

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 4768-71 OF 2011**

BHAGWANA SRI RAMA VIRAJMAN & ORS.

....Appellants

VERSUS

SRI RAJENDRA SINGH &
ORS.

...Respondents

AND OTHER CONNECTED APPEALS

**SUBMISSIONS OF MR. P.S. NARASIMHA, SR. ADV. ON
BEHALF OF DEFENDANT NO. 2 IN OOS NO. 5 OF 1989**

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I. PRINCIPLES ON PREPONDENRANCE OF PROBABILITY

I.1. Worshippers in Suit 1 (OOS 1 of 1989) and the deities in Suit 5 (OOS 5 of 1989) have prayed for a declaration that they are entitled to worship Bhagwan 'Sri Ramchandra' and that the Janmasthan is itself the deity. They have further prayed for an injunction against the defendants from removing the idols and also against any obstruction in the construction of a new temple.

I.2. The Defendant No. 2 in Suit No 5 is Mahant Paramhans Ramchandradas, who was a Sadhu of Ramanandi sect and Sri Mahant of Akhil Bhartiya Sri Panch Ramanandi Digambar Ani Akhara. Upon his demise pending litigation, his successor-in-interest has been brought on record to pursue the litigation. A note on the pleadings and testimony of Defendant No. 2 (Mahant Paramhas Ramchandradas) in Suit 5 is marked as **Annexure 1**.

I.3. Once a party who bears the evidentiary burden has discharged it by adducing evidence sufficient to justify consideration of a particular

issue, it becomes necessary for the party bearing the legal burden on that issue, the proponent, to persuade the trier of fact (Court) that it should be decided in the proponent's favour. If the proponent's evidence is less persuasive than that of the opponent, the proponent must invariably fail. If it is more persuasive, the question is whether the proponent must equally inevitably succeed. The answer to that question demands consideration of the requisite **standard of proof**.¹

(Annexure 2)

I.4. Broadly, the standard of proof is distinct for civil and criminal cases.

In criminal cases, the standard is prescribed to be proof beyond reasonable doubt. In ordinary civil cases, the standard is usually expressed as involving *preponderance of probability*, *balance of probabilities* or the *preponderance of evidence*.

I.5. The standard of proof in civil cases is generally proof on the balance of probability. If therefore, the evidence is such that the Court can say, "*we think it more probable than not*", the burden is discharged, but if the probabilities are equal, it is not.² **(Annexure 3)**

I.6. Lord Denning in *Miller v. Minister of Pension*³ **(Annexure 4)** defined the doctrine of preponderance of probabilities/ balance of probabilities in the following terms:

"(1) ... It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which

¹Cross on Evidence, J.D. Heydon, 10th Edition at pg. 339-340

²Phipson on Evidence, 16th Edn. pg. 152 at pg. 154-155

³Miller v. Minister of Pension (1947) 2 ALL ER 372

can be dismissed with the sentence ‘of course it is possible, but not in the least probable,’ the case is proved beyond reasonable doubt, but nothing short of that will suffice.”

(Emphasis supplied)

2.1 It is important to recognise that within the standard of *preponderance of probability*, there could be different **degrees of probability**. In *Bater v. Bater*⁴, (**Annexure 5**) Denning LJ spoke of *degrees of proof* within the same standard. He said:

*“It is of course true that by our law a higher standard of proof is required in criminal cases than in civil cases. But this is subject to the qualification that there is no absolute standard in either case. In criminal cases the charge must be proved beyond reasonable doubt, but there may be degrees of proof within that standard.... So also in civil cases, the case must be proved by a preponderance of probability, but there may be degrees of probability within that standard. **The degree depends on that subject matter.** A civil court, when considering a charge of fraud, will naturally require for itself a higher degree of probability than that which it would require when asking if negligence is established. It does not adopt so high a degree as a criminal court, when when it is considering a charge of criminal nature; but still it does require a degree of probability which is commensurate with the occasion.”*

(Emphasis Supplied)

2.2 This principle is in fact a statutory requirement for us as the Indian Evidence Act, 1872 defines “proved” under Sec. 3 as follows:

“Proved” .—A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.”

⁴*Bater v. Bater* [1951] P 35 at pg. 36-37 (CA)

2.3 It is evident from Section 3 that the proof of fact would depend upon the belief or probability of the fact. The finding of proof that a Court may reach is always based on:

(a) test of a prudent man, who is to act under the supposition that the fact exists and

(b) in the context and circumstances of the particular case.

The important part of the definition is the context, that is the circumstances of the particular case which is pleaded, and this is the most relevant factor in determining the degree of preponderance of probability of the existence of the fact.

2.4 The Supreme Court of India in *N.G. Dastane (Dr) v. S. Dastane* (1975) 2 SCC 326 explained the concept of preponderance of probabilities while analysing the position in different jurisdictions in the following terms:

“24. The normal rule which governs civil proceedings is that a fact can be said to be established if it is proved by a preponderance of probabilities. This is for the reason that under the Evidence Act, Section 3, a fact is said to be proved when the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. The belief regarding the existence of a fact may thus be founded on a balance of probabilities. A prudent man faced with conflicting probabilities concerning a fact-situation will act on the supposition that the fact exists, if on weighing the various probabilities he finds that the preponderance is in favour of the existence of the particular fact. As a prudent man, so the court applies this test for finding whether a fact in issue can be said to be proved.

The first step in this process is to fix the probabilities, the second to weigh them, though the two may often intermingle. The impossible is weeded out at the first stage, the improbable at the second. Within the wide range of probabilities the court has often a difficult choice to make but it is this choice which ultimately determines where the preponderance of probabilities lies. Important issues like those which affect the status of parties demand a closer scrutiny than those like the loan on a promissory note: “the nature and gravity of an issue necessarily determines the manner of attaining reasonable satisfaction of the truth of the issue [Per Dixon, J. in Wright v. Wright, (1948) 77 CLR 191, 210] ”; or as said by Lord Denning, “the degree of probability depends on the subject-matter. In proportion as the offence is grave, so ought the proof to be clear [Blyth v. Blyth, (1966) 1 AER 524, 536] ”. But whether the issue is one of cruelty or of a loan on a promissory note, the test to apply is whether on a preponderance of probabilities the relevant fact is proved. In civil cases this, normally, is the standard of proof to apply for finding whether the burden of proof is discharged.

2.5 The Hon'ble Supreme Court in *State of U.P. v. Krishna Gopal*, (1988) 4

SCC 302, also discussed varying degrees of preponderance of probability thus:

26. The concepts of probability, and the degrees of it, cannot obviously be expressed in terms of units to be mathematically enumerated as to how many of such units constitute proof beyond reasonable doubt. There is an unmistakable subjective element in the evaluation of the degrees of probability and the quantum of proof. Forensic probability must, in the last analysis, rest on a robust common sense and, ultimately, on the trained intuitions of the Judge. While the protection given by the criminal process to the accused persons is not to be eroded, at the same time, uninformed legitimisation of

trivialities would make a mockery of administration of criminal justice.

3.1 What then are the *circumstances of the particular case* that this Hon'ble Court is considering while deciding this case? Present is the claim for declaration of a valuable right, that is the right to worship (civil right), right of worship as a custom and also the right to declare a particular place as a place of worship, that being a matter of deep belief and faith.

3.2 The civil proceedings initiated by the Hindu Parties prayed for a declaration of their right to worship and darshan Shri Bhagwan SriRamchandra at the Janmasthan and for a declaration that the Janmasthan itself is a juristic person. The essence of the prayer is the inherent right of the worshipper. In *Devaki Nandan v. Murlidhar* AIR 1957 SC 133: 1956 SCR 756, the Supreme Court observed that

The Gods have no beneficial enjoyment of the properties and they can be described as their owners only in the figurative sense: the true beneficiaries of religious endowments are the worshippers and the purpose of the endowment is the maintenance of that worship for the benefit of the worshippers.⁵ **(Annexure 6)** In respect of a public temple, the law is well settled that the true beneficiaries of religious endowments are not the idols but the worshippers and that the purpose of the endowment is the maintenance of the worship for the benefit of worshippers.⁶

3.3 The Right of worshippers is recognised as a civil right for more than two centuries now. The court in *Sinha Ramanuja v. Ranga Ramanuja* AIR 1961 SC 720: 1962 (2) SCR 509 has held the following:

⁵ *Gulab Chand vs. Shri Balaji* AIR 1959 Bom 252 : (1958) 60 BomLR 1461

⁶ *Kapoor Chand vs. Ganesh Dutt*, 1993 Supp 4 SCC 432

“9.a century of case law in that part of the country has recognized certain rights of different grades of devotees and they and their innumerable followers began to cherish them or even to fight for them in criminal and Civil Courts. This Court, therefore, does not propose to reconsider the question of honours on first principles but only will resurvey the law on the subject with a view to ascertain, and if possible to clarify, the legal position”.

4.1 All the evidence adduced by the plaintiffs is in consonance with the proposition that belief and faith is to be established on the basis of the doctrines and tenets of the religion, customs and traditions. In *The Comm. H.R.E v. Sri Lakshmindra* 1954 SCR 1005 @ 1025 the Constitution Bench of the Supreme Court held that,

“20...In the first place what constitutes the essential part of the religion is primarily to be ascertained with reference to the doctrines of that religion itself”.

4.2 In *Bhurinath v. State of J&K* (1997) 2 SCC 745, the Supreme Court has held:

“...What are essential parts of religion or religious belief or matters of religion and religious practice is essentially a question of fact to be considered in the context in which the question has arisen and the evidence — factual or legislative or historic — presented in that context is required to be examined and a decision reached.”

II. EVIDENCE ADDUCED IN THE PRESENT CASE

In light of the above stated principles, the following is the evidence – oral and documentary – adduced by the plaintiffs to prove the fact of: (a) belief (b) worship. This evidence depicts the circumstances that are very relevant for considering the fact of belief and faith by the standard of preponderance of probability. This evidence may be divided into 3 parts:

- A. Documentary Evidence
- B. Depositions of witnesses
- C. Admissions of witnesses

A. DOCUMENTARY EVIDENCE

The Documentary evidence can be further classified into:

- 1. Phase I: prior to 1528 AD
- 2. Phase II: between 1528 AD and 1855 AD
- 3. Phase III: between 1855 AD and 1949 AD

1. PHASE I: PRIOR TO 1528 AD

1.1. The first fact that needs to be looked at for the continuity of worship is that the scriptures of the Hindu religion mandate a visit to the place. Starting from the Puranas, continuing into epics, the birthplace of Lord Ram is extolled as one of the places, a visit to which is regarded as a way to attain *moksha* and purge all sins. According to the belief of the Hindu religion, attainment of *moksha* is the highest reward and the ultimate goal. Thus, within the tenets of Hinduism, the birthplace of Lord Ram holds special importance.

1.2. Valmiki Ramayan refers to birth of Sri Rama in Ayodhya. It is the epic of the East and considered to have become the foundation of the culture and tradition of our country. Skandamahapuran is of 8th Century C.E. This is an extraordinary circumstance which refers directly of place of birth of Sri Rama and provides the proof of the faith that is instilled in the heart of Hindus that visit (Tirthyatra/pilgrimage) to this place is of extreme merit which, for Hindus, is nothing but Moksha. Skandapurana and its contents fully probablise the fact of faith about the place of birth of Sri Rama. Rejecting this piece of evidence on aspects such as uncertainty of its authorship, date and uncertainty with respect to accurate spot of birth is virtually to, in the

words of Supreme Court, is uninformed legitimisation of trivialities rendering mockery of administration of justice.

S.no	Name of book/scripture	Description
1.	Valmiki Ramayan (Ex. J2/1, J2/2 Suit 4 Pg. No. 2201-2202, Vol. 82)	This is the original document which speaks of the regime of Lord Rama. It also points to the location of the birthplace of Lord Rama as Ayodhya.
2.	Extract of Skand Mahapuran Part II, Ayodhya Mahatmya (Ex. 93 Suit 5, Pg. No.1767-1778, Vol. 80)	Skandapuram extols the visit and darshan (darsana) of Janmasthan on Rama's birthday, especially meritorious for one who observes the vow of Navami and says that one who has darshan of Ram Janmabhumi is released from the cycle of rebirth.
3.	“Srimad Bhagwadgita” with commentary by Swami Ramsukhdas (Ex. 20 Suit 3, Pg. No. 2164-2168, Vol. 82)	The Bhagwadgita states that Lord Rama is an incarnation of God.
4.	“Ram Charit Manas” (Ex. 42, Suit 5, pg. No. 2279-2310, Vol. 82)	The Ram Charit Manas also speaks of Lord Ram as an incarnation of Lord Vishnu and says that he who worships Lord Ram would be at peace.
5.	“Geetawali” by Goswami Tulsi Das (Ex. A9, Suit 4, Pg. No.2175-2193, Vol. 82)	It speaks of the birth of Lord Ram at Ayodhya and the celebrations during the naming ceremony of Lord Ram, Lakshman, Bharat and Shatrugna. It is said that even at the time, it was believed

		that Lord Ram was an incarnation of Lord Vishnu, to protect people from evil.
6.	“Sikh Itihas Mein Sri Ram Janam Bhumi” by Sri Rajendra Singh (Ex. B4, Suit 4, Pg. No. 2194-2200, Vol. 82)	It speaks of the account of visit of Guru Nanak ji (as mentioned in PothiJanamSakhi (1787) by Bhai Manisingh), at a time when the the Ram Janam Bhumi Temple was still existing and Babar had not yet attacked India. It says that Guru Nanak reached Ayodhya and said to Mardana, “Ayodhya is the city of Shri Ram ji, let us go have darshan”.
7.	“Ayodhya” by Hans Baker (Ex. 23, Ex. 56-65, Suit 5, Pg. No. 503-661, Vol. 74 & 75)	This book speaks extensively about the history of Ayodhya through the centuries as the birthplace of Lord Ramand also refers to the different scriptures with regard to the divinity of Ayodhya.

1.3. It is submitted that these scriptures are the oldest documents of the Hindu religion and are direct evidences of existence of faith of Hindus.

1.4. In fact this Hon’ble Court in large number of decisions has taken judicial notice of scriptures including puranas. [Please See: *Nar Hari Shastri v. Badrinath Temple Committee* (1952) SCR 849; *Adi Vishveshwara of Kashi Vishwanath Temple v. State of UP* (1997) 4 SCC 606; *Yogendra Nath Naskar v. CIT* (1969) 1 SCC 555; *Indian Young lawyers Association and Ors v. The State of Kerala and Ors.* 2018 SCCOnline SC 1690]

2. PHASE II: BETWEEN 1528 AD AND 1855 AD

2.1. The documentary evidence showing continuing worship is enormous. A perusal of William Finch’s account and Tieffenthaler’s account shows that the mosque was built during Aurangzeb’s reign as

Emperor. However, both accounts unequivocally record the continuous worship of Hindus of the disputed site, and also the fact that the Hindus believe the place to be the birthplace of their Supreme Lord and thus, divine and pious.

- 2.2. Moreover, other chronicles such as Ain-e-Akbari etc. also record the significance of the disputed place in the Hindu religion, thus showing the faith of worshippers.
- 2.3. The perspective in which the court would view these documents is extremely important. The solitary enquiry while looking into these pieces of evidence is only to identify the existence of faith of Hindus that the place of birth of Sri Rama is at disputed site and further evidence of actual and continuous worship. In all these documents, one would see the extraordinary highlight of the faith and the proof of continued worship. That is the only relevant factor for the Court.

S.no	Name of Gazetteer	Description
1.	Ain-e-Akbari by Abul Fazal Allami translated by H. Blauchmann (Ex. 69, D1, D2, D7 in Suit 5, Pg. No. 680-685, Vol. 75, Pg. No. 413-421 & 498-594, Vol. 6 (Ex. T-6 in Suit 4)	This is the biography of Akbar written by Abul Fazal Allami, in which Abul Fazal Allami has referred to "Ayodhya" and its religious importance for Hindus. He speaks of it being the residence of Raja Ram Chander and states that this area has remained a place of worship since olden days.
2.	Early Travels in	This gives the description of the travels

	India” by William Foster (Ex. J19, J25, 104 in Suit 4) (Ex. 19 in Suit 5, Pg. No. 190-191, Vol. 73) (Para 1586-1588 extracts)	of William Finch, who is one of the earliest travellers to Ayodhya. William Finch who visited Ayodhya between 1608-1611 AD has specifically referred to Castle of Lord Ram Chandra Ji which, in his understanding, was constructed about 400 years ago. He also says that there existed ruins of Ram Chandra's castle and houses which the Indians acknowledge the Great God, who took flesh upon himself to see the tamasha of the world.
3.	“Indian Texts Series – Stora Do Mogor of Mogul India 1653 – 1708” by Niccolao Manucci (referred at para 1624 pg. 1078 Vol II Impugned Judgment)	This gives an account of NiccoloManucci, who was a traveller in India during the reign of Aurangzeb and had written his account of travel in the aforesaid book. In the said book, NiccolaoManucci has mentioned Ayodhya as one of the places where temples were destroyed by Auranzeb. He also mentioned that even the destroyed temples were venerated by the Hindus and visited for offering of alms and people throng to the said places.
4.	“Historical and Geographical Description of India” by Tiffenthaler (Ex. 133, Suit 5, Pg. No. 1133-1155, Vol. 77)	This account gives the description of the travel of Father Joseph Tiffenthaler who visited Ayodhya during his stay in India around 1940 and stayed for 20-25 years. In his travel account he mentioned that Aurangzeb demolished Ramcot and erected a three dome muslim temple. He records that despite this, people still go to the native house

		of Ram and prostrate on the floor after going around it three times. The account also records the celebrations of Ram Navami.
5.	East India Gazetteer by Walter Hamilton (Para No. 4218-4219, Pg. No. 2602, Vol. 2 Impugned Judgment)	William Hamilton in his gazetteer talks about the remains of the capital of Lord Rama and significance of that place among people specially Ramata sect. He specifically states that pilgrims resort to this vicinity where the capital of Rama was, even though it is now only in ruins.
6.	“The History, Antiquities, Topography and Statistics of Eastern India” by Robert Montgomery Martin, 1838 (Ex. J22 in Suit 4, Pg. No.1613-1622, Vol. 79) (Ex. 20 in Suit 5, Pg. 192-197, Vol. 73)	Robert Montgomery Martin in his book wrote about travel account of Buchanan who travelled India between 1807 to 1814. In the said account, the author speaks of destruction of remarkable temples and construction of mosques at those spots during Aurangzeb’s reign. The author also speaks of visiting the spot which the Hindus consider remarkable, which has only ruins.
7.	Barabanki: A gazetteer being Volume XLVIII of the District Gazetteer of the United Provinces of Agra and Oudh by H.R. Nevill, 1904 (Ex. 52 Suit 5, Pg. No. 494-500, Vol.	This Gazetteer speaks about the 1855 riots, and says that the reason for this is one of the numerous disputes that have sprung up from time to time between Hindu priests and Musalmans of Ayodhya with regard to the ground on which formerly the Janmasthan temple stood. This shows that even prior to the 1855 riots, there was a constant struggle for access by the Hindus to the disputed

	74)	site, under the belief that it is the Ram Janmasthan.
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3. PHASE III: BETWEEN 1855 AD AND 1949 AD

- 3.1. Up till 1855, periodic struggle for access to the disputed site continued. After the riots of 1855, the British, in an attempt to keep the peace of the area, put up a grill wall/ railing, diving the disputed site into the inner courtyard and outer courtyard.
- 3.2. However, such division did not stop the Hindus from continuing worship of the place. Since a dividing wall was in place, Hindus had no other option but to set up an area of worship in the Ram Chabutra to mark the deity. However, there is sufficient oral evidence which shows that worshippers used to have “darshan” of the inner courtyard from near the railing/ grill wall. Thus, the belief and faith, along with worship continued.
- 3.3. This struggle for access and constant riots are evidenced by a number of complaints by both parties as well as some Gazetteers.

S. No.	Name of Gazetteer	Description
1.	“A Gazetteer of The Territories under the Government of East- India Company and of the native States on the continent of India” by Edward Thornton, 1854 (Ex. 5, suit 5, Pg No. 31-37, Vol. 73)	This Gazetteer speaks of the antiquity and sacrality of Ayodhyaand also recounts the account of Francis Buchanan. It also lays emphasis on Ain-e-Akbari, and speaks of the description of the town of Ayodhya.

2.	Report of Sheetal Dubey complaining about the worship offered by Nihang Singh dt. 28.11.1858 (Ex. 19 Suit 1 pg. 86-89 Vol 87)	This is a report stating that Mr. Nihang Singh Faqir Khalsa organised a Hawan and Puja of Guru Govind Singh, and that he erected an image of Sri Bhagwan within the premises of the Masjid.
3.	Complaint by Mohammed Khatib Moazzin Dated 30.11.1858 (Ex. 20 Suit 1 Pg.90-94 vol 87)	This is a complaint by one Mohammed Khatib Moazzin stating that one Nihang Singh raised a Chabutra, placed idols. In the said complaint, it is also admitted that previously, symbol of Janmasthan had been there for hundreds of years and Hindus did Puja.
4.	Application filed by Mir Rajab Ali for removal of Chabootra dt. 05.11.1860 (Ex. 31 Suit 1 pg. 145-152 vol 87)	An application was filed for removing the Chabootra which was built and to stop blowing of conch near the Masjid. This application also shows that the worship of the disputed premises continued.
5.	Application by Mohd. Asghar and others, dated 12.02.1861 (Ex. 54 Suit 4 pg. 1712 vol 11)	This is another complaint filed by one Mohd. Asghar seeking removal of Chabootra and hut of the Hindus.
6.	Archaeological Survey of India Four Reports made during the years 1862-63-64-65 by Alexander	This report speaks of Ayodhya as a sacred place being the birthplace of Lord Ram. It taken the accounts of Fa-Hien and Huiien Tsang, who were travellers to Ayodhya, and also puts a map of Kanauj. This report also talks

	Cunningham, published in 1871 (Ex. 6 Suit 5, Ex. D32 Suit 4)	about the Janmasthan or “Birthplace Temple” of Lord Ram.
7.	Complaint against construction of Kothari & attempts to build temple by Mir Rajab Ali dated 25.09.1866 (Ex. A13 Suit 4, pg. 36-37 Vol 3)	This was a complaint filed for demolition of a store room purportedly built and interference with the Masjid, wherein it was admitted that the Hindus have from the very beginning continued to make efforts to build a temple since long.
8.	P. Carnegy, Officiating Commissioner and Settlement Officer: “Historical Sketch of Tehsil Fyzabad”, 1870 (Ex. 49 Suit 5 pg. 469-489 Vol 74, A10 Suit 4 pg. 30-33 Vol 3)	This was a report of the Officiating Commissioner and Settlement Officer during 1867. While speaking about the birthplace and the fort of Ram Chandra as well as Janmasthan temple, states that up till 1855, Hindus and Muslims used to worship in the mosque-temple, and to prevent disputes, a railing was put up and the Hindus raised a platform outside the railing to make their offerings. The appendix of this report also talks about the belief of Hindus regarding attainment of <i>moksha</i> upon visiting the birthplace of Lord Ram.
9.	Appeal before Commissioner against order passed by Dy. Commissioner dt. 13.12.1877 (Ex. 30 Suit 1 pg. 136-144 vol 87)	An appeal was filed against order of the Subordinate Officer in allowing the Hindus to erect a new door in the northern wall of the Masjid. The said appeal also mentions that the Hindus have erected a Chulha also and idols were placed for worship.

10.	Report of the Dy. Commissioner Faizabad in compliance of Commissioner's order in M.A 56 dated 14.05.1877 (Ex. 15 Suit 1 pg. 61-65 vol 87)	In this report filed by the Dy. Commissioner Faizabad, regarding the opening of a new door in the grill wall, it was stated that the door was opened to give a separate route on fair days to visitors to the Janmasthan, due to heavy rush.
11.	Order of the Commissioner Faizabad in Mohd. Asgar vs. Khem Das, MA No. 56 (Ex. 16 Suit 1 pg. 66-68 vol 87)	Pursuant to the report of the Dy. Commissioner, the Commissioner refused to interfere with the decision of the Dy. Commissioner in opening a new door in the grill wall to facilitate worship of Hindus during fair days.
12.	W.C. Bennet, Assistant Commissioner: "Gazetteer of Oudh", 1877 (Ex. 7 Suit 5, pg. 47-52 Vol 73)	This Gazetteer speaks on similar lines as the Historical Sketch of Carnegy, and records the riot of 1855 and the birthplace of Lord Ram.
13.	"Report on the Settlement of the Land Revenue of the Fyzabad District: by A.F. Millet, Officiating Settlement Officer, 1880 (Ex. 8 Suit 5, pg. 53-63 Vol 73) (Also at para 4266 pg. 2648 Vol II Impugned	This report partly consists of notes by P. Carnegy. The report talks in extenso about the different rulers and regimes in Ayodhya and also about the regime of Lord Ram Chandra.

	Judgment)	
14.	O.S. No. 374/943 by Mohd. Asgar vs. Raghubar Das in court of Munisf Faizabad dt. 22.10.1882 (Ex. 24 Suit 1 pg. 107-111 vol 87)	This was a suit filed by Mohd. Asgar against Mahant Raghubar Das claiming for rent for use of Chabutra and Takht. It was specifically admitted that during Mela Kartiki and Ram Navami, stalls were put in place. It is submitted that this too shows continuous worship of the Hindus, even to the knowledge of the plaintiffs in Suit 4.
15.	Judgment passed by Sub Judge, Faizabad in case No. 1374/943 (Syed Mohd. Vs. Raghubar Das) dated 18.06.1883 (Ex. 17 Suit 1 pg. 69-79 vol 87)	In the suit filed for recovery of rent for use of Takht, it was held that the plaintiff was not able to prove that he was receiving rents even earlier from the defendant.
16.	Judgment of Sub Judge, Faizabad in case No. 61/280 dt. 24.12.1885 (Ex.16 Suit 4 pg. 1587-1594 Vol. 11)	In the suit filed by Mahant Raghubar Das for construction of a temple in the outer courtyard of the premises, the Hon'ble Sub Judge held categorically that prior to the grill wall being put up, both Hindus and Muslims prayed at the premises equally. It was also observed that the possession and worship of Hindus is very old.
17.	Judgment by Dy. Commissioner in Civil Appeal No. 27/1886 (Ex. 17 Suit 4 pg. 1595-1598 Vol. 11)	In appeal against the order dated 24.12.1885, the District Judge observed that it is most unfortunate that a mosque was built on a land deemed especially sacred by the Hindus.

18.	Fyzabad: A Gazetteer being Vol. XLIII of the District Gazetteers of the United Provinces of Agra and Oudh by H.R. Nevill, 1905 Suit (Ex. 11, Suit 5, pg. 77-91 Vol 73)	This Gazetteer speaks about the riot of 1855 and also says that the fact that it was regarded as a holy spot for Hindus is clear from its desecration by Babar and Aurangzeb. A perusal of the Gazetteer shows that the disputed place was continued to be worshipped by Hindus.
19.	“Imperial Gazetteer of India- Provincial Series- United Provinces of Agra and Oudh” by Superintendent of Government Printing Calcutta (Ex. 10 Suit 5, Pg. 71-76 Vol 73)	This Gazetteer speaks of the disputed site, stating that most of the enclosure is occupied by a mosque built by Babar from the remains of an old temple, and in the outer portion a small platform and shrine mark the birthplace.
20.	Fyzabad: A Gazetteer being Volume XLIII of the District Gazetteers of the United Provinces of Agra & Oudh by H.R. Nevill, 1928 (Ex. 12, Suit 5 pg. 92-104 Vol 73)	This Gazetteer speaks of the importance of Ayodhya in Hindu religion and its history. This gazetteer also states in the same lines are the 1905 Gazetteer.
21.	UP District Gazetteers- Faizabad by Smt.	This Gazetteer while dealing with the history of Ayodhya, the position from 1949 is also discussed, whereby only

	Esha Basanti Joshi (Published in 1960) (Ex. 13 pg. 105-119 Vol 73)	few pujaris were allowed inside the inner sanctum. It also describes the broken image of a Varah (boar) on the outside of the shrine.
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B. ORAL TESTIMONY OF WITNESSES

B.1. OPW₁, OPW₄, OPW₅, OPW₆, OPW₇, OPW₁₂, OPW₁₃ and OPW₁₆ were examined amongst others. DW_{1/1} to DW_{1/3} were examined. They deposed to the continuing faith and continuous worship of Hindus in the disputed site, under the belief that it is Ram Janam Bhumi. The said testimony of witnesses goes to show that the religious scriptures of Hindu religion mandate the visit of the Ram Janam Bhumi to attain *moksha*. It can be seen from the evidence of the witnesses that worship of Hindus in the disputed site has been continuous throughout and access of the Hindus to the disputed site for the purpose of worship was uninterrupted and continuous.

B.2. DW_{3/1} to DW_{3/20} were examined to the effect that there has been continuous worship of the Hindus in the disputed site. The said witnesses have also deposed to the fact, subsequent to the grill wall/ railing being put up in 1857, that they have had *darshan* of the idols in the Ram Chabutra as well as near the grill wall/ railing, thus demonstrating that the belief continued to exist that the Ram JanamSthan existed under the Central Dome of the disputed site.

B.3. Defendant No. 2/1 produced DW_{2/1-1} and DW_{2/1-3}, to depose regarding the fact of continuous worship at the disputed site, and regarding continuing belief. Similarly, D_{13/1} examined DW_{13/1-1}, and D₁₇ examined DW 17/1 and D₂₀ examined DW_{20/1} to DW_{20/3}, all

towards the same. It is evident that the belief that the disputed site is Ram Janamsthan, and that it is one of the religious duties of a Hindu, flowing from religious scriptures of the Hindu religion. There is a continuous belief that the disputed site is of special importance to the Hindu religion, being the Ram JanamSthan, and from the said belief flow customary rights of worship and continuous access to the said place. To this extent, scriptures of the said religion must be relied upon to see whether a particular place has special significance.

B.4. A note on the depositions of witnesses showing faith and continuous worship is marked as **Annexure 7**.

C. ADMISSIONS OF WITNESSES

C.1. In Suit 4, PW1 – PW12, PW14, PW19, PW21, PW22, PW23, PW25 and PW26 were examined among others. The said witnesses have made certain admissions with regard to continuous worship of the Hindus in the disputed site. Such admissions must be given due value. It is settled law that admissions by the witnesses of the opposite side would be taken as sufficient evidence, unless successfully refuted.

C.2. A note on Admissions by witnesses of the Plaintiff in Suit 4 is marked as **Annexure 8**.

C.3. In a number of instances, this Hon'ble Court has spoken of the evidentiary value of admissions.

C.4. In *Avadh Kishore Das v Ram Gopal & Ors. (1979) 4 SCC 790*, it was held that Evidentiary admissions, though not conclusive, raise an estoppel on the person making such statements and shift the burden of proof on the person making them to show that the statement is wrong. Unless the statements of admission are explained, they are efficacious proof of facts admitted.

C.5. In *Mahendra Manilal Nanavati v. Sushila Mahendra Nanavati* (1964) 7 SCR 267, it was observed that Admissions may be ignored on the grounds of prudence only when the Court is of the opinion that they are collusive. If there is no ground for such a view, it would be proper for the Court to act on those admissions without forcing the parties to adduce other evidence to establish the facts admitted, unless those admissions are contradicted by facts proved, or a doubt is created by proved facts regarding the correctness of the admitted facts.

C.6. In *Union of India v. Ibrahimuddin* (2012) 8 SCC 148, It was observed that Admission is the best piece of evidence that can be relied upon by the opposite party, though not conclusive, is decisive of the matter unless withdrawn or proved erroneous. Even if admission is not conclusive, it may operate as estoppel.

III. The belief in Sri Rama is that he is God incarnate who has chosen to descend on Earth as an *Avatara* at Ayodhya, at the place which is believed as such and worshipped for ages is proved on the basis of above evidence. The belief is evidenced in the multifarious activities at the disputed site which together depict the culture and religion. These activities such as conducting a tirthyatra-pilgrimage, taking a bath at Sarayu and walking towards the Janmasthan and undertaking Parikarma etc., all put together show the tradition and custom. Large numbers of witnesses have spoken of these traditions and customs. Many historians have referred to pilgrimages that Hindus conduct. This fact of a custom is sufficiently proved by a large number of witnesses in furtherance of specific pleadings. All these are instances are clear proof of the custom and are relevant facts u/s 13 of Evidence Act.

IV. The opinion of witnesses about existence of tradition and customs is equally relevant under Section 48 of the Evidence Act.

V. In view of the continuous worship and unbroken tradition in furtherance of faith and belief, there is always a presumption u/s Sec. 114.

VI. **CONCLUSION:**

VI.1. In conclusion, it is respectfully submitted that the right to worship is conclusively established as a civil right for more than a century. With the advent of the Constitution, we have resolved to *secure* to the citizenry the liberty of belief, faith and worship. To secure the freedom to worship is, therefore, a cherished value. This legal and preambular objectives necessarily become the “circumstances in which this particular case needs to be decided.”
(Section 3 Indian Evidence Act, 1872)

VI.2. Apart from the *circumstance* of determining the right to worship, the oral and documentary evidence placed before the Court conclusively establish the existence of our belief and faith that divinity took the *Avtar* of Bhagwan SriRam at the place referred to us from antiquity as Ram Janmasthan, as referred to in Skandapuram, which is the subject matter of the suits.

VI.3. The faith and belief is also manifested from time immemorial and the evidence clearly establishes continuous worship at that *place*.

VI.4. The worshippers have discharged their burden of proof by leading evidence to the satisfaction of the Court as per the established standard of preponderance of probability. The enquiry into the existence of the fact, belief and worship must be made by “robust common sense” coupled with the principle of “more probable than not” as laid down by this Hon’ble Court.

NOTE ON DEFENDANT NO. 2 IN SUIT 5**A. DESCRIPTION OF THE DEFENDANT 2 IN SUIT 5**

A.1. Mahant Ramchandra Das Digambar, aged about 90 years (on 23.12.1999 when he commenced his testimony), was born at Village Sinhipur, District Chhapara, Bihar and came to Ayodhya at the age of 14-15 years. He was a Sadhu of Ramanandi sect and Sri Mahant of Akhil Bhartiya Sri Panch Ramanandi Digambar Ani Akhara. He got associated with Digamber Akhara, Ayodhya about 45 years prior to the time of his testimony in 1999. Subsequent to his demise pending litigation, his successor in interest has been brought on record as his legal representative.

B. BACKGROUND TO O.O.S. No.2 of 1989:

B.1. Regular Suit No.25 of 1950 (O.O.S. No.2 of 1989) had been filed by the Respondent against Zahoor Ahmad and seven others. First five defendants were Muslims, residents of Ayodhya and those five defendants were defendants No.1 to 5 in Suit No.1 also. Defendant No.6 was State of U.P. and defendant No.7 was Deputy Commissioner, Faizabad. Sunni Central Board of Waqfs was added as defendant No.8 in 1989. The plaint was almost in verbatim reproduction of the plaint of Suit No.1. Valuation was also same and reliefs claimed were also same. Boundaries of the property in dispute at the bottom of the plaint were also same. However, in Suit No.2, it was mentioned that notice under Section 80, C.P.C. had been given to defendants No.6 & 7 on 07.02.1950. The suit was filed on 05.12.1950. However, an application to get the said suit

dismissed as withdrawn was filed by the plaintiff on 23.08.1990 which was allowed on 18.09.1990.

B.2. A copy of the plaint in R.S. No. 25 of 1950 (Suit No. 2) was marked as Ex. 46 in Suit 4.

C. PLEADINGS OF THE DEFENDANT NO. 2:

C.1. It is pleaded by the Respondent that Hindus do Puja etc. in the Janam Bhumi temple and Muslims are not allowed to go near that temple, which they wrongly and maliciously described as a mosque.

C.2. It was moreover pleaded that the Muslims have not been in possession of the property in dispute since 1934 and earlier.

C.3. It was pleaded that Muslims were never in possession of the temple called Ram Janam Bhumi. If ever they were in possession of the so-called Babri mosque, their possession ceased thereon in 1934, and since then Hindus are holding that temple in their possession and their possession has ripened into statutory adverse possession thereon since 1934. Prior to 1934, continuous daily Hindu Puja is being done in that temple and the Muslims have never said their prayers since 1934 in the temple falsely described as Babri Mosque.

C.4. It was further pleaded that the temple in dispute is a public charitable institution and does not belong to any sect or group or math or individual and is a public place open to worship to all Hindus. Thus, no individual can represent the entire Hindu community for the sake of this suit.

C.5. Pleas under the U.P. Muslim Wakf Act (including that the said Act is ultra vires) were also taken.

D. TESTIMONY OF THE DEFENDANT NO. 2 IN SUIT 5:

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D.1. The Respondent herein was arrayed as witness OPW1. OPW-1 commenced his deposition in December 1999 and at that time his age was 90 years. The following testimony of the Respondent is relevant:

D.2. *"I consider the entire place below the disputed building as also the area below and adjacent to the middle dome, to be Janmbhumi."*

D.3. *"I cannot definitely say what was the length and width of that place, but I used to perform circumambulation, taking the entire place, including the path of circumambulation, to be part of Janmbhumi."*

D.4. *"I consider the disputed building to be 'Garbhgrih'(sanctum sanctorum)."*

D.5. *It has been mentioned in Valmiki Ramayana that Lord Rama was born at Ayodhya. The description about Ayodhya is to be found in our Vedas, Upnishads, Sanghitas, 18 Up-Puranas, Smritis and all acceptable literature in the cultural domain of India and in all of them Ayodhya has been considered to be the birthplace of Lord. It is the same Ayodhya, which exists today. Lord Rama had incarnated at this very place. All the said religious treatises of Hindus clearly give the boundary in this behalf. The paper no. 107C/5 is before me. Clear description in this behalf is contained in the chapter of Skand Purana dealing with the importance of Ayodhya. The birthplace of Lord Rama and the 'Garbh-grih', is the disputed site, where Ramlala is now present."(para 446 pg. 456 Vol I)*

D.6. *"Since I came to Ayodhya, I have regularly seen people having 'darshan' of all the seven places viz. Ramjanmbhumi, Hanumangarhi Nageshwar Nath, Saryu,*

Chhoti Dev kali, Badi Dev Kali, Laxman Ghat, Saptasagar situated near Chhoti Dev Kali and Kanak Bhawan temple.. There was the idol of Lord Rama at Ramjanmbhumi site. Sita Rasoi also existed and in each pillar of the special building, which existed there as per ancient custom by name of Ramjanmbhumi, there were number of pictures (idol) of Gods-Goddesses over them. Apart from the idol, that land was also revered and it was said that it was the birthplace of Rama and Lord Rama had descended over there. There was a hut made up of straw at that place, which was called the Chabutara of Ramlala, and the same was worshiped by the priests of Nirmohi Akhara, who used to make offering of Bhog-Raag etc. to Him.” (para 446 pg. 454 Vol I)

D.7. *“The repair work was not carried out by the Muslim community. There was no obstruction in prayer-worship from the year 1934 to 1947. Since my arrival at Ayodhya, I never saw Namaz being offered at the disputed premises. Attempts were made in this behalf on number of occasions and many arrests were effected. The attempts to offer Namaz, used to regularly give rise to clash like situation. I never saw Namaz being offered. In center of the courtyard of the Janmbhumi, was a gate of iron rods and it had been put there to prevent any animal etc. from entering.” (para 447 pg. 455 Vol. I)*

Cross on Evidence

Tenth Australian Edition

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Preface

This edition, the 10th Australian edition, follows quite closely on the heels of the 9th. The decision to publish it responds to popular demand that this ought to be done.

The law of evidence receives much greater attention from the courts than most other areas of law. In the nature of the subject it is more closely linked to the litigation process than any other, with the possible exception of procedure. In consequence many parts of the law of evidence undergo steady and constant development. The principal fields of activity since the last edition include the interaction between the uniform legislation and the common law, judicial notice and related matters, the exclusion of evidence the prejudicial effect of which outweighs its probative value, the operation of legislation in relation to tendency and coincidence evidence, privilege, illegally obtained evidence, expert opinion evidence, and the use of extrinsic evidence in construing contracts.

The target audience continues to include law students, their teachers, solicitors, barristers and judges. It is hoped that many sectors of that target audience will find useful two innovations in point of form.

The first innovation is that the Table of Contents is now much more detailed. The goal is to enable a reader dealing with a particular problem to find more quickly the particular passages relevant to the solution of that problem.

The second innovation is that in the footnotes there is only one citation per case. This in turn has shortened the footnotes. The purpose of this change is to enable the reasoning in the text to emerge more clearly.

Barbara Price and Sophie Waples have carried out a great deal of work in preparing, typing and checking the text. To them a great debt is owed.

The staff of LexisNexis have as always been cooperative and efficient.

Sydney
28 October 2014
J D Heydon

Chapter Five

Degrees of Proof

Section 1 — Civil and Criminal Standards — Degrees of Proof¹

A — GENERAL

Non-circumstantial evidence

[9001] Introduction

Once the party who bears the evidential burden has discharged it by adducing evidence sufficient to justify consideration of a particular issue, it becomes necessary for the party bearing the legal burden on that issue, the proponent, to persuade the trier of fact that it should be decided in the proponent's favour. If the proponent's evidence is less persuasive than that of the opponent the proponent must inevitably fail. If it is more persuasive, the question is whether the proponent must equally inevitably succeed. The answer to that question demands consideration of the requisite standard of proof. It is generally accepted that Australian law applies two main standards, though their precise connotation, formulation and application, the possibility of a third standard, and their relationship to precisely quantifiable evidence, raise debatable issues which will be discussed in this chapter. It is then necessary to consider the standard which must be achieved to discharge an evidential burden or adduce "sufficient" evidence.

[9005] The distinction between the criminal and civil standards

The cases show that there is a difference between the standards of proof in criminal and civil proceedings.¹ Speaking of the degree of cogency which the evidence on a criminal charge must reach before the accused can be convicted Denning J said:

That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond a reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence "of course it is possible, but not in the least probable", the case is proved beyond reasonable doubt, but nothing short of that will suffice.²

¹ See further Z Cowen and P B Carter, *Essays on the Law of Evidence*, 1956, pp 242–9, and G L Williams, "The Direction to the Jury on the Burden of Proof" [1954] *Crim LR* 464. For the standard of proof at a trial within a trial, see [11075] below.

² *Miller v Minister of Pensions* [1947] 2 All ER 372 at 373–4. See also *R v Winsor* (1865) 4 F & F 363; *Woolmington v DPP* [1935] AC 462; *Mancini v DPP* [1942] AC 1 at 11. The question of the quantum,

[9005]

CROSS ON EVIDENCE

When speaking of the degree of cogency which evidence must reach in order that it may discharge the legal burden in a civil case, he said:

That degree is well settled. It must carry a reasonable degree of probability, but not so high as is required in a criminal case. If the evidence is such that the tribunal can say: "We think it more probable than not", the burden is discharged, but, if the probabilities are equal, it is not.³

The validity of the distinction has not gone unquestioned. Lord Goddard once confessed that he had some difficulty in understanding how there are or can be two standards,⁴ and Hilbery J is reported to have said: "I personally have never seen the difference between the onus of proof in a civil and criminal case. If a thing is proved, it is proved, but I am not entitled to that view".⁵ Yet it can hardly be doubted that there are degrees of probability. If this much is conceded, the law can intelligibly

as opposed to the burden, of proof was not directly before the House in the last two cases. For an earlier statement see *Cooper v Slade* (1858) 6 HLC 746 at 772. See also the chapter on this topic in Sir Owen Dixon's *Festing Pilate and Other Papers and Addresses*, 1965. The rule that the prisoner must have the benefit of reasonable doubt has been traced back to the end of the eighteenth century: J Q Whitman, *The Origins of Reasonable Doubt*, 2008, pp 193–200. The propriety of summing up in terms of probability and possibility was questioned in *R v McKenna* (1964) 81 WN (Pt 1) (NSW) 330 (CCA); but cf *R v Coe* [1967] VR 712 (FC). See also *R v Vassilief* (1967) 86 WN (Pt 2) (NSW) 445 (CCA). And see.

³ *Miller v Minister of Pensions* [1947] 2 All ER 372 at 374. In *Davies v Taylor* [1974] AC 207 at 219 Lord Simon of Glaisdale said: "[T]he concept of proof on a balance of probabilities . . . can be restated as the burden of showing odds of at least 51 to 49 that such-and-such has taken place or will do so". But it is not enough that mathematically the chances favour a proposition; "the fact that only a minority of men die of cancer [would not] warrant a finding that a particular man did not die of cancer": *Sargent v Massachusetts Accident Co* 29 NE (2d) 825 (1940) at 827. See also *Smith v Rapid Transit Inc* 58 NE (2d) 754 (SJC Mass, 1945); *Malec v J C Hutton Pty Ltd* (1990) 169 CLR 638 at 642–3. A competing view is that proof of a fact on a balance of probabilities requires the tribunal to "feel an actual persuasion of its occurrence or existence before it can be found. It cannot be found as a result of a mere mechanical comparison of probabilities independently of any belief in its reality . . . [A]t common law . . . it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal": *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361–2. Satisfaction on the balance of probabilities calls for the court to "feel an actual persuasion of [the] occurrence or existence" of the matter in issue: *Helton v Allen* (1940) 63 CLR 691 at 712. See D H Hodgson, "The Scales of Justice: Probability and Proof in Legal Fact Finding" (1995) 69 ALJ 731; H Bennett and G A Broe, "The civil standard of proof and the 'test' in *Briginshaw*: Is there a neurological basis to being 'comfortably satisfied'?" (2012) 86 ALJ 258; *Smith v Rapid Transit Inc* 58 NE (2d) 754 (SJC Mass, 1945); *Andrijich v D'Ascanio* [1971] WAR 140 at 142 (FC); *Watson v Foxman* (1995) 49 NSWLR 315 at 319 (discussing the difficulty of satisfying the standard where an allegation of misleading conduct arising from an oral but unconfirmed conversation is made); *Hoy Mobile Pty Ltd v Allphones Retail Pty Ltd (No 2)* [2008] ATPR 42-240 at [40]–[41]. Among the contentions which Hodgson advances is the proposition that the court must consider whether the material before it is or is not so limited as to be an inappropriate basis on which to reach a reasonable decision, and in that regard the importance of having regard to the ability of the parties, particularly but not only the party bearing the onus of proof, to lead evidence on a particular matter, and the extent to which they have done so: at 732–3, 736 and 740. See also *Ho v Powell* (2001) 51 NSWLR 572 at [14]–[20]. See further D H Hodgson, "Probability: the Logic of the Law — a Response" (1995) 15 OJLS 51 at 58–60.

⁴ *R v Hepworth* [1955] 2 QB 600 at 603 (CCA).

⁵ In the course of argument in *R v Murtagh and Kennedy* (1955) 39 Cr App R 72. Suggestions were made that the onus borne by the plaintiff in civil litigation was the same as that undertaken by the prosecutor on a criminal charge in *Flower v Ebbw Vale Steel, Iron and Coal Co Ltd* [1936] AC 206 and *Munro Brice and Co v War Risks Assn Ltd* [1918] 2 KB 78 at 80. It has been said that it is not appropriate to speak of the reasonableness of a suspicion as being established beyond reasonable doubt; that a suspicion is either reasonable or not reasonable; and that it is for the court to decide whether any suspicion, duly proved, should be characterised as reasonable: *Tepper v Kelly* (1987) 45 SASR 340 at 343 and 345, approved on appeal in *Tepper v Kelly* (1988) 47 SASR 271 at 273, and in *Police v Beck* (2001) 79 SASR 98. See also *Universal Music Australia Pty Ltd v Sharman Networks Ltd* (2006) 150 FCR 110 at [15] (it is facts in issue which must be proved beyond reasonable doubt, and the domestic law and its proper application to established facts are not matters for proof or disproof).

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6.—STANDARD OF PROOF: CRIMINAL CASES

(a) *Describing the standard*

- 6-49 Judges in their summings up must make it clear to the jury that it is for the prosecution to establish the guilt of the accused to the appropriate standard, and that if the prosecution fail the accused must be acquitted.⁹⁵ Although it has been said there need be no set formula for explaining to the jury the standard required,⁹⁶ in *Woolmington v DPP*⁹⁷ Lord Sankey expressly approved the direction to a jury that “the prosecution must prove the case beyond reasonable doubt”.⁹⁸

Numerous authorities have stated that it must be made plain to a jury that they must not convict unless they are satisfied of guilt beyond all reasonable doubt.⁹⁹ The alternative formulation is that the jury must be “sure” of guilt.¹ The formulation that the jury must be sure of guilt is now more usual than the formulation that they must be satisfied beyond reasonable doubt. Both are correct.

“Sure” does not mean “certain”. To require certainty of legal proof would be to produce absurdity. If a direction is given in terms of the jury being “sure”, then the jury should not also be told that they need not be certain, or that being sure is less than being certain.² Expressions such as “pretty certain”, “reasonably sure” and “pretty sure” have been disapproved by the Court of Criminal Appeal.³

- 6-50 Where a defendant is charged with alternative offences, the jury should consider first whether they are satisfied beyond reasonable doubt on the first, and if they are not, they should proceed to consider whether the defendant is guilty of the second. It is a misdirection of the jury to be told that if they are satisfied

⁹⁵ *R. v Rees* (1928) 21 Cr.App.R. 35; *R. v Blackburn* [1955] 39 Cr.App.R. 84; *R. v Allan* [1969] 1 W.L.R. 33; *R. v Platt* [1981] Crim. L.R. 332, CA. (The Court of Appeal held it to have been a misdirection for a jury to be told that they had to decide whose evidence they preferred where two pathologists had given evidence, one for the prosecution, the other for the defence).

⁹⁶ *R. v Hepworth and Fearnley* [1955] 2 Q.B. 600; but merely to tell the jury that they must be satisfied with regard to the prisoner’s guilt is insufficient. See also *R. v Murtagh and Kennedy* (1955) 39 Cr.App.R. 72; cf. *R. v Blackburn* [1955] Cr.App.R. 34n.

⁹⁷ [1935] A.C. 462, 481; see also *Mancini v DPP* [1942] A.C. 1, 11; *R. v Angeli* (1979) 68 Cr.App.R. 32, 36; *Ferguson v R.* [1979] 1 W.L.R. 94, 99; *R. v Lawrence* [1982] A.C. 510, 525.

⁹⁸ Where the judge has to decide an issue of fact, the standard is again beyond reasonable doubt: *R. v Ewing* 77 Cr.App.R. 47, CA, disapproving *R. v Angeli* (1979) 68 Cr.App.R. 32 on this point as *per incuriam*.

⁹⁹ *McGreevy v DPP* [1973] 1 W.L.R. 276, HL. The “beyond all reasonable doubt” test was also applied in *R. v Sang* [1980] A.C. 402, 436, 437, 445, HL; *R. v Courtie* [1984] A.C. 463 and other cases. The Police and Criminal Evidence Act 1984, s.76(2), uses the words beyond reasonable doubt.

¹ For a period from 1950 onwards the Court of Criminal Appeal stressed a preference for a direction that “the jury should be satisfied so that they feel sure”: *R. v Kritz* [1950] 1 K.B. 82, 90; *R. v Summers* [1952] 1 All E.R. 1059; see also *Walters v R.* [1969] 2 A.C. 26, 30, PC, where such a direction was approved. The latest Judicial Studies Board specimen direction reflects that, replacing “satisfied so as to be sure” with “sure”.

² *R. v Stephens (Alan Edwin)* [2002] EWCA Crim 1529; *The Times*, June 27, 2002, CA.

³ *R. v Law* [1961] Crim. L.R. 52; *R. v Head and Warrenner* 45 Cr.App.R. 225; *R. v Woods* [1961] Crim. L.R. 324.

danger of thinking that they are engaged in some task more esoteric than applying to the evidence adduced at the trial the common sense with which they approach matters of importance to them in their ordinary lives, then the use of such analogies is that used by Small J.¹² in the present case, whether in the words in which he expressed it or in those used in any of the cases to which reference has been made, may be helpful and is in their Lordships' view unexceptionable."

In *R. v Ching*,¹³ the court emphasised that if judges stopped trying to define that which was almost impossible to define, there would be fewer appeals.

(c) *Standard of proof where persuasive burden lies on the defence*

6-52 It has already been said¹⁴ that, other than in exceptional cases, the accused does not bear a persuasive burden of proof. He does not have to prove his innocence. It is sufficient if either as a result of the prosecution evidence, the defence evidence, or a combination of both, the adjudicating tribunal is not satisfied of his guilt beyond reasonable doubt. Where there is a burden on the defendant, it will often be no more than an evidential burden, so that when evidence is led, the persuasive burden shifts back to the prosecution to prove beyond reasonable doubt.

Where, however, the accused does bear a persuasive burden in respect of a particular issue,¹⁵ the burden of proof required is less than that required at the hands of the prosecution. It is not a burden to prove beyond reasonable doubt. Thus, it is not higher than the burden which rests upon a claimant or defendant in civil proceedings.¹⁶ The jury should be clearly directed as to the standard of proof of the burden on the defence when the onus shifts.¹⁷ It is not sufficient to direct the jury that the defence must be proved on a balance of probabilities; they must be told that they must be satisfied that it was more likely than not (or more probable than not) that the defence is made out.¹⁸

7.—STANDARD OF PROOF: CIVIL CASES

(a) *Generally*

6-53 The standard of proof in civil cases is generally proof on the balance of probabilities. If, therefore, the evidence is such that the tribunal can say "we

¹² "But surely, upon reflection you remember that in dealing with matters of importance in your own business affairs, your own business or personal affairs you do not allow slight, whimsical doubts to deter you from going along; you brush them aside and go ahead. But surely there comes a time when, in dealing with matters of your own affairs, you stop to think, and by reason of that doubt you decide what you are to do in your business of importance. Well, this is the quality and kind of doubt of which the law speaks when it speaks of 'reasonable doubt'".

¹³ *ibid.*

¹⁴ See above, para.6-09.

¹⁵ Usually by statute, see above, para.6-11.

¹⁶ *R. v Carr-Briant* [1943] K.B. 607; 27 Cr.App.R. 76; *R. v Sodeman* [1936] 2 All E.R. 1138; *Cooper v Slade* (1858) 6 H.L. Cas. 746, 772, per Willes J.

¹⁷ *R. v Brown* (1971) 55 Cr.App.R. 478, CA.

¹⁸ *R. v Swaysland*, *The Times*, April 15, 1987, CA.

think it more probable than not", the burden is discharged, but if the probabilities are equal it is not.

(b) *Serious or criminal allegations*

Where a serious allegation is made in a civil case, such as an allegation of criminal conduct, the standard of proof remains the civil standard. Otherwise,¹⁹ where there was a claim for fraudulent misrepresentation and breach of warranty, the court might hold that the warranty claim was proven and the fraud claim was not proven on the same facts. However, if a serious allegation is made, then more cogent evidence may be required to overcome the unlikelihood of what is alleged, and thus to prove the allegation.²⁰ Courts have for some time sought to grapple with the logical difficulty of requiring more cogent evidence to prove fraud, but still holding that the allegation must be proved on a balance of probabilities. The matter was explained by Lord Nicholls in *Re H (minors)*²¹:

"The balance of probability standard means that a court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not. When assessing the probabilities the court will have in mind the factor, to whatever extent is appropriate in the particular case, that the more serious the allegation the less likely it is that the event occurred and hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability. Fraud is usually less likely than negligence. Deliberate physical injury is usually less likely than accidental physical injury. A stepfather is usually less likely to have repeatedly raped and had non-consensual oral sex with his under-age stepdaughter than on some occasion to have lost his temper and slapped her. Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation.

Although the result is much the same, this does not mean that where a serious allegation is in issue, the standard of proof required is higher. It means only that the inherent probability or improbability of an event is itself a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. The more improbable the event, the stronger must be the evidence that it did occur before, on the balance of probability, its occurrence will be established."

Whilst the House of Lords confined their decision to issues of care orders under s.31(2) of the Children Act 1989, where it had to be shown that the child would suffer significant harm,²² it seems unlikely that the courts will in future apply any standard other than the civil standard in civil cases.²³

Re H does not mean that in every civil case where a serious allegation is made, that allegation will necessarily require proof somewhere approaching a criminal

¹⁹ As was pointed out by Denning L.J. in *Hornal v Neuberger Products* [1957] 1 Q.B. 247.

²⁰ *Re Dellow's Will Trusts* [1964] 1 W.L.R. 455; *Hornal, ibid.* See *Bater v Bater* [1951] P. 55, CA.

²¹ [1996] A.C. 563.

²² Lord Nicholls pointed out that in the Court of Appeal [1995] 1 F.L.R. 643; 659, Millett L.J. had said that, contempt of court apart, in civil cases there was only one standard of proof, namely the balance of probabilities; Lord Nicholls said he would not go so far without further argument.

²³ It has in the past been said that in cases involving the validity of marriage, the standard of proof should be a criminal standard—see *Mahadervan v Mahadervan* [1964] P. 233, 246, per Sir Jocelyn Simon P. *Re H* seems to put the last nail in the coffin of this idea.

MILLER v. MINISTER OF PENSIONS.

[KING'S BENCH DIVISION (Denning, J.), July 2, 25, 1947.]

Royal Forces—Pension—Burden of proof—Medical evidence—Death from cancer—Royal Warrant Concerning Retired Pay, Pensions, etc., 1943 (Cmd. 1943, No. 6489), art. 4 (2) (3) (4).

The applicant's husband served in the army from 1915 until his death in 1944. He served in the Middle East from 1940 until 1944, when he became hoarse and found difficulty in eating. He reported sick and his disease was diagnosed as cancer of the gullet. He died within a month of reporting sick. The tribunal rejected the applicant's claim for the higher pension granted to widows of soldiers whose death was due to war service :—

HELD : the tribunal had properly directed itself as to the burden of proof, and the conclusion of fact drawn by the tribunal—that the whole of the probabilities were that war service played no part—could reasonably be drawn from the primary facts having regard to the burden of proof.

Per curiam : In cases falling under art. 4 (2) and art. 4 (3) of the Royal Warrant Concerning Retired Pay, Pensions, etc., 1943 (which are generally cases where the man was passed fit at the commencement of his service but is later afflicted by a disease which leads to his death or discharge) there is a compelling presumption in the man's favour which must prevail unless the evidence proves beyond reasonable doubt that the disease was not attributable to or aggravated by war service, and for that purpose the evidence must reach the same degree of cogency as is required in a criminal case before an accused person is found guilty. That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence "of course it is possible, but not in the least probable," the case is proved beyond reasonable doubt, but nothing short of that will suffice.

In cases falling under art. 4 (2) and art. 4 (4) (which are generally cases where the man was fit on his discharge, but incapacitated later by a disease) there is no compelling presumption in his favour, and the case must be decided according to the preponderance of probability. If at the end of the case the evidence turns the scale definitely one way or the other, the tribunal must decide accordingly, but if the evidence is so evenly balanced that the tribunal is unable to come to a determinate conclusion one way or the other, then the man must be given the benefit of the doubt. This means that the case must be decided in favour of the man unless the evidence against him reaches the same degree of cogency as is required to discharge a burden in a civil case. That degree is well settled. It must carry a reasonable degree of probability, but not so high as is required in a criminal case. If the evidence is such that the tribunal can say: "We think it more probable than not," the burden is discharged but, if the probabilities are equal, it is not.

It is useless for a medical man to give an opinion that a disease is or is not attributable to, or aggravated by, war service without giving his reasons. Such an opinion should be disregarded by a tribunal because it involves not only his scientific knowledge, but also his views on causation, the meaning of "attributable," "war service," and so forth, all of which are matters for the tribunal and not for him. Such an opinion is merely his view as to the way the tribunal ought to decide, and is an opinion which, if rightly formed, could only be drawn from the same premises as those from which the tribunal are to determine the matter. To be of value, a medical opinion should not be in general terms such as to usurp the function of the tribunal, but should point out the probable or possible causes of the disease and of any aggravation of it, giving the degree of probability, and then leaving it to the tribunal to decide whether or not on the facts of the particular case the claim should be allowed. In cases where the

aetiology, i.e., the scientific origin of the disease is known, there is or should be little difficulty in stating the causes of the disease and of any aggravation of it, but the cases where the aetiology is unknown or imperfectly known present great difficulty. If nothing else appears except that the cause is unknown, the only proper conclusion is that the Minister cannot discharge the burden of proof because the unknown cause may be a cause incidental to war service.

- A [AS TO WAR PENSIONS, GENERALLY, see HALSBURY, Halsbury Edn., Vol. 34, pp. 777 *et seq.*, paras. 1094 *et seq.*; and FOR CASES, see DIGEST Supp.]

Cases referred to :

- (1) *Bracegirdle v. Oaley*, [1947] 1 All E.R. 126; [1947] K.B. 349; 176 L.T. 187.
 (2) *Donovan v. Minister of Pensions*, (1946), not reported.
 (3) *Starr v. Minister of Pensions*, *Nuttall v. Minister of Pensions*, *Bourne v. Minister of Pensions*, [1946] 1 All E.R. 400; [1946] K.B. 345; 115 L.J.K.B. 449; 175 L.T. 1; Reports of Selected War Pensions Appeals, Vol. 1, p. 125.
 B (4) *Williams v. Minister of Pensions*, (1947), Reports of Selected War Pensions Appeals, Vol. 1, p. 503.
 (5) *Briggs v. Minister of Pensions*, (1946), Reports of Selected War Pensions Appeals, Vol. 1, p. 211.
 (6) *Burbidge v. Minister of Pensions*, (1947), Reports of Selected War Pensions Appeals, Vol. 1, p. 307.
 C (7) *Forster v. Minister of Pensions*, (1946), Reports of Selected War Pensions Appeals, Vol. 1, p. 145.
 (8) *Wedderspoon v. Minister of Pensions*, [1947] K.B. 562; 177 L.T. 8; Reports of Selected War Pensions Appeals, Vol. 1, p. 347.

APPEAL by the widow of a regular army officer, who had died during war service of cancer of the gullet. The tribunal rejected her claim for the higher pension granted to widows of soldiers whose death is due to war service, and

- D DENNING, J., now dismissed her appeal from that decision.

G. H. Crispin for the appellant.

H. L. Parker for the Minister.

Cur. adv. vult.

- July 25. DENNING, J., read the following judgment. Captain Miller joined the army in 1915 at the age of 18 and served for 30 years until his death in 1944 at the age of 48. During the recent war he went out to the Middle East in Aug., 1940, and was there continuously until his fatal illness. In the middle of 1944 he became hoarse and could not eat much. He reported sick and was taken to hospital where his illness was diagnosed as cancer of the gullet, or, in medical language, carcinoma of the oesophagus. He was flown back to this country, but he died soon after he arrived here, less than one month after he reported sick. His widow is entitled to a pension on account of his long service, but she claims the higher pension granted to widows of soldiers whose death is due to war service. The tribunal rejected the claim. The question is whether they erred in point of law in so doing.

The first point of law in the present appeal is whether the tribunal properly directed itself as to the burden of proof. The proper direction is covered by decisions of this court. It is as follows.

- G 1. In cases falling under art. 4 (2) and art. 4 (3) of the Royal Warrant Concerning Retired Pay, Pensions, etc., 1943 (which are generally cases where the man was passed fit at the commencement of his service, but is later afflicted by a disease which leads to his death or discharge) there is a compelling presumption in the man's favour which must prevail unless the evidence proves beyond reasonable doubt that the disease was not attributable to or aggravated by war service, and for that purpose the evidence must reach the same degree
 H of cogency as is required in a criminal case before an accused person is found guilty. That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence "of course it is possible, but not in the least probable," the case is proved beyond reasonable doubt, but nothing short of that will suffice.

2. In cases falling under art. 4 (2) and art. 4 (4) (which are generally cases where the man was fit on his discharge, but incapacitated later by a disease) there is no compelling presumption in his favour, and the case must be decided according to the preponderance of probability. If at the end of the case the evidence turns the scale definitely one way or the other, the tribunal must decide accordingly, but if the evidence is so evenly balanced that the tribunal is unable to come to a determinate conclusion one way or the other, then the man must be given the benefit of the doubt. This means that the case must be decided in favour of the man unless the evidence against him reaches the same degree of cogency as is required to discharge a burden in a civil case. That degree is well settled. It must carry a reasonable degree of probability, but not so high as is required in a criminal case. If the evidence is such that the tribunal can say: "We think it more probable than not," the burden is discharged, but, if the probabilities are equal, it is not.

The present case falls under the first category. There are passages in the transcript of the proceedings before the tribunal, which, taken by themselves, look as if the tribunal were not properly directing themselves as to the degree of probability required to discharge the burden of proof, but, when the transcript is read as a whole, I think the tribunal had the proper test in mind.

The second point of law is whether the conclusion of fact drawn by the tribunal could reasonably be drawn from the primary facts, having regard to the burden of proof: see *Bracegirdle v. Oaley* (1), ([1947] 1 All E.R. 130). This involves an assessment of the medical evidence. It is useless for a medical man to give an opinion that a disease is or is not attributable to, or aggravated by, war service without giving his reasons. Such an opinion should be disregarded by a tribunal because it involves not only his scientific knowledge, but also his views on causation, the meaning of "attributable," "war service," and so forth, all of which are matters for the tribunal and not for him. Such an opinion is merely his view as to the way the tribunal ought to decide, and is an opinion which, if rightly formed, could only be drawn from the same premises as those from which the tribunal are to determine the matter. To be of value, a medical opinion should not be in general terms such as to usurp the function of the tribunal, but should point out the probable or possible causes of the disease and of any aggravation of it, giving the degree of probability, and then leaving it to the tribunal to decide whether or not on the facts of the particular case the claim should be allowed. In cases where the aetiology, i.e., the scientific origin of the disease is known, there is or should be little difficulty in stating the causes of the disease and of any aggravation of it, but the cases where the aetiology is unknown or imperfectly known present great difficulty. If nothing else appears except that the cause is unknown, the only proper conclusion is that the Minister cannot discharge the burden of proof because the unknown cause may be a cause incidental to war service. That was the position in *Donovan's* case (2), concerning the rare disease called lymphadenoma or Hodgkin's disease. In many cases, however, although the aetiology is unknown, experience and statistics are able to throw light on the circumstances in which the disease arises or develops. Thus, in disseminated sclerosis the aetiology is unknown, but experience shows that external factors may influence its onset or development, and claims have been allowed accordingly: see *Nuttall* (3), and *Williams* (4); whereas in schizophrenia, although the precise cause is unknown, experience shows that in the great majority of cases it is essentially independent of external circumstances. That makes it highly probable that in the ordinary way schizophrenia is not attributable to or aggravated by war service, and claims have been rejected accordingly: see *Briggs* (5), and *Burbidge* (6); but the weight of this evidence may be counterbalanced if there is anything reasonably to suggest in the particular case that any incident of war service may have played a part, such as exceptional stress or strain immediately preceding the onset of symptoms. Medical men cannot exclude that as a precipitating cause, because statistics show that in a minority of cases schizophrenia has been preceded by severe stress. In such cases, therefore, claims have been allowed: see *Forster* (7).

I turn now to the evidence in the present case. It is regarded as a test case of cancer of the oesophagus and was referred to an independent medical expert, Sir Ernest Rock Carling. His opinion was adverse to the claim, but

K.B.D.]

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- there were other opinions in evidence favourable to it. One thing is clear, and that is that the aetiology of cancer is unknown. That means that, despite all the research that has been done, medical men have not been able to find out the origin of the disease so as to demonstrate, as a matter of science, how it arises. Such knowledge as they have of its cause, and it is very little, is based, not on science, but on experience and statistics. For instance, the percentage of chimney sweeps who suffer from carcinoma of the scrotum is sufficiently high to warrant the inference that the irritation of soot has something to do with it, and there are cancers in other parts of the body which on statistical grounds can be associated with irritation of one kind or another. On this account Dr. Beaumont thought that carcinoma of the oesophagus might have resulted in this case from an irritant in food, swallowed in the Middle East, such as sand. This suggestion was rejected, however, by other doctors because of the rarity of cancer of the oesophagus in men serving in the desert. Sir Ernest Rock Carling said the suggestion was highly speculative, and Dr. Dixon dismissed it as quite outside the bounds of probability. Another suggestion given by a text book in reference to carcinoma of the oesophagus was that "there is often an apparent connection with irritants in the form of spirit drinking and the habitual consumption of excessively hot liquids." This was rejected by Sir Ernest Rock Carling who pointed out that cancer of the oesophagus is predominantly a male disorder, and the habits there mentioned are not confined to men. Even if the suggestion is well founded, however, those habits are habits in the man's personal sphere and not attributable to war service: see *Wedderspoon's* case (8). No other external factor was mentioned by any doctor, but many were negatived. There was evidence, based, no doubt, on experience and statistics, that for all practical purposes cancer is not looked on as contagious or infectious, and that cancer of the oesophagus is unrelated to employment or environment. There was also the striking fact that there have been, apparently, 45 cases only of cancer of the oesophagus among men in the services from all theatres of war, including the United Kingdom, between 1939 and 1946, or roughly 7 cases a year, which is a minute fraction of the total number of cases reported in the United Kingdom every year, viz., 1,700. The very fact that, despite the close attention that has been given to the problem, experience and statistics can point to no external factor, seems to support Dr. Kirby's view that:

... in general cancer pursues its inevitable and inexorable course without being influenced by the intervention of external factors or agencies.

There remains the doubt, however, due to its unknown aetiology, that it is possible that war service played some part. On that account Mr. Horace Evans said:

- I am unable to state with any degree of certainty that service factors have played no part.

Sir Ernest Rock Carling said:

It is impossible to assert that nothing whatever in the environment had an influence in causation.

- The question is: What degree of doubt do those opinions impart? Do they give rise to a reasonable doubt or not? That was essentially a matter for the tribunal.

- The weight to be attached to the various opinions and the assessment of the degree of probability were essentially matters for the tribunal. They came to the conclusion that the whole of the probabilities were that war service played no part. They recognised the existence of a possibility the other way, but dismissed it as too remote saying, in effect: "Of course, it is possible, but not in the least probable." I cannot say they could not reasonably come to that conclusion. The appeal, is, therefore, dismissed.

Appeal dismissed.

Solicitors: *Culross & Trelawney* (for the appellant); *Treasury Solicitor* (for the respondent).

[Reported by W. J. ALDERMAN, Esq., Barrister-at-Law.]



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it would pay her better to remain his wife and thus keep, should she survive her husband, her chance of making in the future an application under the Inheritance (Family Provision) Act, 1938. The question of maintenance of the wife is at the moment sub judice in proceedings for maintenance initiated by herself in this suit.

After considering all the facts of the case, and bearing in mind the observations of Lord Simon, L.C., in *Blunt v. Blunt* (5), I have come to the conclusion that the wife's application to rescind the decree nisi of divorce should be refused and that the decree should be made absolute. There will, therefore, be no order on the wife's application to rescind the decree nisi.

*Wife's application refused.
 Decree absolute.*

Solicitors: Alfred Cox & Son, for Clarke & Nash, High Wycombe; Gregory, Rowcliffe & Co., for Neal, Scolah, Siddons & Co., Sheffield.

J. B. G.

(5) [1943] A. C. 517, 525.

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JEFFREY
 v.
 JEFFREY.
 Pearce J.

BATER v. BATER.

1950
 June 29.

Husband and wife—Divorce—Cruelty—Standard of proof.

Bucknill,
 Somervell and
 Denning, L.JJ.

On a petition by a wife for divorce, on the ground of cruelty, it is no misdirection for the trial judge to state that the petitioner must prove her case beyond reasonable doubt.

Davis v. Davis [1950] P. 125 considered.

Per Denning, L.J.: The phrase "reasonable doubt" in this connexion, as a standard of proof, can be used just as aptly in a civil or a divorce case as in a criminal case. But had the trial judge said that the case had to be proved with the same strictness as is a crime, that would have been misdirection.

APPEAL from Mr. Commissioner Grazebrook, K.C.

The appellant wife petitioned for divorce on the ground of the alleged cruelty of the respondent, her husband. She admitted adultery on one occasion in her discretion statement. The parties were married in 1933.

The commissioner, dismissing the wife's appeal, found that any cruelty there might have been before 1942 had been condoned, and that it was not subsequently revived by the conduct of the husband. The wife appealed.

The case is reported solely on the question of misdirection.

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Tolstoy for the wife. The commissioner in his judgment said: "That is the evidence, and in order to succeed the wife has to satisfy me that there has been injury to life, limb, or health, "bodily or mentally, or reasonable apprehension of it, and she "has to prove her case beyond reasonable doubt". In that last sentence, it is submitted, the commissioner misdirected himself, since the phrase "beyond reasonable doubt" was to denote the standard of proof applicable in a criminal case: see *Davis v. Davis* (1)

The husband in person.

BUCKNILL, L.J. [on the issue of misdirection]. In my opinion, the commissioner's statement that the wife had to prove her case beyond reasonable doubt was a correct statement of law, and I adhere to what I said in *Gower v. Gower* (2) and *Davis v. Davis* (1). In *Gower v. Gower*, I should perhaps have said: "The standard "of proof required in a criminal case is higher than that required "in some civil actions". But, subject to that, I stand by what I then said. I do not understand how a court can be satisfied that a charge has been proved (and the statute requires that the court shall be satisfied before pronouncing a decree) if, at the end of the case, it has a reasonable doubt in its mind whether the case has been proved. To be satisfied and at the same time to have a reasonable doubt seems to me to be an impossible state of mind.

I will just add this: I regard proceedings for divorce as proceedings of very great importance, not only to the parties, but to the State. If a wife is divorced, not only has she that stigma resting upon her for the rest of her life, but it may mean that she will lose the maintenance to which she is entitled from her husband; and she may lose the custody of her children. It may indeed mean ruin to her. I think that, if a high standard of proof is required because of the importance of a case to the parties and also the community, divorce proceedings are the kind of case which requires that high standard. This appeal fails.

SOMERVELL, L.J. With regard to the suggested misdirection, I do not think that the commissioner in the sentence quoted misdirected himself, and I desire to express my agreement with what has been said on that matter by Bucknill, L.J., today and what was said by him in *Davis v. Davis* (1). I agree that the appeal must be dismissed.

DENNING, L.J. The difference of opinion which has been evoked about the standard of proof in recent cases may well turn out to be more a matter of words than anything else. It is of course true that by our law a higher standard of proof is required

(1) [1950] P. 125.

(2) (1950) 66 T. L. R. (Pt. 1) 717.

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in criminal cases than in civil cases. But this is subject to the qualification that there is no absolute standard in either case. In criminal cases the charge must be proved beyond reasonable doubt, but there may be degrees of proof within that standard.

As Best, C.J., and many other great judges have said, "in proportion as the crime is enormous, so ought the proof to be clear". So also in civil cases, the case may be proved by a preponderance of probability, but there may be degrees of probability within that standard. The degree depends on the subject-matter. A civil court, when considering a charge of fraud, will naturally require for itself a higher degree of probability than that which it would require when asking if negligence is established. It does not adopt so high a degree as a criminal court, even when it is considering a charge of a criminal nature; but still it does require a degree of probability which is commensurate with the occasion. Likewise, a divorce court should require a degree of probability which is proportionate to the subject-matter.

I do not think that the matter can be better put than it was by Lord Stowell in *Loveden v. Loveden* (3). "The only general rule that can be laid down upon the subject is, that the circumstances must be such as would lead the guarded discretion of a reasonable and just man to the conclusion". The degree of probability which a reasonable and just man would require to come to a conclusion—and likewise the degree of doubt which would prevent him coming to it—depends on the conclusion to which he is required to come. It would depend on whether it was a criminal case or a civil case, what the charge was, and what the consequences might be; and if he were left in real and substantial doubt on the particular matter, he would hold the charge not to be established; he would not be satisfied about it.

But what is a real and substantial doubt? It is only another way of saying a reasonable doubt; and a reasonable doubt is simply that degree of doubt which would prevent a reasonable and just man from coming to the conclusion. So the phrase "reasonable doubt" takes the matter no further. It does not say that the degree of probability must be as high as 99 per cent. or as low as 51 per cent. The degree required must depend on the mind of the reasonable and just man who is considering the particular subject-matter. In some cases 51 per cent. would be enough, but not in others. When this is realized, the phrase "reasonable doubt" can be used just as aptly in a civil case or a divorce case as in a criminal case; and indeed it was so used by my Lord in *Davis v. Davis* (4) and *Gower v. Gower* (5)

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(3) (1810) 2 Hagg. Con. 1, 3.
(4) [1950] P. 125.

(5) 66 T. L. R. (Pt. I) 717.

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to which we have been referred. The only difference is that, because of our high regard for the liberty of the individual, a doubt may be regarded as reasonable in the criminal courts, which would not be so in the civil courts. I agree therefore with my brothers that the use of the phrase "reasonable doubt" by the commissioner in this case was not a misdirection any more than it was in *Briginshaw v. Briginshaw* (6).

If, however, the commissioner had put the case higher and said that the case had to be proved with the same strictness as a crime is proved in a criminal court, then he would, I think, have misdirected himself, because that would be the very error which this court corrected in *Davis v. Davis* (7). It would be adopting too high a standard. The divorce court is a civil court, not a criminal court, and it should not adopt the rules and standards of the criminal court. I agree that the appeal should be dismissed.

Appeal dismissed.

Solicitors: *Neave and Neave for Broad, Riggall & Godman, Watford.*

C. G. M.

(6) (1938) 60 C. L. R. 336.
(7) [1950] P. 125.

C. A.

KASLEFSKY v. KASLEFSKY.

1950
June 16, 20.
Bucknill,
Somervell and
Denning L.J.

Divorce—Cruelty—Wife's gross neglect of husband and child—Laziness—Refusal of sexual intercourse—Conduct not "aimed at" spouse.

Although, as is laid down in *Squire v. Squire* [1949] P. 51, malignity is not an essential element of "cruelty", as that word is used in s. 2 of the Matrimonial Causes Act, 1937, which enacts that a petition for divorce may be presented by husband or wife on the ground that the respondent has, since the celebration of marriage, treated the petitioner with "cruelty", nevertheless, to secure a divorce on that ground, there must be shown on the part of the respondent conduct which is "aimed at", i.e., actions or words actually or physically directed at, the petitioner; or done with intent to injure him, or to inflict misery on him.

Accordingly, where it was shown, as in this case: (1.) that a wife had written to her husband when in the Forces, at war, that she wanted her freedom and no longer wanted to keep the only child of the marriage, but wanted it to be adopted; (2.) that on her husband's return from his service she refused, and continued to refuse, him sexual intercourse; (3.) that she used to stay up late, do no work at

Annexure-6 ⁴⁵

1958.]

GULABCHAND SURAJMAL D. SHRI BALAJI (A.C.J.)

1461

[NAGPUR BENCH]

Before Mr. Justice Gokhale.

GULABCHAND SURAJMAL JOSHI v. SHRI BALAJI, DEITY.

Temple—Sufficiency of evidence to prove temple a public temple—Contributions on large scale collected from public to reconstruct temple building—Installation ceremony including pratishtha performed after such reconstruction—Whether evidence sufficient to prove that temple a public temple.

Where there is evidence to show that contributions on a very large scale were collected from the public for the work of the reconstruction of a temple building, and after the work of reconstruction was over, an installation ceremony including pratishtha was performed, which ceremony was intended to dedicate the property to the deities for the purpose of worship by the general public, this evidence is sufficient to prove that the temple is a public temple.

*Babu Bhagwan Din v. Gir Har Saroop,*¹ distinguished.

*Deoki Nandan v. Murlidhar,*² *Committee of Management of Gurdwara Panja Sahib v. Sardar Mohammad Nawaz Khan*³ and *Raghubir Lala v. Mohammad Said,*⁴ referred to.

AN open site admeasuring 24,439 square feet situated at Paratwada in Achalpur tahsil with a temple building situated therein, belonged to the deities of Shri Balaji alias Shri Hanumanji and the deity Shri Murlidharji alias Shri Thakurji. Shri Balaji deity was established over 150 years ago, while Shri Murlidharji deity came to be installed 50 years thereafter. These deities were installed in two of the rooms of the temple. The leading part in the installation and consecration of the deity Shri Murlidharji was taken by one Akheram Sukhramdas and that was done with funds contributed by him and other leading Hindu public-men of the place and they appointed one Nanakram son of Radhakisan as a *Pujari* of the temple. The whole temple came to be known as Shri Balaji Sansthan. The Hindu public freely visited and worshipped the deities and performed functions such as *Annakut*, *Bhajan*, *Saptak* etc. Marriages were performed and Ramlila men, Sadhus and travellers put up in the temple building. In about 1868 Government granted the site surrounding the temple to the deity and this site was used for a flower garden for the use of the deity. A few years later, the public built a water trough for the use of the cattle and the trough was filled with water and maintained with funds of the public. Water was brought from the well situated in the open site surrounding the temple. In 1918 the temple became dilapidated and it was necessary to re-build it. In 1919, in the month of January a meeting was held of the Hindu public and four persons namely, Richpal, Narsingdas, Lalluprasad and Harmukhdas, were nominated as Panchas and entrusted with the work of reconstruction. According to the plaintiffs, these Panchas rebuilt the temple in its present form at a cost of about Rs. 8,000. When this construction was going on, the Murlidhar deity had to be shifted and it was again installed and consecrated in one of the new rooms. The actual management of the temple, according to the plaintiffs, was done by the *Pujaris* in consultation with the Panchas. In June 1926 two of the Panchas, Lalluprasad and Harmukhdas, purchased in auction an open site admeasuring 15,429 sq. ft. to the north of the temple building for Rs. 242 and the same was dedicated to the temple deities. Thus, according to the plaintiffs, the whole site surrounding the temple belonged to the temple and the *Pujaris* had no right or interest therein. Nanakram, the original *Pujari*, was the son of one Radhakisan and he had a brother by name Hardeo. Nanakram died about 1884, and at the time the temple was reconstructed, Hardeo's son Nanuram was the *Pujari*. Besides Nanuram, Hardeo

¹ *Decided, June 24/25, 1958.* First Appeal No. 41 of 1953, from the decision of G. G. Bhoiraj, Civil Judge, Class I, at Achalpur, in Civil Suit No. 90-A of 1950.

² (1939) L. R. 67 I. A. 1, s.c. (1939) 42

Bom L. R. 190.

³ [1956] S. C. R. 756.

⁴ (1941) L. R. 68 I. A. 83.

⁵ [1943] A. I. R. P. O. 7.

had two other sons, Jaggulal and Jagatram. Nanuram died in 1923 and he was succeeded by one Rameshwar who was the grandson of Jagatram. Rameshwar had a brother, Shrikisan. After the death of Nanuram, Shrikisan and Rameshwar were minors and during the minority of Rameshwar, one Thanduram, the maternal uncle of these boys, appointed *Pujaris* for the worship of the deities, and according to the plaintiffs, the first one so appointed was Ramanand and the second one was Mannalal. Rameshwar was a spendthrift and was not able to do necessary repairs to the temple building. On March 5, 1947, Rameshwar sold some portion of the open site surrounding the temple in favour of one Chandrikaprasad; but later on, he passed a writing in favour of the Panchas on May 3, 1948, admitting that he had only *Pujari* rights and handing over possession of the temple. But, within two years, Rameshwar executed in February 1950 a sale-deed in favour of one Kesharbai in respect of the rest of the portion of the open site as well as the temple building for a consideration of Rs. 5,000. The purchaser Kesharbai took forcible possession of these properties sold to her, and hence the plaintiffs filed the present suit on July 25, 1950, for a declaration that Rameshwar had no right to sell the property in suit and for possession thereof. The suit was filed on behalf of the two deities as plaintiffs Nos. 1 and 2 represented by their next friend Jammanlal Ramchandra Agrawal, who was plaintiff No. 3 in the suit, and three other Panchas. Kesarbai, the purchaser under the sale-deed dated February 3, 1950, and her son Motilal were impleaded in the suit as defendants Nos. 1 and 2, while Chandrikaprasad, the purchaser under the sale-deed dated March 5, 1947, was impleaded as defendant No. 3. Rameshwar, the vendor, was impleaded as defendant No. 4, while his sister-in-law, Kiranbai, the widow of Rameshwar's brother Shrikisan, was impleaded as defendant No. 5. Defendant No. 6 was Ratanlal, the son of a former Panch one Narsingdas, while one Chhedilal Lalluprasad, another Panch, was impleaded as defendant No. 7. Though the prayer clause of the plaint stated that the plaintiffs prayed for a declaration that the temple building in suit was the property of the deities and not of defendant No. 4 Rameshwar who could not alienate it and for possession of the said temple building in favour of plaintiffs Nos. 1 and 2, the deities, under para. 16 of the plaint the plaintiffs claimed a declaration in respect of the suit property comprising the temple building and the open site and for possession thereof.

The suit was resisted by defendants Nos. 1 and 2, principally on the ground that the suit property was the private property of Rameshwar.

The trial Judge held that the temple and the open site surrounding it did not belong to Nanakram but was owned by the plaintiff deities. He held that the temple and the site was not inherited by Hardeo and thereafter by Nanuram, and thereafter by Shrikisan and Rameshwar. He found against the defendants on the question of Rameshwar's ownership of the site in suit. On these findings, the lower Court decreed the plaintiffs' suit and granted a declaration that the temple building and the site in suit was the property of the deities, plaintiffs Nos. 1 and 2, and not of Rameshwar, defendant No. 4, and awarded the plaintiffs possession of the temple building and the site.

Against this decree, Chandrikaprasad, defendant No. 3, filed no appeal, and the present appeal was filed by Kesarbai and her son Motilal, original defendants Nos. 1 and 2. But Kesarbai having died pending this appeal, her legal representatives were brought on record.

N. B. Chandurkar, for the appellants.

M. R. Bobde and *C. P. Kalele*, for respondents Nos. 1 to 5.

GOKHALE J. [His Lordship after stating the facts and considering the evidence in the case, proceeded:] This is all the documentary evidence on the record in connection with the open site surrounding the temple building and Mr. Chandurkar contends that this evidence is insufficient to substantiate the plaintiffs' case that the open site surrounding the temple building belonged to the deities. As I have already pointed out, it is common ground between the

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parties that the temple was built on a portion of the present site at least about 100 years before the present suit. That some additional land was acquired from Government in 1868 cannot also be disputed. The actual order granting this land has not been produced, though it does appear that in the proceedings of 1883-84 relating to the encroachment made by Nanakram, a certificate in connection with the grant of the site was produced by the *Pujari*, which was returned to him. This land, however, was used for a garden for the temple and though there are references in some of the earlier papers which support Mr. Chandurkar's argument that the land was granted to Nanakram, it cannot be inferred from them, as I have already stated, that the grant was personally in favour of Nanakram and his family. The execution of the rent-note in favour of Nanakram on May 26, 1923 (exh. P-4) by Laduram and Chhedilal is also to some extent in favour of the defendants. But, as I have already stated, the explanation of the plaintiffs that this rent-note came to be executed in order that the *Pujaris* may receive regularly payment for their maintenance directly from the lessees seems to be borne out by oral evidence as well as the evidence of the accounts books produced by Chhedilal. But a more significant fact is that an area of 14,000 square feet or more was purchased in 1926 by the Panchas (exh. P-7) and got entered in the name of the temple deities in 1939 (exh. P-9), and the entries in the record-of-rights exhs. 1-2-D-4 and 1-2-D-5 clearly support the plaintiffs' case that the owner of the land was the Deosthan itself. It is significant that the Deosthan is shown as the occupant in these entries in respect of the entire open site admeasuring 39868 square feet. It is conceded by Mr. Chandurkar that these entries in the record-of-rights must be presumed to be true, but he says that the presumption raised by these entries is liable to be rebutted and is so rebutted by the documents of 1883-84 to which a reference has already been made in detail. I am not prepared to accept this argument and hold that the documentary evidence relied upon by the defendants rebuts the presumption raised by the record-of-rights entries on the record.

Then we come to the evidence relating to the reconstruction of the temple building in 1918. As I have already stated, it is the plaintiffs' case that these buildings were reconstructed in 1918 by raising on a large scale subscriptions from the public and this reconstruction was followed by installation ceremonies in which dedication was made in favour of the plaintiff-deities. It is not denied by the defendants that the rebuilding of the temple took place in 1918; but it is alleged by them that a considerably less amount than what is alleged by the plaintiffs was spent and it is also contended by the defendants that apart from public subscriptions, Nanuram also spent for the repairs and rebuilding. In support of the defendants' allegations, there is hardly any reliable evidence on the record. As I have already pointed out, Rameshwar, defendant No. 4, though he filed a written statement, was present in Court only once but thereafter made himself scarce and did not step into the witness-box. The evidence of 1-2-D.W.3 Motilal discloses that he summoned Rameshwar in order to prove his title, and though Rameshwar was present in Court on July 10, 1952, no moneys seem to have been paid by the defendants in respect of his allowance, nor does it appear that any serious attempt was thereafter made to secure his presence in Court to give evidence. On the other hand, the plaintiffs have substantiated their allegations by producing the account books of Narsingdas one of the Panchas, who took a leading part in the work of reconstructing the temple building in 1918. The accounts were produced by Ratanlal, the son of Narsingdas, who is defendant No. 6, and they were proved by Ranglal (P.W. 11). Now, these account books are of two kinds. Extracts have been produced from the daily *rokad* and also from the *khatavani*. The account books for the year 1918-19 show that a total collection of Rs. 6,334-11-0 was made from the public for the expenses of the reconstruction and Rs. 6,702-14-6 were actually spent. In the year 1919-20 an additional amount of Rs. 1,515-0-6 was collected and the total expenses over the building were Rs. 1,610-15-6. In the year 1920-21 an amount of Rs. 387 was raised and Rs. 289-9-3 were spent. In the year 1921-22 no further collections were made but an amount of Rs. 210-13-6 was spent.

These account books which have not been challenged in any way support the plaintiffs' case that the Panchas raised from the public, contributions amounting to more than Rs. 8,000 and spent that amount in rebuilding the temple. This documentary evidence is further supported by the witnesses of the plaintiffs Manulal (P.W. 1), Laxmidhar (P.W. 5), Kisan (P.W. 7), Richpal (P.W. 8), Jamanlal (P.W. 11) who is the next friend of the deities, Onkarsa (P.W. 9) who is a man of 86 years and who himself contributed a sum of Rs. 25, and Bansilal (P.W. 12).

It appears, and that is not disputed, that during the work of reconstruction, one of the deities, Shri Murlidharji, was removed, while the other one was shifted a little, and after the work of reconstruction was completed there was an installation ceremony and it is the allegation of the plaintiffs that there was a dedication of this new building in favour of the deities. In this connection, reference may be made to the evidence of Richpal, one of the Panchas, who stated that there was a night-long installation ceremony during which there were *homas*, and since then the temple belongs to the deities. According to the evidence of Jamanlal, the next friend of the deities, eight or nine months after the construction was complete, installation ceremony was held, *koma* was made in this installation ceremony in which Richpal, Lalluprasad, Harmukhdas and Narsingdas and their wives took part, and the people contributed in money or kind for the *Annakut* etc. Bansilal's evidence is also to the same effect and he seems to have been present at the installation ceremony, being invited by his distant relative Richpal. According to his evidence, Nanuram's financial condition was not such as to enable him to build and look after the temple on his own responsibility. Mr. Chaudurkar has drawn my attention to the admissions made by plaintiffs' witnesses regarding some lands at Kharpi and Yeoda owned by Nanuram and there are on record exhs. 1-2-D-12 to 1-2-D-18, which show that the family of the *Pujaris* had lands at Kharpi and Yeoda. But that is neither here nor there since there is no evidence about their income. It is not denied by the defendants that subscriptions for the purpose of reconstruction of the temple were obtained from the public, and the account books produced by the plaintiffs establish that an amount of more than Rs. 8,000 was collected and spent on the work of reconstruction. It is also not denied by the defendants that an installation ceremony was held after the work of reconstruction. It seems to be the contention of the defendants that that installation ceremony was performed not by the Panchas but by Nanuram himself and it is denied that there was any dedication of the temple in favour of the deities.

That takes me to the evidence of the defendants' own witnesses, Suganchand and Shrinarayan. Suganchand (1-2-D.W. 2) has deposed that he was a priest versed in *Puranas* and *Kathas* and he took part in the installation of the suit temple idols, along with other *Pandits*. According to him, Baba Nanulal did the installation ceremony and he denies that Harmukh; Richpal, Narsingdas and their wives performed the ceremony. He stated that the ceremony took two days, Nanulal spent for it, and the temple belonged to Nanulal. It is obvious that he is related to defendant No. 2, Motilal, the latter's real sister being married to his son, though his son's wife is no longer living. According to his evidence, *pratishtha* for a house is called *vastu shanti*, that of temple is called *deo pratishtha* and *Pratishtha Prakash* is one of the books on the subject. He admitted that at the time of the temple installation, he read some *mantras* from *Pratishtha Prakash* and some from *Wasishtha Havana Padhati*. He stated that he was not the *acharya* of the ceremony but Ramdhin, who is now dead, was the *acharya*. Ramdhin was a *pardeshi* Brahmin and he did all the rituals as the officiating priest. He stated that there was a *yajna* at that time and his work in the ceremony was of putting the *ahuti* in the *yajna*, while Ramdhin did the *homa* including *sankalpa* etc. He says that Ramdhin might have done the *pradhan sankalpa* or *dewalaya sankalpa*. In his presence, he stated, there were only *homa*, *mantras* and meals. The ceremony of the installation of the idol was not done in his presence. According to him, Nanuram

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had no wife at that time and he might have put some image of *durva* or silver in place of the wife of the *yajamana*. About 20 persons took meals on the first and the second day. He stated that Ramdhin did the ceremony according to the *Dharma Shashtra*. In the account books produced by the plaintiffs, there are entries of December 1919 in which there is a reference to payment made to Ramdhin and purchase of articles like wheat, ghee etc. To that extent, Suganchand's statement that Ramdhin was the *acharya* seems to be fully supported. The other witness examined by the defendants is Shrinarayan and his evidence also shows that he was present at the ceremony and Nanuram had invited him for the *homa* performed after the reconstruction of the temple. According to him, four *pandits* were there in all, including the witness himself, Bababux, Suganchand and Ramdhin and the ceremony took two days. He denied that the Panchas and their wives took part in the ceremony but says that Nanuram was the *yajamana*. According to him, at the ceremony, on the first day, himself, Bababux and Suganchand did the *japa* of the *gayatri mantra* and the next morning the *homa* began. The work that he did was the recitation of the *gayatri mantra* on the first day and putting of *ahutis* on the second day. According to this witness, Ramdhin was the *acharya* and recited *mantras*; *sankalpa* was made by Ramdhin and it was according to the *shastras*. He said that Ramdhin had a book of *pathi* and that was *Wasistha Havana Padhati*. He states that Ramdhin had also 2-3 other books and the *pratistha* i.e. installation of the idol was made. He also states that Nanuram told him at the time that the temple belonged to him. Now, all this evidence goes to support the plaintiffs' case that after the work of the reconstruction of the temple was completed, a ceremony was held and that ceremony included the *pratistha*, which would imply that the temple building was dedicated to the deities. Mr. Chandurkar relies on the evidence of Suganchand and Shrinarayan and says that it was Nanuram who was the *yajamana* and not the Panchas. In my judgment that would make no difference if the installation ceremony ultimately resulted in the dedication of the temple building in favour of the deities for purposes of worship by the public.

In Dr. P. V. Kane's History of Dharmasastra, Vol. II, part II, at p. 892, the learned author, after referring to several works which prescribe a comprehensive procedure of the consecration of wells, ponds and tanks, states as follows:—

"Pratishtha generally means dedicating to the public with prescribed rites. Utsarga means 'divesting oneself of ownership over a thing and dedicating it for the use of all'. There were four principal stages in the procedure of pratishtha, first the Sankalpa, then the homa, then the utsarga (i.e. declaration that the thing has been dedicated) and lastly the daksina and feeding of brahmanas."

Then the learned author proceeds to state at p. 893:

"In the case of temples, the proper word to use is pratishtha and not utsarga."

The evidence of Suganchand and Shrinarayan would indicate that there was *sankalpa*, *homa* as well as *pratistha*, and, in my opinion, that must necessarily lead to an inference that after the work of reconstruction which was financed to such a large extent by public contributions, the temple buildings were dedicated in favour of the deities. In *Deoki Nandan v. Murlidhar*¹, their Lordships of the Supreme Court have pointed out that the ceremonies relating to dedication are *Sankalpa*, *Uthsarga* and *Prathista*. It is observed at p. 769:

"Sankalpa means determination, and is really a formal declaration by the settlor of his intention to dedicate the property. Utsarga is the formal renunciation by the founder of his ownership in the property, the result whereof being that it becomes impressed with the trust for which he dedicates it."

Then, after referring to Mr. Mandlik's observation in the *Vyavahara Mayukha*, Part II, App. II, p. 339, that

"there is no *utsarga* of a temple except in the case of repair of old temples,"

¹ [1956] S. C. B. 756.

and to Dr. Kane's History of Dharmasastras, Vol. II, Part II, p. 893 and to the statement which I have already quoted above, it is stated by their Lordships that the question of inferring a dedication to the public by reason of the performance of the *Uthsarga* ceremony cannot arise in the case of temples. As I have already pointed out, the evidence of Suganchand and Shrinarayan shows that the ceremonies of *sankalpa* and *pratistha* were performed at the time of the installation of the deities in the reconstructed temple buildings in suit and religious books were used by Ramdhin in the performance of the ceremonies. This evidence, in my judgment, establishes the plaintiffs' case that the temple buildings were dedicated in favour of the deities after the reconstruction of the buildings. It is nobody's case that the temple buildings were merely repaired. A large amount to the tune of more than Rs. 8,000 was spent in reconstructing the structure, which necessitated the removal of at least one idol during the work of reconstruction.

I need not refer in detail to the evidence on record about the user of the temple building by the public. It was alleged by the plaintiff that the Hindu public freely visited and worshipped the deities; religious functions such as *Annakut*, *Bhajan*, *Saptak* etc., used to be performed there, and marriage parties, Ramlila men, Sadhus and travellers used to put up in the temple building. This is not denied by the defendants and the evidence on this point seems to be ample and reference in this connection may be made to the testimony of Ganesh (P.W. 2), Tukaram (P.W. 3), Bhimrao (P.W. 4), Laxmidhar (P.W. 5) and Keshao (P.W. 6). Mr. Chandurkar points out that the evidence as to user by the public of the temple premises does not necessarily prove that the temple is a public temple or that the property belongs to the deities. In this connection, he relied on the case of *Babu Bhagwan Din v. Gir Har Saroop*¹ in which their Lordships of the Privy Council stated that it was not enough to deprive a family of their private property to show that Hindus willing to worship have never been turned away or even that the deity has acquired considerable popularity among Hindus of the locality or among persons resorting to the annual *Mela*. Then their Lordships observed as follows (p. 9) :—

"...Worshippers are naturally welcome at a temple because of the offerings they bring and the repute they give to the idol: they do not have to be turned away on pain of forfeiture of the temple property as having become property belonging to a public trust. Facts and circumstances, in order to be accepted as sufficient proof of dedication of a temple as a public temple, must be considered in their historical setting in such a case as the present; and dedication to the public is not to be readily inferred when it is known that the temple property was acquired by grant to an individual or family."

Now, this case is clearly distinguishable from the present case, because in that case the family had treated the temple as family property, dividing the various forms of profit whether offerings or rents, closing it so as to exclude the public from worship when marriage or other ceremonies required the attendance of the members of the family at its original home, and erecting *samadhis* to the honour of its dead. In that case, it was further observed by the Privy Council that the value of public user as evidence of dedication depends on the circumstances which give strength to the inference that the user was as of right. In the present case, there is evidence to show that contributions on a very large scale were collected from the public for the work of the reconstruction of the temple buildings, and after the work of reconstruction was over, an installation ceremony including *Pratistha* was performed and that ceremony was intended to dedicate the property to the deities for the purpose of worship by the general public. At any rate, therefore, since 1918 the public seems to have used this temple as of right and not by permission of Nanuram and of Rameshwar.

Mr. Chandurkar also relied upon another Privy Council case, *Committee of Management of Gurdwara Panja Sahib v. Sardar Mohammad Nawaz Khan*,² in which it was observed at p. 93 that the burden lies heavy on persons setting

¹ (1939) L. R. 67 L. A. 1, s.c. (1939) 42 ² (1941) L. R. 68 L. A. 83.
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up dedication of property for purposes of the shrines and it would be beside the point to show that the evidence does not exclude the theory of dedication. Mr. Chandurkar relied on what was stated by their Lordships at page 95 of the report:

"The case of dedication is not made out merely by evidence of neighbourly or considerate conduct towards a religious institution, or by showing that small profits have not been churlishly exacted by the proprietor from persons held in general esteem. Nor is it to be made out by showing that the sadhus dependent on the mahant got his help for repairs, or allowed him to assign pilgrims to them at the time of mela, or sought his help in other ways."

In this case, dedication was sought to be established by user. In my opinion, this case also does not assist Mr. Chandurkar in view of the evidence on record as to dedication of the temple buildings in the present case.

Then Mr. Chandurkar referred me to another Privy Council case in *Raghubir Lala v. Mohammad Said*¹, in which it was held that where a question arises whether particular property acquired by a given individual was acquired on his own behalf or on behalf of some other person or institution with whom or with which he was connected, the circumstance that the individual so acquiring property was a professed ascetic may have importance; but it is out of the question to suppose that a man's religious opinions or professions can make him incapable in law of holding property. The argument of Mr. Chandurkar seems to be that Nanakram and his successors were not incapable of holding property merely because they were *Pujaris* of the said deities. Nobody has questioned the right of Nanakram or his successors to hold private property. The evidence undoubtedly shows that they possibly owned lands at two villages, Kharpi and Yeoda. But the real question is whether the evidence on the record justifies the contention of the appellants that the suit properties were exclusively owned by Rameshwar, and the evidence, in my opinion, is against the contention of the appellants.

Mr. Chandurkar then contended that at the most the evidence of the installation ceremony and the account books of Narsingdas would show that what was dedicated to the plaintiff deities was the temple building newly constructed, but that would not involve dedication of the land surrounding the temple in favour of the deities. As I have already pointed out, it is not the plaintiffs' case that the land was also dedicated to the deities at the time of the installation ceremony. It is the plaintiffs' case that the land was owned by the deities and that seems, as I have already pointed out, to be supported by the entries in the record-of-rights (exhs. 1-2-D-4 and 1-2-D-5) after Nanuram's death which show that the Deosthan was the occupant of plot No. 132 from the year 1800. That inference is further supported by the fact that in 1926 a nazul site admeasuring an area of about 14,000 square feet lying to the north of the Murlidhar temple was purchased by the Panchas and was got entered in the name of the Deosthan. (Exhs. P-7 and P-10). It was also argued by Mr. Chandurkar that the map of 1883 (exh. 1-2-D-25) showed that the original structure consisted not only of the temple but also of a residential portion. That is undoubtedly so, but there does not seem to be any reliable evidence as to what happened after the reconstruction of 1919. It is also true and that is not disputed, that during the minority of Rameshwar, defendant No. 4, his maternal uncle Thanduram appointed *Pujaris* and, after attaining majority, Rameshwar claimed the right to appoint *Pujaris* in his own place. That, in my opinion, would not affect the question of ownership of the temple. The *Pujaris*, it appears, were paid by the Panchas for their work, and if Rameshwar chose to appoint other *Pujaris* in his place, the Panchas would not be concerned, and as exh. P-3 shows, Rameshwar distinctly stated in that writing dated May 3, 1948, executed by him in favour of the Panchas that in case the *Pujari* appointed by him did not behave properly, the Panchas had the right to expel him. It is also significant that during the minority of Rameshwar, in the record-of-

1 [1943] A. I. R. P. C. 7.

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rights when Rameshwar's name was shown as the *wahiwatdar* of the temple, the Panchas were entered as his guardians. Since admittedly Thanduram, the maternal uncle of Rameshwar, appointed *Pujaris* for doing the worship of the deities, in the record-of-rights, he or any nearer relative of Rameshwar should have been shown as the guardian of Rameshwar and not the Panchas, apart from the fact, already referred to above, that the recorded occupant of the suit land was Shri Balaji Deosthan itself not only in respect of the portion purchased by the Panchas in 1926 and got entered by them in the name of the Deosthan in the Nazul settlement of 1930-31 but also in respect of the rest of the original site by *wahiwat* since 1800 A.D.

Considering the entire evidence on the record, especially the entries in the record-of-rights, reconstruction of the temple by public contributions, performance of *Sankalpa* and *Pratistha*, and user of the temple by the public as of right, in my opinion, the view of the learned trial Judge that the suit property belonged to or was owned by the plaintiff deities and not by Nanakram or his successors is correct. It is hardly necessary to add that though legally the deities would be the owners of the suit properties, it is now well established that under Hindu law, the idols themselves can have no beneficial interest in the endowment, but the true beneficiaries would be the public, if the dedication was intended for the purpose of worship by the general public: see *Deoki Nandan v. Murlidhar*.

Then it was urged by Mr. Chandurkar that at any rate, it should be held that defendant No. 1 and her predecessors-in-title had acquired title to the suit property by adverse possession. I do not think that there is any substance in this contention, because exh. P-3 executed by Rameshwar on May 3, 1948, shows that he had only a right of worshipping the deities and had no ownership rights in the suit property. He handed over the possession of the temple to the management of the Panchas and he asked them not only to carry out the necessary repairs but to do the work of putting up the fencing, and as I have already pointed out, in the context, it must necessarily mean the fencing of the compound surrounding the temple. The contention, therefore, that the defendants have perfected their title by adverse possession cannot be accepted.

[The rest of the judgment is not material to this report].

Appeal dismissed.

ANNEXURE 7**NOTE ON ORAL EVIDENCE OF WITNESSES****I. Witnesses on behalf of Plaintiff in Suit 5:**

1. **OPW-1: Mahant Ramchandra Das Digambar**, aged about 90 years (on 23.12.1999 when he commenced his testimony), was born at Village Sinhipur, District Chhapara, Bihar and came to Ayodhya at the age of 14-15 years.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • <i>"It has been mentioned in Valmiki Ramayana that Lord Rama was born at Ayodhya. The description about Ayodhya is to be found in our Vedas, Upnishads, Sanghitas, 18 Up-Puranas, Smritis and all acceptable literature in the cultural domain of India and in all of them Ayodhya has been considered to be the birthplace of Lord. It is the same Ayodhya, which exists today. Lord Rama had incarnated at this very place. All the said religious treatises of Hindus clearly give the boundary in this behalf. The paper no. 107C/5 is before me. Clear description in this behalf is contained in the chapter of Skand Purana dealing with the importance of Ayodhya. The birthplace of Lord Rama and the 'Garbh-grih', is the disputed site, where Ramlala is now present." (Para No. 446, Page No. 453, Vol. 1)</i> • <i>"The birthplace of Lord Rama as being described by me, is the same as mentioned in treatises related to reverence of Rama and in other Hindu Shashtra treatises." (Para No. 446, Page No. 454, Vol. 1)</i>
Fact of continuous worship	<ul style="list-style-type: none"> • <i>"The prayer-worship etc. was always performed at this place. After the said incident i.e. installation of idol in the 'Garbh-grih', the prayer-worship continued regularly. Earlier also, prayer-worship etc. had been regularly performed at this place. There was no obstruction in my prayer-worship at the disputed site on 23rd December, 1949. Subsequently, many cases were filed in this behalf, wherein injunction</i>

	<p>order was passed" (Para No. 448, Page No. 456, Vol. 1)</p> <ul style="list-style-type: none"> • "Since I came to Ayodhya, I have regularly seen people having 'darshan' of all the seven places viz. Ramjanmbhumi, Hanumangarhi Nageshwar Nath, Saryu, Chhoti Dev kali, Badi Dev Kali, Laxman Ghat, Sapsagar situated near Chhoti Dev Kali and Kanak Bhawan temple.. There was the idol of Lord Rama at Ramjanmbhumi site. Sita Rasoi also existed and in each pillar of the special building, which existed there as per ancient custom by name of Ramjanmbhumi, there were number of pictures (idol) of Gods-Goddesses over them. Apart from the idol, that land was also revered and it was said that it was the birthplace of Rama and Lord Rama had descended over there. There was a hut made up of straw at that place, which was called the Chabutara of Ramlala, and the same was worshiped by the priests of Nirmohi Akhara, who used to make offering of Bhog-Raag etc. to Him." (Para No. 446, Page no. 454, Vol. 1)
Possession by plaintiffs in Suit 4	<ul style="list-style-type: none"> • "The repair work was not carried out by the Muslim community. There was no obstruction in prayer-worship from the year 1934 to 1947. Since my arrival at Ayodhya, I never saw Namaz being offered at the disputed premises. Attempts were made in this behalf on number of occasions and many arrests were affected. The attempts to offer Namaz, used to regularly give rise to clash like situation. I never saw Namaz being offered. In center of the courtyard of the Janmbhumi, was a gate of iron rods and it had been put there to prevent any animal etc. from entering." (Para No. 447, Page No. 455, Vol. 1)

2. **OPW-4 Harihar Pasad Tiwari:** aged about 85 years (as per his affidavit dated 01.08.2002), son of Late Sri Bal Mukund Tiwari, is resident of Village and Post Karimuddinpur, District Ghazipur

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • <i>"Ayodhya is an ancient sacred pilgrimage of Hindus, where the Almighty Lord Vishnu had incarnated as Lord Sri Rama, the son of King Dashrath. The followers of Hinduism have inculcated this faith and belief from ancient times that Lord Vishnu had incarnated Himself at Ayodhya as Sri Rama. This place is revered and it is out of this faith and belief that people used to come over to have darshan and perform circumambulation of Sri Ram Janmbhumi. During my stay at Ayodhya between 1934 to 1938 in connection with my education, my family members, my grand father, and other elderly saints used to tell me that Lord Vishnu had incarnated at this very place in form of Lord Sri Rama and this is Sri Ram Janmbhumi. I used to go to have darshan of Sri Ram Janmbhumi out of this faith and belief and even after completing my studies I used to have darshan whenever I came over to Ayodhya. For the last 8-9 years, I mostly stay at Sugriv Qila, Ramkot, Ayodhya and keep going to Ram Janmbhumi for darshan (Para No. 453, Page No. 458, Vol. 1)</i>
Fact of continuous worship (including Parikrama)	<ul style="list-style-type: none"> • <i>"On the occasion of Chaitra Ram Navami, Sawan Jhoola, Parikrama mela (circumambulation fair) and Rama Vivah, Hindu pilgrims from all corners of the country used to visit Ayodhya and have darshan in the temples after taking a holy dip in the river Saryu. All the pilgrims definitely visited the Ram Janmbhumi to have darshan and used to offer money-flower-fruits as per their faith. A circumambulation path was laid down around the Sri Ram Janmbhumi premises. Hundreds of devotees used to regularly perform circumambulation everyday." (Para No. 453 (5), Page No. 459, Vol. 1)</i>
Possession by plaintiffs in Suit 4	<ul style="list-style-type: none"> • <i>In the east-south corner of Sri Ram Janmbhumi premises, was the Sita koop (well) at a distance of about 200-250 paces. The water of this well was used by the pilgrims, devotees and the saints residing at</i>

	<p><i>Sri Ram Janmbhumi premises. The Sri Ram Janmbhumi premises was always flooded with Hindu pilgrims and saints. No Muslim ever came near the same nor ever went inside the premises. I never saw any Muslim go inside it or offer namaz over there. Even if any Muslim was mistakenly found near the premises, the saints used to chase him away and as such no Muslim came to that side out of fear. There were touch stone pillars in the Garbh-grih structure at the Sri Ram Janmbhumi premises, which had figures of flowers-leaves, Gods-Goddesses engraved over them. The dome structure was the sacred Garbh-grih, where Lord Sri Rama is believed to have descended. Hindu pilgrims, devotees and pilgrims used to offer fruits-flowers-money at Him out of faith. Various Hindu temples have always existed around the Sri Ram Janm Bhumi premises" (Para No. 453(6), Page No. 459, Vol. 1)</i></p>
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3. **O.P.W. 5, Ramnath Mishra alias Banarasi Panda** is aged about 91 years (as per his affidavit dated 6/7.8.2002), resident of Naya Chat, Ayodhya, District Faizabad. By profession he is a Teerth purohit and residing at Ayodhya since 1932, assisting the people in visiting and performing Darshan and Pooja in various temples at Ayodhya. He has made averments about Darshan and Pooja inside the Courtyard, i.e., Garbhgrih (under the central dome) till December 1949 and that the disputed premises was neither used as mosque nor any Namaz was offered there at.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "As per tradition, elderly persons used to tell that Lord Sri Rama was born as son of King Dashrath on the ground beneath this very central dome. On the basis of this very faith and belief, all Rama-worshipping Hindu public and I also used to have darshan of Sri Ram Janam Bhumi, which used to be regarded as a very holy and revered place". (Para No. 455 (6), Page No. 462, Vol. 1) • "Hinduism. All followers of Hinduism, as per ancient tradition, have a firm faith and belief that Lord Vishnu took birth on this very place as son of King Dashrath, hence

	<p>this place itself is very sacred and revered. On the basis of this very faith and belief, pilgrims and devotees have been coming in lakhs to Ayodhya to do darshan-parikrama (sight and circumambulation) of Sri Ram Janam Bhumi and so do they do even now. Outside the main entrance gate is fixed a stone of the English period which has words 'Janam Bhumi Nitya Yatra' and 'number-1 (ek) of Hindi' written on it." (Para No. 455(7), Page No. 463, Vol. 1)</p>
Fact of continuous worship	<ul style="list-style-type: none"> • "Ram Navami of Chaitra month is chiefly observed as birth celebration of Lord Rama in Ayodhya. Sawan Jhoola is celebrated in the month of Sawan. Akshay Ram Navami, Devotthani Ekadashi, Kartik Poornima and Saryu Snan fare are observed in the month of Kartik. Panchkosi and Chaudahkosi circumambulations and Vrihad mela (major fare) take place in the month of Kartik. Ram Vivah celebrations are observed on the occasion of Aghan Sudi Panchami. On these occasions, lakhs of devotees and Rama- worshippers come to Ayodhya particularly from the nooks and corners of the country and the number of such persons goes up to 10 or 15 lakhs on a single day. These devotees and Rama worshippers take a dip in Saryu and perform 'daan-godaan' (offering and that of cow). After taking a dip in Saryu, as a matter of tradition, they certainly have darshan of Sri Ram Janam Bhumi, Kanak Bhawan and Hanumangarhi. After that they have darshan at other temples situated at Ayodhya. Everyday is a day of celebration in Ayodhya, where acclamation of Rama resounded every street and every atom. Bells and gongs keep ringing and kirtan and bhajan (singing of hymns and devotional songs) goes on continuously in Ayodhya. The whole of Ayodhya is pervaded with the sense of association with Rama. Devotees and Rama worshippers continue to come in thousands to Ayodhya from the nooks and corners of India and take a dip in river Saryu everyday. After that they go to have darshan of Sri Ram Janam Bhumi and to offer water to Rama.

	<p>After offering water to Rama they have a direct darshan of Lord Rama by going to the Kanak Bhawan after that they go to Hanumangarhi and have darshan of Rama-worshipping Hanuman. They offer flowers, garlands, prasad, etc. and go to several Ayodhya situated temples to have darshan thereat. Ram Kirtan and Ram Dhun continue to resound every street and every locality. Ram Abhishek (religious bathing of Rama) starts in the morning and continues till noon at Sri Ram Janam Bhumi." (Para No. 455, Page No. 460, Vol. 1)</p> <ul style="list-style-type: none"> • "In my life, I have facilitated nearly thousands of Rama-worshippers and pilgrims coming from the nooks and corners of the country to have darshan in Ayodhya. They mainly included mother of King Mahendra of Nepal who had come nearly 40 years ago. The king of Tehri had come nearly 50 years ago. King Bhanwar Singh of Oyal, district Kheeri had come nearly 30 years ago. Family members of King of Mewar came to Ayodhya in 1940-42. I had accompanied all these persons and had facilitated them to have darshan of Sri Ram Janam Bhumi, Kanak Bhawan and Hanumangarhi. I used to perform Ram abhishek (consecration of Ram) at Ram Janam Bhumi as per the desire of devotees and Rama-worshippers and used to get dakshina (fee for religious service) from them". (Para No. 455(5), Page No. 461, Vol. 1) • "I used to do 108 circumambulations at Sri Ram Janam Bhumi on the occasion of Chaitra Ram Navami every year from 1930 to 1950 in continuity and used to do 11 circumambulations at Sri Ram Janam Bhumi on Ekadashi every month from 1932 to 1950." (Para No. 455(15), Page No. 465, Vol. 1)
Possession of Plaintiffs in suit 4	<ul style="list-style-type: none"> • "In my life, I never saw any Muslim enter the sanctum sanctorum, nor is there any question of any Muslim offering namaj there." (Para No. 455(9), Page No. 463, Vol. 1)

4. **O.P.W. 6, Hausila Prasad Tripathi.** He was born at village Pahunti, District Faizabad (now in District-Ambedkarnagar). He is aged about 80 years in 2002. His village is about 30-35 kms from Ayodhya.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • <i>"It is faith, recognition and belief that Lord Sri Rama was born in Ayodhya and that place is famous by the name of Sri Ram Janam Bhumi, where lakhs of darshan-seekers come from the nooks and corners of the country and do the parikrama of Sri Ram Janam Bhumi after having its darshan. On the basis of this very faith and belief, we also certainly go for darshan and parikrama (sight and circumambulation) of Sri Ram Janam Bhumi 3-4 times every year." (Para No. 457(7), Page No. 466, Vol. 1)</i> • <i>"I also have a firm belief and faith that Lord Sri Rama was born at that very place in Ayodhya where thousands of Hindu pilgrims and darshan seekers come to do darshan, pooja and parikrama. Under this very faith and-belief, I also went to Ayodhya 3-4 times a year since 1935 and after having a dip in Sarayu had darshan of Kanak Bhawan, Hanumangarhi and Sri Ram Janam Bhumi and performed circumambulation of Sri Ram Janam Bhumi." (Para No. 457(8), Page No. 467, Vol. 1)</i>
Fact of continuous worship	<ul style="list-style-type: none"> • <i>"Ayodhya is nearly 30-35 kilometres from my village, Pahunti. Ram Janam Bhumi is nearly 9-10 kilometres from Acharya Nagar. In December of 1935, I came to Ayodhya along with my uncle, Sri Mata Prasad Tripathi for the first time. I was at that time nearly 12-13 years of age. I had then stayed at Ayodhya for 5- 6 days. At that time my uncle used to live in the Vijay Raghava temple, Ayodhya, which is nearly half a kilometre away from Sri Ram Janam Bhumi. He was 10-11 years senior to me. My uncle was a student of Sanskrit Mahavidyalaya located at Bad a Sthan at Ayodhya. He got schooling from Prathama</i>

to Acharya by residing in Ayodhya from 1932 to 1945. My uncle took me for a walk to Ayodhya. First of all, he took me for a dip in Saryu. Later on we went to have darshan of the Nageshwar Nath temple. After that we went to have darshan of Hanumangarhi, Kanak Bhawan, Ram Kutchery and Sri Ram Jan am Bhumi. After that I used to go to have darshan of Sri Ram Janam Bhumi and Kanak Bhawan in the morning and evening daily for as many days as I stayed in Ayodhya." (Para No. 457(4), Page No. 465, Vol. 1)

- "After that, in Chaitra month of 1936, I along with my father and grandmother went to Ayodhya on the occasion of Ram Navami falling in month of Chaitra. We had darshan of Hanumangarhi, Kanak Bhawan and Sri Ram Janam Bhumi. On the occasion of Ram Navami, lakhs of people had come to Ayodhya from the nooks and corners of the country. Most of Ayodhya-bound pilgrims and darshan seekers come to have darshan and pooja at Sri Ram Janam Bhumi. I have on several times seen thousands of people doing circumambulation of the entire Sri Ram Janam Bhumi from outside after having its darshan. After having darshan my grandmother and I also did parikrama around the entire premises of Sri Ram Janam Bhumi. Because of her old age, grandmother could do parikrama just once but my father and I did parikrama of Sri Ram Janam Bhumi five times." (Para No. 457(5), Page No. 466, Vol. 1)
- "During 1935 to 1945, as long as my uncle kept residing and studying in Ayodhya, I used to go to Ayodhya 3-4 times a year. I daily had darshan of Hanumangarhi, Kanak Bhawan and Sri Ram Janam Bhumi by staying constantly for 2-4 days. Even after 1945 I used to go to Ayodhya 4-5 times a year and after having darshan of Hanumangarhi, Kanak Bhawan and Sri Ram Janam Bhumi used to return on the same day." (Para No. 457(9), Page No. 467, Vol. 1)

	<ul style="list-style-type: none"> • “Around Sri Ram Janam Bhumi premises was built parikrama marg (path of circumambulation) through which people did circumambulation. On the southeastern corner of Sri Ram Janam Bhumi premises and at the distance of nearly 200-250 paces from it lay Sita Koop. Its water was used by pilgrims and darshan seekers and by saints and hermits living in Sri Ram Janam Bhumi premises. There always used to be crowd of Hindu pilgrims, darshan-seekers, saints and recluses in the premises. I never saw any Muslim come towards Sri Ram Janam Bhumi premises nor did I ever find any Muslim enter the premises. On account of Sri Ram Janam Bhumi being a very holy place for Hindus and for fear of saints and recluses, no Muslim could gather courage to come in and around this premises because saints and recluses used to kill them (Para No. 457(13), Page No. 469, Vol. 1)
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4. O.P.W. 7, **Ram Surat Tiwari**, aged about 73 years (as per his affidavit dated 19.9.2002) is resident of village Pure Pahalwan, Tahasil Sadar, District Faizabad.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • “My elder brother had told that it was Sri Ramjanmbhumi and that from ancient times it was the faith, belief of Hindus and prevalent public opinion that Lord Vishnu had incarnated below the central dome of this structure as Sri Rama, son of king Dashrath and due to this it was called the 'Garbh-grih' of Lord Rama. After having 'darshan' of Ramchabutara, the pilgrims-devotees used to have 'darshan' of Sri Ramjanmbhumi, 'Garbh-grih' situated in the three dome structure through the gate in the iron rod wall and they used to offer flower garland, money-prasad etc. from there itself towards the 'Garbh grih.’ (Para No. 459(7), Page No. 472, Vol. 1) • “The elderly people had also told that out of faith, belief and prevalent public opinion, all the Vaishnavite Rama follower Hindu

	<p>public considered the land under the central dome to be very pious, sacred and worshipful on account of being the birthplace of Lord Sri Ram. Due to this my elder brother considered the said place as birthplace of Lord Rama and it is my firm belief and conviction that the land below the central dome is the birthplace of Lord Sri Rama. It is out of this faith and belief that the Hindu pilgrims-devotees have been having the 'darshan' and performed circumambulation of Sri Ramjanmbhumi. I also used to offer prayer-worship at said sacred place and performed circumambulation of the entire premises." (Para No. 459(8), Page No. 472, Vol. 1)</p>
Fact of continuous worship	<ul style="list-style-type: none"> • "My elder brother Sri Ram Keval Tiwari was in service of Raja Saheb Ayodhya. I first visited Ayodhya along with him, in the summer vacation of the year 1942 and stayed with my elder brother at Ayodhya for about 15 days. I almost every day went with my elder brother to have a holy dip in Saryu and 'darshan' of temples in the morning. My brother mainly took me to Hanumangarhi, Kanak Bhawan, Ratan Singhasan, Sri Ramjanmbhumi etc. temples to have 'darshan' and told me the names and importance of those temples. My elder brother and me, circumambulated the Sri Ramjanmbhumi premises after having its 'darshan'. Many other persons were also performing circumambulation." (Para No. 459(3), Page No. 470, Vol. 1) • "Saryu followed by 'darshan' of main temples viz. Kanak Bhawan, Hanumangarhi, Sri Ramjanmbhumi etc. I usually visited Ayodhya on the occasion of Chaitra Ramnavami, Sawan Jhula, Kartik Purnima, Parikrama Mela, Ram Vivah etc. and during my holidays and had holy dip in Saryu followed by 'darshan' worship etc. as per my convenience and the same continues even today." (Para No. 459(4), Page No. 471, Vol. 1) • "Lakhs of pilgrims-devotees visited Ayodhya from different corners of country on the occasion of fairs. After having a holy dip in Saryu, they necessarily went to

	temples to have 'darshan', which mainly included Kanak Bhawan, Hanumangarhi and Sri Ramjanmbhumi and even today the pilgrims-devotees have a holy dip in Saryu followed by 'darshan' worship." (Para No. 459(5), Page No. 471, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "Since I have started going to have 'darshan' of Sri Ramjanmbhumi, I have not seen any Muslim go towards the Sri Ramjanmbhumi premises. Neither have I ever seen any Muslim offer Namaz at or near the Sri Ramjanmbhumi premises. If some Muslim was found coming towards the Sri Ramjanmbhumi premises, the saints-recluses used to chase him away." (Para No. 459(15), Page No. 474, Vol. 1)

5. **O.P.W. 12, Kaushal Kishore Mishra**, is aged about 75 years (as per his affidavit dated 16.12.2002). He claims that his ancestors settled at Ayodhya about 700 years ago, belong to the family of Guru Vashishtha, who was Guru of King Dashrath and Lord Ram at Ayodhya. He has derived knowledge about the worship of Lord Ram at Ayodhya from his grandfather and father.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "I came to know from my grandfather that Vashistha ji was the Acharya (teacher) of the family of king Dashrath and Lord Rama and that he used to discharge the duties of Acharya. From the period of my ancestors it has been the family business of Acharya to perform 'pran-pratishtha' (deification) of Vig rah (idol) of deities, worship, Yagya-Anushthan (performance of sacrificial rituals), Manglanushasaif (performance of sacred rituals) of Lord Rama, His family and Hanumanji etc. or the occasion of festival and ceremony and to receive "dakshin thereafter. I also have been involved in performance of 'pran-pratishtha' of deities in temples, worship, Yagya Anushthan as Acharya and receipt of "dakshina' after Manglanushasan." (Para No. 461(2), Page No. 475, Vol. 1)

	<ul style="list-style-type: none"> • “I came to know from my grandfather and father , :::it from ancient times, it has been the customary faith and belief of Hindus that Lord Sri Ramlala had incarnated under the central dome of the three dome building situated in Ayodhya, as son of king Dashrath in the Treta Yug, which is called the 'Garbh-grih' and it is out of this customary faith and belief that innumerable pilgrims, devotees from country and abroad have been visiting Ayodhya and having 'darshan', offer prayer and circumambulate the Sri Ramjanmbhu.” (Para No. 463(12), Page No. 478, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • “My grandfather and father used to carry out worship, Anushtan-Yagya and received "dakshina" at Rang Mahal, Kanak Bhawan, Sri Ramjanmbhumi, Luv Kush temple, Hanumangarhi etc. situated in Ayodhya. I started going to temples on the occasion of worship, Yagya-Anushtan along with my grandfather and father, from the age of about 5-6 years. My Yagyopavit ceremony was performed at the age of 7 years and thereafter I became eligible to perform worship etc. at the temples as per the Shastras and with this end, I started studying and gaining knowledge.” (Para No. 461(4), Page No. 476, Vol. 1) • “I carried out worship etc. at Sri Ramjanmbhumi at the age of approximately 14-15 years and received "dakshina" after Mangalanushasan and since then I regularly went to Sri Ramjanmbhumi in connection with worship and Manglanushasan etc.” (Para No. 462(5), Page No. 476, Vol. 1) • “When I started going to Sri Ramjanmbhumi along with my grandfather and father, I saw that the pilgrims visiting Ayodhya certainly came to Sri Ramjanmbhumi to have 'darshan'. Their number went upto lakhs on occasion of main festivals and they used to have 'darshan' and offer prayer at Ramchabutara, Sita Rasoi, Shiv

	<p><i>Chabutara, the 'Garbh-grih' situated below the central dome of the three dome building i.e. that place of Sri Ramjanmbhumi where Lord Sri Rama was born, and they performed their circumambulation of the Sri Ramjanmbhumi premises along the circumambulation path adjacent to outer walls of Sri Ramjanambhumi." (Para No. 462(6), Page No. 477, Vol. 1)</i></p>
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • <i>"Since I started to going to Sri Ramjanmbhumi Ayodhya along with my grandfather and father, I have seen the Hindus worship and to be in possession over the entire premises and the saints-recluses to be residing in the premises. I never saw any Muslim go towards that direction or offer Namaz. Neither is there any question of Namaz being offered there." (Para No. 462(11), Page No. 478, Vol. 1)</i>

6. **O.P.W. 13, Naradsharan** is aged about 76 years (as per his affidavit 27.1.2003). He came to Ayodhya in 1946 and is living thereat as a Sadhu. He became Mahant of Saryu Kunj, Rinmochan Ghat, Ayodhya after death of his Guru Sri Ram Manohar Saran.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • <i>"When I came to Ayodhya in the year 1946, I used to go to have 'darshan' of Sri Ramjanmbhumi, Kanak Bhawan, Hanumangarhi, Nageshwar Nath, Main Cantt., Maniramdas Gantt. and Hanuman Bagh etc." (Para No. 465(3), Page No. 480, Vol. 1)</i> • <i>"On entering through the eastern gate, there was a three-dome structure towards west. Below its central dome was the 'Garbh-grih' and the said place was worshiped. My Guru had told me about this place that it had always been revered as the birthplace of Lord Sri Ram and the reverence of this place has been continuing since ancient times. I also worshipped this place and myself saw hundreds-thousands of pilgrims offer their prayer and reverence at this place, followed by 'darshan' of Sita</i>

	<i>Rasoi, Ramchabutara etc. and then exit through the Hanumatdwar to perform circumambulation of entire premises." (Para No. 465(7), Page No. 481, Vol. 1)</i>
Possession of Plaintiff in Suit 4	<ul style="list-style-type: none"> • <i>"After my arrival at Ayodhya, till date I have neither seen any Muslim coming towards the Sri Ramjanmbhumi nor have seen or heard any Muslim offer Namaz over there." (Para No. 464(8), Page No. 481, Vol. 1)</i>

7. **OPW 16 Jagadguru Ramanandacharya Swami Rambhadracharya**, aged about 54 years (vide his affidavit dated 15.7.2003) He is blind since the age of 2 months due to lack of medical assistance. His real name given by the family is Girdhar Mishra and his father's name is Pt. Rajdeo Mishra. He has studied from Prathama to Acharya, Vidya Varidhi and Vachaspati from Sampurnanand Sanskrit University, Varanasi and did Shastri in 1973 securing highest marks, was awarded gold medal by the University. Similarly, in Acharya Examination passed in 1976 he secured highest marks and got five gold medals. He did his research in "Adhyatmaramayane Apaniniya Prayoganam Vimarshah" and was conferred Ph.D. in 1982. In 1995 he was conferred D.Lit. on the subject "Paniniyashtadhyayh Pratisutram Shabdabodh Samiksha". He has studied Veda, Vedanga, Upnishad, Vyakaran and Dharmshastra thoroughly and is author of 76 books. Residing at Chitrakoot since 1983, changing his name as Rambhadracharya, he established in 1987 Sri Tulsi Peeth at Chitrakoot. He was honoured as Jagadguru Ramanandacharya in 1988 at Varanasi and was seated as Sri Tulsi Peethadheeshwar Jagadguru Ramanandacharya Swami Rambhadracharya in Kumbh Allahabad in 1989. He established Jagadguru Rambhadracharya Viklang Vishwavidyalaya Chitrakoot of which he is Vice-Chancellor. Presently 14 students are undergoing research under his guidance. He belongs to Ramanandi Sampradaya and worships Lord Sri Ram. He has studied about Lord Sri Ram in religious books. He has knowledge of all Indian languages including English except Urdu; and in Sanskrit he possesses special knowledge. He has widely travelled abroad.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • <i>"As per my study and knowledge, Ayodhya-situated disputed site itself is the birthplace of Lord Sri Rama. It is known to all that Lord Sri Rama was born in Ayodhya itself and the disputed site is, as per faith, tradition and belief, recognised by the followers of Hinduism as the birthplace of Sri Rama since the time immemorial, and the worship of that place has consistently</i>

	<p>been performed." (Para No. 526(18), Page No. 548, Vol. 1)</p> <ul style="list-style-type: none"> • Particular places have special importance in Hindu scriptures and they are self deified and revered as Swayambhudev (God of land in themselves). By virtue of faith, tradition and worship, this type of places are the most exalted places of worship in the minds of people from eternity. This type of places blessed with divinity do not require 'Shivait' or 'Sarvarahakar' or 'Mahanta'. Appointment of 'Shivait' or 'Sarvarahakar' or 'Mahanta' needs to be made at man-made places of gods." (Para No. 526(2), Page No. 548, Vol. 1) • Description of Ayodhya being the birthplace of Raghavendra Lord Sri Rama and the disputed site being Sri Rama's birthplace, is found in Valmiki Ramayana, Atharvaveda, Yajurveda, Ramtapniyayopanishad, Skandapurana and Tulsidas's literature. (Para No. 526(21), Page No. 549, Vol. 1) • "The religious books specially Ramtapniopanishad, Veda-Vedangas contain description of all four forms of God Almighty viz. (1) Name, (2) Form, (3) Leela (actions) and (4) Dham (abode), besides the method of offering prayer. The word Dham implies Janmbhumi (birthplace), as is clear from the following Shloka-"Dharm Sthane Prakashe Cha Janmbhumau Tathaiva Cha. Kirane Chaiv Vigyeyam Tatha Chandanrashmino." Accordingly, it is clear that the Sri Ramjanmbhumi is worshipable alike favoured deity and since time immemorial, the Hindu devotees have been continuously revering the said place as the centre of their faith." (Para No. 526(24), Page No. 551)
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Witness on behalf of Plaintiff in Suit No. 1

1. **D.W. 1/1 Rajendra Singh** is the son of Late Gopal Singh Visharad, plaintiff (Suit-1) and after the death of his father 28.12.1985, he was substituted as Plaintiff.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "Ayodhya is the topmost pilgrimage place amongst other pilgrimage places, because Lord Rama had Himself appeared here as God incarnate and did welfare of the human-kind. Lord Rama and His Janmbhumi at Ayodhya, signifies the devotion, belief and faith of numerous Indians and devotees of Rama. It was under this very devotion, faith and belief that the plaintiff has been offering prayer and worship to Lord Rama and the idols of Him and other Gods- Goddesses present at the Janambhumi and will always continue to do so." (Para No. 332(19), Page No. 307, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "That since my childhood I regularly visited the temples in Ayodhya along with my parents to offer prayer and worship. In Ayodhya, I almost everyday used to offer my prayer and worship at the temples at Hanumangarhi, Kanakbhavan and Janmbhumi. My father-Sri Gopal Singh Visharad was a devoted worshipper of Janmbhumi temple. It was his daily routine to offer prayer and worship at the Janmbhumi temple after taking bath. In the evening also, he along with family used to offer prayer and worship at time of 'Aarti' and 'Bhog' and used to offer prayer in the 'Garbh-grih' (sanctum sanctorum) without any obstruction. Prior to the Makar Sankranti of 1950, my father late Sri Gopal Singh Visharad fell ill and was unable to offer prayers at the temple. After recovery, when he went to offer prayer at the Janmbhumi on Makar Sankranti, the official of the State Government stopped him from going inside, where the idol of Lord Rama etc. were present. On enquiry by my father, it was found that influenced by the baseless and false prejudice of the plaintiff Nos. 1 to 5 and their other associates, the defendant No. 6 through its officials defendant Nos. 7 to 9, had deprived the Hindu public from its legal justified right of prayer and worship, and in view of bias of defendant Nos. 1 to 5, the defendant

No. 6 declared that in future also the Hindu public would be deprived of its aforesaid rights in the same manner. In view of this illegal act regarding the rights of the plaintiff and crores of Hindus, there was every probability of illegal and improper interference by the defendants in the exercise of their religious rights and there was apprehension of the idols of Lord Rama etc. being removed and as such in order to protect the religious rights of himself, of the entire Hindu community and of crores of devotees of Rama, the above suit was filed. Since interference arose in the religious rights of the present plaintiff viz. myself, in offering prayer at the idols of Lord Rama etc. in the disputed structure, I adopted this plaint as plaintiff after the death of my father Sri Gopal Singh Visharad, the original plaintiff for protection of those very religious rights." **(Para No. 332(12), Page No. 304, Vol. 1)**

- "In the boundary given at the foot of the plaint, the idols of Lord Ramchandra etc. were present in the 'Garbh-grih' below the mid dome of the structure, whose worship etc. was all along carried out uninterruptedly for thousand of years by the original plaintiff, plaintiff and crores of Hindu public and devotees of Rama. The entire Hindu public, devotees of Rama, the original plaintiff and the plaintiff have all along considered it to be the birth place of Lord Rama. They consider themselves to be fortunate on circumambulating the entire campus after offering prayer and worship. The original plaintiff and the plaintiff have also regularly visited the Janmbhumi and prayed and worshipped at the Janmbhumi and for years have circumambulated the Janmbhumi campus on innumerable occasions after offering prayer at the idols of Lord Rama etc." **(Para No. 332(13), Page No. 304, Vol. 1)**
- "Usually thousands of devotees of Rama visit Ayodhya everyday from different corners of India and other countries of the world. They bathe in the sacred Saryu river and offer prayers at thousands of temples in

Ayodhya, particularly the temples at Hanumangarhi, Kanakbhavan, Janmsthan and Janmbhumi. Thousands of devotees offer prayers daily specially at the Janmbhumi and apply the sacred earth on their forehead and did circumambulation of the entire Janmbhumi premises." (Para No. 332(15), Page No. 305, Vol. 1)

- "Every year a fair of lacs of Hindus and devotees of Rama is held at Ayodhya on the occasion of Sawan fair. The devotees start visiting the Sawan fair from 'Pratipada' (first day of a lunar fortnight) and it continues upto the festival of Rakshabandhan. The devotees of Rama regularly bathe in the Saryu, offer prayers in the temples, specially the idols of Lord Ramchandra and other Gods- Goddesses in the Janmbhumi premises and consider themselves to be fortunate after circumambulating the Janmbhumi." (Para No. 332(16), Page No. 306, Vol. 1)
- "Every year in the month of 'Kartika' (Eight lunar month of Hindu calendar), the 'Kartika' fair is held at Ayodhya between 'Kartika Shukla Ekadashi' (the 11th day of moonlit half of Kartika month) to 'Kartika Purnima' (day of full moon). Lacs of Hindus and devotees of Rama assemble in this fair at Ayodhya. On this occasion, the devotees take five 'Kos' (distance of two miles) and fourteen 'Kos' circumambulation. The devotees assemble from various parts of India and abroad. The Saryu bath is the main attraction of the 'Kartika' fair. After taking a dip in the sacred Saryu, the devotees of Rama offer their prayers and worship. The devotees of Rama visit the Janmsthan and offer their prayer and worship to Lord Rama present there i.e. the Ramalala and apply the earth of Janmbhumi on their forehead out of devotion and consider themselves to be fortunate after circumambulating the Janmbhumi." (Para No. 332(17), Page No. 306, Vol. 1)
- "The birth function of Lord Rama is celebrated with fanfare at Ayodhya every year on the occasion of 'Chaitra' (first

	<p>month of Hindu calendar) Navami (ninth day of lunar month)'. On this occasion, the entire Ayodhya and the area of "Panchkosi" (circumambulation of ten miles) and "Chaudahkosi" (circumambulation of twenty eight miles), is gripped in the fervour of Rama. The festival of birth of Rama is held in all the temples, specially in Kanakbhawan and Janmbhumi, where special celebrations are held, and which are attended by lacs of devotees of Rama. The number of devotees present on this occasion runs into lacs, who come from abroad and different corners of India. The devotees of Rama visit the Janmbhumi temple and offer their prayers and worship to Lord Ramachandra or Ramalala present there and apply the earth of Janmbhumi on their foreheads out of devotion and consider themselves to be fortunate after completing circumambulation of the Janmbhumi." (Para No. 332(18), Page No. 307, Vol. 1)</p>
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2. **D.W. 1/2 Krishna Chandra Singh**, son of late Chhedi Singh alias Mritunjay Singh, aged about 79 years (in July 2003) and resident of Faizabad. After completion of his education, he was appointed as a Teacher in 1956 R.D. Inter College, Suchitaganj, Faizabad wherefrom he retired in 1985. In para 4 of the affidavit, he says that his family belongs to Vaishnava sect and worship Lord Ram. He and his family has offered Darshan and Pooja at the birth place of Lord Ram at Ayodhya from time to time.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> "To the west of Ramchabutara was a wall with large iron grills and was called grill wall. There were two gates in the grill wall. One gate faced the Hanumatdwar and the other was a bit away on the north. These gates were the entry points to the three-dome building, Sri Ram Janmbhumi, under the middle dome of which is the land, which on the basis of customary faith and belief is considered to be the birthplace of Lord Rama." (Para No. 335(14), Page No. 310, Vol. 1) "Out of customary faith and belief, the Hindu devotees of Rama, my family

	<p>members and myself offer prayer and worship at the place which is considered from time immemorial as the birthplace of Lord Rama." (Para No. 335(16), Page No. 311, Vol. 1)</p>
Fact of continuous worship	<ul style="list-style-type: none"> • "In 1932 when I was a bit grown up and developed some understanding, I obtained more information about temples from my father. I had visited Ayodhya along with my father in the year 1932 on the occasion of 'Sri Ram Vivah' and after taking a dip in the Saryu I went to offer prayer at SriRam Janmbhumi for the first time, when my father told me that the incarnation of our revered Lord Rama took place at the land beneath the mid dome of the three dome building, and this was SriRam Janmbhumi." (Para No. 335(8), Page No. 309, Vol. 1) • "I have offered prayer and worship at the Janmbhumi on numerous occasions and have also circumambulated around it". (Para No. 335(17), Page No. 311, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "After 1932 no Muslim was ever able to enter the Janmbhumi premises and as such there is no question of offering of Namaz in that premises because on account of fear and terror of the recluses, no Muslim went to the Ramkot locality near the Janmbhumi." (Para No. 335(18), Page No. 311, Vol. 1) • "If by mistake any Muslim was spotted coming towards the Sri Ram Janmbhumi premises, then also the saints-recluses used to chase and drive them away. I never even saw any Muslim coming towards the Sri Ram Janmbhumi premises from 1932 to 1949. No Muslim came towards the Sri Ram Janmbhumi premises due to fear and terror of saints-recluses." (Para No. 335(19), Page No. 311, Vol. 1)

3. **D. W. 1/3 Dr. Sahdev Prasad Dubey**, aged about 74 years in August 2003, is resident of village and post Khirauni, Tahsil and District Faizabad.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "Ayodhya is the greatest pilgrimage on earth and Ayodhya along with its entire adjoining area is known as Oudh. I am a native of village Khirauni, district Faizabad of this very Oudh area, and my ancestors had also resided there. The importance of Ayodhya is in view of the fact that it is the sacred birthplace of Lord Rama, to the north of which flows the holy river Saryu. As per the religious treatises and faith of lakhs of years, the Janmbhumi and the birthplace are situated in Ramkot locality of Ayodhya. Although the entire Ayodhya is worth reverence as the birthplace of Maryada Purshottam Sri Rama, but the greatness of the place, which has been considered as the birthplace of Sri Rama in the Shastras, has been described in the religious, literary and historical books. Besides these, the Janmbhumi temple situated at Ramkot as per the faith and belief of general public, which has been made subject matter of dispute, has been considered as the janmbhumi (birthplace) of Maryada Purshottam Sri Ramchandra and after identifying the same, a grand temple was built there in early ages. Since then, the prayer-worship of the deity of Lord Sri Rama present over there as well as the circumambulation of the Janmsthan has been performed." (Para No. 338(7), Page No. 314, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "Thousands of devotees of Rama from within the country and abroad used to visit to Ayodhya everyday and after having a dip in the Saryu, they used to have prayer-worship at thousands of temples situated in Ayodhya. Every devotee and worshipper of Rama particularly visited the Janmsthan, Janmbhumi temple, Hanumangarhi, Kanak Shawn and after having a darshan over there, used to consider himself to be fortunate." (Para No. 338(14), Page No. 316, Vol. 1) • "Every year Ayodhya was flooded with innumerable devotees of Rama on occasion of Shravna (a lunar month of Hindu

calender) fair. The devotees started visiting from the Pratipada (first day of a lunar month) of the month of Shrauna and kept coming till Rakshabandhan. Every visitor devotee of Rama used to consider his life to be worth-while on having dip in Saryu, offering prayer worship at the temples situated at Ayodhya and performing the darshan, prayerworship, circumambulation of the Janmbhumi premises and Ramlala present in the temple at the Janmbhumi premises." (Para No. 338(15), Page No. 317, Vol. 1)

- "Every year in the month of Kartika (a lunar month of Hindu calender), a Kartika fair is held at Ayodhya. It was also attended by lacks of devotees and followers of Rama both from within and outside the country. The Saryu Snan was the main occasion of the Kartika fair. After performing Panch kosi (distance of five kose, one kose being equal to two miles) and chaudah kosi (distance of fourteen kose) circumambulation, the devotees of Rama used to take dip in holy water of river Saryu followed by prayer-worship at the temple situated at the Ramjanmbhumi premises and other temples situated at Ayodhya and used to pay their reverence at the feet of their Lord Sri Rama." (Para No. 338(16), Page No. 317, Vol. 1)
- "The birth function of Lord Sri Ramlala is also celebrated every year at Ayodhya on Chaitra Shukla Navami or Ramanavami, with great pomp and show and faith and belief. Innumerable devotees of Rama from abroad and various corners of the country, used to visit Ayodhya on this pious occasion and gather at the temple situated at the Janmbhumi premises, the Kanak Bhawan and other temples at Ayodhya and used to celebrate the birth function of their revered Lord Sri Rama with full devotion. Thereafter, they had the darshan at various temples situated at Ayodhya and after offering their prayer-worship, they used to pray for the blessings of Lord Sri Rama for themselves and their families." (Para No. 338(17), Page No. 317, Vol. 1)

4. **D.W. 2/1-1, Rajendra Singh** is 60 years of age (at the time of swearing of affidavit dated 1.12.2004).

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "From knowledge acquired from these treatises it is absolutely proved that the disputed land is the birthplace of Lord Sri Rama Chandra and that Sri Guru Nanak Dev went to Ayodhya and had darshan of Sri Rama Janam Bhumi temple. From these very treatises it is also established that Guru Teg Bahadur and his son, Sri Guru Govind Singh, also visited Ayodhya and had darshan of Sri Ram Janam Bhumi temple later on." (Para No. 341(5), Page No. 319, Vol. 1) • "That from the combined reading of both 'Janam Sakhis' mentioned in the afore-said paras 8 and 9, it transpires that by Ayodhya darshan Sri Guru Nanak Dev meant 'having darshan of air Leela Sthals of Sri Rama' (places where Rama performed His roles in a human form). The most important Leela Sthal of Sri Rama in Ayodhya was: Sri Ram Janam Bhumi temple. Sri Rama incarnated himself at this very important Leela Sthal and acted as a child. Sri Guru Nanak Dev has asserted to have darshan of it. Baba Sukhvasi Ram Bedi, 8th lineal descendent of Sri Laxmi Chandra, younger son of so resolute Guru Ji, in his work 'Guru Nanak Vans Prakash' (Time of composition : 1886 Vikrami = 1829 AD, edited by Dr. Gurumukh Singh, Punjab University Patiala, 1986 AD, page 151) says: "Chale tahan te Satiguru Mardana le sangi. Aaye Awadh Puri bikhe Sarju nadi jih sangi. Sarju jal manjan kiya darsan Ram nihar. Aatam roop anant Prabhu chafe magan hitu dhaar." The expression "Darshan Ram Nihar" in the afore-said verse duly shows that Sri Guru Nanak Dev had a close darshan of 'Ram Murti' (idol of Rama) installed on the Leela Sthal named Sri Ram Janam Bhumi temple in Ayodhya. It goes to prove that the important Leela sthal existed in the shape 'Sri Ram Janam Bhumi temple at the time of the first

5. **DW 2/1-3, Mahant Ram Vilas Das Vedanti** is aged about 51 years (as per his affidavit dated 16.02.2005). He is resident of Vashistha Bhawan, Hindu Dham, Naya Ghat, Ayodhya, District Faizabad and claims to be Mahantand Sarvarahkar, Vashistha Pithadhishwarof Vashistha Bhawan, Naya Ghat, Ayodhya. Born in District Riwa (Madhya Pradesh), he is residing permanently at Ayodhya since 1968. He passed Shastri examination in the subject of Grammar from Varanasi Sanskrit Vishvavidyalaya and was conferred the degree of Vedantacharya in 1979-80 in the subject "Sri Ramanuj Vedant". He completed Ph.D. in 1982 from Sampurnanand Sanskrit Vishvavidyalaya, Varanasi in the subject of "Valmikiya Ramayane Dharm Niti". He claims to have studied from students life about Lord Ramchandra Ji and Sri Krishna, read several religious, literary books, legends etc. and still continuing with the same, was elected as member of Parliament from Machchalishahar and Pratapgarh constituencies in 11th and 12th Parliamentary Elections. He claims to have regularly visited the disputed/ site, a birthplace of Lord Ram and has performed Bhajan, Pujan, Parikrama etc. thereat since 1968.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhum	<ul style="list-style-type: none"> "That according to ancient traditions, customs, faith and belief of orthodox Hindus, king Dashrath's son Lord Sri Rama was born at the very place below the middle dome, so this place is most sacred and revered and on the basis of this faith and belief from time immemorial crores of orthodox Hindus have been visiting Ayodhya and performing 'Darshan', worship and circumambulation of birthplace of Lord Rama. On the main gate of entry, a stone was installed with 'Janmbhumi Nitya Yatra' (daily visit of birthplace) written thereon." (Para No. 351(14), Page No. 331, Vol. 1) "That out of customary faith and belief, the disputed site has been worshipped by innumerable Hindus since ancient times as the birthplace of Lord Sri Ramchandra. The orthodox Hindus have worshipped the disputed site as birthplace and Janmbhumi temple of Lord Rama." (Para No. 352(9), Page No. 332, Vol. 1)

- "That according to my studies and information, the disputed site at Ayodhya is the birthplace of Lord Sri Ramchandra. The birth of Lord Rama as son of king Dashrath is universally known and accepted and since ancient times, the disputed site has been recognized by the orthodox Hindus as the birthplace of Lord Sri Ram on basis of religious faith, custom, tradition and belief. According to Hindu religious books, the idol and place are equally worshipable, by worship of which a person attains 'Moksha' (salvation)." (Para No. 332(19), Page No. 333, Vol. 1)
- "Ram Janam Bhumi worshipping it duly and respectfully. By duly worshipping Ram Janam Bhumi located there we can attain good results." (Para No. 352(24), Page No. 337, Vol. 1)
- "On the third day of Chaitra Shukla Navaratri we should make a kartavya yatra (Journey of duties) and should celebrate it singing and playing instruments in a beautiful manner and with efforts. On all the occasions we should observe several fascinating celebrations coupled with singing, playing instruments and dancing, for attainment of great bliss and also of children." (Para No. 352(24), Page No. 337, Vol. 1)
- "That the famous treatise of Hinduism titled 'Rudryamal' in verse 54 of chapter 30 depicts Ayodhyapuri as one of the seven main 'puris' (towns) and terms it as the head of all sites of pilgrimage. In the famous religious treatise titled 'Vashishtha Samhita'; Ayodhya Nagari is addressed as 'Nitya Sachchidanand-rupini' and is defined as the form and individual shape of God, a manifestation of existence, consciousness and bliss, and is regarded as more revered than even 'Go Lok' and 'Vaikuntha' (abodes of God). The same type of description also occurs in the Ram Charit Manas composed by Goswami Tulsidas." (Para No. 352(26), Page No. 340, Vol. 1)

6. **OW 3/1, Mahant Bhaskar Das**, 75 years of age (as per affidavit dated 29.08.2003), He came to Ayodhya in 1946 at Hanuman Garhi. At that time Sri Baldev Das was Mahant of hanuman Garhi and Panch Nirmohi Akhara Ramghat, Ayodhya. He was also priest of Sri Ramjanambhumi, Ayodhya. He became pupil of Mahant Baldev Das after performing Manch Sanskar.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • <i>"The ancient name of the disputed temple was Ramjanmsthan. Initially, it was famous by this name, but usually is famous as Ramjanmbhumi in the whole world. The Vedic and Sanatan importance of Ramjanmbhumi is even more on the ground that Vishnu incarnate Lord Ramchandra had been born or descended at this place. The evidence of this belief has been found by me in Valmiki Ramayana, Skand Purana, Rudrayamal, Tulsidas composed Ramcharit Manas and other historical and literary works, which shall be referred by me later." (Para No. 357(8), Page No. 343, Vol. 1)</i>
Fact of continuous worship	<ul style="list-style-type: none"> • <i>"At time of the attachment, the case under Section 145 was being pursued by my master Baba Baldev Das on behalf of Nirmohi Akhara. I always accompanied him. A memo of attachment was prepared which included two, one big and one small Ashtadhatu idol of Lord Ramlala, six Salikram present over two feet tall silver throne, one stone idol of Hanuman ji, two photographs of Ram Janki, one small photograph of Badrinath, one small of Ram Janki and attire and jewellery of Parshad Bhagwan." (Para No. 357(31), Page No. 346, Vol. 1)</i> • <i>"The contract of offering flower-fruits, sweets etc. of the devotees of the eastern gate of Sri Ramjanmbhumi, was given on annual basis and since time immemorial this work had been done by the earlier Mahants of Nirmohi Akhara and the contractors were required to execute an agreement." (Para 357(35), Page No. 347, Vol. 1)</i>

7. **DW 3/2, Raja Ram Pandey, 87 years old** (vide affidavit dated 22.09.2003) Faizabad, came to Ayodhya in 1930 and since then daily visiting the temples of Sri Ramjanambhumi, Hanuman Garhi and Kanak Bhawan. The Janambhumi Temple is about 400 yards from his residence.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • "I always had 'darshan', since the year 1930 when I came to Ayodhya. I had the 'darshan' of 'Garbh-grih' portion also, where Ramlala was present over a wooden throne. In the year 1934, the windows outside the Courtyard were fixed in wood-panes, where iron grills were fixed subsequently. The ingress-egress passage existed in the wall surrounded by the Courtyard wall in the outer part. The eastern gate remained open. To the north south of the eastern gate, were two touchstone pillars, which I had been witnessing from the year 1930." (Para 362(6), Page No. 350, Vol. 1) • "When I went to have the 'darshan' of the inner part of the 'Garbh-grih' from the year 1930 to 1949, I found that touchstones had been used in the 'Garbhgrih', over which the figures of nymphs, Yakshas, pitcher, flower, leaves etc. had been engraved. I go to have 'darshan' even after the Central Government took over its control. The touchstones affixed in the walls, are lying there and it is found that the remaining Kasauti pillars, have been preserved." (Para 362(22), Page No. 350, Vol. 1) • "From the year 1930, I have considered the disputed premises as a sacred temple of Hindus and have regularly offered flower, garland, and sweet there. The devotees had 'darshan' over there." (Para 362(27), Page No. 350, Vol. 1)

8. **DW 3/3, Satya Narain Tripathi** is aged about 72 years old (vide affidavit dated 30.10.2003)

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • <i>"I attained understanding from the age of 10 years and since then till I developed into a young man, I regularly went to Ayodhya along with my parents on the occasions of Ramnavami, Kartika Purnamasi, Chaudah kosi circumambulation, Panch kosi circumambulation, Shrawan Jhula and Ram Vivah. I used to have 'darshan' at Sri Ramjanmbhumi temple, which is under dispute, and had 'Arti' and foot nectar. Whenever I went to Ayodhya along with my parents, I used to offer sweets, flower etc. to Him. On developing into a young man, I have been regularly going alone along with my fellow students to have 'darshan' of Sri Ramjanmbhumi and this still continues."</i> (Para No. 365(4), Page No. 352, Vol. 1) • <i>"The main gate for entering the disputed temple is in the east. Touchstones have been used in the main gate. Since my childhood, I have been seeing a 1 % or 1 % feet wide and approximately 3 feet high stone slab, near the touchstone in north and eastwards a bit earlier. The figure 1, words "Sri Ramjanmbhumi Nitya Yatra" in Devnagari script and word. Janmbhumi in English were engraved over it. I had seen the figure, idol of pitcher, peacock, Goddess and Hanuman ji over the said touchstone. When I started going there along with my father, few people told that it was called Hanumatdwar."</i> (Para No. 354(7), Page No. 354, Vol. 1) • <i>"I started to have 'darshan' along with my father in the year 1941. I knew this fact very well even before independence of India that the said temple was in the possession of Nirmohi Akhara and the saints-priests of Nirmohi Akhara used to perform the prayer of Lord Ramlala in the 'Garbh-grih' and accept and distribute the blessings amongst the devotees. I saw all the devotees do this. I had seen this at time of having 'darshan'. On growing up as a young man, I myself used to offer sweets, flowers etc. and accepted 'Arti' and blessings from the saints</i>

	<p>of Nirmohi Akhara." (Para No. 365(10), Page No. 355, Vol. 1)</p> <ul style="list-style-type: none"> • "I know Mahant Bhaskar Das present in Court. I have seen him since the year 1946 as priest at Sri Ramjanmbhumi 'Garbh-grih', Ramchabutara temple, Chhathi worship place and Shiv Darbar i.e. from the year 1946 to 1949, before and after the attachment. I started going to Sri Ramjanmbhumi from the year 1941 to have 'darshan' and my parents told me that the priests here were of Nirmohi Akhara and I also saw their master Baldev Das as priest. I became very well acquainted with Baldev Das, as he was the Mahant of Naka Hanumangarhi. I have seen Baldev Das. Bhaskar Das is the Mahant of Hanumangarhi Naka Muzaffara Faizabad, who is the Sarpanch of Nirmohi Akhara at present. I have seen Bhaskar Das as priest in the 'Garbh-grih' of the disputed temple as also at the Ramchabutara temple in the outer part. However, after the attachment, I saw Mahant Bhaskar Das upto the year 1965-66 at the Ramchabutara in the outer part. Thereafter, other saints of the Akhara lived in the outer part." (Para No. 365(12), Page No. 355, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "After entry through the eastern gate, was the Courtyard of size 28 x 30 feet, after which was the grill wall and a bit westward of the grill wall was the three domed 'Garbh-grih' beyond the Courtyard. Ramlala was present in the 'Garbhgrih' and I have had His "darshan", worship, blessings and foot nectar from the year 1941. I had His "darshan" from close distance till December, 1949. After the attachment oi 1949, I had the "darshan" and worship of God from the grill wall, from the year 1950 onwards. I have been regularly having the "darshan" from January, 1993, after the demolition of the structure and the place being under control of Central Government. Lord Ramlala is still present at the same place and I have had His "darshan" from the year 1941 till recently." (Para No. 365(8), Page No. 354, Vol. 1)

Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "The disputed premises is not a mosque, nor in my senses have I seen any Muslim offer Namaz." (Para No. 366(16), Page No. 356, Vol. 1)
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9. DW 3/4, Mahant Shiv Saran Das is aged about 83 years (vide affidavit dated 14.11.2003).

Fact Deposed to	Relevant Extracts
Fact of Continuous worship	<ul style="list-style-type: none"> • "I have had the 'darshan' of Lord Ramlala in the inner 'Garbh-grih'. The idol of Ramlala is made up of 'Ashthadhatu' and is about one palm high." (Para No. 368(9), Page No. 358, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "I have been going to Sri Ramjanmbhumi from the year 1933 AD to have 'darshan'. Since beginning, I have seen the built up area of Sri Ramjanmbhumi temple to be in two parts. The first part was the inner 'Garbh-grih', over which there were three domes and after that i.e. eastwards, was the iron rod wall which had a iron door in the east facing the main 'Garbh-grih' and to the north of this door, was another iron rod door in the same iron rod wall at a distance of about 18 or 20 feet, or in other words there were two iron rod doors in the iron rod wall." (Para No. 369(8), Page No. 357, Vol. 1)

10. DW 3/5, Raghunath Prasad Pandey, son of late Sri Bindeshwari Prasad Pandey, resident of Village Sariyawan Pure Khaipur, Pargana Mangalsi, Tehsil Sohawal, District Faizabad, is aged about 73 years (as per his affidavit dated 18.11.2003). His date of birth is 08.10.1930. He claims to understand the things at the age of 7 years. His parents (mother) were very religious. His father died when he was 6 years of age. He used to visit Ayodhya, accompanied with his mother.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "I belong to a Vaishnav Sanatan Dharmi (orthodox religious) family. My mother had faith in Lord Rama, so do I. The disputed premise is Sri Ramjanmbhumi temple, where Lord Rama had been born. This is my belief. This was the belief of my mother as

	<p>well, which she passed on to me.” (Para No. 370(6), Page No. 359, Vol. 1)</p> <ul style="list-style-type: none"> • “Whenever I went to the disputed premises, alongwith my mother, to have darshan, it was my mother who told me that it was Ramjanmbhumi temple. Lord Ramlala was present in the inner part and the Ramchabutara temple, Chhathi worship place and foot marks of the four brothers were present in the outer part. The stove, belna-chakla were also present.” (Para No. 370(12), Page No. 362, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • “From my childhood, I have been seen people have darshan and arti of Lord Ramlala present in the disputed Sri Ramjanmbhumi, and receive charnamrit (foot nectar) and prasad, From my childhood, my mother used to make me receive charnamrit at the Ramjanmbhumi in my little hands. I have been regularly having the darshan of Sri Ramjanmbhumi out of my religious faith.” (Para No. 370(7), Page No. 359, Vol. 1) • “That on growing up, I have been going alone to have darshan of Sri Ramjanmbhumi temple at Ayodhya. On account of being famous, I have also had the darshan of Hanumangarhi temple and Kanak Bhawan temple. The Ramjanmbhumi temple has immense importance on account of being the birthplace of Lord Rama. My mother and myself have always had faith in Ramjanmsthali. Due to this I regularly had the darshan of Sri Ramjanmbhumi temple, Lord Ramlala present therein and of other religious symbols such as foot marks, Chhathi worship place, Ramchabutara temple, Shiv Darbar etc., which are all within the disputed campus.” (Para No. 370(8), Page No. 360, Vol. 1) • “That the disputed premises is in two parts. The first being the outerpan and the second being the internal part. I have been regularly having the darshan of Lord Ramlala, Chhathi worship place, foot marks, Ramchabutara and Shiv Darbar at the aforesaid disputed premises. After

	<p>growing up, I have been going alone to have darshan of the disputed Sri Ramjanmbhumi temple. The three main fairs at Ayodhya are Kartika, Sawan, Ramnavami. The fair of Ram Vivah is held during the month of Aghan (a month of Hindu calendar). There is a special festival on Ramnavami. From my childhood i.e. from the beginning in the year 1937 to the year 1948, I have seen numerous Hindu public from different corners of the country have darshan of Lord Ram lala and make offerings, offer flowers..garlands, offer prayer and receive charnamrit at the disputed premises, since the same is the birthplace and temple of Lord Rama...." (Page No. 370(9), Page No. 360, Vol. 1)</p> <ul style="list-style-type: none"> • "I had darshan in the said temple on number of times almost every month till the year 1948. However, after my posting at Jhansi under the Railways, I have been having the darshan of the entire temple site of Lord Ramlala, every 3-4 months whenever I come home. Now after retirement from service, I have again started going from my home to have darshan every month." (Page No. 370(10), Page No. 361, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "From the date of my visits till date, I have never seen either the inner or outer part of the disputed premises being used as a mosque." (Para No. 370(16), Page No. 364, Vol. 1) • "That from the date of attaining maturity, I have not seen any Muslim offer Namaz in the disputed premises till date." (Para No. 370(17), Page No. 364, Vol. 1)

11. DW 3/7, Mahant Ramji Das, resident of Mahalia Shringar Hat, Ayodhya, District Faizabad, is aged about 82 years (as per his affidavit dated 30.01.2004)

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • "I have consistently been going to the Ram Janam Bhumi temple since I was of 11or12

	<p>years of age." (Para No. 369(6), Page No. 369, Vol. 1)</p> <ul style="list-style-type: none"> • "On going inside I had darshan of the said Lord Ram Lala accompanied with my parents and my father told me that it is Ram Lala it is Lakhan Lal and it is Hanumanji. Idol of Lord Ram Lala and Lakhan Lal are made of 'ashtadhatu' and that of Hanumanji is made of stone." (Para No. 376(8), Page No. 369, Vol. 1) • "When I for the first time went there accompanied with my parents, we saw Ram Chabutra temple in the exterior part of the Ram Janam Bhumi temple and on the east-southern corner of the Ram Chabutra temple there lay the Shiva family beneath the fig'-tree inside the exterior wall and there were store house and the Chhathi worship place with four foot-marks of the four brothers and with hearth, rolling-pin and 'chakla' made of marble which are known as Kaushalya Rasoi." (Para No. 376(10), Page No. 370, Vol. 1) • "Since the time I have been going to have darshan of Sri Ram Janam Bhumi temple I have always seen several devotees having darshan, offering 'prasad', 'dravya' (materials), flowers, etc., performing 'aarti' and taking 'charnamri.'" (Para No. 376(15), Page No. 370, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "When I, for the first time, went along with my parents to have darshan presiding deity at Sri Ram Janam Bhumi temple, my father told me that this famous temple is 'Janam Bhumi' (birthplace) where Lord Ram Lala is seated. The said Janam Bhumi premises was divided into two parts, that is to say, towards the west of the bar and beneath the three towers lay the inside part, where beneath the central tower lay the idols of Ram Lala and Lakhan Lal in their baby forms and Hanumanji was also seated next to them and there were also 4-5 idols of Lord Saaligram. Lord Ram Lala, Lakhan Lal and Saaligram were seated on a silver throne and Hanumanji was seated outside that throne." (Para No. 376(7), Page No. 369, Vol. 1)

Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "That since the time I have been observing things I never saw any Muslim offer namaz in the disputed premises, that is, in its exterior and interior parts." (Para No. 376(23), Page No. 372, Vol. 1)
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12. DW 3/8, Pt. Shyam Sundar Mishra, aged about 90 years (vide his affidavit dated 30.01.2004) He is residing at Ayodhya since seven generations. His residence is less than 400 yards from the Ramjanambhumi Temple. He has studied up to middle school and by profession is Purohit. Since the age of 14 he has been visiting Ramjanambhumi Temple and thereat attending Nirmohi Akhara, practicing wrestling etc.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • "The riot of the year 1934, which is known as the Bakrid riot, broke out in village Shahjahanpur near the Panchkosi (distance offive kose, one kose being equal to two miles) circumambulation path in Ayodhya. At that time, I was aged about 18-19 years. I was a young man. I had entered into pnest-shtp about 2-3 years earlier to that. I used to visit the famous temples of Ayodhya in this connection and at present I am the family priest of the Kanak Bhawan temple." (Para No. 378(5), Page No. 375, Vol. 1) • "On account of belonging to a religious Brahman family, I daily went to the Ramjanmbhumi temple to have 'Darshan' (offering prayer by sight). I had been to the arena near Sita Koop opposite Sri Ramjanmbhumi temple, till the year 1936 to practice wrestling. I regularly went to this arena at 5AM. This arena existed for about an hour between the Janmbhumi gate and the Sita Koop well. After this, I used to have 'Darshan' and then returned home. The eastern gate of the Janmbhumi temple is visible from the arena and if somebody speaks in high pitch at the Janmbhumi temple, the same would be heard by a person standing in the arena. When I went to practice wrestling in the morning till the year 1936, the sun used to dawn in the said period but I never heard any Ajaan from the

	<p>disputed premises nor saw any Muslim either go in that direction or offer Namaz." (Para No. 378(6), Page No. 375, Vol. 1)</p> <ul style="list-style-type: none"> • "After the year 1936 when I started going to have 'Darshan', few of my 'Jajman' (client) gave me the assignment of reciting 'Ram Raksha Stotra' and the said recitation was mostly carried out by me at the Ramjanmbhumi premises and used to consume about two hours. I used to do the said recitation as per my convenience in morning or evening." (Para No. 378(9), Page No. 376, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "By inner part, I mean the 'Garbh-grih' under the three domes and the open Courtyard in front of it, covered by grill wall and which had been attached in the year 1949. I can give the boundary and dimensions of the area attached in the year 1949. The 'Garbh-grih' was about 35-36 feet long and the grill bound Courtyard was about 25-26 feet wide and 95-96 feet long. The east-west side of the attached portion was about 60-62 feet in north to 95-96 feet in south." (Para No. 378(11), Page No. 376, Vol. 1) • "That prior to the attachment of December, 1949 I used to have 'Darshan' of Lord Ramlala from inside and thereafter from outside the grill gate and even after December, 1992 I continued to have 'Darshan' of Lord Ramlala present in the tent, under Government control and supervision." (Para No. 378(18), Page No. 378, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "Since I have been going to the Ramjanmbhumi premises in connection with 'Darshan' and recitation, I have neither seen nor heard about any Muslim either offering Namaz or Ajaan in the inner and outer part of the disputed premises." (Para No. 378(10), Page No. 376, Vol. 1)

13. DW 3/9, **Ram Asrey Yadav**, aged about 72 years (as per his affidavit dated 22.03.2004), is resident of Mahalia Vashistha Kund Ayodhya, District Faizabad for several generations.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> “...The famous Ramjanmbhumi temple is under the Nirmohi Akhara, which has immense importance for the Hindu society on the ground of same being the birthplace of Lord Rama. There are many Rama temples in Ayodhya and elsewhere but there is only one Ramjanmbhumi, the disputed site, and as such it has immense importance for the Hindus. I also have much faith in it.” (Para No. 381(16), Page No. 384, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> “I attained understanding at the age of 10-11 years. My father was alive. I used to go to Janmbhumi along with my father to have darshan. After growing a bit older i.e. at the age of 12-13 years, I used to daily go to Janmbhumi along with my other friends or alone, to have darshan...” (Para No. 382(2), Page No. 379, Vol. 1) “The main gate of the disputed premises was in east. There was no door in the main gate. There were touchstone pillars on side of the gate. The picture over the touchstone pillar, was called the idol of Hanuman ji. There was painting of pot, pitcher, flower, leaf. Opposite the northern touchstone pillar, was a stone slab with figure 1 and "Sri RamJanmbhumi Nitya Yatra' engraved over it. It is still there, and is visible at time of having darshan from gang way. Janmbhumi has been inscribed in Devnagari and English, and the same has continued since my childhood. On entering the outer part of the disputed premises bounded by Courtyard, through the eastern gate, falls the Ram Chabutara temple and to the south-east corner of said Chabutara, were the stone deities of six faced Shankar ji, Ganesh Ji, Parvati Ji, Nandeshwar Ji and Argha of Shankar Ji below the Pipal tree inside the Courtyard. There was a door in the northern gate, which was opened during fair, on increase in the number of

	<p>devotees on the occasion of fairs. Most of the people used to enter through the eastern gate. There was Chathi worship place in the outer part, which had all four brothers of Lord Rama, foot marks, chauka-belana, stove and the same was considered to be a revered place. The devotees used to offer prayer-worship at all the aforesaid religious places and I also used to do the same." (Para No. 381(5), Page No. 380, Vol. 1)</p>
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "...Lord Ramlala of Ashtadhatu (of eight metals) is present under the central dome of the three dome structure i.e. the Garbh-grih temple in the inner part. Along with Him, are Laxman Ji, Hanuman Ji and Salik Ram. I know that the inner part was attached in last of December, 1949." (Para No. 381(6), Page No. 382, Vol. 1) • "I also had the darshan of the inner part Garbh-grih, along with my father and thereafter, I also went to have darshan alone..." (Para No. 381(7), Page No. 382, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "...The Muslims were in terror due to this riot. My father and uncle had told me that on account of terror of said riot, they did not even pass through the road adjacent to Ramjanmbhumi. There is no question at all of Namaz being offered in the disputed structure or premises. My uncle had also told me that no Muslim buried any dead body near the disputed premises." (Para No. 381(10), Page No. 383, Vol. 1)

14. **D.W. 3/11, Bhanu Pratap Singh**, son of Sri Ram Raj Singh, resident of village Haliyapur, District Sultanpur is aged about 70 years (as per his affidavit dated 28.4.2004). He is disciple of Nirmohi Akhara, imparted Guru Mantra by Mahant Dinendra Das Mathia Mahant. His grandfather was a religious person, used to visit Ayodhya every year during Ramnavami and Sawan festival, who died in 1965. He visited Ayodhya along with his grandfather since the age of 10 and had Darshan at different temples namely, Ramjanambhumi, Hanuman Garhi, Kanak Bhawan, Chhota Chhavani, Bara Chhavani, Nageshwar Nath Mandir etc.

Fact Deposed to	Relevant Extracts
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Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "I know the inner part as well, which is within the grill from the three domes and it has been seen by me. I know this from the year 1950 that dome portion had been attached and' had been locked and that the 'darshan' of Lord Ramlala was had from the grill gate." (Para No. 385(13), Page No. 387, Vol. 1) • "Prior to the year 1949, I used to go inside the inner part to have 'darshan' of Lord Ramlala, when sometimes Lord Ramlala was found over the wooden swing and sometimes at the place over the elevated step." (Para No. 385(14), Page No. 388, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "The entire structure was demolished in December, 1992 but Lord Ramlala is present in tent. His worship is carried out under Government control. Since I gained sense, I have never seen any Muslim offer Namaz at the Ramjanmbhumi premises." (Para No. 387(16), Page No. 388, Vol. 1)

15. DW 3/12, **Ram Akshaibar Pandey** is aged about 70 years (as per affidavit dated 24.05.2004). He attained age of understanding at 12 and since then has been visiting Ayodhya along with his grandfather, Shiv Ram Pandey. He is resident of Mohalla Ramapur Bhagahi, Pargana Nawabganj, Tahsil Tarabganj, District Gonda. His grandfather had studied up to Madhyama, knew Sanskrit, possesses knowledge of religious books and used to visit various temples at Ayodhya. His village is about three and half Kos from Ayodhya.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • "I regularly had 'Darshan' (offering of prayer by sight) of Hanumangarhi temple and famous Sri Ramjanmbhumi temple, when I came to Ayodhya along with my grandfather. When I grew up, I came to Ayodhya to have 'Darshan' and also took holy dip in the Saryu and also performed 'Panchkosi' (distance of five kose, one kose being equal to two miles) and 'Chaudahkosi' (distance of fourteen kose) circumambulation." (Para No. 389(6), Page No. 389, Vol. 1)

	<ul style="list-style-type: none"> • "Three fairs are held at Ayodhya, in which devotees from different corners of country and abroad come to have 'Darshan' of Sri Ramjanambhumi temple and have the 'Darshan' of lord Ramlala present in Sri Ramjanambhumi temple." (Para No. 389(7), Page No. 389, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "The inner iron grill portion and the (area) under the three domes, where Lord Ramlala had existed from earlier times, were both attached within two years after independence. I was aged 15 years at that time." (Para No. 389(8), Page No. 389, Vol. 1) • "Since I started visiting one year prior to independence, I always found the inner and outer part to be a temple, found the God present and found the 'Darshan' and worshipping going on." (Para No. 389(16), Page No. 389, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • In para 18, he says that never in his conscious he has seen any Muslim offering Namaz in Ramjanambhumi either inside or outside Courtyard.

16. **D.W. 3/13, Mahant Ram Subhag Das Shastri**, son of Sri Ram Raj Singh, is resident of Mohalla Mandir Ram Mahal. Mohalla Katra, Pargana Haveli Avadh, Ayodhya, District Faizabad aged about 86 years (as per his affidavit dated 5.7.2004) He belong to State of Bihar and came to Ayodhya in December 1933. He became disciple of Ramanandiya Vairagi Sadhu sect in the State of Bihar itself and joined as disciple of Sri Janki Das Ji Maharaj, who had no permanent place to stay but remained continuously on pilgrimage and was related to Nirmohi Akhara.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • "In the outer compound, I had a sight of 'Chhathi Poojan Sthal' and also of the place which had foot- prints of all the four brothers of Lord Rama and marks of chakla, belan (rolling pin), chulha (hearth). I have consistently been having sight of all this since I began to go to offer worship at Ram Janam Bhumi. Priests of Nirmohi Akhara used to perform 'pooja-paath' and 'aarti' of the presiding deity of the Ram Chabutra temple at Ram Janam Bhumi. There used to be regular five-time 'aarti' there." (Para No. 393(11), Page No. 394, Vol. 1)

- "In the 'garbh-grih' (sanctum sanctorum) part, Lord Ram Lala was seated on an elevated wooden throne. In the sanctum sanctorum, Lord Ram Lala had been seated since time immemorial. Along with him have been present Laxman, Hanuman and Lord Saalikram. These are idols, that is, individual shapes of Lord Ram Lala made of 'ashtadhatu'. (alloy of eight metals), and there is a similar type of idol of Laxman. There is a stone idol of Hanuman and then is placed Lord Saalikram and the throne is placed at the centre. Since I began to come to Ayodhya I regularly used to go to have darshan of Ram Janam Bhumi and continued to have darshan of Ram Lala, seated in the 'garbh-grih'. I had regularly had darshan of these idols till two days before 6th December." (Para No. 393(15), Page No. 394, Vol. 1)
- "Whenever I joined 'Ram Janam Bhumi Nit Yatra', I had to spend more than an hour in 'Ram Naam Anushthaan' and 'Poojan'. I used to perform 'Ram Naam Anushthaan' sometimes by sitting in front of Ram Chabutra, sometimes by sitting in front of Bhagwaan in 'garbh-grih' and sometimes by sitting beneath the Maulsiri-tree (large evergreen tree) in front of the eastern gate and sometimes by sitting beneath the fig-tree in front of Shiv-darbaar." (Para No. 393(16), Page No. 396, Vol. 1)
- "Ayodhya mainly witnesses three famous fairs viz. Sri Ram Navami, Sawan Jhoola and Kartik Parikrama. On these occasions, devotees come from the nooks and corners of India and visit Sri Ram Janam Bhumi." (Para No. 393(20), Page No. 398, Vol. 1)
- "Every fair also sees devotees who come and perform 'Navah-Paath' (nine day recitation) or get it performed. They also get 'Sookshma Bhandara' organised. Every year, all these activities used to be performed on behalf of such devotees by Mahantas, Panchas and priests of Nirmohi Akhara at every fair and they continued at the sanctum sanctorum till December, 1949 and in the outer part till the 1982

	attachment." (Para No. 393(21), Page No. 399, Vol.1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "Namaz was never offered in the disputed sanctum sanctorum and in the outer compound, nor has the said place ever been used as a mosque." (Para No. 394(24), Page No. 399, Vol. 1) • "Prior to the incident of 23rd December, 1934, devotees constantly had darshan of Bhagwaan (God) in 'garbh-grih' (sanctum sanctorum) and offered objects, sweets and articles which Panchas, Mahantas and priests used to get for the service of Bhagwaan. Since 1934 I have consistently been looking after the arrangement and possession of Garbh-grih Mandir on behalf of Nirmohi Akhara and since much earlier than 1934, that is, for centuries, its possession and arrangement has been with Nirmohi Akhara. I have come to know this from old saints and from history...In the Gokashi riot of the year 1934 the Hindus had killed the Muslims and had broken some graveyards as a result of which riot tax was inflicted only on Hindus. That being the reason Muslims did not even go towards that side. Hence, there is no question of offering namaz. I never saw Muslims offer namaz at the disputed sanctum sanctorum or in the entire premises since 1934." (Para No. 393(19), Page No. 398, Vol. 1)

17. DW 3/14, Jagadguru Ramanandacharya Swami Haryachara is aged about 69 years (vide affidavit dated 23. 07.2004). He holds the post of Sect Head of Principal seat of Ramanand sect and has worked on the post of Principal in Yogiraj Sanskrit School. He was Grammar Lecturer for six years in Anadi Digambar Jain Gurukul. He was Head of Department in Grammar for 18 years in Sri Niwas Bodhayan Ramanuj Sanskrit Degree College Uttar Totadri Math. 398. He is founder/editor of monthly magazine "Awadh Saurabh", addressed religious discourses at various places. He has studied Vedic literature as well as Vedas, Vedang, Puranas, Upnishad, Smriti and Bhashya etc. besides other religious treatises. He has also studied Valmiki Ramayana and Tulsi Das composed Ramcharitra Manas.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	• "After coming to Ayodhya, I along with students and saints of Hanumangarhi went

	<p>to have "Darshan' of Ramjanmbhumi temple everyday." (Para No. 402(38), Page No. 403, Vol. 1)</p> <ul style="list-style-type: none"> • "From my arrival till the attachment, I regularly had "Darshan' of Lord Ramlala present under the mid-dome of the three domes." (Para No. 402(39), Page No. 403, Vol. 1) • "Prior to the attachment, the service, worship, prayer, ceremony of Lord Ramlala present in the area under the dome was carried out by Nirmohi Akhara, Ayodhya. The priests of Nirmohi Akhara were present. Baldev Das was the priest, when I had my initial "darshan'. After sometime, I saw his disciple Bhaskar Das. Bhaskar Das is now the Mahant in Naka Hanumangarhi. There were other supporting priests as well, but do not remember their name." (Para No. 402(41), Page No. 403, Vol. 1) • "The Ramchabutara temple fell in the outer part on entering the outer part through the eastern gate, where the idols of Lord Ramlala and three brothers were present in child form, whose worship, prayer etc. were done by the Nirmohi Akhara. I had "Darshan' over there as well." (Para No. 402(43), Page No. 403, Vol. 1)
Possession of Plaintiffs in Suit 4	In para 52 he claims to have never seen any Muslim offering Namaz in the disputed premises, either inside or outside.

18. DW 3/15, **Narendra Bahadur Singh** is aged about 72 years (vide his affidavit dated 17.08.2004) and is resident of Mauja Rajapur Saraiya, Pargana Amsin, Tahsil Sadar, District Faizabad.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhum	<ul style="list-style-type: none"> • "Lord Ramlala was present under the main dome of the Janmbhumi temple viz. the mid dome and I had the "darshan'. My father told that this was Lord Ramlala and the temple of Lord Rama's birth-place." (Para No. 405(4), Page No. 406, Vol. 1) • "The Janmbhumi temple has been treated and worshiped as a temple by me, my parents and the Hindu Sanatan Dharma

	public." (Para No. 405(15), Page No. 407, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "I have gained maturity at the age of about 11 years. I first came to Ayodhya along with my parents by bullock cart on the occasion of 'Chaitra Ramnavami' to have 'darshan' of the temples of Ayodhya and the bullock cart was parked at the Baragadahiya, from where we had holy dip in the Saryu and then the 'darshan' of Hanumangarhi, Sri Ramjanmbhumi and Kanak Bhawan." (Para No. 405(3), Page No. 405, Vol. 1) • "There was a swing shaped big wooden throne in the inner part of the 'Garbhgrih'. Sometimes I saw and had the 'darshan' of Lord Ramlala over swing on occasion of 'Sawan Jhula'.; Sometimes I saw and had (His) 'darshan' in a small throne at a staircase type place in the north-west corner." (Para No. 405(5), Page No. 406, Vol. 1) • "I started going alone at the age of 15 years, to have 'darshan' of Ramjanmbhumi temple and this continued regularly till the demolition of the structure." (Para No. 405(6), Page No. 406, Vol. 1) • "Since my childhood days, when I used to go to have 'darshan' of Ramjanmbhumi temple, I used to enter through the eastern gate of Ramjanmbhumi temple called Hanumantdwar and had 'darshan' of all religious places viz. Ramchabutara temple, Cave temple, Chhathi worship place, footmarks, Lord Ramlala present inside the 'Garbh-grih' and the Shiv Darbar under the Pipal tree. Same was done by the devotees coming from different corners of India. They used to perform 'Arti' (a ceremony performed in worshiping a God), make offerings, offer money, flower, bow down on their forehead and accept foot-nectar." (Para No. 405(8), Page No. 406, Vol. 1) • "Just after entry through the eastern gate or Hanumantdwar, there was the store-room and saints' accommodation adjacent

	to the upper outer wall, where the saints and priests of Nirmohi Akhara lived." (Para No. 405(9), Page No. 406, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "The structure collapsed on 6th December, 1992 and thereafter my visits were reduced. I used to go just once or twice a year, mostly on the occasion of "Chaitra Ramnavami". Even after the collapse of the structure, Lord Ram lala is the same Lord Ramlala, whose "darshan" I have had since my childhood. He is now present in the tent. The devotees were made to have "darshan" by the administration through gang way a passage bounded by iron pipes." (Para No. 405(7), Page No. 406, Vol. 1) • "I continued to see the management of the disputed inner part ie. 'Garbhgrih' and of the outer part i.e. Ramchabutara temple, Chhathi worship place, Shiv Darbar and store-room etc., being carried out by the saints of Nirmohi Akhara." (Para No. 405(18), Page No. 407, Vol. 1)
Possession of Plaintiffs in Suit 4	In paras 16 and 17 he has deposed of having seen no Muslim offering Namazor using the disputed premises as mosque.

19. DW 3/16, Shiv Bheekh Singh, aged about 79 years (vide his affidavit dated 24.08.2004), is resident of Village Haliyapur, District Sultanpur.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "In the beginning my parents told me about Ayodhya's famous Sri Ramjanmbhumi temple and told the importance of Sri Ramjanmbhumi temple on account of being the birth place of Lord Rama." (Para No. 409(6), Page No. 409, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "Since the year 1938, I have had the "darshan" (offering of prayer by sight) of Lord Ramlala present in the disputed Sri Ramjanmbhumi temple in Ayodhya." (Para No. 409(3), Page No. 408, Vol. 1) • "Since the age of about 12 years, I, along with my parents and villagers, used to go to Ayodhya on occasion of fair by tong a bullock cart. The bullock cart was parked in

the premises of Ishari Das. From there I, along with my parents, used to take holy dip in Saryu and have "darshan" of Hanumangarhi, Kanak Bhawan and Sri Ramjanmbhumi and since then I have seen Lord Rama to be present in the "Garbh-grih" under the dome." (Para No. 409(4), Page No. 408, Vol. 1)

- "After growing up, I alone went to Ayodhya for many years by cycle along with friends on occasion of fair, to have "darshan" of Lord Ramlala present in Sri Ramjanmbhumi temple at Ayodhya." (Para No. 409(5), Page No. 408, Vol. 1)
- "There was a swing shaped wooden throne in the "Garbh-grih" and in the small silver throne at the staircase-like place, Lord Ramlala and Lakhanlal were present. I used to see Him i.e. Lord Ramlala over the swing shaped throne in the month of Sawan (a month of Hindi calendar)." (Para No. 409(13), Page No. 409, Vol. 1)
- "Inside is the outer part outside the "Garbh-grih", where there were Ramchabutara temple, Chhathi worship place, store-room, saints' accommodation and Shiv Darbar. I had been seeing them since beginning i.e. year 1938 and I had the "darshan" there as well. Lord Ramlala is present in Ramchabutara temple as well. Bharat, Shatrughan and Laxman are in child form. Hanuman ji is present and there are two cave type temples in the Chabutara, in one of which is Kaushalya ji with Lord Ramlala in her laps and there is stone idol of Bharat ji in the other one." (Para No. 409(18), Page No. 409, Vol. 1)
- "From the year 1938 till the last of December, 1949, I must have been there at least twice a year for about 12 years. As such I had about 24-25 "darshan" from the year 1938 to 1949." (Para No. 409(21), Page No. 410, Vol. 1)

	<ul style="list-style-type: none"> • "I started going alone from the year 1941, when I became 15 years old." (Para No. 409(22), Page No. 410, Vol. 1) • "I always had the 'darshan' of inner and outer part of the disputed structure as Ramjanmbhumi temple." (Para No. 409(26), Page No. 411, Vol. 1)
Fact of prayer at railing/ grill wall	"The inner part of Sri Ramjanmbhumi temple was from the grill bound Courtyard to the area below the three dome, and under the mid dome was the 'Garbh-grih', where I had seen Lord Ramlala to be present since I started going to have 'darshan' i.e. year 1938." (Para No. 409(11), Page No. 409, Vol. 1)
Possession of Plaintiffs in Suit 4	In Para 27 he has said that no muslim was seen by him offering Namaz or using premises in dispute as mosque.

20. DW 3/17, **Mata Badal Tiwari**, aged about 84 years (vide his affidavit dated 31.08.2004) is a resident of Mohalla Taudhikpur Majre Kharauli, Pargana Isauli, Tahsil Musafirkhana, District Sultanpur.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • "Since I attained maturity, I, along with my father and villagers, regularly to Ayodhya on occasion of fair to have the 'darshan' (offering of prayer by sight) of Sri Ramjanmbhumi, and I came to know these facts from my father." (Para No. 412(6), Page No. 411, Vol. 1) • "I came to know about the Hindu-Muslim riot of 1934 from Mahant Baldev Das and other village- Jawar. Due to this I had gone to Ayodhya in 1935 along with people of my village, to have 'darshan' of Lord Ramlala Sri Ramjanmbhumi temple. At that time, I was aged 15 years." (Para No. 412(9), Page No. 411, Vol. 1) • "In between the year 1935 and my service period in the platoon, I had gone to Ayodhya on about 10-12 occasions to have 'darshan' of Sri Ramjanmbhumi." (Para No. 412(10), Page No. 412, Vol. 1) • "From 1942 till the attachment and even till today, I have regularly had the 'darshan' of

	<p>Sri Ramjanmbhumi temple. I had been to Ayodhya on 20-22 occasions in this period to have "darshan'." (Para No. 412(11), Page No. 411, Vol. 1)</p> <ul style="list-style-type: none"> • "I mostly went to Ayodhya during fair to have "darshan' and three fairs are held at Ayodhya." (Para No. 412(12), Page No. 412, Vol. 1) • "Even after the attachment, I have regularly had the "darshan' of all the three viz. Lord Ramlala present in Ramchabutara temple, Shiv Darbar and Chhathi worship place in the outer part, as done earlier." (Para No. 412(16), Page No. 413, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "After the attachment, the "darshan' of Lord Ramlala was not possible from inside but from the iron grill gate." (Para No. 412(15), Page No. 412, Vol. 1)

21. **D.W. 3/18, Acharya Mahant Banshidhar Das alias Uriya Baba**, aged about 99 years (as per his affidavit dated 15.9.2004), is resident of Singh Darwaja, Chhavani Math, Jagannathpuri, Mandir Uriya Baba ka Sthan (Surya Mandir), Mohalla Ramkot, Ayodhya. He was born in 1905 and came to Ayodhya in 1930. Besides Sanskrit, he knows Hindi and Oriya also. He has got special knowledge in Balmiki Ramayan, Manas, Srimadbhagwatgita.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "In view of all the historical places being proved from geographical point of view, I, as per belief, consider that the incarnation of Lord Rama had taken place at this disputed site." (Para No. 415(19), Page No. 416, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "Since the year 1930, I have been regularly going to have 'darshan' of Sri Ramjanmbhumi temple, Hanumangarhi and Kanak Bhawan temple during my stay at Ayodhya." (Para No. 415(5), Page No. 414, Vol. 1) • "In the year 1930 also, when I went to have 'darshan' of Sri Ramjanmbhumi, about which case is pending, Lord Ramlala was present in the inner part and I had His 'darshan', prasad and arti and received

	<p>charnamrit (foot nectar)." (Para No. 415(5), Page No. 415, Vol. 1)</p> <ul style="list-style-type: none"> • "I had 'darshan' of Lord Ramlala present in the inner part, till December, 1949. The inner part had been attached in the last week of December. This was witnessed by me when I had gone to have 'darshan' about 10-12 days before Makar Sankranti." (Para No. 415(7), Page No. 415, Vol. 1) • "The outer part includes Ramchabutara, Chhathi worship place, Shiv Darbar, store and kitchen along with saints' accommodation, where the saints, priests, panch of Nirmohi Akhara used to live. I have had 'darshan' and worship of Lord Ramlala in this outer part as well since 1930 and have received arti, prasad, charnamrit from priests and saints of Nirmohi Akhara. The devotees used to have 'darshan' and offer prayer at the Chhathi worship place, which has foot marks of all four brothers Rama, Laxman, Bharat, Shatrughan and stove - chakla- belna, and I also used to do the same." (Para No. 415(9), Page No. 415, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "Since the year 1930, I have not seen any Muslim offer Namaz in the disputed inner part and outer part." (Para No. 415(16), Page No. 416, Vol. 1) • "After the riot of 1934 AD, the Muslims did not pass through the road in north of the disputed temple. Earlier they used to visit Mohalla- Suthati and Shringarhat." (Para No. 415(17), Page No. 416, Vol. 1)

22. **D.W. 3/19, Ram Milan Singh**, aged about 75 years (as per his affidavit dated 12.10.2004), son of Sri Vikaramajeet Singh, is resident of Mauza Haliyapur, Pergana Isauli, Tahasil Musaphirkhana, District Sultanpur. His date of birth is 15.1.1930 and he claim to have attained the age of understanding in 1940, i.e. at the age of 10. He visited, for the first time, Sri Ramjanambhumi at Ayodhya with his parents and other villagers in 1940 and was told by his parents that this was the place where Lord Ram was born and the temple is that of Ramjanambhumi.

Fact Deposed to	Relevant Extracts
Fact of continuous worship	<ul style="list-style-type: none"> • "Since then I have definitely been to Ayodhya on the occasion of Ramnavami

to have 'darshan' of Lord Ramlala. This practice of mine continued every year on every Ramnavami from the year 1940 to 1951, but after the year 1951 there was some gap in having 'darshan' of Lord Ramlala at Ayodhya on the occasion of Ramnavami i.e. I was unable to visit in a particular year." (Para No. 418(3), Page No. 417, Vol. 1)

- "After attaining maturity, I first visited Ayodhya in the year 1940 and started with a holy dip in Saryu followed by 'darshan' of Ramjanmbhumi temple, Kanak Bhawan temple and Hanumangarhi and also used to offer water at Nageshwar Nath." (Para No. 418(4), Page No. 417, Vol. 1)
- "My parents also used to come to Ayodhya on the occasion of Parikrama (circumambulation) and used to have 'darshan' of Lord Ramlala present in Sri Ramjanmbhumi temple and I also used to accompany them." (Para No. 418(5), Page No. 417, Vol. 1)
- "When I first had the 'darshan' of Lord Ramlala, along with my parents in the year 1940 after attaining maturity, at the Sri Ramjanmbhumi temple situated at the disputed premises. In the same year I had also been to Ayodhya on the occasion of Sawan Jhula and on that occasion I had the 'darshan' of Lord Ramlala present in Sri Ramjanmbhumi temple after having a holy dip in Saryu. Similarly, on the occasion of Parikrama and Kartik Purnima in said year 1940, I had come to Ayodhya on the occasion of Panch kosi Parikrama, Chaudah kosi Parikrama and Purnima Snan and also had the 'darshan' of Lord Ramlala present in Sri Ramjanmbhumi temple Ayodhya." (Para No. 418(6), Page No. 418, Vol. 1)
- "In my senses, when I first went to the said Ramjanmbhumi temple along with my parents in the year 1940 to have 'darshan', a person called the head priest of Ramjanmbhumi was present there. Showing him to me my father told me that

	<p>he was the head priest M. Baldev Das, who used to visit our village and locality. I recognized him and since then I have seen Mahant Baldev Das as head priest of Ramjanmbhumi temple in the inner part till Kartik Purnima in the year 1949. Other saints of Nirmohi Akhara also remained with him." (Para No. 418(9), Page No. 418, Vol. 1)</p> <ul style="list-style-type: none"> • "In the year 1940 when I first went to Ramjanmbhumi along with my parents, my father had also taken me to have 'darshan' of the outer part i.e. Ramchabutara temple, Shiv Darbar and Chhathi worship place." (Para No. 418(11), Page No. 419, Vol. 1) • "Lord Ramlala was present at the Ramchabutara temple as well. The saints of Nirmohi Akhara were there as priests." (Para No. 418(12), Page No. 417, Vol. 1) • "From the year 1940, I regularly came to Ayodhya on all the three fairs till Chaitra Ramnavami of the year 1951. Thereafter, I went there at least once every year on occasion of any one fair." (Para No. 418(15), Page No. 419, Vol. 1)
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • "In the year 1950 when I came to have 'darshan' of Lord Ramlala on the occasion of Chaitra Ramnavami, I came to know about the inner part, which had been attached, and also saw that it was bounded by a grill wall with gate, which was closed or locked and police had been posted outside it. I as well other devotees had the 'darshan' of Lord Ramlala from there. On inquiry from police, it transpired that the inner part had been attached." (Para No. 418(8), Page No. 418, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "In my knowledge I have neither seen any Muslim offer, Namaz at the disputed temple nor have I heard the same from anybody." (Para No. 419(26), Page No. 421, Vol. 1)

23. D.W. 3/20, Mahant Raja Ram Chandracharya, aged about 76 years (as stated in his affidavit dated 27.10.2004), is resident of

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • <i>"The ancient name of the disputed temple was Ram Janmsthan and initially it remained famous by this name. However, it is usually famous in the whole world as Ramjanmbhumi. The Ramjanmbhumi has immense Vedic and Sanatan importance in Hindu religion because Vishnu incarnate Lord Ramchandra had been born/descended at this very place. The evidence for this belief was found by me in Valmiki's Ramayan, Skand Purana, Rudrayamal, Tulsi's Ram Charit Manas and by reading and hearing different historical and literary works." (Para No. 422(50), Page No. 428, Vol. 1)</i>
Fact of continuous worship	<ul style="list-style-type: none"> • <i>"However, I consider Lord Ramlala of Janmbhumi temple as my favoured deity and I used to serve, worship, clean the utensils of God, bring flowers, Tulsi, make garland etc. and also used to broom the outer-inner side of the temple." (Para No. 421(2), Page No. 421, Vol. 1)</i> • <i>"From the year 1943 till the attachment of year 1949, the worship, Arti, and rituals of Lord Ramlala present in the inner part of Sri Ramjanmbhumi temple, were regularly performed as per the custom and practice of Ramanand Recluse sect and the religious Sanatan, Vedic religious followers particularly went inside the 'Garbh-grih' without any obstruction and had 'darshan', offered 'prasad', money, flower, sweets etc .. All these offerings were made to Lord Ramlala and were 'charanamrit' and 'arti' amongst the devotees. The complete possession was with Nirmohi Akhara and the worship and ceremonies were carried out under the management of the Nirmohi Akhara." (Para No. 421(9), Page No. 423, Vol. 1)</i>
Fact of prayer at railing/ grill wall	<ul style="list-style-type: none"> • <i>"There are three domes above the inner part called 'Garbh-grih'. There is Courtyard in the east. To its east is the grill wall. The Courtyard in west of the grill wall along with the area comprising the three</i>

domes, is called the inner part which was attached by the police in December, 1949 on fake ground. A memo of attachment had been prepared, the photostat of whose certified copy has been filed as List-1, paper No. 08C1/4 by Nirmohi Akhara in Case No. 5/80. I have read its copy and had seen it earlier in the case under Section 145 and I am making this statement after reading the same. It mentions about Lord Ramlala and all the articles. The boundary of the attached portion, as per the then existing circumstances, has been given by the administration and police as under:

Eas-Chabutara temple of Lord Rama in possession of Nirmohi Akhara

Courtyard

West-circumambulation path

North-Campus Chhathi puja and Nirmohi

South-Vacant plot and circumambulation path" (Para No. 421(10), Page No. 423, Vol. 1)

- "The Ramchabutara temple was 17 feet x 21 feet and about 3 feet high. A wooden throne was placed therein with Lord Ramlala, Laxman, Bharat ji, Shatrughan and Hanuman ji were present over it. The Ramchabutara temple with Lord Ramlala present, was also under the management-control of the Nirmohi Akhara. I have seen this from the time I started going there. My Guru told me that in the year 1885 AD, a case had been filed in respect of this Chabutara, which has since then continuously been in possession of Nirmohi Akhara and the worship of Lord Ram lala has regularly been going on, there. I have myself served-worshiped etc. the Almighty, there since the year 1943 and have also seen the priests of Akhara regularly carry out arti, worship, ceremonies. After having 'darshan', the devotees used to offer sweets, flowers etc. and accept 'prasad' etc. from the priests." (Para No. 421(33), Page No. 425, Vol. 1)
- "In the year 1943, when I reached the Sri Ramjanmbhumi, Lord Ramlala was present over a step type place in north west corner in the 'Garbh-grih' i.e. under the

	<p>central dome. Lord Ramfala and Lakhanlal were present over a silver throne in child form and the stone idol of Hanuman ji was present besides the throne. 4-5 Salikram were also present. There was a swing shaped wooden throne under the main dome, which was occupied by Lord Ramlala. The priests used to bring Him on occasion of Sawan Jhula and other ceremonies such as Sharad Purnima, Kartika Purnima etc." (Para No. 421(38), Page No. 427, Vol. 1)</p> <ul style="list-style-type: none"> • "The 'pran-pratishtha' of Lord Ramlala present in this temple was carried out by some Mahant of Nirmohi Akhara, in period beyond human memory. Similarly, the 'pran-pratishtha' of Lord Ramlala at Ramchabutara was carried out by some Mahant of Nirmohi Akhara, in period beyond human memory. All these 'pranpratishtha' had taken place as per Vedic rites... I have come to know these facts from elderly saints of Akhara and my Guru. On inquiry my Guru had told that he had come to know these facts customarily from his Guru and elderly Naga... The Hindus has full liberty to have 'darshan' of all these deities but no Muslim was allowed to enter and neither was any Muslim able to go inside. I came to know these facts as well from my customary Guru." (Para No. 421(51), Page No. 428, Vol. 1)
Possession of Plaintiffs in Suit 4	In para 44, 45, 65 and 73, DW 3/20 has said that Muslims have never offered Namaz at the disputed premises and at least since 1934, they have dared not to go to Garbhgrih, never permitted by Sadhus of Nirmohi Akhara to go towards disputed premises.

24. **D.W. 17/1 Ramesh Chandra Tripathi**, the witness is defendant No. 17 (Suit-4), resident of village Bhagwan Patti, Pargana Mijhaura, Tahasil Akbarpur, District Ambedkar-Nagar, is 66 years of age (vide affidavit dated 9.5.2005).

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "That the city of Ayodhya is situated within District Faizabad and according to the faith, belief and customs, the place where

	<p>Lord Rama had incarnated, has been revered by followers of Hindu religion as the birthplace of Lord Rama. The place where Lord Rama had incarnated, still exists within the municipal area as Mahalia- Ramkot and as Village-Kotramchandra in the revenue records." (Para No. 430(5), Page No. 436, Vol. 1)</p> <ul style="list-style-type: none"> • "That I, the deponent, have had the 'darshan' of Lord Ramlala present in Ramjanmbhumi temple at Ayodhya, almost every year from the age of 7 years till date. My father had told me that the tradition of holy dip in Saryu and the 'darshan' of Lord Ramlala present in the temple situated at Ramjanmbhumi on the occasion of Chaitra Ramnavami, had continued from the period of his father and forefathers, and further that Lord Rama had incarnated in the Treta Yug and since then this place is considered to be a pilgrimage." (Para No. 430(7), Page No. 437, Vol. 1) • "That neither Babri mosque nor any other mosque ever existed at the disputed site. The temple of Lord Sri Ramjanmbhumi existed at the disputed site, wherein the idol of Lord Sri Ram already existed." (Para No. 433(9), Page No. 439, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "That fairs of followers of Hindu religion are held at Ayodhya on many religious occasions such as Sawan Jhula, Akshay Navami (chaudah kosi circumambulation), Prabodhni Ekadashi (Panch kosi circumambulation), full moon in the month of Kartik etc., for having holy dip, worship etc. at Ayodhya but the fair of devotees and pilgrims held at Ayodhya on the occasion of the birth date of Lord Rama i.e. 9th day of Shukla fortnight of the month of Chaitra, is the biggest fair of them all. Lakhs of pilgrims, devotees from different corners of India gathered here on the occasion of this fair, besides people from abroad. They used to have 'darshan' of the birthplace of Lord Rama and His

	<p>idol over there, and used to consider themselves to be fortunate. This day is known as Chaitra Ramnavami." (Para No. 430(6), Page No. 436, Vol. 1)</p> <ul style="list-style-type: none"> • "That there were three domes in the temple at the disputed site, and the idol of Lord Ramlala existed below the central dome. Adjacent to north of the three dome building, was the Sita Rasoi, Chhathi worship place or stove, Chauka, Selan and footmarks etc. Along with the 'darshan' and worship of the idol of Lord Sri Ram present at the Janmbhumi site, Ramjanmbhumi temple and temple as above, the devotees and pilgrims used to regularly have 'darshan' and worship of said Sita Rasoi and Chhathi worship place and the stove, Chauka, Selan and footmarks etc. built thereat. The main gate for entry to the disputed site was eastwards, which was called Hanumatdwar and the other gate was northwards, which was called Singhdwar and the saints, hermits, recluses and devotees used to pass through it. All the said three domes at the disputed site, collapsed on 6th December, 1992, but the idol of Lord Sri Ram still continues to exist continuously at that very place and the Hindu devotees and pilgrims have all along been performing 'darshan' and worship and the priests have been carrying out the Ragbhog, worship etc. of Lord Sri Ram as per the Shastras." (Para No. 432(12), Page No. 437, Vol. 1) • "That outside the outer wall at the disputed site, was a place marked for circumambulation of the devotees. After having 'darshan' and and worship, the devotees and pilgrims used to perform circumambulation of the entire premises. Various saints- hermits- recluses lived in the tin shed opposite the iron rod wall in the east and performed Kirtan Bhajan." (Para No. 432(14), Page No. 438, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "That as per my information, no follower of Islam went to or near the disputed site from the year 1934 AD, nor did anyone

	<p>offer Namaz at the disputed site nor was the Muslim community or any Muslim ever in possession of the disputed site or its adjoining areas. In practice, the possession of priests and saints of Hindu community continued over it unhindered and the worship, Archana, 'darshan' etc. of Lord Sri Ram and His birthplace has continued." (Para No. 433(10), Page No. 439, Vol. 1)</p> <ul style="list-style-type: none"> • "That neither the 'mosque' built by Babar nor any 'mosque' built otherwise, ever existed at the disputed site nor did the Muslims ever offer Namaz there." (Para No. 433(17), Page No. 439, Vol. 1)
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25. **D.W. 20/1**, Shashikant Rungta, aged about 51 years (vide affidavit dated 26.5.2005) business. He used to visit Ayodhya along with his parents, friends and family members time to time since he has full faith in Lord Ram and his birth-place at Ayodhya.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "That I went to Ayodhya for the first time in 1952. It is the tradition of my family that we start pilgrimage from Ayodhya. Ayodhya is the greatest pilgrimage site of the world and is the best liberation-giving puri (city) of the seven puris. Ayodhya has the distinction of being the birthplace of Lord Sri Rama. It is so mentioned in Puranic treatises, the Valmiki Ramayana and Tulsidas written Ram Charit Manas. I know that as a matter of fact the whole area of Ayodhya itself is revered like a deity as the birthplace of tradition upholding Supreme Being Lord Raghvendra Sri Rama. But according to scriptural proofs and treatises and as per the faith of crores of years, the birthland and birthplace are situated in Ram Kot locality of Ayodhya." (Para 435(4), Page No. 440, Vol. 1) • "That as per beliefs, faiths and traditions of Hinduism, Lord Sri Ram Lala appeared at that very place in Ayodhya using Chakrawarti Maharaj of Ayodhya, Dashrath, and Maharani Kaushalya as media. A vivid description of Lord Sri Ram Lala's appearance finds mention in the

Ramayana of Valmiki, a contemporary of Lord Sri Rama, and in Ram Charit Manas written by Goswami Tulsi Das." (Para 435(13), Page No. 442, Vol. 1)

- *"That as per the religious tradition of Hinduism, Lord Rama incarnated himself to destroy Adharma (sins) and to uphold Dharma (right behavior) and to guard saints in Treta era, and he has been worshipped since eternity not only in India but also in the whole world." (Para 435(14), Page No. 442, Vol. 1)*
- *"That India is recognized all over the world because of Lord Sri Rama and Ayodhya being his birthplace. Sri Ram Janam Bhumi, Lord Sri Rama and Ayodhya Nagari find vivid description in religious treatises and in the books of other languages." (Para 435(15), Page No. 442, Vol. 1)*
- *"That by demolishing Sri Ram Janam Bhumi temple the disputed building was constructed but it could never take the shape of the mosque because this disputed building had no minaret and no arrangement of water for 'vaju' (cleaning of hands). The disputed building had 12 pillars of Kasauti stone with images of male and female deities engraved on them. Apart from them, images of peacocks, waterpots and birds were also carved out as symbols of Hinduism." (Para 435(17), Page No. 442, Vol. 1)*
- *"Ram Janam Bhumi temple, the belief and faith of people in the sanctity of Sri Ram Janam Bhumi persisted and will persist forever." (Para 435(18), Page No. 443, Vol. 1)*
- *"That Sri Ram Janam Bhumi is a seat of faith for crores of Hindus and a site of pilgrimage attracting their reverence, mere darshan of which destroys sins and leads to attainment of many punyas and moksha (liberation). Due to being the birthplace of Lord Sri Rama, it is a liberation-giving*

	town." (Para 435(22), Page No. 443, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "That when I went to have darshan of Janam Bhumi, I paid obeisance to the birthplace of Lord Sri Rama by also offering flowers, Prasad, etc. there, and I had faith and belief in the heart that liberation is attained only by having darshan of this place." (Para 435(7), Page No. 441, Vol. 1) • "That Ram Navami falling on the ninth day of Shukla paksha of Chaitra month holds great importance in Ayodhya and birth celebrations of Lord Sri Rama are observed with great gusto. Once I had a golden opportunity to see grand tableaux of birth celebrations of Lord Sri Rama. On that occasion lakhs of devotees and darshan seekers had come here in large numbers from the nooks and corners of the country with the desire of having darshan of Sri Ram Lala." (Para 435(9), Page No. 441, Vol. 1) • "That I have been fortunate enough to have darshan of Lord Sri Rama by going to Ayodhya even on the occasions of the three fairs of Ayodhya namely Chaitra Ram Navami, Kartika Poornima and Sawan Jhoola fairs." (Para 435(12), Page No. 442, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "That after the year 1962 I went to have darshan of Ayodhya many times. I did not see any Muslim come and go from there, nor did I see and hear of him offering namaj there." (Para 435(8), Page No. 441, Vol. 1) • "That no namaj was ever offered there by Muslims nor was any Muslim seen going there." (Para 436(19), Page No. 444, Vol. 1)

26.D.W. 20/2, Swami Avimukteshwaranand Saraswati, aged about 36 years (vide affidavit dated 27.6.2005}, is resident of Srividyamath Kedarghat, Varanasi, U.P. He is pupil of Jagadguru Shankaracharya Swami Swaroopanand Saraswati Ji Maharaj, Jyotishpithadhishwar and Dwarika Shardapithadhishwar. His name through parents is Uma Shanker Pandey, obtained education upto

Acharya from Kashi and did Shiksha Shastri (B.Ed.), registered for Research but could not complete the same due to Sanyas Diksha given by his Guru. He has mainly studied Ved, Vedang, Upnishad, Vyakaran, **Darshan and Dharmshastra**. Besides Hindi and Sanskrit in which he has special knowledge, he knows Gujarati, Bangla and English. He claims that as per tradition, his ancestors performed yagya to Lord Ram on his return to Ayodhya after defeating Ravan.

Fact Deposited to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "That as per my study and knowledge, Ayodhya-situated site in question is itself the birthplace of Lord Sri Rama. It is a well known fact that Lord Sri Rama was born in Ayodhya and he was the eldest son of Supreme Ruler Dashrath of Ikshvaku dynasty. Since then the site in question has consistently been worshipped as his birthplace by adherents of orthodox Hinduism. Our faith, tradition and belief and its fame have been strong bases of it." (Para 438(13), Page No. 444, Vol. 1) • "Scriptures ordain for the worship of idols and places and such worship leads to the fulfillment of all desires and to the attainment of liberation." (Para 438(14), Page No. 445, Vol. 1) • "All objects associated birth are stated in scriptures to be of special significance. The importance of date of birth, nakshatra and day is shown there. Similarly, the importance of birthplace is also particularly mentioned." (Para 438(15), Page No. 445, Vol. 1) • "That there need not be any sort of pratishtha (deification) or construction at any birthplace because it gets empowered immediately with the birth of the Powerful. Besides, the power continues to be with constant pooja-archana and it is capable of bestowing people with desired results." (Para 438(17), Page No. 446, Vol. 1) • "That the mode of Ayodhya journey finds mention in the 10th chapter of Ayodhya Mahatmya of Vaishnav Khand of Skandha Purana, famed as Sthalpurana. It clearly mentions the birthplace of Sri Rama and its

considerable importance. The site mentioned in the said context of this Purana exists in Ayodhya even today. For this very reason, every adherent of orthodox Hinduism go to Ayodhya to do darshan and parikrama (circumambulation) of these places, particularly of Sri Ram Janam Bhumi and considers himself to be fortunate to have the dust of that particular place and to apply it to his head." (Para 438(18), Page No. 446, Vol. 1)

- "That the birthplace of Lord Sri Rama, worshipped as the Deity of the Nation by crores of followers of orthodox Hinduism, is the place of highest importance for them as Mecca is for Muslims." (Para 438(25), Page No. 447, Vol. 1)
- "That the question is not of temple and mosque but of Sri Ram Janam Bhumi. Temple and mosque being human constructions may be removed but Janam Bhumi not being subject to change cannot be shifted. Hence, there can be no option for it." (Para 438(26), Page No. 447, Vol. 1)
- "That the birthplace of Lord Sri Rama has always been most sacred and endowed with supernatural powers, It can never be defiled and desecrated at any cost and to us it is always revered, worth-worshipping and capable of yielding great results like liberation, etc." (Para 439(34), Page No. 447, Vol. 1)
- "That following the sequence as ordained in the Skandha-purana I have once travelled to Ayodhya and have had darshan of Sri Ram Janam Bhumi. In following this sequence I got immense help from large stone-plates installed by Sri Edward, a high ranking Government official of the British period which were installed strictly in the sequence as ordained in the Skandha-purana and which go on to establish its geographical location." (Para 439(36), Page No. 447, Vol. 1)

	<ul style="list-style-type: none"> • "I have studied the books titled Baburnama and Ain-e-Akbari. I did not read anywhere in it that Babur built any mosque at Ram'Kot, Ayodhya." (Para 440(32), Page No. 449, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • "That as per my knowledge no Muslim has ever offered namaj at in question. Even if namaj is offered, this alone does not make the land a mosque nor does it become wholly for orthodox Hindus. We have seen that our devout Muslims offer namaj with full reverence at public places such as Railway stations, bus-stands, railway trains, etc. but do the said places become mosques only on this account?" (Para 440(33), Page No. 449, Vol. 1) • "That the building in question from nowhere gave any inkling of being a mosque and it had several signs and evidences establishing it as a temple." (Para 440(37), Page No. 449, Vol. 1)

27. **D. W. 20/3 Brahamchari Ramrakshanand**, aged about 87 years (vide affidavit dated 18. 7.2005), is resident of Jyotirmath, Trotakacharya Gupha, Post Joshimath, District Chamoli (Uttaranchal).

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • "That as per my study and knowledge, Ayodhya-situated disputed site itself is the birthplace of Lord Sri Rama. It is known to all that Lord Sri Rama was born in Ayodhya and was the eldest son of the Supreme King, Dashrath." (Para No. 443(9), Page No. 450, Vol. 1) • "That as per faith, tradition and belief, Ayodhya situated disputed site has been since eternity recognised and worshipped by adherents of Hinduism as the birthplace of Lord Sri Ram Lala and pooja has continued to be offered at that particular place. As per scriptures, one can attain liberation through mere darshan of the birthplace, and Ayodhya occupies the first place amongst seven liberation giving puris." (Para 443(10), Page No. 451, Vol. 1)

	<ul style="list-style-type: none"> • "That as per scriptures, the birthplace commands special importance and it is in itself a deified and revered place as Bhoo-dev (Lord of Land). There is no need of there being a Mahanta or Sarvarakaar at the places blessed with this type of divinit y." (Para No. 443(11), Page No. 451, Vol. 1) • "That I have read the description of Sri Rama's birth and birthplace in Sri Ram Charit Manas written by Goswami Tulidas. As a matter of fact, the whole of Ayodhya itself is the birthland of Sri Rama but according to scriptural proofs and as per the faith of Lakhs of years, Ayodhya-situated birthplace of Lord Sri Rama is revered like a deity." (Para No. 443(12), Page No. 451, Vol. 1) • "That the incarnation of Lord Sri Rama finds full description in the verse just below 191st couplet of Baal-Kaand of Goswami Tulsidas-written Sri Ram CharitManas." (Para No. 443(13), Page No. 451, Vol. 1) • "That I have heard from my spiritual teacher that Ayodhya Mahatmya of the Skandha Purana clearly proves that only the place called Sri Ram Janam Bhumi in the present Ayodhya-puri is Sri Ram Janam Bhumi site." (Para No. 443(14), Page No. 451, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • "That I have done darshan and poojan of Sri Ram Janam Bhumi situated in Ayodhya." (Para No. 444(15), Page No. 451, Vol. 1) • "That I went to Ayodhya for the first time at the age of nearly 20 years. I had taken a dip in Ayodhya and after having darshan of Nageshwarnath I had darshan of Sri Ram Lala temple. After that I had darshan also of temples such as Hanumangarhi, Kanak Bhawan, Sumitra Bhawan, etc." (Para No. 444(16), Page No. 452, Vol. 1)

1. **D.W. 13/1-1, Mahant Dharamdas**, aged about 59 years (vide affidavit dated 10.03.2005. is resident of Hanuman Garhi, Ayodhya, District Faizabad. He is said to be Sri Mahant of Akhil Bharatiya Sri Panch Nirwani Ani Akahra and Mahant of Hanuman Garhi, Ayodhya. Born at village and post Dumari, District Baksar, Bihar, he came to Ayodhya in 1962 and became pupil of Baba Abhiram Das.

Fact Deposed to	Relevant Extracts
Faith that Disputed Site is Ram Janam Bhumi	<ul style="list-style-type: none"> • That Babur was never emperor of this country, nor was he ever recognised emperor of this country nor had he ruled over this country. Babur was just a plunderer and had gone back to his country, Afghanistan, after the plunder. Mir Baqi, a Shi'ite Muslim and army commander of Babur, demolished the Ram Janam Bhumi temple, renovated during the reign of King Vikramaditya, and tried to give it the shape of a mosque at the behest of a Fakir and used the debris, etc. of the temple itself for the construction of this building." (Para No. 427(13), Page No. 432, Vol. 1) • That Lord Sri Rama was born on the land lying beneath the middle dome located in the main premises. It is the faith and belief of Hindu public and on the basis of this belief innumerable Hindus and Ram-worshippers of the country and abroad have been doing pooja-darshan taking the disputed site to be the birthplace of Lord Sri Rama." (Para No. 427(20), Page No. 433, Vol. 1) • "The birthplace of Rama is at the disputed site, which fact is established on the basis of scriptures, hear-says, customs, etc. The said place has continued to be worshipped as the birthplace of Lord Sri Rama since eternity." (Para No. 427(25), Page No. 434, Vol. 1)
Fact of continuous worship	<ul style="list-style-type: none"> • That towards the west of the wall with bars was a three-dome building beneath the middle dome of which Lord Sri Ram Lala incarnated himself, by mere 'darshan' of whom one can attain liberation. The birthplace of Lord Sri Ram Lala itself is blessed with divinity and is revered. The entire orthodox Hindu community

	<p>worships him." (Para No. 426(8), Page No.431, Vol. 1)</p> <ul style="list-style-type: none"> • "That around the Ram Janam Bhumi premise : was parikarma marg (route of circumambulation), through which pilgrims and devotees used to do circumambulation of Sri Ram Janam Bhumi premises. Moving towards the south from the Hanumat Dwar for circumambulation, towards the exterior of the eastern wall itself lay Lord Varah as presiding deity." (Para No. 426(10), Page No. 431, Vol. 1) • "That people of the Hindu society have been worshipping the birthplace of Sri Ram Chandra with traditional faith and belief since eternity. (Para No. 427(18), Page No. 433, Vol. 1) • "That religious functions have been taking place from time to time at Sri Ram Janam Bhumi site on auspicious occasions. Programmes used to be organized under the supervision of my spiritual teacher, Late Baba Abhiram Das Ji. There was a power connection in the name of Sri Ram Janam Bhumi Sthan and even electricity bills used to be paid by my spiritual teacher, Late Baba Abhiram Das Ji." (Para No. 429(16), Page No.435, Vol. 1)
Possession of Plaintiffs in Suit 4	<ul style="list-style-type: none"> • That in the year 1949, even in course of criminal proceeding of attachment under section 145, many people of the Muslim community accepted this disputed site as the birthplace of Lord Sri Rama and confirming the regular possession of Hindus over this place they admitted that namaj had never been offered by people of the Muslim community at the disputed site and that Islam does not permit namaj to be offered at this type of place."(Para No. 428(24), Page No.434, Vol. 1)

ANNEXURE 8NOTE ON TESTIMONY OF PLAINTIFF WITNESS IN SUIT 4**I. ADMISSIONS BY WITNESSES ON BEHALF OF THE PLAINTIFF IN SUIT – 4:**

1. **PW-1, Mohd. Hashim:** is a tailor by profession. He has made the following statements in his cross-examination:

- *"Babar was Sunni Muslim, Meer Banki was Shia Muslim. Bazar Abbas Kalandar was Sunni Muslim. I cannot say that Meer Banki was his disciple. Emperor Babar never came to Ayodhya. Bara ruled for 2 years but I cannot tell the particular years." (Para No. 1369, Page No. 952, Vol. 1)*
- *"It is true that Panchkoshi Parikrama is at a distance from the disputed property. This Parikrama is all around the disputed property. It is a very old circumambulation, and the Hindus have been using it since my childhood. We are also within this Parikrama, and they are doing our parikrama also" (Para No. 1369, Page No. 952, Vol. 1)*
- *"I have heard that most of the temples in Ayodhya are the temples of Ram- Janaki or Sitaram. The locality in which the disputed site is situated, that is, the Ramkot locality mostly have very old temples. Kanak Bhawan temple is one of them." (Para No. 4355, Page No. 2715, Vol. 2)*
- *"Besides the disputed site/Ramjanmsthan temple, I know only the names of famous temples situated in the vicinity of the Babri mosque. Except for the Janmsthan temple in the vicinity of the Babri mosque, I cannot tell the name of any other temple. I cannot even tell how many temples are there in the vicinity of the Babri mosque. The Hindus called the place attached on 22nd - 23rd December, 1949, Ram Janam Bhumi and the Muslims call it Babri mosque. In the claim of Gopal Singh Visharad too Hindus call it Ramjanmbhumi temple and Muslims call it Babri mosque." (Para No. 4355, Page No. 2715, Vol. 2)*
- *"As Mecca holds importance for Muslims, similarly Ayodhya holds importance for Hindus because of Lord Rama." (Para No. 4355, Page No. 2715, Vol. 2)*

- *“The place which is marked as A. B. C. D. is the place which we call mosque and Hindus call Janmasthan, which is in possession of Hindus in the shape of Chabutara.” (Para No. 4355, Page No. 2715, Vol. 2)*
- *“It is true that Ayodhya is a place of pilgrimage for Hindus. It is incorrect that since 22nd December 1949 Hindus have continued to come from within the country and abroad to perform Pooja-Archana at Ramjanmbhumi. (Stated on his own) Just one priest has been performing Pooja. It is true that from 22nd December, 1949, Hindus come from within the country and from abroad to have darshan on this land, which is disputed in litigation. I do not know that religious functions of Hindus are held off and on in this premises since then.” (Para No. 4355, Page No. 2715, Vol. 2)*

2. **PW-2 Sh. Haji Mehboob Ahmed:** was a graduate in 1967.

- *“It is true that Ram Chandra's birthplace is Ayodhya. From when this turmoil has erupted, the Hindus from nooks and corners of the country call and worship the disputed premises as his Janam Bhumi. Otherwise, the whole of Ayodhya is theirs. Earlier, they called the Kanak Bhawan and the JanamSthan as his birth-land. It was told that JanamSthan is at another place, separately from the mosque. (Para No. 1915, Page No. 1197, Vol. 1)*
- *“Panchkosi Parikrama covers the whole of Ayodhya... It usually takes place in winters. The Parikrama attracts a crowd. A number of people come from outside. A number of people hail from the city.” (Para No. 1915, Page No. 1197, Vol. 1)*
- *“The iron-rod wall adjoined the southern wall of the mosque. We call it mosque and others call it a temple” (Para No. 4355, Page No. 2716, Vol. 2)*

3. **PW-3 Sh. Farooq Ahmad:** was shopkeeper by profession.

- *“Hindu fairs are held at Ayodhya such as Ramnavami, Parikrama Mela and Sawan Mela. Hindus gather in these fairs. They also come over to see the mosque. Many Hindus and Muslims used to come over to see this platform (Chabutara). The Hindus assembling at time of the said fairs, did not particularly visit this platform (Chabutara) because there was no offering (chadhawa) Even on occasion of the fairs, people of all religions used to come to see the platform*

(Chabutara). . . .” (Para No. 1969, Page No. 1232, Vol. 1)

- “Whenever the Kirtan in the name of Rama was performed, we also used to stand up, take the name of Rama. Rama, Allah and Khuda are all same. The existing marks of chakla, belan and hearth(chulha), had been seen over there by me even before.” (Para No. 1969, Page No. 1232, Vol. 1)

4. **PW-4, Mohd. Yaseen:** was a Shoe-maker by profession

- “In my view, the Hindus must have had the darshan of this place as birthplace of Lord Rama” (Para No. 1915, Page No. 1107, Vol. 1)
- “It is their belief that it is the birthplace of Sri Rama (stated on his own that their belief lies with them). The Hindu revere this place as sacred and pious.” (Para No. 1915, Page No. 1107, Vol. 1)
- “The Savan Jhula fair is held; fairs of Hindus are held in the months of Kartika and Chaitra as well. Panchkosi and Chaudahkosi circumambulations are also performed. Hindu travellers come to attend them. Ayodhya gets thronged but I cannot say whether they are thousands or lakhs in number. In my view, the Hindus must have had the darshan of this place as birthplace of Lord Rama.” (Para No. 4355, Page No. 2716, Vol. 2)
- “I reside at Ayodhya; so, I meet some Hindus and Pandits (scholarly persons) too. Feasts-dinners are also organized at weddings. It is their belief that it is the birthplace of Lord Rama. (Stated on his own that their belief is their own.) Hindus worship this place taking it to be holy and sacred.” (Para No. 4355, Page No. 2716, Vol. 2)
- “The Babri mosque, which other people call temple, is 1½kilometer away from my house. In between there is human inhabitation; there is some open space and there is also a garden. In between lay a hospital too; there was no market.” (Para No. 4355, Page No. 2716, Vol. 2)

5. **PW-5, Abdul Rahman:** was a Hafiz Quran

- “It is true that Sri Rama also followed only the path of religion. We do not regard him as God; he is a deity and has the same status as that of our Prophet.” (Page No. 2717, Para No. 4355, Vol. 2)

6. **P.W. 6 Mohammad Unus Siddiqi:** was an advocate

- “There are Hindu temples in the vicinity of the disputed property. On the way from this property to Hanumangarhi there are large Hindu temples such as Kanak Bhawan, RamJanamSthan and Hanumangarhi. Ram JanamBhumi temple is also situated in Ramkot locality.” (Para No. 4355, Page No. 2717, Vol. 2)

7. **PW-7, Hasmat Ulla Ansari:** was a typist

- “There are countless temples at Ayodhya. I cannot name any famous temple of Ramkot locality; I can name my locality. Ramkot locality must be a new name, which I do not know. I have never been to Hanumangarhi but I have certainly passed through the road running in that direction. I am not in a position to tell in which locality Hanumangarhi is situated.” (Para No. 4355, Page No. 2718, Vol. 2)
- “I have heard the name of Mani Parvat at Ayodhya. It stands east of the disputed structure. I have gone there but I did not climb that mountain. It is true that there is a temple above it” (Para No. 4355, Page No. 2718, Vol. 2)
- “It is true that Mani Parvat witnesses swings named after Sri Ram in the month of Savan.” (Para No. 4355, Page No. 2718, Vol. 2)
- “I have heard the name of Sri Rama in connection with Ayodhya; I have heard the name of king Dashrath; his royal palace is also located there.” (Para No. 4355, Page No. 2718, Vol. 2)

8. **PW 8, Abdul Ajij:** was a Shoe-maker

- “It is true that Ayodhya is a pilgrimage of Hindus. Hindus come here from far off places.” (Para No. 1915, Page No. 1198, Vol. 1)
- “Dispute in this case is over temple or mosque. Hindus worship it taking it to be Shri Ramjanmbhumi temple.” (Para No. 4355, Page No. 2719, Vol. 2)

9. **PW-9, Saiyed Ahalaq Ahmed:** A transporter

- “It is true that Ayodhya is famous as a pilgrimage site for Hindus. There are certainly thousands of temples in Ayodhya.” (Para No. 1915, Page No. 1198, Vol. 1)
- “I hear that Hindus have the belief that Ayodhya is his birthplace. They believe Sri Ramjanmbhumi at Ayodhya to be his birthplace.” (Para No. 1915, Page No. 1198, Vol. 1)

- *"'Chaudahkosi' (fourteen kose, one kose being equal to two miles) and 'Panchkosi' (five kose) circumambulations are performed every year in Ayodhya. It is true that lakhs of Hindus participate in them, barefoot. (They) include local people as well as people coming over from other parts of the country. Ramnavami fair is held at Ayodhya. Lakhs of pilgrims come to Ayodhya and celebrate the birth of Lord Sri Rama and the temples are also decorated. The 'Jhula' fair is also held in the month of Shravana. It is also a big fair. Lakhs of Hindus come from outside. Besides these, usually almost everyday many Hindu travelers keep coming from outside for pilgrimage." (Para No. 1915, Page No. 1198, Vol. 1)*
- *"I have heard that the Hindus consider this central part to be the birthplace of Lord Rama & sanctum sanctorum." (Para No. 1915, Page No. 1198, Vol. 1)*
- *"It is the belief of Hindu community that Lord Shri Ramawas an incarnation of God and he appeared in Ayodhya. However, it is their belief, not mine. I hear that Hindus believe that Ayodhya is his birthplace. They regard Shri Ramjanmbhumi in Ayodhya as his birthplace." (Para No. 4355, Page No. 2719, Vol. 2)*

10. PW 10 Mohammad Idris –

- *"A building built on somebody's land by force will not be a mosque. So, there is no question of its being legitimate or illegitimate. Demolishing any place of worship is forbidden in Islam." (Para No. 3278, Para No. 1847, Vol. 2)*
- *"Ayodhya is a religious town. It is a religious town for Hindus and so is it for Muslims. Ayodhya is established on the bank of river. It may be called either Saryu or Ghaghra. It is true that Ayodhya has plenty of temples." (Para No. 4355, Page No. 2721, Vol. 3)*

11. PW 11 Mohd. Burhanuddin- was a teacher at a Madarsa

- *"According to Islam, demolition of temple without the consent of owners, is illegal/unjustified." (Para No. 3279, Page No. 1859, Vol. 2)*
- *"No Muslim, who builds a mosque, would depict any picture in any part of inside or outside of the mosque. (He) would not depict the picture of any living being. Besides the disputed structure there is also a temple at*

our place which is famous by the name of Babri mosque.” (Para No. 3279, Page No. 1859, Vol. 2)

- *“Idolatry is contrary to Islam. It is wrong to say that mosque cannot be built at a place where idols have been installed, provided the land has been obtained legally/justifiably by Muslims. ‘Obtaining legally/justifiably’ means given voluntarily by the owner or gifted or sold provided the land had some owner.” (Para No. 3279, Page No. 1859, Vol. 2)*
- *“As far as remember, Babar came here in 932 hijri and died perhaps in 937 hijri. As far as I have read, Babar’s arrival at Ayodhya is not proved.” (Para No. 4355, Page No. 2721, Vol. 3)*
- *“I have gone through the mention of Janmasthan stated to be in Ayodhya, in Tuzuk-e-Babri.” (Para No. 4355, Page No. 2721, Vol. 3)*

12. PW 12 Ram Shankar Upadhyay

- *“We regard Lord Rama as a manifest incarnation of Lord Vishnu. But it is certainly a reality that Ayodhya is a site of pilgrimage.” (Para No. 1915, Page No. 1199, Vol. 1)*
- *“To my knowledge, except for the disputed site and Rama Janamasthan mentioned above, there is no temple or place in Ayodhya in the name of Ram Janam Bhumi.” (Para No. 1915, Page No. 1199, Vol. 1)*
- *“Lord Rama was born on Ramnavami of Chaitra; so, this fair is held to celebrate his birth anniversary.” (Para No. 1915, Page No. 1199, Vol. 1)*
- *“It is correct that Ayodhya holds importance because Maryada Purushottam Sri Rama (Supreme Being Sri Rama epitomizing dignified behaviour) was born there (Para No. 1915, Page No. 1199, Vol. 1)*
- *“It is correct that the disputed site was situated in Ramkot Mohalla. Kot means fort. The name of the Mohalla is Ramkot. It may literally mean the fort of Ramji To my knowledge, this Mohalla is known only by the name of Ramkot.” (Para No. 1915, Page No. 1199, Vol. 1)*
- *“(Stated on his own) Ayodhya is a town of God. Nobody can conquer it. I did not read ancient history of Ayodhya except the Ramcharit Manas or the*

Valmiki Ramayana.” (Para No. 4355, Page No. 2722, Vol. 3)

- “To the north of the disputed site there is a place called Ramjanmasthan. That is in the shape of a temple. I never entered it. The distance between the disputed site and that place would be nearly 60-70 paces.” (Para No. 4355, Page No. 2722, Vol. 3)

13. PW- 14 **Jalil Ahmad:** Business of clothes and shoes

- “There were Chulha' (hearth), 'Belna' (rolling pin) and 'Chauka' at the place where Rasoi was built. No foot prints were built. I cannot tell of which material 'Chulha','Chakla'/'Chauka' or 'Belna' were built.” (Para No. 4063, Page No. 2517, Vol. 2)
- “It is also correct that namaz will not be offered at a place having pictures of 'Chulha', 'Chakki', 'Belan'”. (Para No. 4063, Page No. 2517, Vol. 2)

14. PW 19 **Maulana Atiq Ahmed:** is a teacher in Lucknow

- “If namaz is offered in the presence of such idols, that namaz will be ‘Maqrooh’. It will not be legitimate to offer namaz there in presence of the idols.” (Para No. 3280, Page No. 1867, Vol. 2)
- “It is true that according to ‘Ehkam’ (sanction) of the prophet, if any building is demolished and mosque is built from its debris, then the same is ‘Makruh’ (not desirable)” (Para No. 3280, Page No. 1867, Vol. 2)
- “I knew it earlier and I know it even today that there are many temples of Hindus in Ayodhya” (Para No. 3280, Page No. 1867, Vol. 2)

15. PW 21 **Dr. M. Hashim Kidwai:** A Retired teacher

- “It is true that the birth of Ram Chandra Ji took place in Ayodhya. It is true that from centuries, Hindu community have been visiting the birthplace of Lord Rama for Darshan.” (Para No. 4159, Page No. 2578, Vol. 2)
- “It is true that Ayodhya is a significant pilgrimage of Hindus. It is also correct that birth of Lord Rama took place in Ayodhya. All Hindus do not say that the birth of Lord Rama took place on that very land where Babari Mosque is constructed. It is correct that some Hindus believe that it is the birthplace of Lord Sri Rama.” (Para No. 4159, Page No. 2578, Vol. 2)

16. **PW 22Mohd. Khalid Nadvi:** Teacher by profession

- *“The holy Quran has ordained nowhere for anybody's land or property to be forcibly captured or encroached upon. Capturing someone's land forcibly and without his consent cannot be taken to be valid in ordinary circumstances. Sunnat is what Prophet Muhammad has stated.” (Para No. 3281, Page No. 1872)*
- *“It is true that a mosque will not be constructed by forcibly demolishing a place of worship belonging to any religion.” (Para No. 3281, Page No. 1872)*
- *“It is correct to say that a temple will not lose its character and will remain to be a temple even if it is demolished to build a mosque. If any mosque is demolished and a temple is constructed in its place, the mosque will remain to be a mosque.” (Para No. 3281, Page No. 1872)*

17. **PW 23Mohd. Qasim Ansari:** is a motor mechanic by profession

- *“The ‘Panchkosi’ (distance of five kose, one kose being equal to two miles) circumambulation is performed annually, possibly in the ‘Kartika’ month, possibly around the Kartika fair. It is true that a very big fair is held at Ayodhya on this occasion. It is true that lakhs of pilgrims come to have darshan. Lakhs of people perform circumambulation on the ‘Panchkosi’ path. It is true that such pilgrims, who perform circumambulation, also have darshan of Hanumangarhi, Kanak Bhawan and Ramjanmbhumi I also know about ‘Chaudahkosi’ (distance of fourteen kose) circumambulation. Ayodhya and Faizabad fall in this ‘Chaudahkosi’ circumambulation path. It is also true that the ‘Chaudahkosi’ circumambulation also commences in the month of ‘Kartika’. It is also true that lakhs of pilgrims and devotees participate in this circumambulation as well.” (Para No. 1915, Page No. 1200, Vol. 1)*
- *“It is true that what is termed as Babri mosque by me, is called Janmbhumi by Hindus.” (Para No. 1915, Page No. 1200, Vol. 1)*
- *“It is true that the Ramnavami fair is also held during ‘Chaitra’. It is also true that lakhs of people come in that fair and a huge gathering takes place.” (Para No. 1915, Page No. 1200, Vol. 1)*
- *“Sharavana fair is also held with great pomp and show at Ayodhya.”*

“It is true that the visitors of this fair, take a holy dip in the Saryu and have darshan of Kanak Bhawan temple, Janmsthan temple and Janmbhumi.” (Para No. 1915, Page No. 1200, Vol. 1)

- *“It is true that Ayodhya is considered a pilgrimage of the Hindus. It was a pilgrimage in past as well It is true that Hindus consider Lord Rama, their God. It is true that it is the belief of Hindus that Lord Rama was born in Ayodhya. It is also true that there are many ‘Kundas’ and places related to Lord Rama in Ayodhya.” (Para No. 1915, Page No. 1200, Vol. 1)*

18. **PW 25 S.M. Naqvi:** Politician and writer

- *“Such pilgrims, who come to Ayodhya for 'Darshan'(offering of prayer byHindus in temple), apart from other places, also visit the place called 'Sita Rasoi' &'Ramchabutara' near Babri masjid and must be offering their devotion and offer flowers and sweets as per their devotion.” (Para No. 4159, Page No. 2580, Vol. 2)*

19. **PW 26 Kalbe Jawwad:**

- *“I know only this much that Babar never came to Ayodhya. Hence, the question of he being victorious does not arise. It is established that the mosque was built by Mir Baqi and not Babar.” (Para No. 1378, Page No.959, Vol. 1)*
