OSUT- 12/2023	R.S 174/2021	Thakur Keshav Dev Ji Maharaj Virajman and others Vs. U.P. Sunni Central Waqf Board through its Chairman and Others
11.	OSUT- 13/2023	R.S 950/2020	Thakur Keshav Dev Ji Maharaj Virajman Mandir and others Vs. Intjamia Committee Shahi Masjid Idgah and others
12.	OSUT- 14/2023	R.S 107/2023	Thakur Keshav Dev Ji Maharaj Virajman Vs. Intjamia Committee Shahi Masjid Idgah and others
13.	OSUT- 15/2023	R.S 252/2021	Thakur Keshav Dev Ji Maharaj Virajman and others Vs. U.P. Sunni Central Waqf Board and others
14.	OSUT- 16/2023	R.S 107/2021	Devta Bhagwan Shri Krishan Lala Virajman and others Vs. Committee of Management, Trust of Alleged Shahi Masjid Idgah and others
15.	OSUT- 18/2023	R.S 633/2023	Bhagwan Bal Krishan Keshav Dev Virajman Garbh Griha, minor Shri Krishan Janmbhoomi Sthan Katra Keshav Dev and others Vs. Committee of Management, Trust Alleged Shahi Idgah and others

13. Perusal of the record relating to that relief claimed in Original Suit No. 01/23, 02/23, 04/23, 05/23, 06/23, 07/23, 08/23, 09/23, 11/23, 12/23, 13/23, 14/23, 15/23, 16/23 and 18/23 are similar. These suits are of similar nature. The proceedings in these suits can be taken up and the suits may be decided simultaneously on the basis of common evidence. To save the time of the Court, the expenses to be incurred to the parties, and to avoid conflicting judgments it appears expedient in the interest of justice to consolidate the suits with each other.

14. The Original Suit No. 03 is concerned, it is filed against Union of India and others.

15. So far as the Suit No. 10 of 2023 is concerned an application for restoration of the suit is pending. Although the nature of the suit and relief claimed in the suit are similar to other suits, therefore, the matter of consolidation of this suit with other suits shall be taken into consideration at later stage.

16. Since, in Original Suit No. 17 of 2023, an application under Order I Rule 8 read with Section 151 C.P.C. is pending for disposal, therefore, the issue of consolidation of this suit with another suits will also be taken into consideration later on.

17. Considering the arguments advanced by the learned counsel for the parties and in the interest of justice **Original Suit Nos. 1/23, 2/23, 4/23, 5/23, 6/23, 7/23, 8/23, 9/23, 11/23, 12/23, 13/23, 14/23, 15/23, 16/23 and 18/23 (referred in the table above) are consolidated.**

18. The Suit No. **OSUT 01/2023** Bhagwan Shri Krishan Virajman at Katra Keshav Dev Khewat No. 255 and others Vs. U.P. Sunni Central Waqf Board through Chairman and others is made as **LEADING CASE.**

19. It is however made clear that the applications pending in other suits shall be dealt with in accordance with the law along with the leading case.

20. Learned counsel for the plaintiffs Sri Vishnu Shankar Jain submitted that vide its order dated 14.12.2023 this Court has allowed the application of the plaintiffs to appoint a panel of three advocates as Commission for inspection of the disputed property. The composition and the modalities of

the commission are yet to be determined by the Court. He further submitted that pursuant to order dated 14.12.2022 he has submitted an application that commission may be headed by a retired High Court Judge and two advocates. It is also prayed that certain advocates on behalf of plaintiffs may also be permitted to participate in the proceedings of the commission. Since the matter is of urgent nature, therefore, composition and modalities of the commission be laid down today.

21. Sri Ashutosh Pandey, one of the plaintiffs, appearing in-person in OSUT No. 4 of 2023 submitted that his application for inspection of the property, paper no.9C, is pending consideration and every day and defendant no.1 are causing damage to the wall and gates of the property owned by plaintiffs. They have installed a huge generator adjacent to the wall of the temple. He further submitted that his application be tagged with the prayer of the plaintiffs made through OSUT No.1.

22. The learned counsel for the plaintiffs in OSUT Nos.6/2023, 13/2023 having paper no.9C and 145C respectively be also tagged with the prayer of the plaintiffs made through OSUT No.1.

23. The court is informed that Sri Punit Kumar Gupta, learned counsel U.P. Sunni Central Waqf Board Lucknow has moved an application on the ground that his father has expired and he is not able to attend the Court.

24. Sri Punit Kumar Gupta, learned counsel U.P. Sunni Central Waqf Board Lucknow is also to be heard on the composition and modalities of the commission.

25. Sri Nasiruzzaman, learned counsel for defendant no.2 prayed for some date for argument.

26. Put up on 17.01.2024 at 2:00 p.m.

Order Date :- 11.1.2024

Mohit