

SRI RAM LALA'S 'COURT-AYANAM'



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1. Lord Sri Ram, the 7th avatar of Lord Vishnu, chose his Janambhoomi as Ayodhya and Dasaratha as his father, as per Srimad Valmiki Ramayana . In the Treta yug, Lord Sri Ram was exiled for 14 years, when he walked across the length of the country, crossed the ocean to Lanka and flew back to Ayodhya in Pushpaka vimanam. However, in the Kalyug he has been waiting for about 490 years to reclaim his Janmasthan by procedure established by law, abiding by the Kala Dharma. The present article seeks to trace Sri Ram Lala's Court Ayanam.
2. The first suit was filed by Sri Gopal Singh Visharad on 16.01.1950, wherein he asserted the right to worship and have Darshan of the idols in the Janambhoomi. He prayed for perpetual injunction against the local muslims and officials of the state government arrayed as the defendants in the said suit no. 1 of 1989 (Regular suit no. 2 of 1950) before the Civil Judge, Faizabad .
3. The most important suit No.5 of 1989 on behalf of Bhagwan Sri Rama Virajman was filed on 01.07.1989 before the Civil Judge at Faizabad. The suit was necessitated due to the inordinate

delay in the hearing of the suits and more than 25 years had passed since the framing of the issues . The plaint averments clearly reflect the angst and exasperation of the Hindu community nearly 40 years after the first suit was filed in 1950, immediately after independence from Islamic rule followed by British Rule, before a competent civil court even before the Constitution came into force. The relevant plaint averment reads as follows:

“11. That the issues were framed in all the four suits more than 25 years ago, but their hearing has not yet commenced.”

“(35H) That exasperated by the laws delays, the saints assembled in a meeting held at Ujjain during May, 1992, resolved to start the KAR SEWA for the construction of New Temple at Sri Rama Janma Bhumi from the SHILANYAS site, on July, 9, 1992, and in their assembly at Ayodhya on July, 6, 7 and 8, 1992, that resolve was re-affirmed.”

4. Suit no. 4 was filed on 18.12.1961 on behalf of the Sunni Central Waqf Board and other individual muslims. The case pleaded therein is that Emperor Babar more than 433 years ago, after his conquest of India and his occupation of the town of Ayodhya, built Babri Masjid for the use of muslims in general as a place of worship. That for the upkeep and maintenance of the mosque a cash grant used to be paid from the royal treasury of the Emperors' of Delhi, Mughals. The British Government also continued the cash grant till 1864 in which year instead of cash grant revenue free land was given. In other words, the said masjid was built by an invader and supported by the subsequent invader is their pleaded case. The Mosque is located in Mohalla Kot Ram Chander also known as Rama

Kot Town, Ayodhya, that is the place known as the fort of Lord Rama. The relevant extracts of the pleadings are given herein below:

“1. That in the town of Ayodhya, pergana Haveli Oudh there exists an ancient historic mosque, commonly known as Babri Masjid, built by Emperor Babar more than 433 years ago, after his conquest of India and his occupation of the territories including the town of Ajodhiya, for the use of the Muslims in general, as a place of worship and performance of religious ceremonies.”

“2. That in the sketch map attached herewith, the main construction of the said mosque is shown by letters A B C D and the land adjoining the mosque on the east, west, north and south, shown in the sketch map attached herewith, is the ancient graveyard of the Muslims, covered by the graves of the Muslims, who lost the lives in the battle between emperor Babar and the previous ruler of Ajodhiya, which are shown in the sketch map attached herewith. The mosque and the graveyard are in Mohalla Kot Rama Chander also known as Rama Kot Town, Ayodhya. The khasra number of the mosque and the graveyard in suit are shown in the schedule attached which is part of the plaint.”

“3. That for the upkeep and maintenance of the mosque and other connected expenses, a cash grant used to be paid from the Royal Treasury which was

continues by the Emperor of Delhi and by Nawab Saadat Ali Khan, the Nawab Wazir of Oudh.”

“4. That after the annexation of Oudh, the British Government also continued the case Nankar till 1864, in which years instated of cash Nankar grant of revenue free land in village Sholapur and bahoranpur, in the vicinity of Ajodhiya, was made by the British Government.”

The prayer in Suit 4 is as follows:

“24. The plaintiffs claim the following reliefs:-

(a) A declaration to the effect that the property indicated by letters A B C D in the sketch map attached to the plaint is public mosque commonly known as ‘Babri Masjid’ and that the land adjoining the mosque shown in the sketch map letters E F G H is a public Muslim grave yard as specified in para 2 of the plaint may be decreed.

(b) That in case in the opinion of the Court delivery of possession is deemed to be the proper remedy, a decree for delivery of possession of the mosque and grave yard in suit by

removal of the idols and other articles which the Hindus may have placed in the mosque as objects of their worship be passed in the plaintiff’s favour, against the defendants.”

5. In support of their respective pleadings, both sides have led evidence both documentary and oral

On the first day of the hearing Sri K. Parasaran was given the liberty by the Bench to sit and address the Court in view of his age. He gracefully acknowledged the same and stood up and argued the case for upholding the high traditions of the Bar of standing while addressing the Court on the first day of his submissions. Sri Parasaran, set very high standards by his conduct both inside and outside the Court in such a sensitive matter. It may not be out of place to state that there was a huge contrast in the style of Advocacy at the Bar which was there to be seen. The most memorable exchange in the Court was when an argument was raised that “once a mosque always a mosque”, and the Bench sought Mr. Parasaran’s response, he in his measured tone very calmly replied, “once a temple always a temple”. I believe this exchange summarized the entire dispute between the parties.

before the Hon'ble High Court, which heard the original suits. In para 27 of the judgment of the Hon'ble Supreme Court the extant and nature of evidence led has been noticed as follows:

“27. Evidence, both oral and documentary, was recorded before the High Court. As one of the judges, Justice Sudhir Agarwal noted, the High Court had before it 533 exhibits and depositions of 87 witnesses traversing 13,990 pages. Besides this, counsel relied on over a thousand reference books in Sanskrit, Hindi, Urdu, Persian, Turkish, French and English, ranging from subjects as diverse as history, culture, archaeology and religion. The High Court ensured that PART A 24 the innumerable archaeological artefacts were kept in the record room. It received dozens of CDs and other records which the three judges of the High Court have marshalled.”

6. The evidence before the Hon'ble High Court and Supreme Court has been listed in detail in part C of the Hon'ble Supreme Court Judgment. The Exhibits in all 533 in number were broadly classified as:

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- (i) Religious texts;
- (ii) Travelogues;
- (iii) Gazetteers;
- (iv) Translations of inscriptions on pillars;
- (v) Reports of Archaeological excavation;
- (vi) Photographs prior to demolition; and
- (vii) Details of artefacts found at the disputed site.”

7. The Hon'ble High Court called for a report from the Archaeological Survey of India in O.S. No.4 of 1989 to get the disputed site surveyed by Ground Penetrating Radar and Geo-Radiology. The report was submitted on 17.02.2003, amongst others with the following conclusions:

“9. In conclusion, the GPR survey reflects, in general a variety of anomalies ranging from 0.50

to 5.5 meters in depth that could be associated with ancient and contemporaneous structures such as pillars, foundations walls slab flooring, extending over a large portion of the site. However, the exact nature of those anomalies has to be confirmed by systematic ground truthing, such as provided by archaeological trenching”

8. Considering the entire facts and circumstances, the ASI was directed by the Hon'ble High Court vide order dt. 05.03.2003 to excavate the disputed site. The excavation was carried out between the period March, 2003 till August, 2003.

9. The arguments before the Hon'ble Supreme Court were heard for about 40 days. Apart from the legal nuances canvassed by these counsels, what stood apart was the contrast in their style of advocacy. In his 70th year at Bar at the age of 92, Sri Parasaran's submissions were full of humility and courtesy towards the Bench and the colleagues at bar at the same time very authoritative in his submissions in Law. Having the opportunity of assisting him in this case I can state with great admiration that before the hearing commenced he had instructed all Counsels on our side not to react or respond to any provocations or comments being made during the hearing from the other side. He was very conscious of the sensitivity of the case and accordingly measured his words while addressing the Court.

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11. The submissions on behalf of the Hindu parties were premised on the Hindu Law concept that Dharma is above individuals, be it a King. On the other hand, the Muslims argued Babar, being a Sovereign, was not bound by any law even the Shariah.
12. The Hindus claim over the suit property was on the strength of evidence to show the continuous faith and belief of the people that it is the place of Birth of Lord Sri Ram. In support thereof Valmiki Ramayan was cited to show that the place was chosen by Lord Vishnu. Further, Skand Puran was cited to establish the identity and location of the Janamasthan . The continuing faith and worship at Janamasthan was sought to be established by evidence of several travellers, Gazetteers etc commencing from 1608 . Apart from the 1885 judgment, admission by Muslim witnesses of continuation of worship by Hindus from times immemorial etc . On the other hand Muslims case was based on revenue records and oral evidence of worship during the period of 1934 to 1949, apart from the 1885 Judgment.
13. The Supreme Court on examining the evidence at length has come to the conclusion that the Hindus were successful in proving that there was continuum of faith and belief of Hindus that the Garbhagriha was the place of birth of Lord Ram both prior to and after the construction of the grill-

brickwall by the British in the year 1857. The conclusion of the Supreme Court was fortified by the admission of the Moazzin of the Babri mosque in his complaint dt. 30.11.1888 against Nihang Singh. The Court records the admission by the said Moazzin that previously the symbol of Janamasthan had been there for hundreds of years and Hindus did puja inside the three domed structure. The relevant finding of the Hon’ble Supreme Court is extracted herein :

“773. Despite the setting up of the grill-brick wall in 1857, the Hindus never accepted the division of the inner and the outer courtyard. For the Hindus, the entire complex as a whole was of religious significance. A demarcation by the British for the purposes of maintaining law and order did not obliterate their belief in the relevance of the ‘Garbh-Grih’ being the birth-place of Lord Ram. This is evident from the witness testimonies which indicate that pilgrims offered prayer standing at the railing by looking towards the sanctum sanctorum. Another relevant piece of evidence is the admission of the Moazzin of the Babri Mosque in his complaint dated 30 November 1858 against Nihang Singh. The Moazzin admitted that previously the symbol of Janamasthan had been there for hundreds of years and Hindus did puja inside the three domed structure. Absent any division of the site, the Hindus had multiple points and forms of worship within the disputed premises which included the Ramchabutra and Sita Rasoi and the parikrama of the disputed premises. Even after the railing was set up, Hindu worship at Ramchabutra, Sita Rasoi and of the idols placed below the fig and neem tree clearly indicated their exclusive and unimpeded possession of the outer courtyard. All the evidence indicates that a reasonable inference based on a preponderance of probabilities can be made that there was continuum of faith and belief of the Hindus that the ‘Garbh-Grih’

was the place of birth of Lord Ram both prior to and after the construction of the wall. The use of the area within the railing by the Muslims was contentious and their access to the inner courtyard was landlocked; the only access being through the two gates to the outer portion and the area which were in the control of the Hindus.”

14. In this context it would be relevant to refer and quote the District Judge, Faizabad’s judgment dt 18/26. March.1886 in an appeal filed by Mahant Raghubar Das seeking permission to construct temple in the Ram Chabootra in the outer courtyard:

“It is most unfortunate that a Masjid should have been built on land specially held sacred by the Hindu, but as that event occurred 356 years ago it is too late to remedy the grievance all that can be done is to maintain that parties in status quo.”

15. In a further appeal by Mahant Raghubar Das carried to the Judicial Commissioner vide judgment dt. 02.11.1886 observed as follows:

“The matter is simply that the Hindus of Ajudhia want to erect a new temple of marble ... over the supposed holy spot in Ajudhia said to be the birthplace of Sri Ram Chandar. Now this spot is situate within the precincts of the grounds surrounding a mosque constructed some 350 years ago owing to the bigotry and tyranny of the Emperor Baber-who purposely chose this holy spot according to Hindu legend- as the site of his mosque...”

16. While dealing with the Muslims’ suit, the Hon’ble Supreme Court found that with respect to title, no documentary evidence exists or has been adduced for a period prior to 1860 or at any rate before 1856-57 .

17. In the course of arguments on the ASI Report, an attempt was made by the Muslim parties to argue that the structure found beneath the Masjid was an

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Idgah, an islamic structure. The Hon’ble Supreme Court at pg. 579 dealt with the said contention as follows:

“..... Accordingly, these findings indicate that the case that wall 16 was a single Idgah wall stands belied and the claim of the Sunni Central Waqf Board that an Islamic structure existed below the disputed site cannot be accepted. Moreover, the defence in regard to the existence of an Idgah beneath the mosque would postulate that the mosque was built on the foundation of a demolished Idgah. Besides being a far-fetched hypothesis, the nature of the recoveries belied the claim. The Idgah defence was hence an afterthought, quite contrary to the pleadings of the Sunni Central Waqf Board. The defence was an attempt to gloss over the initial case that the mosque was built over vacant land. The underlying structure was not of an Islamic

origin.” (emphasis supplied)

“508. The conclusions which have been arrived at by Justice Sudhir Agarwal on the ASI report, as extracted above are worthy of acceptance. There is adequate basis in the material contained in the ASI report to lead to the following conclusions:

- i. The Babri mosque was not constructed on vacant land;
- ii. The excavation indicates the presence of an underlying structure below the disputed structure;
- iii. The underlying structure was at least of equal, if not larger dimensions than the disputed structure;
- iv. The excavation of the walls of the underlying structure coupled with the presence of pillar bases supports the conclusion of the ASI of the presence of a structure underlying the disputed structure;
- v. The underlying structure was not of Islamic origin;
- vi. The foundation of the disputed structure rests on the walls of the underlying structure; and
- vii. Artefacts, including architectural fragments which have been recovered during excavation have a distinct non-Islamic origin. Though individually, some of the artefacts could also have been utilised in a structure of Buddhist or Jain origins, there is no evidence of the underlying structure being of an Islamic religious nature. The conclusion which has been drawn by the ASI that the nature of the underlying structure and the recoveries which have been made would on stylistic grounds suggest the existence of temple structure dating back to the twelfth century A.D. would on a balance of probabilities be a conclusion which is supported by evidence. The conclusion

cannot be rejected as unsupported by evidence or lying beyond the test of a preponderance of probabilities, which must govern a civil trial.”

18. In the above factual backdrop certain undisputed facts emerge. The Muslims have failed to prove either worship or possession of the said mosque prior to 1856. This falsifies the premise in para 1 of O.S. No.4 that Babar built the mosque through his commander Mir Baqi. In other words, they could not prove who built the mosque and that they used it as a place of worship or had possession thereof any time prior to 1856. This was the position even during the course of their submissions in the Hon’ble High Court. That being the case it is very unfortunate that these facts have not been highlighted or shared by those who criticise the judgment selectively on technical premises without any foundation in facts. Once the premise of the suit goes, the entire suit claim becomes questionable.

19. In fact the Ld. Senior Counsel Mr. Jilani during the course of his submissions in the Hon’ble Supreme Court very fairly and candidly stated that this mosque had no significance. The judicial findings in proceedings in 1885/1886 by British Judges and the absence of any evidence of either worship/ possession by Muslims prior to 1856 shows that the entire case pleaded in 1961 seems to be a belated reaction to the interim orders passed in 1950.

The Hon’ble Supreme Court of India has brought a final closure to the long standing dispute which has been pending with the judiciary since 16.01.1950, pre-dating the Constitution, on 09.11.2019 i.e. in the 70th year after the commencement of the Constitution. The prolonged legal battle culminating in the judgment and subsequent dismissal of the Review Petitions on 12.12.2019, vindicates the principle which has been given by “We the People of India..” as the guiding light of the Hon’ble Supreme Court of India i.e. यतो धर्मः ततो जयः! Yato Dharma Stato Jaya!.