

BEFORE THE HON'BLE
HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

In the case of:-

1. Sanjay Tikoo S/o Lt. Kashinath Tikoo, R/o Sathu Payeen Barbarshah Srinagar Kashmir.
2. Saleem Gupkari S/o M. Abdullah Gupkari, House No.16 Gupkar Road Near Ex.CM's residence State of J&K, Advocate J&K High Court.
3. Rattan Chaku S/o Late J. N. Chaku R/o Ganpatyar, Srinagar, Kashmir
4. Vijay Sas S/o Lt. Pran Nath Sas R/o Nai-Sadak, Habba Kadal, Srinagar, Kashmir.

...Applicants / Petitioners..

VERSUS

1. State of J&K through Chief Secretary to Govt. Civil Secretariat, Srinagar / Jammu.
2. Commissioner/Principal Secretary, Deptt. of Revenue, Civil Secretariat Jammu / Srinagar.
3. Director Archeology, State of Jammu and Kashmir, Srinagar.
4. Divisional Commissioner Kashmir, Srinagar
5. District Development Commissioners (Srinagar, Anantnag, Pulwma, Baramulla, Budgam, Kupwara, Shopian, Kulgam, Ganderbal, Bandipora).
6. Mahants / Pujaries / Local Bodies / Samities / of all temples concerned.

..Non-Applicants / Respondents..

In the matter of:-

A petition invoking the extra-ordinary jurisdiction of this Hon'ble court under constitutional provisions by application of judicial activism and the doctrine evolved by this Hon'ble court in different judicial precedents commonly called as Public Interest Litigations involving substantial questions which are taken up in the instant public interest petition as under:-

- i) Interpretation of preamble of the constitution of India read with the constitution of State of J&K specifically the word "Secular" used by the constitution drafting committee while drafting the constitution.
- ii) Preservation, protection and wherever required resurrecting or reconstructing the cultural, social heritage involving historical monuments inside the republic of India within the valley of Kashmir.
- iii) Preservation and protection of historical religious properties left behind by the Kashmiri Pandit society after mass migration of the population having taking place due to the advent of turmoil in the valley.

In the matter of:-

Interpretation of the word "Secular" used by the constituent assembly in the preamble of the constitution.

Article 25 of the constitution of India and henceforth interpretation of freedom of conscience, free profession, practice and propagation of religion.

Article 28 of constitution of India and setting up of a religious institutions.

Article 29 of constitution of India protection of interests of minorities.

Article 49 of Constitution of India giving protection to the monuments and places and objects of national importance.

Article 41 (A) of constitution of India imposing fundamental duties, specifically clause (C), (E), (F) and Clause (J).

Article 1 to 7, Declaration on the Rights of person belongs to National or Ethnic, Religious and Linguistic minorities, 1992

In the matter of:-

A petition invoking extraordinary jurisdiction of this Hon'ble court by application of doctrine commonly called as Public Interest Litigation developed by this Hon'ble court by application of rule of *Locus Standi* and the application of doctrine for the purpose of protecting and preserving the religious, historical monuments of the Kashmiri Pandit population inside the Valley of Kashmir after the population having migrated from the valley due to advent of turmoil and turbulence inside the valley. As in

the case of temples and temple properties situated in different places concerning all districts inside the valley of Kashmir (State of J&K) and in furtherance to it preserving and protecting the cultural and social heritage of the State of J&K and secular character of the country as such directing the State of J&K through all fractions and instrumentalities of the state to take immediate steps not only in respect of religions as has been prayed but also setting up a body / organization or institution out of the Kashmiri Pandit population situated inside the valley and empowering them to take steps in respect of the same including giving them all the financial assistance required for the purpose of protection, preservation and resurrection of all the temples and properties or in the alternative the Govt. be directed to setup an organization or an institution as is operating for all Muslim shrines inside the valley commonly called as J&K Muslim Wakf Board or as is existing for Mata Veshnoo Devi temple commonly called as Veshnoo Devi Shrine Board Trust and again empowering them to use and facilitate all necessary resources for purposes of protection and preservation of the temples and other properties inside the valley of Kashmir.

In the matter of:-

This petition may please be treated as letter addressed to Hon'ble Chief Justice of J&K and any other co-ordinate bench available for the purpose of interpreting the constitutional provisions of law involved in this public interest matter and by invoking the extraordinary jurisdiction of judicial activism/Public Interest Litigation for the purpose of determining the question arisen herein and appropriate directions to the State of J&K as in

the case of prohibition, certiorari, mandamus, quo-warranto. And further any other appropriate order, direction or relief for the purpose of protecting and preserving the cultural heritage and the temple property inside the valley specifically the secular character of the State of J&K.

MAY IT PLEASE YOUR LORDSHIPS

The petitioners humbly seek to submit as under: -

1. That the petitioners are the permanent residents of State of J&K and respectable citizens of republic of India and henceforth are invoking the extraordinary domain of jurisdiction vested with this Hon'ble court for the purposes of interpretation of the constitutional provisions involved herein this petition and issuance of appropriate writ, order or direction upon the respondent State of J&K and instrumentalities thereof for the purpose of protecting and preserving all the temple properties inside the Valley of Kashmir. The issue being of substantial importance to all of the inhabitants of the Valley including the whole country as such is an issue of public importance therefore the petitioners have filed this petition as in the case of Public Interest Litigation. The petitioners are craving for the justice and the plea is taken without malafidies involved as it become the necessity of every citizen of republic of India and a subject of State to take whatever steps are necessary to bring into the kind notice of your Lordships the state of affairs wherein the matter is of social and cultural importance and henceforth this petition.
2. That the petitioners No.1 , 3, and 4, are Kashmiri Pandits who has been stationed inside the valley for all times including the

period of turmoil and is presently dwelling within the valley as such the petitioner No.2 being a close associate of petitioner No. 1 is a working advocate of Hon'ble High Court of J&K and had dealt with some important cases concerning the temple property in the forgoing years and henceforth submit an affidavit duly sworn for the purpose of corroboration of the contents of the petition.

3. That the Hon'ble Court is approached after the petition was prepared by the petitioners before the Hon'ble Supreme Court of India and accordingly the petition was accepted numbered under no. 1738/SC/PIL/2007. However after the lodgment of the petition, the petitioners were advised to approach the Hon'ble High Court of Jammu and Kashmir. Henceforth, the petition, order passed by the Hon'ble Supreme Court of India enclosed herewith this petition as Annexure_____.
4. That the petitioners being the subject of state and having been dwelling within the State of J&K during the period of turmoil and turbulence however as a conscience subject of the state and citizens of republic of India they have witnesseth certain state of affairs within the Valley of which they have been saddened and fear that concerns us all and has been ignored not only by the masses inside the state but also the Govt. of J&K including all organizations and institutions working inside the State. Before setting out the brief facts involved in the matter it would be appropriate to put forth a source from which the indulgence of this Hon'ble court is sought for the purpose of interpretation of the constitutional provisions involved herein. Your Lordships having a bare perusal of the preamble of the constitution we are having the opening words being used by constituent assembly

wherein it is without any doubt and ambiguity being stated that we people of India having solemnly resolved to constitute India into a sovereign, socialist, secular, democratic republic, further the preamble of constitution reads that there shall be a liberty of thought, expression, belief, faith and worship and by 42nd amendment of 1976 Sec 2 of such amendment interprets the word 'fraternity' to mean unity and integrity of the nation. Here it is not worthy to mention one of the eminent President of India Dr Radhakrishnan who in one of his books "Recovery of Faith" stated that the word "secular" means religious impartiality, comprehension and forbearance and further His Excellency has stated that it has an important role to play within the national and international life. One of the eminent constitutional writers Mr. Basu in his constitutional letter has described the word secular meaning thereby an equal respect for all religions. However Hon'ble Supreme Court, as Lordships is aware in one of its recent judgments in the year 1994 P.3,S/C cases Para 153 has gone a step ahead as a guardian of constitution to declare the word secular as such the basic feature of the constitution of India. Your Lordships substantial guarantee has also been granted to the citizens of the country for the purpose of propagatory and practicing religion under Art 25 of the constitution and all institutions including the instrumentalities of the state are duty bound to ensure religious equality and promote secularism thereby giving an appropriate interpretation to the word 'secular' in the preamble. It is important and noteworthy to mention your lordships that in one of the cases decided by this Hon'ble court in the year 1997 AIR 1997 S/C 1711, this Hon'ble court had given in unequivocal state that even in the service of priest, Mahant, Pujari can be regulated by the

state by invoking provisions under this Article and this case was decided while the controversy involved in the matter was again in respect of services of a priest. Under Article 26 of Constitution of India every religious group within any state or any part of republic of India has been given a right to maintain and manage religious affairs of their religions community and for this purpose they have been given a right to maintain religious and charitable purposes. However such establishments can be regulated by the law and same has been laid down by this Hon'ble court Your Lordships in 1994, S/C 64 Judgment and for the same of appropriate functioning of the institution the right of performing rituals, puja, kirtan etc can also be regulated by the law. Further the administration of the properties of religious endowments can also be done by the Non-migrant Kashmiri Pandits or by the Govt. and laws can be made in respect of the same. Under Art 28,29 & 30 the Govt. shall have a prerogative to issue religious instructions as also to take over any institution which may be operated even an educational institution for the purpose of protecting the interests of minorities and also can acquire in the name of such organizations whatsoever immoveable property it deems necessary. However an autonomy has been given to the minority institutions but such autonomy shall not be permitted and can in no way be permitted unless and until the management is not free from mal administrations and bad governance. While these institutions are being run. Under Article 49 read with Article 52-A of constitution it becomes the duty of the State to promulgate law for the purpose of protecting monumental and historical places from spoliation, disfigurement, destruction, renovation, removal or prohibition from export as the case may be. All of the constitutional provisions involved

herein speak and guarantee to all citizens of the republic of India that they shall maintain not only the secular character of the country but also duty is imposed upon the governments inside every state for the purpose of maintaining the secular character of the country and any such attempt which is to take away the secular character of the country same can be put to challenge inside the courts and as is Your Lordships pray the petitioners for the same. Further the petitioners under the other provisions of law invoke the jurisdiction of this Hon'ble court for the purpose of protection of all the rights granted by the constitution of India to all religious minority communities and in the instant case the Kashmiri Pandit population situated inside the valley and the properties as in the case of temples and religious endowments, for this purpose your lordships indulgence into the matter is required.

BRIEF FACTS INVOLVED IN THE MATTER

Durga Temple, Situated at Durganag Area Gupkar Road Srinagar.

Deity Goddess Durga,

Annexure A (P to P).

That a temple was existing in the Durganag area and the said temple was in the name of Goddess Durga. The said temple had a large area of open lands adjacent to the temple which was being used by the Kashmiri Pandit society for the performance of Hawans and other religious activities. This area was also being used for the purpose of religious gatherings specifically on the days of Janam-Ashtami (Birth day of Lord Krishna), Rakhshabandan and during the period of Navratra. It would not be out of place to mention here your Lordships that this temple is situated in the heart of city and the cost price of the

land in the said area would not be less than 50 lacs per kanal (guntha). Further the area was so much as that at least 5,000/- people together would be able to perform religious rituals and the said area would be able to accommodate all Kashmiri Pandit society within the vicinity to perform their rituals. The said temple was under the local self governing body commonly called as Durganath Trust in the said area. However this process seems to have been taken over by one family and it seems that it has become only one dynasty who under the garb of being the Chief Trustees together are taking the management into their own hands and are solely exercising the powers without consultation of the Kashmiri Pandit population in the Valley. The said chief trustees i.e P.N Takoo has shrunken the area of Puja and Keertan and has with the permission of the state government and by inviting eminent officials and policeman by his side been able to raise complexes on this vacant area of land. The Governor was also an invitee on the function of inauguration of the said complex which was constructed on the fake name of Yatri Bawan, while as the fact of the matter is that the said Yatri Bawan has been raised only under the garb of a commercial complex in which a third party interests have been created on the temple property which mostly are Muslims and have nothing to do with the Puja, Keertan of the temple but have entered into lease deeds with the trust and are paying rentals for running business activities inside the temple premises. The saddest part of the history is that there used to be a Nag commonly called in Kashmiri, a spring of water which would be used to purify and the water of the said spring was taken by all believers and worshipers with great sanctity. The said spring is now going to die very soon as not only a commercial complex in the name of yatri bawan has been constructed but in addition to it further fresh constructions are being raised on the said land again creating third party interest in the temple

and by providing lease hold right to the public at large for the purpose of running commercial activities inside the temple. The actual temple along with the spring only seems to have been separated while as all the lands have come under commercial activity and raising of commercial complexes and creating third party interest under the garb of construction of Yatri Bawan in the complex. Again your Lordships the income derived from the complex received by the trust is used by some eminent members of the trust only who are not even stationed in the Valley and all income accruing from the said complex is going into the wrong hands who are utilizing the income for the purpose of their personal beneficial needs. Annexure A (P___ to P ___) would manifest in itself and would be self explanatory of the fact that how a Yatri bawan has become a commercial complex as would be revealing by the different banners and boards being installed by 3rd party lease holders for purpose of running the business and commercial activity. P ___ is a photograph taken of a fresh complex being raised at the back side again for the purpose of creating third party lease hold rights over the temple property and this substantiate the plea that all the lands in and around the temple which were being used for the purpose of puja and keertan have become impossible and impracticable not only due to the period of turmoil inside the valley but also due to mismanagement of the chief trustees and other member trustees , henceforth the temple Durganag has become a hub of the commercial activity inside a temple which used to be sacred place used for purposes of Puja, keertan on the sacred days by the Kashmiri Pandit society.

Shiv Temple, situated at Basant Bagh Srinagar,

Deity Lord Shiv

Annexure B (P ___ to P ___)

That there used to be existing and still some signs of ruins are still existing of a Shiv temple. The said temple has a historical percept goes was constructed in the year 1850 during Sikh rule on the bank of river Jhelum. The said area was at that time called as 'vichar bagh' now commonly called as Basnant Bagh Kashmir. The said temple had a place of seating where Maharaja of time would address to the grievances of the public after performance of morning rituals. The said temple has been desecrated and demolished by flood control department. it would not be out of place to mention the fact that the govt. has left three mosques standing on the river of bank without touching them, since the mosques have been illegally raised but finding that there is no Kashmiri Pandit population living in the said area was not only able to touch the temple but also desecrated and demolished all structures standing thereof. The fate of the said temple is self explanatory and visible in the annexure B (P___ to P ____). As is revealing from the annexure B what is left in the temple is Shivling in an enclaved plinth as the temple has already been removed by the govt. this temple has a historical value as a stone having engravings are not only in Persian but in Gurmukhi and Sharda and as it may seem leaving the illegal construction of houses, places and mosques on the banks without any touch to them. What they have chosen to demolish is temple on the banks of Jehlum. This policy adopted by the Govt. of J&K is self explanatory how the Government is adopting tactics to destroy the secular character of the state. Further the temple is not only in ruins but the important idols, Shivlings have all been stolen and may also possibly be exported the other states or foreign countries for the purpose of illegal gains and as the state Govt. has not been able to do anything in respect of the same. The said temple was being managed by local Pandit population in the said area however as all have migrated it was the duty of the Govt. for preservation and

protection of the same which they have not done so and in turn it is the respondent Govt. that has taken steps to demolish the said temples who on the other hand was duty bound to preserve the temples as historical monuments.

Baba Dharamdas Temple, Deity Durga.

Situated at Baba Demb Srinagar

Annexure C (P to P)

That there exists a temple on the banks of Chonth Kul which is an outlet of Dal Lake. The said temple is commonly called Baba Dharamdas temple, although the temple has a deity Shiva and there was properly installed shivling as well as a golden figure of goddess Mother Durga which was of 18 carats and weighed 3½ Kgs. The said temple was created by one of the erstwhile justice of Hon'ble High Court who had become Beragi and had given all his property for the creation of trust before passing away. However being a legal knowledge possessor and a jurist had created proper trust for the management of the same however the said trust fell in the hands of Mahants who mismanaged with the properties of the temple for approximately 20 years right from the Mahant Shatrugan Ji Maharaj to Mahant Ramjeevan Das Ji Maharaj. The saddest part of the history is that all these Mahants instead of preserving and protecting this historical monument alienated properties and created a third party interest among all properties including aprox. 40 kanals of land in and around the temple and 182 Kanals of land situated at Baghati Kanipora District Budgam. All of these lands have not only been transferred in favour of third parties but also the land has been sold belonging to the temple as in the case of sale deeds etc which is firstly not permitted secondly even if it is deemed to be permitted it could not have been done by Mahants of the temple because the Mahants of the temples

were mostly persons who were not subject of the state , henceforth under Transfer of Property Act read with Land Validation Act, Land Alienation Act had no power to transfer the same and to create any lease hold rights not being the subjects of the state. Annexure C (P _____ to P _____) are self explanatory to explain how this land has been transferred and sold by way of fake lease deeds/Sale deeds to the third party who have not only raised full fledged complexes on the said lands but are going on to raise full-fledged complexes and in this regard have also applied to the Ministry of the Revenue Department for the purpose of changing the land use and accordingly even changing of the land use has been granted by State govt., again showing how the Govt. is working hand in hand with these elements who are out to destroy the basic secular character of the state. It is most respectfully Your Lordships submitted that the said temple is under the occupation of para military troops and henceforth all the income derived by the said Mahant is only going into his pocket. Lately the Mahant Ramjeevan Das who was appointed by Hon'ble High Court by virtue of a revision petition, Annexure P_____, has entered into a compromise with the business entrepreneur and has allowed him to raise a full-fledged complex on the lands of the temple totaling 18 kanals in total and again has also by way of private agreement and court decree allowed him to create third party interests on the lands belonging to the said temple. The compromise decree, Annexure P _____, passed by the Hon'ble court of Sessions has also one of the clauses wherein the business entrepreneur Lala Kuldeep Sarna was required to raise a Yatri Bawan after investment of 15 lacs on the lands adjacent to the temple but as it is as such mentioned has been received by Mahant but no such Yatri Bawan exists on spot instead a full-fledged complex is being raised by Lala Kuldeep Sarna which is manifested by Annexure C (P _____).This temple is situated in the heart of city and is very close to

Lalchowk area which is considered most precious and valuable and the value is one crore per kanal and all of the property that has been transferred by the Mahant without having legal sanction, as the Mahant is neither the Chela of Shatrugan Das nor the State subject, behind such transfers in accordance with the laws of state of J&K further the Mahant who have transferred these properties have done it for last 10 years and further transfers are being made leading eventually to the alienation of all lands leaving behind the temple which is occupied by the paramilitary forces and is not in possession of the Mahant who claims to be Mahant of the said temple and henceforth are making investments of the temples by constructing buildings / commercial complexes in the name of Yatri bawans or restructuring the temples. Henceforth the said temple has lost all properties which were in the foregoing days used by Kashmiri Pandit population for conducting puja, keertan etc. This place was also important as yatri's from other States also came here when they visit the valley for Amarnath Yatra which most pilgrims came to perform inside the valley. Since all lands have been alienated and a third party interest had been created, one fails to understand how the Yatris which would come to the valley for performance of Amaranth Yatra can be accommodated inside the area which belong to the Pandit population as the said landed property are now under lease hold owners, shopkeepers etc and also under illegal occupants who have illegally occupied it.

Ragunath Temple, situated at Fatehkadal Srinagar.

Annexure -D (P _____ to P _____)

Deity: Lord Rama (Ram Darbar)

This temple is in the area which is commonly called down town area and is very congested area, however in the said area there used to be 40 % of the population before the migration of Kashmiri Pandit

Population from the Valley and this temple was of great importance to all the Kashmiri Pandit Population living in the said area. The said temple is not only of historical importance but the construction work of the said temple would manifest that it is of a great historical importance depicting the Brahman culture. the said temple has been constructed by some hundreds of years back and was standing on the banks of river Jhelum on the said area, however due to the advent of turmoil inside the valley the Govt. was duty bound to adopt services of all sources for protecting and preserving the said temple and as it is it was also hoped that in the absence of Kashmiri Pandit population in the said vicinity the Govt. would take steps for preservation and protection of the said temple but instead has desecrated it and has not been able to provide substantial protection from the persons who would during the period of turmoil took steps to arson loot , desecrate and demolish these monuments of great importance. Infact the Govt has been working hand in hand with these nefarious elements for the purpose of destroying such important historical monuments including the instant temple. It would be important to make a whisper of one important aspect of the temple that the said temple was in its good form till the Kashmiri Pandit population in the valley were dwelling in the said area but immediately after leaving the valley of Kashmir in the year 1990 the said area was taken over by the turbulent forces in the valley and govt. was required to take steps to protect the temple from such elements however the Govt. slept over the matter and as a result of which the temple was desecrated and demolished and most of the structures have been destroyed to a large extent . If one ventures in the premises of the temple one is saddened by the fact that not even the idols of goddess and deities were spared and some of the pieces of important goddesses are lying in the lawn of the said temple. The said temple has been desecrated to such an extent that it can be compared

with the extinct civilization of past. The idols of goddess have been damaged or sold in the market or some have been exported God Knows but the saddest part of this historical fact is that Govt. did not take even single step for the preservation, protection of this temple as well. Although it was made substantially clear by the Central Govt. to take necessary steps as deemed necessary but the State Govt. has slept over the matter leading to the complete destruction of this temple as well.

It seems from the bear perusal of the annexures that the policy of the state should have been to protect the secular character of the State and the policy of the state had been for last 15 years to lend a support to the persons who were working inside the valley in the name of barbarism and vandalism. However fact of the matter is the state could have taken a new stand and could have re-constructed the temple as such but as would manifest from the annexures that nothing of that sought have been done by the Govt. either through its agencies or itself, henceforth it would seem that the Govt. is interested in propagating of non-intervention and wait and watch policy.

Gourishankar Temple, Situated at Barbarshah Srinagar Kashmir.

Deity; Lord Shiva.

Annexure E (P to).

That there used to be existing a temple in the Barbarshsh area commonly called by the local inhabitants of the area as Gourishankar temple. The said temple had Lord Shiva as deity and it also had a large area in the valley which was used by Kashmiri Pandit population for Puja, keertan etc. it would not be out of place to mention one important fact that again the said area had a ratio of 70% of Kashmiri Pandit in the said area before migration. The said temple had lot of

land outside on which some portion had come under the construction of fresh widening of road by the P.W.D Deptt. however while widening of road was being done by the State this temple was totally removed from the said area along with all idols inside and where these idols were placed it is not known, however in accordance with the Land Acquisition Act of J&K they were required to relocate the temple some where else but the Govt. has not done of that nature and it is believed that the idols of the said temple were thrown in the Jhelum without being relocated somewhere else. Some of the annexures supplied to your Lordship speaks of saddest tale of how brutal state of Affairs has been inside the valley and how Govt. has slept over the matter of such public important. It would not be out of turn to mention here that not only the Govt. but all nefarious elements have worked hand in hand with the government leading to destruction of the religious and historical cites. There are other important religious temples inside the valley totaling around two thousand and all the property that was existing in the said temples would not be less than one thousand crore and definitely this was a great cause for which the Govt. has lend support to the elements inside the valley and this cause would have resulted in great gain and accordingly the Govt. adopted the policy which seems to have been unconstitutional and a complete attempt to destroy the basic secular character of the State. The petitioners humbly submit here Your Lordship that acquiring hold over records including records of temples is quite impossible and thus whatever material that the petitioners could gather though possessing life threat and injury from the side of the nefarious elements working inside the valley but also the persons who are working in the Govt. to strengthen their hands in propagating the policy. Henceforth it is prayed that all the records may please be called for submissions from all departments including revenue department of J&K wherein the properties were

comprised of temples and Your Lordships it is advisable in the instant matter that the record should be called right from 1950 onwards so as to see how much mutilations and fraudulent mutations have taken place for the purpose of eliminating the religious property belonging to Kashmiri Pandit Population inside the Valley.

Temple Narsingji Mahraj, Estate Maisuma, Srinagar

Deity; Lord Shiva.

Annexure E (P _____ to _____).

That the temple is in the heart of the city and has property situated in estate maisuma covered under survey no. 45, 45/1, 45/2, 46/1 and 50. The said land is having two building situated over it and a dispute had arised between the tenants and the erstwhile Management Committee and this dispute was overtaken by the District Magistrate who had passed orders of eviction and attachment attaching the said property. However, the said order was challenged before the Hon'ble High Court of J&K by virtue of the petition and the copy of the same is enclosed as annexure P _____ and the Hon'ble High Court has stayed the eviction. However the assigned of the said property and sale proceed are being collecting by the fraudulent Management Committee. Henceforth, the money is being invested for personal purposes without investment in to the temple.

Temple Mandir Shivji Mahraj, Brijbihara, Anantnag

Deity; Lord Shiva.

Annexure E (P _____ to _____).

Land under Survey no. 565 measuring 6 Kanal 4 Marlas in Brijbehara, Anantnag, was transferred for an hefty sum of Rs. 20 lacs by the persons who claims to be trustee and accordingly have power to

make the sale while the fact of the matter is that no transfer can be effectuated as this is specifically barred by the different rulings of Supreme Court. That the property belonging to the trusts are inalienable and thus the action of the trustee is illegal the petitioner had through an application been able to procure the records with the Tehsildar, Bijbehara which is endorsed herewith the annexure as _____. By virtue of this annexed it would manifest that land was being alienated and to stop this illegal transaction application of the area residence was moved for the purpose facilitating action against the illegal transfer.

That the matter conferring us as the citizens and subjects is of awesome nature as the situation has become so grim that even the assembly sessions is not coming up with an answer. A bill was introduced by the private member in the Assembly session for sanction and it was believed that the bill would be passed unanimously but nothing of that sort happened and the fact of the matter is the bill was defeated in the house by the Government in power. The said fact was published by the newspaper in detail by "Daily Greater Kashmir" photocopy is annexed as Annexure _____. Further the man handling of temple property is reprinted in all news papers enclosed as Annexure _____.

That this petition has been preferred by the petitioners for the sake of issuance of writ of prohibition upon State Govt. for putting a complete ban on all illegal transactions, creation of lease hold rights over the temple properties and in this case a direction should also be issued against the different trustees would are empowered to do so under the Trust Act, further a mandamus is also sought by the petitioners for purpose of direction upon the State Govt to take all necessary steps for preservation and protection of temple properties

inside the valley including the temples mentioned in this petition and also reconstruct the temples which have been destroyed and further place a complete ban on construction of complexes of commercial nature over the temple properties. The petitioners also pray for a Certiorari for quashment of all mutations right from the year 1984 onwards after analysis and declaring all lands as lands belonging to such temples and deities further pray for Mandamus directing the state govt. to formulate a trust as is existing for preservation and protection of Muslim Shrines known as Wakf Board and for the Mata Veshnoo Devi Trust of the local domestic Kashmiri Pandit population and among whom a person's should be chosen to be given a duty of preservation and protection. Further Mandamus be passed directing the State government to substantially provide financial assistance to the local Kashmiri Pandit for preservation of these monuments. The Govt. should be directed to work with the domestic Pandits of the area in the Valley to create a trust with the Govt. officials also. Further any other relief, direction for order which this Hon'ble court deems fit and proper in the facts and circumstances may also be passed in favour of the petitioner and against the respondents for the purpose of protecting, preserving and reconstructing the temple properties inside the valley of Kashmir. Further by invoking extraordinary jurisdiction this Hon'ble court may be pleased to remove all Mahants, Trustees who have lead to the destruction of all properties as in the case of temples and religious endowments inside the valley.

Petitioners.

Dated:-13.05.2007

BEFORE THE HON'BLE
HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

In the case of:-

1. Sanjay Tikoo S/o Lt. Kashinath Tikoo, R/o Sathu Payeen Barbarshah Srinagar Kashmir.
2. Saleem Gupkari S/o M. Abdullah Gupkari, House No.16 Gupkar Road Near Ex.CM's residence State of J&K, Advocate J&K High Court.
3. Rattan Chaku S/o Late J. N. Chaku R/o Ganpatyar, Srinagar, Kashmir
4. Vijay Sas S/o Lt. Pran Nath Sas R/o Nai-Sadak, Habba Kadal, Srinagar, Kashmir.

...Applicants / Petitioners..

VERSUS

1. State of J&K through Chief Secretary to Govt. Civil Secretariat, Srinagar / Jammu.
2. Commissioner/Principal Secretary, Deptt. of Revenue, Civil Secretariat Jammu / Srinagar.
3. Director Archeology, State of Jammu and Kashmir, Srinagar.
4. Divisional Commissioner Kashmir, Srinagar
5. District Development Commissioners (Srinagar, Anantnag, Pulwama, Baramulla, Budgam, Kupwara, Shopian, Kulgam, Ganderbal, Bandipora).
6. Mahants / Pujaries / Local Bodies / Samities / of all temples concerned.

..Non-Applicants / Respondents..

In the matter of:- Application for grant of interim relief.

May it please your Honour:

The applicant/petitioners very respectfully submit as under:

1. That a Public Interest Litigation petition titled above has been preferred before this Hon'ble court involving substantial question of law and interpretation of preamble of constitution specifically word secular (Article 1 to 7, Declaration on the Rights of person belonging to National or Ethnic, Religious and Linguistic minorities, 1992) read with other provisions and petitioners invoke jurisdiction of this Hon'ble court under P.I.L for the purpose of same.
2. That the petitioner/applicants have a strong prima facie in their favour and also balance of convenience also titles in their favour and in case the final relief as prayed for in the main petition, an irreparable loss shall be caused to the applicant/petitioners.
3. That the grounds taken in the main petition are also adopted as grounds for grant of interim relief.
4. That this application is supported by an affidavit duly sworn in by the applicant/petitioners.

In the premises it is therefore prayed that an interim order of temporary injunction, vis-à-vis, raising of fresh construction, reconstruction, alienation, damaging, transferring, leasing, renting out may please be passed in respect of all temple properties situated inside the Valley of Kashmir also annulling the creating of lease hold rights from 1990 onwards and further this interim order may please be implemented through coercive measures and through agencies

constituting of Revenue Department and Police and Para-Military agencies not below the rank of Assistant Commissioner and Superintendent of Police respectively so as to prevent the destruction and desecration of the temple properties inside the Valley of Kashmir. Same would be in the larger interests of justice and would facilitate the process of law.

Further the all the Trusts, Samities, Managing Committees, Sabhas, Non-Government Organizations or Government Organizations, Mahants, Pujaries to the temples in the Valley may be directed to submit all the collections, since 1990 onwards, before the Hon'ble Court and if any expenditure, 1990 onwards, the records of the same may please be produced before the Hon'ble Court and;

Further a body may please be constituted from the Kashmiri Pandit population who have been stationed inside the Valley for last seventeen years and have properties inside the valley and have not migrated or have left the Valley personally or allowed their families to move outside the Valley, to look after all the temples / shrines / ashrams and the other religious places of the Pandit Community inside the Valley.

Dated; 13.05.2007

Petitioners