

**Case :-** TRANSFER APPLICATION (CIVIL) No. - 88 of 2023

**Applicant :-** Bhagwan Shrikrishna Virajman And 7 Others

**Opposite Party :-** U.P. Sunni Central Waqf Board And 3 Others

**Counsel for Applicant :-** Prabhash Pandey, Pradeep Kumar Sharma

**Counsel for Opposite Party :-** Punit Kumar Gupta, Devid Kumar Singh, Nasiruzzaman, Prateek Rai, Varun Singh

**Hon'ble Arvind Kumar Mishra-I,J.**

Heard learned counsel for the applicants, learned counsel for the contesting opposite parties and perused the material brought on record.

In this case, the office report dated 04.04.2023 is reflective of fact that no counter affidavit whatsoever has been filed by either of the four respondents so far despite the time being accorded to them as last chance on 15.03.2023.

Sri Punit Kumar Gupta, learned counsel for respondent no. 1 - U.P. Sunni Central Waqf Board, Lucknow has stated that counter affidavit is under preparation, some correction is required to be made due to which the same could not be filed but it would be filed within short span of time by e-filing on the website of this Court and the copy of the same will be given to the applicant.

Sri Nasiruzzaman, learned counsel for respondent no. 2- Committee of Management, Trust Shahi Masjidgah has shown hard copy of counter affidavit although he admits that the same has not been filed through e-mode on the record of High Court. He submits that the needful shall be done at the earliest. Since the present case has been filed through e-mode and transmitted to this Court, therefore, no excuse would be entertained for any lapse committed by and on the part of the learned counsel appearing for the respondent no.2, in filing the counter affidavit.

Sri Prateek Rai, learned counsel for respondent no. 3 - The Shree Krishna Janambhoomi Trust, Mathura has stated that the respondent is not interested in filing any counter affidavit, because the respondent no.3 intends the matter to be decided expeditiously. He has nothing to do with the forum of litigation.

Sri Kamlesh Narayan Pandey and Sri Virendra Prasad Maurya,

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counsel for respondent no. 4 have claimed themselves to be appearing on behalf of respondent (no. 4) and they would file their Vakalatnama bringing on record through e-mode. Therefore some time may be allowed to them to file counter affidavit.

The plea raised on behalf of the opposite party no.4, on the face, is misleading and appears to have been made with a view to hamper the proceeding of this Court but considering the facts and circumstances of the case, particularly the interest of justice, no more time but last chance is given by 7th of April, 2023, let counter affidavit through e-mode be filed in this case and copies whereof be supplied to the parties prior to such filing. In case no copy of the counter affidavit is served upon the parties concerned, it will be deemed that the respondent no.4 has nothing to say in regard to the consideration of this transfer application and this Court will proceed further with the case on the next date fixed.

Rejoinder affidavit may be filed after receipt of copy of the counter affidavit.

Put up this case as fresh on 11th April, 2023.

However, it is clarified that filing of counter affidavit and rejoinder affidavit as directed would be done through e-mode of this High Court and no latitude should be shown by either of the sides.

**Order Date :- 4.4.2023**

Vikram