

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NOS. 10866-10867 OF 2010****IN THE MATTER OF: -**

M. Siddiq (D) Thr. Lrs.

... Appellant

-VERSUS-

Mahant Suresh Das & Ors. etc. etc.

... Respondents

**AND
OTHER CONNECTED CIVIL APPEALS****NOTES IN RESPONSE TO QUERIES RAISED BY THIS HON'BLE
COURT**

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 10866-10867 OF 2010

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AND

OTHER CONNECTED CIVIL APPEALS

**RESPONSE TO QUERY RAISED BY HON'BLE MR.
JUSTICE S.A. BOBDE:**

**NOTE ON STAND OF THE HINDU PARTIES THAT
THE BIRTHPLACE OF LORD RAM WAS UNDER THE
CENTRAL DOME OF THE THREE DOMED
STRUCTURE**

BY DR. RAJEEV DHAVAN, SENIOR ADVOCATE

NOTE ON STAND OF THE HINDU PARTIES THAT THE BIRTHPLACE OF LORD RAM WAS UNDER THE CENTRAL DOME OF THE THREE DOMED STRUCTURE

A. PRELIMINARY

1. Apart from some ambiguities about the exact birthplace of Lord Rama in the pleadings, the stand of the Hindu parties during the hearing before the Hon'ble High Court was that the birthplace of Lord Rama was under the Central Dome of the disputed structure, justifying the placing of the idols under the Central Dome. Accordingly, the following issues were framed:-

- i. Issue 1 (Suit 1):- Is the property in suit the site of Janam Bhumi of Sri Ram Chandra ji?
- ii. Issue 11 (Suit 4):- Is the property in suit the site of Janam Bhumi of Sri Ram Chandra ji?

It is relevant to note that while answering the above-mentioned issues the Majority (comprising of Justice Khan and Justice Sudhir Agarwal) took the view that the Hindus believed that the place of birth of Lord Ram was confined to area beneath the Central dome. Further, Justice Sharma took the view that the entire suit property was the place of birth of Lord Ram.

B. WITNESS STATEMENTS

2. The above-mentioned findings were arrived at on the basis of the following statements made by the witnesses of the Hindu Parties:-

i. OPW 5

"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"[Para 455 @ pg. 462/Vol. I of the Impugned Judgment]

ii. OPW 6

"To the west of the wall having basrs was a three dome building, in which land forming part of the Central dome is, as per Hindu tradition, faith, belief and recognition, is the birthplace of Lord Sri Rama which is called 'garbh-grih' (sanctum sanctorium)"[Para 457 @ pg. 468/Vol. I of the Impugned Judgment]

iii. OPW 7

"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"[Para 459 @ pg. 472/Vol. I of the Impugned Judgment]

iv. OPW 12

- “ ‘GarbhGrih’ situated below the central dome of the three dome building i.e. that place of Sri Ramjanmbhumi where Lord Sri Rama was born....”[Para 462 @pg. 477/Vol. I of the Impugned Judgment]
- “....at the central dome of the three dome bulidng, which is the birthplace of Lord Sri Ramlala i.e. the ‘Garbh- grih’”[Para 462 @ pg. 478/Vol. I of the Impugned Judgment]
- “I came to know from my grandfather and father that from ancient times, it has been the customary fiath 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 Dasrath in the TretaYug, which is called the ‘Garbh-grih...’” [Para 463 @ pgs. 478-479/Vol. I of the Impugned Judgment]

v. **OPW 13**

“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.” [Para 465 @ pg. 481/Vol. I of the Impugned Judgment]

vi. **DW 3/9**

“The Hindus so believe that Lord Rama was born under the mid dome of the three dome disputed structure...” [Para 1915 @ pg. 1205/Vol. I of the Impugned Judgment]

vii. **DW 3/12**

“I have so heard that this place is the birthplace of Lord Rama. Lord Rama was born at the place below the mid dome of the three dome structure.”[Para 1915 @ pg. 1205/Vol. I of the Impugned Judgment]

viii. **DW 3/3**

“Lord Rama was born at the place below the central dome of the three domed disputed building; such is the belief of Hindus.” [Para 4411 @ pg. 2810 /Vol. III of the Impugned Judgment]

ix. **DW 3/8**

“Lord Rama was born at the central part of the three domed disputed structure” [Para 4411 @ pg. 2812 /Vol. III of the Impugned Judgment]

x. **DW 3/12**

“The birth of Lord Rama took place beneath the mid dome of the three domes structure”[Para 4411 @ pg. 2813 /Vol. III of the Impugned Judgment]

xi. DW 3/18

"It is the faith and belief of Hindus that Lord Rama was born beneath the mid dome of the three domed disputed structure" [Para 4411 @ pg. 2816 /Vol. III of the Impugned Judgment]

xii. DW 20/2

"As per my faith and belief, the birth of Ramchandra Ji took place beneath the mid dome of the three domed structure" [Para 4411 @ pg. 2821/Vol. III of the Impugned Judgment]

C. FINDINGS IN THE IMPUGNED JUDGMENT

3. As mentioned above, the following findings were returned as regards to the place of birth of Lord Ram:-

i. Justice Khan:-

Since after construction of the mosque Hindus started treating/believing the site thereof as the exact birth place of Lord Ram. It has come in the oral evidence of several Hindus and some Muslims (discussed in detail in the judgment of brother S. Agarwal, J) that Hindus believed that the most precise place of birth of Lord Ram was the place beneath the Central dome of the Mosque. Accordingly, it is held that for some time before 1949 Hindus started to believe as such. [Pg. 103-104/Vol. I of the Impugned Judgment]

ii. Justice Sudhir Agarwal:-

"4412. A bare reading of all the above statements makes it very clear and categorical that the belief of Hindus by tradition was that birthplace of Lord Rama lie within the premises in dispute and was confined to the area under the central dome of three domed structure, i.e., the disputed structure in the inner courtyard." [Para 4412 @ Pg. 2827/Vol. III of the Impugned Judgment]

"4413. In arriving to this conclusion we do not find any difficulty since the pleadings in general and particular also do not detract us. When the Hindu parties have referred to the entire disputed site as a place of birth, this Court can always find out and record a finding for, instead of the entire area, a smaller area within the same premises. The pleadings are not to be read in a pedantic manner but the Court has to find out substance therein as to whether the parties knew their case or not. The evidence adduced by the parties and what the witnesses have said on behalf of Hindu parties fortify the case set up by the defendants." [Para 4413 @ Pg. 2827/Vol. III of the Impugned Judgment]

"4415. We are also of the view that once such belief gets concentrated to a particular point, and in totality of the facts, we also find no reason otherwise, it partakes the nature of an essential part of religion particularly when it relates to a matter which is of peculiar significance to a religion. It, therefore, stands on a different footing. Such an essential part of religion is constitutionally protected

under Article 25.” [Para 4415 @ Pg. 2827/Vol. III of the Impugned Judgment]

“4418. In view of the above discussion of the matter, we are satisfied and hold that the place of birth as believed and worshipped by Hindus is the area covered under the central dome of three domed structure, i.e., the disputed structure, in the inner courtyard of the premises in dispute. We answer all the three issues , i.e., issues no. 11(Suit-4), 1 (Suit-1) and 22 (Suit- 5) accordingly.” [Para 4418 @ Pg. 2828/Vol. III of the Impugned Judgment]

- iii. While Justice Sharma also held that the entire suit property is the birthplace of Lord Ram. [Pg. 3454/Vol. III of the Impugned Judgment]

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IN THE HON'BLE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2894 OF 2011 &

CIVIL APPEAL NO. 7226 OF 2011

IN THE MATTER OF:

MOHAMMAD HASHIM (DEAD) THROUGH LR

...APPELLANT

VERSUS

MAHANT SURESH DAS AND ORS.

...RESPONDENTS

**RESPONSE TO QUERIES BY HON'BLE MR. JUSTICE
BOBDE AND SUBMISSIONS ON WALLS, ASI REPORT 2003,
BY MS. MEENAKSHI ARORA, SENIOR COUNSEL**

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ADVOCATE ON RECORD:

MR. M.R.SHAMSHAD

IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2894 OF 2011 &
CIVIL APPEAL NO. 7226 OF 2011

IN THE MATTER OF:

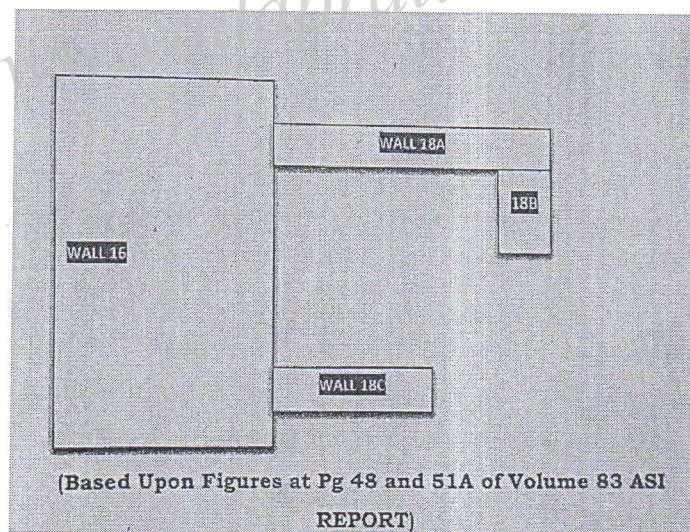
MOHAMMAD HASHIM (DEAD) THROUGH LR ...APPELLANT

VERSUS

MAHANT SURESH DAS AND ORS. ...RESPONDENTS

**QUERY BY HON'BLE JUSTICE BOBDE FOR A NOTE ON
EXCAVATION OF WALLS IN THE ASI REPORT, 2003**

1. In response to the query by Hon'ble Justice Bobde, following assertions made by the advocates for the Muslim parties, that the new diagram on Pg.41 [A-104] of Sh. C. S. Vaidyanathan, Senior Advocate not on record but created anew, with misleading results. The diagram is reproduced hereinunder for convenience:



2. The diagram at para 14.3 of the submissions of Sh. C S Vaidyanathan, Senior Advocate is a constructed depiction purportedly based on Pg. 48 [@ Pg. 68, Vol 83] and pg. 51A [Fig 3B @ Pg.72, Vol 83] of the ASI Report.
3. The depiction of Walls 18A, 18B and 18C at page 41 of the submissions of Mr. CS Vaidyanathan, Ld. Senior Advocate is, at best, an assumption.

4. The Objections to said depiction with regard to excavated portions are as follows:
- i. The depiction of Walls 18A, 18B and 18C in the said diagram is not borne out from the Key Plan of Structures [Fig 3A @ Pg. 70, Vol 83] in as much as, the entirety of Wall 18A, 18B and 18C as depicted at Pg. 41 have not been exposed/excavated by the ASI Team. Large parts of the depicted walls 18A, 18B and 18C have not been exposed or found and therefore can be no certainty as to the length and continuity of the said walls.
 - ii. A copy of the Key Plan of Structures showing Walls 16, 18A, 18B and 18C is annexed herewith and marked as ANNEXURE A, with the excavated portions of the aforesaid walls marked in "pink". The non-excavated portions of the walls which were projected by the ASI have been marked in "fluorescent". The wall/structure which is not a part of the aforesaid walls and has been attributed to the erstwhile mosque by the ASI, has been distinguished and marked in "green". The portions of the Wall 16 and 18A, 18B and 18C, which have not even been shown as projections by the ASI in Fig 3A, have not been marked.
 - iii. Further, Wall 18D, being a parallel wall to Wall 18C has not been explained nor sought to be attributed to the alleged Temple. Having to account for Wall 18D would not support the theory of a pillared hall.
 - iv. In so far as Wall 18B is concerned, a very small portion of the purported wall has been exposed and a major portion of the Wall 18B was not excavated or not found, as shown at Pg. 51A [Vol. 83] and hence there is no certainty of its existence.
 - v. The ASI reports excavation of Wall 16, 1.77 m wide, having a length of 50 m, on the western side of the Mosque, running from north to south, **which is largely unexposed in the middle**. Only a small portion of this 50 m long wall has been exposed in North and in South and ten lower brick courses formed the original structure and 4 brick courses were added later. It also claimed that the original 10 courses were plastered on the inner side after the raising by 4 brick courses in the second phase, both inner and outer side were plastered [Pg. 99, Vol 83]
 - vi. The ASI report qua walls 18 A, 18B and 18C has been objected to by the Muslim parties. The Expert Witnesses for the Muslims parties have stated that these walls are too narrow and hence could not have been load bearing walls.

5. The objections to the said depiction with regard to Wall 16 not being structurally connected to Walls 18A and 18C are as under:
 - i. The intersection of Walls 16 and 18A has been photographed and is on the record as Plate 55 of Vol II of the ASI Report titled 'Plates' [Pg. 62, Vol 85], a color copy of Plate 55 'Thin east-west running wall attached to the north-south wall in the southern area' is annexed herewith and marked as **ANNEXURE B**. As per the Key Plan of Structures, Fig. 3A at Pg. 70 of the Report [also tendered by Shri C.S. Vaidyanathan, Senior Advocate on 01.10.2019], the photograph can only be of the intersection between Wall 16 (running north-south) and Wall 18A (running east-west).
 - ii. Wall 16 is noticed by ASI to be 1.77 meters wide [Pg. 99, Vol 83], whereas Wall 18A, 18B and 18C are considerably narrower as may be seen from Plate 55 and the text of the Report as under:

"...This floor is traced within a thin wall enclosed with N/S wall forming the back and covering Trenches ZE1 to ZH1 in the northern area..." [2nd para, Pg. 58, Vol 83]

"...Another thin wall which is erected resting over the earlier floor makes an enclosure which is slightly smaller..." [3rd para, Pg. 58, Vol 83]
 - iii. The difference in style, structure and materials of construction of the two walls is apparent. From the photograph it can be seen that the inner face of Wall 16 is plastered. This plaster is present between the intersection of Walls 16 and 18A and therefore these walls cannot be taken to be structurally connected to each other. Wall 18A being considerably thinner and not structurally connected to Wall 16 could not have withstood structural load.
 - iv. Thus, walls 18A, 18B and 18C cannot be attributed to a 'Massive Structure'. These walls are not relied upon to arrive at the final conclusion of '*distinctive features found associated with temples of north India*'.
6. Further, Wall 16 cannot only be attributed to a Temple/Hindu Structure because it has niches.
 - i. The Report notes presence of recessed niches along the face of the Wall 16, both in the north and south exposed portion. [Pg. 101, 2nd line onwards, Vol 83]. Wall 16 is a north-south wall, west-facing wall which was plastered on the inner side, including the niches. These features are characteristic of a Kanati Mosque/Eidgah.

- ii. The ASI Report describes similar niches in the remains of the Babri Mosque (Disputed Structure):

"...There is a recess of 0.75 m depth and 2.10 m length in the wall 5 on the inner side..." [Pg. 75, 3rd line from the top, Vol 83]

"...Width of the wall is 1.70m and there is a recess in the middle of the wall, 0.70m deep and 2.50m length..."[Pg. 78, last para, Vol. 83]

- iii. The ASI Report, however, does not compare the niches in Wall 5 and Wall 12 of the demolished mosque with niches in Wall 16. The occurrence of these niches in Wall 16 is not attributed religious use by the ASI in its Report.

7. The High Court has not returned a finding on the contention/objections that Wall 16 could have been an Eidgah or a retaining wall or even the very foundation of the Babri Mosque itself.

- i. Idgah walls are built on the outskirts the habitation areas as it is intended to be used once a year for large congregational gathering. Pertinently, the ASI Report ascribes Wall 16 to being used as the foundation of the back wall (Wall-5) of the Babri Mosque. The report states:

"...However, the north-south wall of the Period VII-A is retained as foundation for the back wall..." [3rd para, 2nd line, Pg. 63, Vol. 83]

"...The wall 5 of the structure 3 was found resting directly (Pl. 24, Fig. 5) over an earlier plastered brick wall (wall 16) having a foundation of five to six courses of calcrete and sandstone blocks..."[6th line from the top, Pg. 75, Vol 83].

- ii. Expert Depositions on Wall 16 being an Idgah are as under:

- i. The experts who deposed for the Plaintiffs in Suit 4 have stated:

- PW 32, Supriya Verma [at Pg. 7068, Vol 44]: *'As an archaeologist who spent 47 days on the site and closely observed the excavation it was revealed to me that under the Babri masjid there was an Idgah or Kanati mosque...'*
- PW 30, Dr. R. C. Thakran [at Pg. 13135, Vol 128]: *'...15. That the way the ASI has distorted evidence to suit its 'temple theory' is shown by its treatment of the mihrab (arched recess) taq (niche) found in the western wall, which it turns into features of its imagined temple. On pg. 68 of the ASI's Report are described two niches in the inner side*

of Wall 16 at the interval of 4.60 meters in trenches E6 and E7. These were 0.20 metre and 1 metre wide. A similar niche was found in trench ZE2 in the northern area and these have been attributed to the first phase of construction of the so called 'massive structure' associated with Wall 16. Such niches, along the inner face of a western wall are again characteristic of Mosque/Eidgah construction...'

ii. Even the experts who deposed in support of the case in Suit 5 have stated that the said Wall, i.e. Wall 16 was a retaining/protective wall and have also deposed with respect to the period to which it possibly belongs.

- **OPW-17, Dr. R. Nagaswami: [@p 2768, Vol 27]** '*...and construction of a protective wall i.e wall 17 and another damage that was suffered around 1080 AD that called for another protective wall i.e. wall 16 built around to protect what...*'
- **OPW-17, Dr. R. Nagaswami: [@p 2940, Vol 27]** '*...Wall 17 had no connection with the earlier structure which was said to have been demolished in 1030 AD. However, wall 16 and 17 both have connection with the second temple structure which was said to have been demolished in 1060 AD. Both walls 16 and 17 belong to 11th century period, but as stated earlier, wall 17 is earlier to wall 16. The ASI has in its report assigned the wall 17 of the 11th century and wall 16 had different phases to the 12th century. As per my knowledge, the ASI has assigned wall 16 of 12th century. But I defer with the view taken by the ASI and as per my opinion, wall 16 belongs to 11th century but there may be a difference of 10 to 30 years as I have said earlier...*'
- **DW-20/5, Dr Jayanti P. Srivastava: [@ p 11826, Vol 62]:** '*Wall 16 was built around 1130 AD when pillared hall was erected in front of the shrines...After construction of wall 17, the structures standing below floor 3, towards east of the wall, got protected from the flood and to further strengthen it, wall 16 was constructed.*'

8. According to the Report, a band of decorative bricks from previous wall 17 was reused in Wall 16. The Report further states that brick Wall No. 17, 1.86 m wide has same length as wall 16, runs in a lower level than that of wall 17, almost parallel in northern area and comes out below wall 16 in southern area, with decorated stone blocks on its top. It is presumed to have served as foundation to wall 16 [Pg. 101, Vol 83]. The Report does not clarify that as to why the 'Massive structure below the

Disputed Structure' to which Wall 16 is ascribed to would use material from the earlier Wall 17. Thus, it can be inferred that the practice of the time was that material as may be lying around a site was used, particularly in portions of the structure that would not be visible, such as foundations.

9. Wall 17 has not been attributed to the 'Massive Structure below the Disputed Site' by the ASI. Rather, the report notes that Wall 17 ran under Wall 16 at a slight deviation in horizontal axis as well as a variation of 0.33 meters with respect to the vertical axis.

"The wall 17 which is a brick wall was found to be 1.86 m wide having the maximum of four courses in the northern area (Pl. 50) and six courses in southern area. It was found to be of the same length as that of wall 16, though having a slight deviation in its orientation in the cardinal direction. Thus, it runs in the lower level than that of wall 16, almost parallel to it in the northern area and comes out below the wall 16 in the southern area as noticed in trench D7 where in the northern part it is projected 0.74 m below wall 16 and in the southern part it is projected 1.07 m below wall 16 having provided decorated stone blocks on its top and also refixed in its veneer (Pl. 51), probably at the time of the construction of wall 16 to serve as its foundation" [2nd para, Pg. 101, Vol 83]

AYODHYA-I (2002-03)
DISTT. FAIZABAD (U.P.)
KEY PLAN OF STRUCTURES

SCALE 1 0 5 METRE

INDEX

STRUCTURE - Str.
WALL - W
PILLAR BASE - PB.

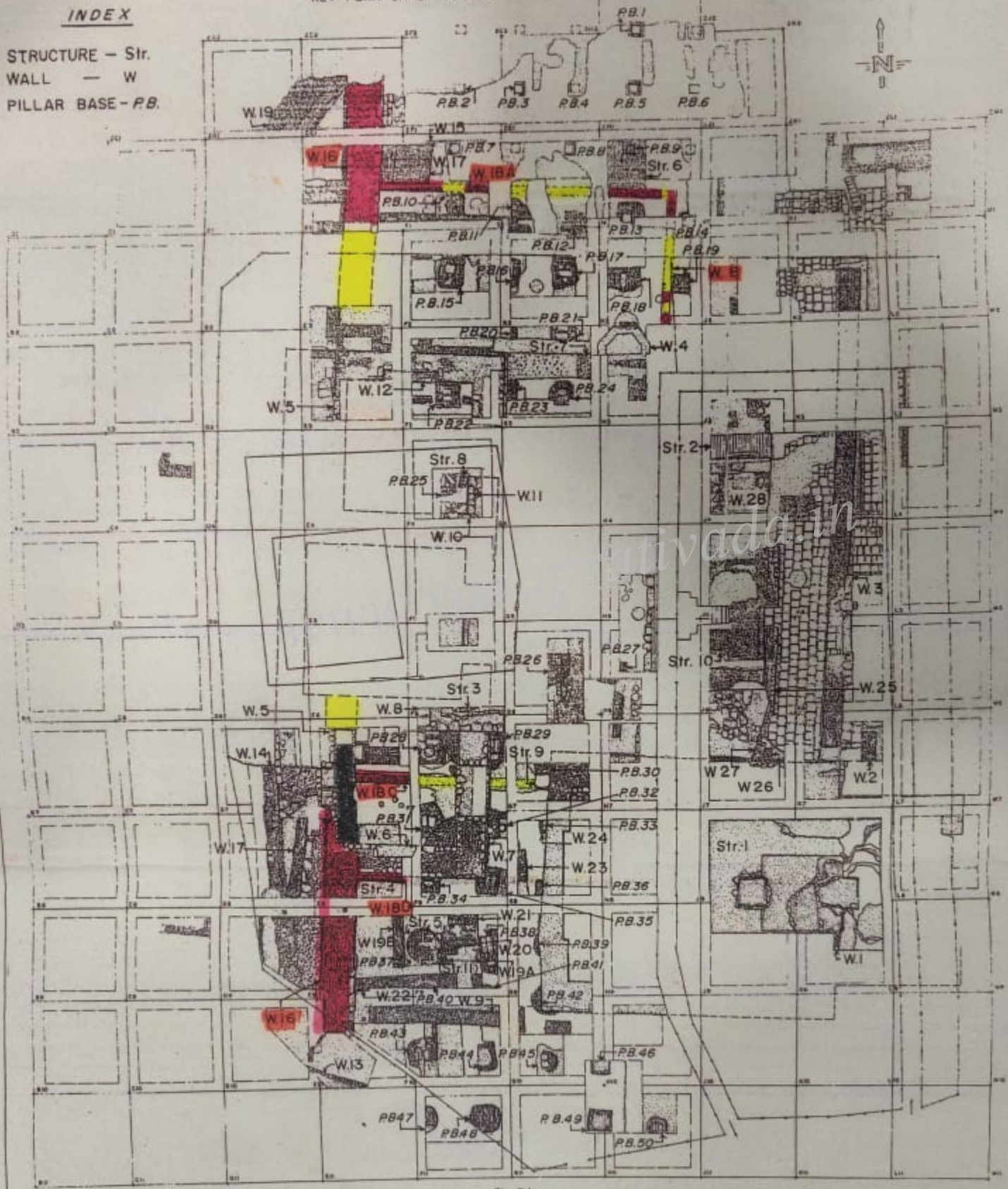


Fig-3A

- PROJECTIONS ; NOT EXCAVATED
- PORTIONS OF WALLS 16, 18A, 18B, 18C and 18D FOUND DURING EXCAVATIONS
- STRUCTURE/WALL SEEMINGLY RESTING ON WALL 16 ; EXCAVATED.

8

PLATE

ANNEXURE - B



55. Thin east-west running wall attached to the north-south wall in the southern area.

TAB – 3

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IN THE SUPREME COURT OF INDIA

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OTHER CONNECTED CIVIL APPEALS

**NOTE AS PER THE DIRECTION OF HON'BLE THE
CHIEF JUSTICE OF INDIA:**

NOTE ON MISTRANSLATIONS AND MISREADINGS

BY MOHD. NIZAMUDDIN PASHA,ADVOCATE

MISTRANSLATIONS AND MISREADINGS

INSCRIPTIONS FOUND ON BABRI MASJID

1. As directed by the Hon'ble the Chief Justice of India, a written note explaining the mistranslations is being submitted.
2. There were some Arabic inscriptions found in the Masjid, which were articles of faith of Muslims (the *kalimah* – There is no God but Allah and Mohammad is His Prophet; *bismillah* – I begin in the name of Allah; and the word “Allah” appearing at two places). These are not relevant for the purposes of this note.
3. There were also two Persian inscriptions found in Babri Masjid, which are relevant for the present purposes.
 - (a) One inscription was found on the right hand-side (southern side) of the pulpit (*mimbar*) inside the structure,
 - (b) One inscription was found above the entrance below the middle dome of the structure.
4. The majority decision of the Hon'ble High Court on this point is reflected in **para 1484, page 1013, Vol. 1 of the Impugned Judgement** where the court has found serious doubt to exist over the genuineness and authenticity of the inscriptions and the time when they were fixed on the building.

THEORY OF DESTRUCTION OF INSCRIPTIONS IN THE RIOTS OF 1934

5. It is respectfully submitted that Hon'ble Mr. Justice Sudhir Agarwal appears to have committed certain errors in this analysis of the inscriptions. The High Court when discussing the two Persian inscriptions relies on the theory that some inscriptions were destroyed in the riot of 1934 and were reconstructed. This theory was suggested by M/s Ashraf Hussain and Z.A. Desai in “Epigraphia Indica-Arabic & Persian Supplement 1964 and 1965” published by the ASI. However, the High Court glosses over the fact that even these authors only suggest that the inscriptions located on both sides of the pulpit (or *mimbar*) inside the structure were destroyed and reconstructed. Even they have not doubted that the inscription located over the entrance below the middle dome of the mosque was the original. The following extract of

Epigraphia India given at **para 1446, p. 991, Vol. 1 of the Impugned Judgement** is instructive:

“The mosque contains a number of inscriptions. On the eastern façade is a chhajja, below which appears a Quranic text and above, an inscription in Persian verse. On the central mihrab are carved religious texts such as the Kalimah (First Creed), etc. On the southern face of the pulpit was previously fixed a stone slab bearing a Persian inscription in verse. There was also another inscription in Persian verse built up into the right hand side wall of the pulpit. Of these, the last-mentioned two epigraphs have disappeared. They were reportedly destroyed in the communal vandalism in 1934 A.D....” (emphasis supplied)

6. It is clear that the inscriptions mentioned here are supposed to have been on the left and right of the pulpit (*mimbar*) inside the mosque. This is important because it is then not in dispute by any of the sources relied upon by the High Court that the inscription above the entrance was original and continued in place till it was destroyed in 1992.

COMPARISON OF INSCRIPTIONS

7. The inscription on the right / southern side of the pulpit (*mimbar*) comprised six lines of Persian verse. The inscription above the entrance of the mosque comprised 10 lines, the first line being *bismillah* or “I begin in the name of Allah” in Arabic and the last line being the signature and sign-off of the calligrapher. The remaining 8 lines are in Persian verse, each line being in the form of a couplet.
8. The 6 lines of Persian verse next to the pulpit and the 8 lines of Persian verse over the entrance are important for the present purposes and are dealt with below. (Note: Each of the 8 couplet is broken up into two for purposes of comparison.)
9. The Hon'ble High Court has relied upon the following authors for the purposes of comparison and analysis of the inscriptions:
 - (a) A. Fuhrer (See **Impugned Order, para 1436, p. 984**)
 - (b) A.S. Beveridge (See **Impugned Order, para 1441, p. 987**)
 - (c) Ashraf Hussain and Z.A. Desai (See **Impugned Order, para 1445, p. 989**)

- (d) Court Commissioner's Inspection Note filed in Regular Suit No. 29 of 1945 (*Shia Central Board of Waqf v. Sunni Central Board of Waqf*) (See **Impugned Order, para 1478, p. 1009**)

THE INSCRIPTION OVER THE ENTRANCE BELOW THE MIDDLE DOME OF THE MOSQUE

10. This inscription is of particular importance as this inscription is agreed by the authors to have continued in original from the time of construction of the mosque.
11. In **para 1461, p. 1003, Vol. 1 of the Impugned Judgement**, Justice Sudhir Agarwal has compared the reports of Fuhrer, Beveridge and Ashraf Hussain of the inscription found above the entrance beneath the central dome. A tabular representation* of the said comparison is given below:

No.	Fuhrer	Beveridge	Ashraf Hussain
1a.	बनामे आं कि.....	बनामे आंकि दाना हस्त अकबर	बनाम आंकि ऊ दानास्त अकबर
1b.	कुनद खालिक बकलमे जावेदानी	कि खालिक जुमला आलम लामकानी	कि खालिक जुमला आलम लामकानी
2a.	Completely defaced	दूरुदे मुस्तफा बाद अज़ सतायश	दूरुदे मुस्तफा बाद अज़ सनायश
2b.	Completely defaced	कि सरवर अंबिया-ए-दो जहानी	कि सरवर अंबिया जुब्दा जहानी
3a.	Completely defaced	फसाना दर जहां बाबर कलन्दर	फसाना दर जहां बाबर कलन्दर
3b.	Completely defaced	कि शुद दर दौरे गीती कामरानी	कि शुद दर दौरे गीती कामरानी
4a.	चुना शाहंशाहे मशहूरे अकलीम		चुनां कश हफ्त किशवर दर गिरफता
4b.	ज़मी रा चूं मिसाले शादमानी		ज़मीं रा चूं मिसाले आसमानी
5a.	दरा हज़रत यके मीरे मुअज़्ज़म		दरां हज़रत यके मीरे मुअज़्ज़म
5b.	कि खाकान दौलतो व फ़ग़फ़ूरे-सानी		कि नामश मीर बाकी आस्फ सानी
6a.			मुशीरे सलतनत तदबीर मुलकश
6b.			कर्जी मस्जिदो हिसार हस्त बानी
7a.			खुदाया दर जहां पाइन्दा बादा
7b.			कि चित्रो तख्तो बख्तो ज़िन्दगानी
8a.	बिनाये महदे दीं तारीखें मैमुं		बिनाये अहदे ज़ीं तारीख मैमुं
8b.	नुह सद सी बुवद हिजरत बदानी		कि नूह सद सी पंज बुवद निशानी

*For translation see Appendix 1

12. It appears that the Ld. Judge has committed an error in that he has not realized that the order in which the verses appear in Fuhrer's version is different from the order in which they are arranged in the other versions and so while there are differences in Fuhrer's version, the differences are not as stark as the Ld. Judge has made them out to be. In particular, items 3a and 3b in the above table shown as "Completely defaced" and items 6a, 6b, 7a and 7b shown to be missing in Fuhrer's version are actually present and can be seen on **p. 986 of Vol. 1 of the Impugned Order** where Fuhrer's inscription is extracted. A table showing the correct comparison, with correspondences between the versions highlighted in yellow was given on p. 120-121 of the **"Written Submissions"** marked **A-97** and the same is reproduced as Appendix 1 herewith for ease of reference along with the translations of the same used by the High Court in the Impugned Order.
13. Even a cursory analysis of this table reveals that both the inscriptions in the versions of Beveridge, Ashraf Hussain & Z.A. Desai and the Commissioner's Report in the 1945 Suit are almost identical. This is particularly important as Beveridge's inscription has been published as part of her book in 1921 i.e. before the riots of 1934 and they correspond exactly with the report of the Commissioner in the 1945 suit as well as the inscriptions reported by Hussain/Desai (1967). The only difference being that Beveridge states in her book that she was unable to read the remaining verses in the inscription over the entrance beneath the central dome and reproduces only 3 verses out of the 8 reported by others.
14. The report of the inscription over the entrance beneath the central dome given by Fuhrer corresponds with the other inscriptions in the following material particulars:
 - (a) mention of Babur as the patron,
 - (b) mention that what is being dedicated in a "masjid".
15. The only material particular relevant to this case in which Fuhrer's version of this inscription is different is in the year of construction. Unlike the inscription on the right / southern side of the pulpit, the inscription over the entrance beneath the central dome of the structure gives the year not as a calculation but states the year itself in words. Beveridge, Hussain/Desai and 1945 Suit record this as "Nine hundred thirty five" (Nuh sadd si panj) while Fuhrer

records it as "Nine hundred thirty" (Nuh sadd si). Fuhrer omits the word "five" (panj).

16. However, this controversy is easily resolved because in the photograph of the inscription submitted by Mr. Vaidyanathan as **Photo No. 49 in A-20**, the words "thirty five" (si panj) are still visible. Here it must again be noted that this photograph is of the original inscription as only the one inside next to the pulpit is supposed by any account to have been destroyed in 1934. A scanned and enlarged portion of this photograph along with a sample showing the word "thirty five" written in Persian was given at p. 119 of the **"Written Submissions"** marked **A-97** and the same is reproduced as Appendix 2 herewith for ease of reference. It is clearly seen that even in the photographs forming part of the Court record, the word "thirty five" is clearly visible, laying to rest the controversy caused by Fuhrer's omission of the word "five".
17. Therefore, from any standpoint, it is clearly established that:
 - (a) Babur commissioned the construction of the structure,
 - (b) the structure was dedicated as a "masjid",
 - (c) the structure was constructed in 935 Hijri i.e. 1528 A.D.
18. While the differences in Fuhrer's version are not as stark as the Hon'ble High Court has misdirected itself to believe they are, however, there still exist some differences between the versions of the inscription given by Fuhrer on the one hand and Beveridge, Hussain/Desai and the Commissioner's Report in the 1945 suit on the other. (For a comparison of the inscriptions along with English translations, please see Appendix 1.)
19. In the above background, it is relevant to mention that in A. Fuhrer's book *"The Sharqi Architecture of Jaunpur: With Notes on Zafarabad, Sahet-Mahet and Other Places in the North-Western Provinces and Oudh"*, which was exhibited before the High Court and from which the present inscriptions have been extracted by the High Court, Fuhrer himself mentions in the context of the inscription found to the right / southern side of the pulpit (*mimbar*) that *"The letters of this inscription have been mixed together by the copyist, and are therefore very indistinct."* Despite the inscription being "very indistinct", Fuhrer manages to reproduce all 6 Persian verses in this inscription and gives a version that does not match any of

the other three versions available before the Court. This itself casts a doubt on the authenticity of Fuhrer's version.

20. Further, in this context, it is relevant to note that A. Fuhrer was dismissed from the Archeological Survey of India in 1898 inter alia for falsifying inscriptions, submitting false reports and adopting unmethodical and unbusinesslike practices. The inquiry report against him was published for the first time as part of an article in the Journal of the Royal Asiatic Society in January 2012. In the report, Fuhrer's reports were described as "a series of palpable falsehoods" and his methods as "systematic lying". Fuhrer has been variously described in articles in the Journal of the Royal Asiatic Society as a "con-artist", his reports on inscriptions as "bogus" and "scandalous forgery" and his archeological career "a series of audacious scholarly deceptions". (See (a) p. 71 at 83, 93 and (b) p. 57 at 69 of the Written Submissions marked **A-97**).
21. It is evident from the above that Fuhrer's versions cannot be relied upon, particularly where all the other versions are almost identical and Fuhrer's is the only one which stands alone.

THE INSCRIPTION TO THE RIGHT / SOUTHERN SIDE OF THE PULPIT INSIDE THE MOSQUE

22. All of Beveridge (1921), Hussain/Desai (1967-68) and the Commissioners Report in the 1945 Suit agree on this inscription so it is of little importance that Ashraf Hussain believes that this was destroyed and replaced in 1934 as versions before and after 1934 correspond fully with the exception of Fuhrer, who's work has been discredited by historians.
23. In this inscription, the date has to be calculated from the alphabets of a particular phrase, with each alphabet in Persian being ascribed a particular number. The difference in calculation arises depending on whether one reads the word "buwad" (meaning was/being/remaining) as part of the leading sentence or part of the phrase to be used for calculation. This is described by the difference in placement of the colon in the translation of the Persian verse given below:
 - (a) It became manifest when I said it was: "an everlasting bounty"
 - (b) It became manifest when I said: "it was an everlasting bounty"

24. The phrase at (a) above yields 923 Hijri or 1516 AD as the year of construction while the phrase at (b) above yields 935 Hijri or 1528 AD as the year of construction.

CONFUSION REGARDING THE NAME OF MIR BAQI

25. Mir Baqi's titles/suffixes in Babarnama are as follows:
- a. Baqi Sharghwal – “high official of Central Asian sovereigns, who is supreme over all qazis and mullah”. (See “**Baburnama**”, translated by A.S. Beveridge, 1921, p. 463)
 - b. Baqi Mingbashi – Commander of a thousand men (See “**Baburnama**”, translated by A.S. Beveridge, 1921, p. 590)
 - c. Baqi Tashkinti – Hailing of Tashkent (See “**Baburnama**”, translated by A.S. Beveridge, 1921, p. 601, 684)
26. It is submitted that none of these are inter se contradictory as they pertain to different aspects. “Sharghwal” is a title indicating position in the religious hierarchy, “Mingbashi” is a title indicating position in the army, whereas “Tashkinti” is an indication of the city of origin or birth.
27. The contradiction that was canvassed by the Hindu side and which is noted by High Court in the Impugned Order in **para 1482 p. 1013 of the Impugned Judgement** was that Mir Baqi is simultaneously mentioned as “Tashkinti” and “Isfahani”, and since those are different cities in different countries, it could not be a reference to the same person. However, it is submitted that the words “Mir Baqi Asif Sani” appearing on the inscription above the door of Babri Masjid appears to have been misread by the Ld. District Judge, Faizabad in his order. This error occurred despite the fact that the inscription is otherwise correctly recorded in the Commissioner's Report in the same suit of 1945 as “Mir Baqi Asif Sani”. (See **Impugned Judgement, para 1478, p. 1012, Vol 1.**) This the Ld. District Judge, Faizabad misread as “Isfahani” in his order dated March 30, 1946 in the suit between the Shia Waqf Board and Sunni Waqf Board causing the confusion.

**MISTRANSLATION OF COMPLAINT DATED NOVEMBER 30, 1858
SUBMITTED BY SYED MOHD. KHATEEB, MUAZZIN, MASJID BABRI**

28. There appears to have been a mistranslation of complaint dated November 30, 1858 submitted by Syed Mohd. Khateeb, Muazzin, Masjid Babri reproduced at, **para 2317, p. 1363, Vol 2 of the Impugned Judgement.**
29. The sentence appearing in Hindi on **p. 1364, Vol 2 of the Impugned Judgement** has been broken up into three sentences in the English translation giving rise to an altogether different and illogical meaning whereby it appears that the Muslim parties are admitting that Hindus are in possession for hundreds of years but are asking for their removal. The Hindi and English versions of the sentence given in the Impugned Judgement are reproduced below:

“व मज़मून इम्तियाज़ वाद्शाही से साफ़ मुतरश्शह है कि वहीं पर कोई फ़रीक बग़रज़ करने बना देगा (अपठनीय) अगर असबाबन बहादुरी करेगा तो सरकार से सज़ायाब होगा जनाब आली मुक़ाम ग़ौर का है मस्जिद मुक़ाम इबादत मुसलमानान है न कि बख़ेलाफ़ उस के बवज़ेह हुनूद की व साबिक में क़बूल में अलमदारी सरकार मुक़ाम जनम स्थान सदहा बरस से निशान पड़ा रहता था व अहले हुनूद पूजा करते थे।”

“You are the master of both the parties since the Shahi era (sic) if any person constructs forcibly he would be punished by your honour. Kindly consider the fact that Masjid is a place of worship of the Muslims and not that of Hindus. Previously the symbol of Janamasthan had been there for hundreds of years and Hindus did Puja”

30. The correct translation without the added period marks to break the sentence is given below:

“It is evident from the clear words of the Shah that if any person constructs forcibly he would be punished by the government and your honour may consider the fact that Masjid is a place of worship of the Muslims and not the contrary position that previously the symbol of Jananasthan had been there for hundreds of years and Hindus used to perform puja.”

31. From the above, it is apparent that there is no admission by the Muslims parties as sought to be made out.

APPENDIX 1

No.	Fuhrer (1889)	Beveridge (1921)	Z.A. Desai and Ashraf Hussain (1964)	Commissioner's Report in 1945 Suit
	First Inscription (Right of the Mehrab)			
1.	बमशाये बाबर खदयू जहां	बफरमूद-ए-शाहे बाबर कि अदलश	बफरमूद-ए-शाह बाबर कि अदलश	ब फरमूदये शाह बाबर कि अदलश
2.	बशने कि बा काख गरदू इनां	बिनाइस्त बा-काख गरदू मुलाकी	बिनाइस्त बा-काख गरदू मुलाकी	बिनायेस्त ता काखे गर्दू मुलाकी
3.	बिना कर्दा-ए-खान-ए-पायेदार	बिना कर्द-ए-महबते कुदसियां रा	बिना कर्दह ई महबते कुदसियां रा	बिना कर्द ई महबते कुदसियां
4.	अमीरे सआदत निशां मीर खां	अमीरे सआदत निशान मीर बाकी	अमीरे सआदत निशान मीर बाकी	अमीरे सआदत निशान मीर बाकी
5.	बमानद हमेशा चुना बनियश	बुवद खैरे बाकी व साले बिनायश	बुवद खैरे बाकी व साले बिनाइश	बुवद खैरे बाकी चू साले बिनाइश
6.	चुना शहरियरो ज़मीनो ज़मां	अयां शुद चू गुफ्तम बुवद खैर बाकी	अयां शुद चू गुफ्तम बुवद खैर बाकी	अयां शुद कि गुफ्तम बुवद खैर बाकी
	Second Inscription (over the entry door)			
1a.	बनामे आं कि.....	बनामे आंकि दाना हस्त अकबर	बनाम आंकि ऊ दानास्त अकबर	बनामे आंकि ऊ दानास्त अकबर
1b.	कुनद खालिक बकलमे जावेदानी	कि खालिक जुमला आलम लामकानी	कि खालिक जुमला आलम लामकानी	कि खालिक जुमला आलम लामकानी
2a.	.....	दूरुदे मुस्तफा बाद अज़ सतायश	दूरुदे मुस्तफा बाद अज़ सनायश	दूरुदे मुस्तफा बाद अज़ सनायश
2b.	.....	कि सरवर अंबिया-ए-दो जहानी	कि सरवर अंबिया जुब्दा जहानी	कि सरवर अंबिया जुब्दा जहानी
3a.	फशनाद दर जहां बाबर गुले खैर	फसाना दर जहां बाबर कलन्दर	फसाना दर जहां बाबर कलन्दर	फसाना दर जहां बाबर कलन्दर
3b.	कुनद दर दौरे गेती कामरानी	कि शुद दर दौरे गीती कामरानी	कि शुद दर दौरे गीती कामरानी	कि शुद दर दौरे गीती कामरानी
4a.	चुना शाहंशाहे मशहूरे अकलीम		चुनां कश हफ्त किशवर दर गिरफता	चुनां कश हफ्त किशवर दर गिरफता
4b.	ज़मी रा चूं मिसाले शादमानी		ज़मीं रा चू मिसाले आसमानी	ज़मीं रा चूं मिसाले आसमानी
5a.	दरा हज़रत यके मीरे मुअज़्ज़म		दरां हज़रत यके मीरे मुअज़्ज़म	दरां हज़रत यके मीरे मुअज़्ज़म

5b.	कि खाकान दौलतो व फ़ग़फ़ूरे-सानी		कि नामश मीर बाकी आस्फ सानी	कि नामश मीर बाकी आस्फ सानी
6a.	मुशीरे सलतनत तदबीरे मुलकश		मुशीरे सलतनत तदबीर मुलकश	मुशीरे सलतनत तदबीर मुलकश
6b.	कर्जी मस्जिद हिसारे हस्त बानी		कर्जी मस्जिदो हिसार हस्त बानी	कर्जी मस्जिदो हिसार हस्त बानी
7a.	खुदाया हर जहां बा शाह बाद़ा		खुदाया दर जहां पाइन्दा बाद़ा	खुदाया दर जहां पाइन्दा बाद़ा
7b.	बचित्रों तख्तों बख्ते ज़िन्दगानी		कि चित्रो तख्तो बख्तो ज़िन्दगानी	कि चित्रो तख्तो बख्तो ज़िन्दगानी
8a.	बिनाये महदे दीं तारीखें मैमूं		बिनाये अहदे ज़ीं तारीख मैमूं	बिनाये अहदे ज़ीं तारीख मैमूं
8b.	नुह सद सी बुवद हिजरत बदानी		कि नूह सद सी पंज बुवद निशानी	कि नूह सद सी पंज बुवद निशानी

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ENGLISH TRANSLATION (as given in the Impugned Judgement)

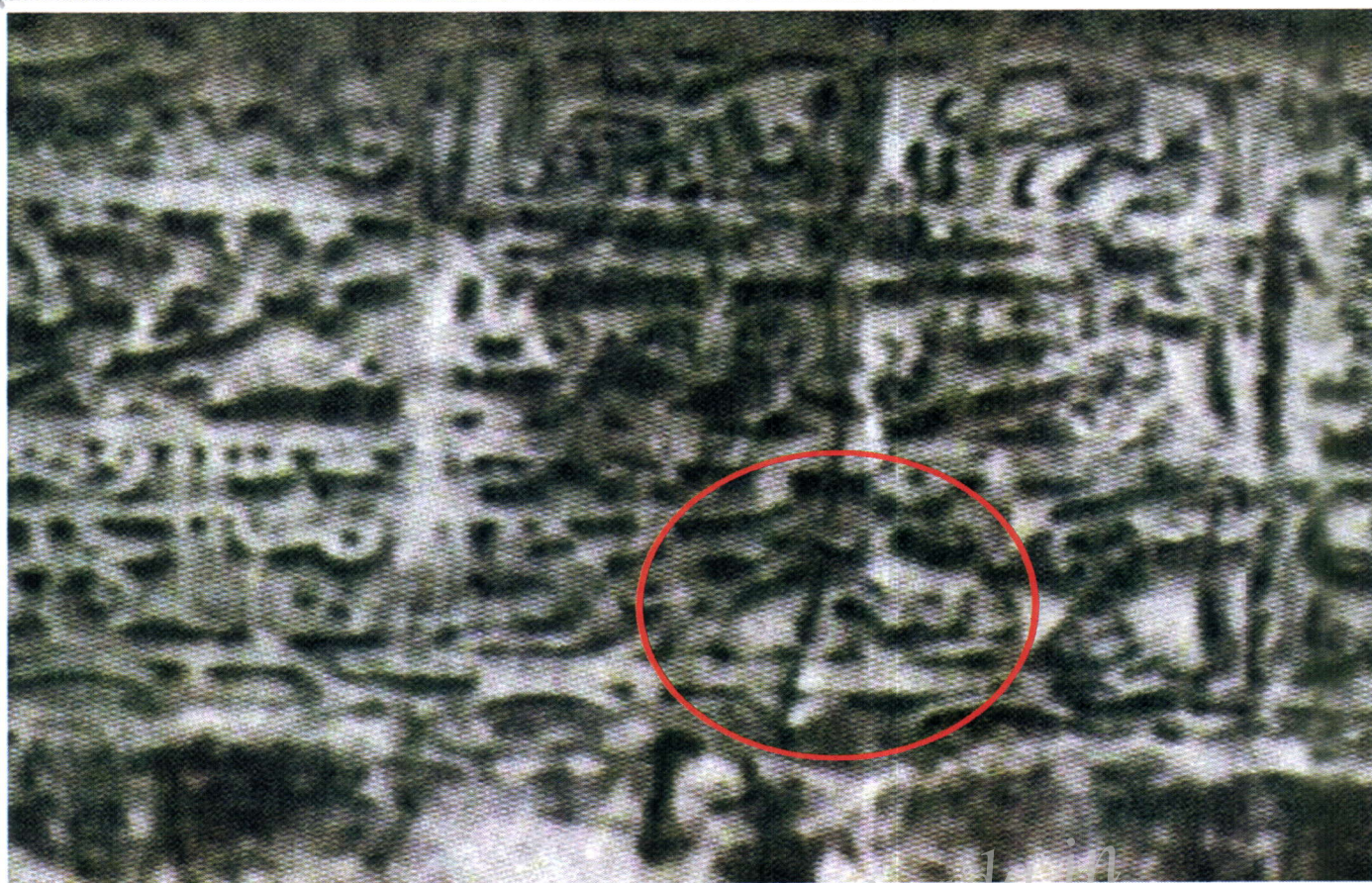
No.	Fuhrer (1889)	Beveridge (1921)	Z.A. Desai and Ashraf Hussain (1964)	Commissioner's Report in 1945 Suit
First Inscription (Right of the Mehrab)				
1.	By the order of Babar, the kind of the world,	By the command of the Emperor Babar whose justice	By the order of king Babar whose justice	By the order of king Babar whose justice
2.	This firmament-like, lofty	is an edifice reaching up to the very heights of heavens.	is an edifice meeting the palace of the sky (i.e. as high as the sky).	is an edifice meeting the palace of the sky (i.e. as high as the sky).
3.	Strong building was erected.	This alighting place of angels was built	This descending place of angels was built	This descending place of angels was built
4.	By the auspicious noble Mir Khan.	by the good-hearted Mir Baqi.	by the fortunate noble Mir Baqi.	by the fortunate noble Mir Baqi.
5.	May ever remain such a foundation,	It will remain an everlasting bounty and hence the date of its erection	It will remain an everlasting bounty and (hence) the date of its erection	It will remain an everlasting bounty and (hence) the date of its erection
6.	And such a king of the world.	became manifest from my words: It will remain an everlasting bounty.	became manifest from my words: It will remain an everlasting bounty.	became manifest from my words: It will remain an everlasting bounty.
Second Inscription (over the entry door)				
1a.	In the name of him who...;	In the name of One who is Great (and) Wise (and)	In the name of One who is Wise, Great (and)	In the name of One who is Wise, Great and
1b.	may God perpetually keep him in the world	who is the creator of the whole world and is free from the bondage of space.	Creator of all the universe and is spaceless.	Creator of all the universe and is spaceless.

2a.	.....	After his praise, peace and blessings be on Prophet Muhammad,	After his praise, blessings be upon the Chosen one (i.e. the Prophet),	After his praise, blessings be upon the Chosen one (i.e. the Prophet),
2b.	.....	who is the head of all the Prophets in both the worlds.	who is the head of prophets and best in the world.	who is the head of Prophets and best in the world.
3a.	May Babar always pour the flowers of happiness	In the world, it is widely talked about Qalandar Babur	The Qalandar-like (i.e. truthful) Babur has become celebrated (like a story) in the world,	The Qalandar like Babar has attained fame in the whole world,
3b.	and may always remain successful	that he is a successful emperor.	since (in his time) the world has achieved prosperity.	to the effect that he has been a successful emperor.
4a.	Such a sovereign who is famous in the world,		(He is) such (an emperor) as has embraced (i.e. conquered) all the seven climes of the	He is such an emperor as has conquered all the seven climes of the
4b.	and in person of delight for the world.		world in the manner of the sky.	world and also captured the earth as in case of sky.
5a.	In his presence one of the grandees who is		In his court, there was a magnificent noble,	In that royal court, there was a magnificent noble,
5b.	another king of Turkey and China.		named Mir Baqi the second Asaf	named Mir Baqi the second Asaf
6a.	His counsellor and minister		Councilor of his Government and administrator of his kingdom,	(He is) councilor of his Government and administrator of his kingdom,
6b.	who is the founder of his fort masjid		who is the founder of this mosque and fort-wall	who is the founder of this mosque and fort-wall
7a.	O God! May always remain		O God, may he live for ever in the world,	O! God, may he live for ever in this world,
7b.	the crown, throne and life with the king		with fortune and life and crown and throne.	with crown and throne and fortune and life.
8a.	Laid this religious foundation		The time of the building is this auspicious date,	The time of this building of this age is this auspicious date,

8b.	In the auspicious Hijra 930		of which the indication is nine hundred (and) thirty five (AH 935 = 1528-29 AD)	of which the indication is 935.
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سیخ

(Thirty five)

TAB – 4

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 10866-10867 OF 2010

IN THE MATTER OF: -

M. Siddiq (D) Thr. Lrs.

... Appellant

VERSUS

Mahant Suresh Das &Ors. etc. etc.

... Respondents

AND

OTHER CONNECTED CIVIL APPEALS

RESPONSE TO QUERY RAISED BY HON'BLE DR.
JUSTICE D.Y. CHANDRACHUD:

**NOTE ON THE PLEA OF ADVERSE POSSESSION IN
THE PLAINT OF OOS NO. 4 of 1989**

BY DR. RAJEEV DHAVAN, SENIOR ADVOCATE

ADVOCATE ON RECORD: EJAZ MAQBOOL

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**NOTE ON THE PLEA OF ADVERSE POSSESSION IN THE PLAINT OF OOS NO. 4
of 1989**

I. Preliminary

1. A query was raised by Hon'ble Dr. Justice D.Y. Chandrachud regarding the plea of Adverse Possession taken by the Plaintiffs in the Complaint of Suit 4. The query raised was that since the plea of adverse possession had been taken by Muslim Parties, by implication it meant that the title vested in someone else, namely the Hindu Parties.
2. It is submitted that:-
 - i. The main plea of the Muslim parties was that:-
 - a) No temple whatsoever was destroyed, for building the Babri Mosque and that the mosque was built on vacant land. **[Para 24 & Para 24B @ pgs. 282-283/Vol. 72- Pleadings Volume]**
 - b) The Babri Mosque was being continuously used by the Muslims for offering of Namaz since the time it was built in 1528, until its desecration on December 22/23, 1949. **[Para 11 @ pgs. 88-89/Vol. 72-Pleadings Volume]**
 - ii. The plea of Adverse Possession was only taken in alternate. The relevant portion of the complaint, where the said plea is taken is as follows:-

"That assuming, though not admitting, that at one time there existed a Hindu Temple as alleged by the Defendants representatives of the Hindus on the site of which emperor Babar built the mosque, some 433 years ago, the Muslims, by virtue of their long exclusive and continuous possession beginning from the time the mosque was built and continuing right upto the time some mosque, some mischievous persons entered the mosque and desecrated the mosque as alleged in the preceding paragraphs of the complaint, the Muslims perfected their title by adverse possession and the right, title or interest of the temple and of the Hindu public if any extinguished" **[Para 11(a) @ pg. 89-Vol. 72 of the Pleadings Volume]**
3. It is thus submitted that the Plea of Adverse Possession was an alternative submission on a demurrer that since possession was from 1528, any previous possession was thus invalidated.
4. It is further submitted that this does not mean that there was a previous owner in possession with title or in possession.

II. Alternative Plea of Adverse possession will operate only when the Prior plea of title is renounced

5. In *Karnataka Board of Wakf v. Govt. of India* (2004) 10 SCC 779, a suit was filed by the Govt. of India, seeking a declaration to be the owner of the properties on two grounds:-
 - i. The Government had become the owner of the suit property as the same was acquired under the Ancient Monuments Preservation Act, 1904.
 - ii. Alternatively, it was claimed that the Government had perfected its title by Adverse Possession.

6. The Trial Court gave a finding that the Government of India had acquired these properties as ancient monuments as long back as 1900 and were preserving them as historical monuments and the Government remained in possession and enjoyment of the said property. Subsequently, on appeal, the Hon'ble High Court affirmed the findings of the trial Court and additionally also observed that the Government was entitled to the relief even on the basis of adverse possession.
7. On Appeal, the Appellant- Karnataka Wakf Board contended that since the plea of title and plea of adverse possession taken by the Government were mutually exclusive, therefore the appeal ought to be allowed.
8. The Hon'ble Supreme Court took the view that though the plea of title and adverse possession were mutually inconsistent and the latter does not begin to operate until the former is renounced. It was held that the Government had already obtained title under the Ancient Monuments Act. This Hon'ble Court further clarified that when the element of government's possession of the suit property to the exclusion of the Wakf Board with the animus to possess it was not specifically pleaded or proved, nor were the aspects of earlier title of the Wakf Board or the point of time of disposition, the plea of Adverse Possession was unsustainable.
9. In view of the foregoing it is clear that a mutually inconsistent plea of adverse possession, cannot be a reason to dismiss the suit of the Plaintiff, as the alternative plea comes into operation only when the former plea of title is renounced. In any event, even if the alternative plea of Adverse Possession is taken, at the most it will amount to such plea being unsustainable. However, merely because such plea is taken in the alternative, it cannot be deduced that the Plaintiffs have accepted the title of the defendants particularly when the Plaintiffs have not renounced their plea of title and have not led any evidence to argue the elements of adverse possession.
10. It is thus submitted that since in the present matter, the Muslims have not denounced their plea of title, the plea of adverse possession does begin to operate. Even if the objections of the Hindu parties are considered, at the most it will render the alternative plea of adverse possession as unsustainable.
11. It is therefore clear that there has been no acceptance of any right/title of the Hindu parties in the suit properties by the Muslims and that the plea of adverse possession taken in the alternative will have no bearing on the said stand.
12. Lastly, it is relevant to mention that the plea of Adverse possession has also been taken by the Hindu Parties (*qua* the post 1934 period) , which has already been discussed in detail in the note on Limitation and Adverse possession.