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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

ISSUE BASED SUMMARY OF THE JUDGMENT(S) OF ALLAHABAD HIGH
COURT IN OOSNOS. 1, 3, 4 AND 5 OF 1989

BY

DR. RAJEEV DHAVAN, SENIOR ADVOCATE

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ISSUE BASED SUMMARY OF THE JUDGMENT(S) OF ALLAHABAD HIGH COURT IN 'OOS "NOS_ 1, 3, 4 AND 5 OF 1989

Suit No. & Name	Issue	Findings of		
		S.D. Klean J.	Sudhir Agarwal J.	D.V. Sharma J.
Other Original Suit (O.O.S.) No.1 of 1989 (Regular Suit No.2 of 1950) Gopal Singh Visharad since deceased and survived by Rajendra Singh Vs. Zahoor Ahmad and others.	Issue No.1 :- Is the property in suit the site of Janam Bhumi of Shri Ram Chandra Ji?	Accordingly, it is abundantly clear that firstly no temple was demolished for constructing the mosque and secondly until the mosque was constructed during the " period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram, which was not known to anyone for centuries and then got constructed the mosque on the said site. (Page 1(3); Para 4 -Vol 1)	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, irrthe inner courtyard of the premises in dispute. We answer all the three issues, i.e., issues no. 11(Suit-4), 1 (Suit-L) and 22 (Suit- 5) accordingly. (Para 4418; Page 2828, Vol. 3)	Connected with issues No. 1(a), 1(b), 1-B(b), 19-d, 19-e and 19-f of the Original Suit No. 4 of 1989, vvherein these issues have been -decided in favour of defendants and against the Surani Central Waqf Board, "U.P. (Page 3482-Vol3) Read with Pages: Issue 1(a) and (b): Page 3243 Issue I-B(b) : Page 2975 Issue 19-d : Page 3039 Issue 19-e:Page 3046 Issue 19-f: Page 3048
	Issue No.2 :- Are there any idols of Bhagwan Ram Chandra Ji and are His Charan Paduka?	It is held that the idols were kept on the pulpit inside the constructed portion/mosque for the first time in the night of 22nd/23rd December, 1949.	So far as the idols of "Bhagwanj Ram Chandra Ji't.is concerned, we have already held whieLof the Original Suit No. 4 -of 1989, wherein these issues have been -decided in favour of	Connected with issues No. 1(a), 1(b), 1-B(b), 19-d, 19-e and 19-f of the Original Suit No. 4 of 1989, wherein these issues have been -decided in favour of

	<p>situated in the site in suit?</p>	<p>(Page 105, middle of page-Vol 1)</p> <p>The only thing which can be said is that Ram Chabutara came into existence before visit of Joseph Tieffenthaler. (1766 to 1771 A.D.) but after construction of mosque (1528 A.D.). (Page 105; bottom-Vol.1)</p> <p>In view of the findings and in accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were joint title holders in possession of the premises in dispute. (Page 107; middle-Vol. 1)</p>	<p>the same were placed 'under the central dome of the disputed structure, within the inner courtyard, in the night of 22/23rd December, 1949 but prior thereto the same existed in the outer courtyard and it is therefrom, the esame was shifted. Suit-L was filed -on 16th January, 1950 on which -date idol of Ram Chandra Ji, as a matter of fact, existed in the inner courtyard under the central dome of the disputed structure. Issue; No.2 (Suit-I) is therefore, answered accordingly. (Para 4078; Page 2522, Vol. 2)</p>	<p>defendants and eagainst the 'Sunni : Central Waqf Board,'U.P. (Page 3482 - Vol. 3)</p> <p>Read with Pages: Issue 1(a) and (b): Page 3243 Issue 1-B(b) : Page 2975 Issue 19-d : Page 3039 Issue 19-e: Page 3046 Issue 19-f: Page 3048</p>
	<p>Issue No.3 :- Has the plaintiff any right to worship the 'Charan Paduka' and the idols situated in the place in suit?</p>	<p>The only thing which can be said is that Ram Chabutara came into existence before visit of Joseph Tieffenthaler (1766 to 1771 A.D.) but after construction of mosque (1528 A.D.). (Page 105; bottom-Vol .1)</p>	<p>Issues 3 and 4 (Suit-Tj-It is held that plaintiffs have right to worship. The place in suit to the extent it has been held by this Court to be the birthplace of Lord Rama and if an idol is -also placed in such a place the same can also be worshipped, but this is subject to reasonable resmotrons like</p>	<p>Connected with Issues No. 1-B(c), 2,4, 10, 11, 12, 13, 14, 15, 19-a, 19-b, 19-c, 27 and 28 of Original Suit No. 4 of 1989, wherein these issues have been decided in favour of defendants and against the plaintiffs. (Page 3482-3483-Vol 3)</p>

		In view of the findings and in accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were/are joint title holders in possession of the premises in dispute, (Page 107; middle-Vol. 1)	security, safety, maintenance-etc. (Para 4550; Page 2867, Vol 3)	Read with Pages: Issue 1-B(c) Page 2976 Issue 2: page 3378 Issue 4: Page 3378 Issue 10: 3378 Issue 11: Page 3454 Issue 12: Page 3244 Issue 13: Page 3454 Issue 15: Page 3454 Issue 19-a: Page 3454 Issue 19-b: page 3038 Issue 27: Page 3062 Issue 28: Page 3378
	Issue No.4 :- Has the plaintiff the right to have Darshan of the place "in suit?"	The only thing which can be said is that Ram Chabutra came into existence before visit of Joseph Tieffenthaler (1766 to 1771 A.D.) but after construction of mosque (1528 A.D.). (Page 105; bottom Vol 1) In view of the findings and in accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were/are joint title holders in possession of the premises in		Connected with Issues No. 1-B(c), 2, 4, 10, 11, 12, 13, 14, 15, 19-a, 19-b, 19-c, 27 and 28 of Original 'Suit No. 4 of 1989, wherein these issues have been decided in favour of defendants and against the plaintiffs. (Page 3482-3483-Vol 3) Read with Pages: Issue 1-B(c) Page 2976 Issue 2: page 3378 - Issue 4: Page 3378 Issue 10: 3378 Issue 11: Page 3454 Issue 12: Page 3244 Issue 13: Page 3454

	dispute. (Page 107; middle-Vol 1)	Issue 14: Page 3454 Issue 15: Page 3378 Issue 19-a: page 3454 Issue 19-b: page 3G38 Issue 27: Page 3062 Issue 28: Page 3378
Issue No. 5(a) :- Was the property in suit involved in original suit no. 61/280 of 1885 in the court of sub-judge, Faizabad' Raghiabar Das Maharit Vs. Secretary of State for India & others?	As virtually nothing was decided in the said suit (original suit no. 61/280 of 1885) hence main part of the Section-II C.P.C. is not attracted. (Page 87; last Iirie-Vol II) Instead the judgment of 1885 suit, admissions and assertions made or omitted to be made in the pleading of the said suits are admissible under Section 4.2 Evidence Act as well as Section 13 read with Section 42 of the Evidence Act. (Page 90-Vol 1)	Issue Sea), answered In negative. (Para 860; Page 767, Vol 1). C-onnected with issue No. 1-B (a) of Original Suit No. 4 of 1989. Property existed on Nazul plot No, 583 belonging to Government. (Page 3483-Vol 3) Read with P-age 2970-2971 of Vol 3.
Issue No. 5(b):- Was it decided against the plaintiff?		Issue 5(b) (Suir-Lj-Held, the Suit 18SS was decided against Mahant Raghubar Das and he was not granted any relief by the respective courts, and, no more. (Para 868; Page 769, Vol 1)

	<p>Issue No. 5(c):- Was that suit within the knowledge of Hindus in general and were all Hindus interested in the same?</p>		<p>Issue 5(c) is answered in negative i.e. against the defendants. (Para 870; Page 770, Vol 1)</p>	<p>Connected with issue No. 7-c; 7-d and issue no. 8 in Original Suit No. 4 of 1989, wherein these issues have been decided in favour of defendants and against the plaintiffs. (Page 3483-Vol 3)</p>
	<p>Issue No. 5(d):- Does the decision in same bar the present suit by principles of Res judicata and in any other way?</p>		<p>Issue 5(d) (Suit 1), 7(c) and 8 (Suit 4) and 23 (Suit 5) in negative. (Para 1063; Page 829, Vol. 1)</p>	<p>Read with Pages: Issue 7-s: Page 3021, Issue 7-c: Page 3023, Issue 7-d: Page 3025 and Issue 8: Page 3035.</p>
	<p>Issue No. xi :- Is the property in suit a mosque constructed by Shahanshah Babar commonly known as Babri mosque, in 1528 A.D.</p>	<p>Accordingly, from the above it is proved that the constructed portion of the premises in dispute was constructed as a mosque by or under orders of Babar. It was actually built by Mir Baqi or someone else is not much material (Page 99; 2nd para V all)</p> <p>Accordingly, In such scenario the only finding which may be recorded is that till 1934 Muslims were offering regular prayers and since 1934 till 22.12.1949 only Friday prayers</p>	<p>(A) Issue no.6 (Suit-T) and Issue No.5 (Suit-3) are answered in negative. The defendants have failed to prove that the property in dispute was constructed by Shanshah Emperor Babar in 1528 AD. Accordingly, the question as to whether Babar constructed the property in dispute as a 'mosque' does not arise and needs no answer. (Para 1682 Page 1100, Vol 1)</p>	<p>Connected with issues No. 1(a), 1(b), I-B (b), 19-c, 19-e and 19-f of the Original Suit No. 4 of 1989, wherein these issues have been decided in favour of defendants and against the Sunni Central Waqf Board, U.P. (Page 3482-Vol 3)</p> <p>Read with Pages: Issue 1(a) and (b): Page 3243 Issue 1-B(b) :Page 2975 Issue 19-d: Page 3039 Issue 19-e: Page 3046 Issue 19-f: Page 3048</p>

		in the premises. in dispute. However, offering of only Friday prayers is also sufficient for continuance of possession and use. (Page 100, middle, Vol.1)		
	Issue No.7 :- Have the Muslims been in possession of the property In suit from 1528 A.D. continuously, openly and to the knowledge of plaintiffs and Hindus in general? If so its effect?	In view of the findings and In accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were/ are joint title holders in possession of the premises in dispute. (Page 107; middle, Vol.1)	Issue 7 (Sust-L) is decided in negative; Le., against the defendants Muslim parties. (Para 2993, Page 1661, Vol 2)	<p>Corrected with Issues No. 1-B(c), 2, 4, 10, U, 12, 13, 14, 15, 19-a, 19-b, 19-c, 27 and 28 of Original Suit No. 4 of 1989, wherein these issues have been decided In favour of defendants and against the plaintiffs.' (Page 3482-83 . . . voi 3)</p> <p>Read with Pages: Issaie 1-B(c) Page 2976 Issue 2: page 3378 Issaie 4: Page 3378 Iss-ue 10. 3378 Issue 11: Page 3454 Issue 12: Page 3244 Iss-ue. 13: Page 3454 -Issue 14: Page 3454 Issue 15: Page 3378 Issue 19-a: Page 3454 .Iss-ue 19-b: page 3038 Issue 19-c: Page 3454 Issue 27: Page 3062. Issue 28: Page 3378</p>

Issue No.8 :- Is the suit barred by proviso to section 42 Specific Relief Act?	Suit no. 3, 4 and 5 are held not to be barred by limitation. (Page 87 VoE 1)	Issue 8 (Suit-L) is answered in negative. Suit is not barred by proviso to Section 42 of Specific Relief Act, 1963. (Para 4466, Page 2840, Vol 3)	Decided against the plaintiffs and in favour of defendants. (Pages 3485-87 -Vol 3)
Issue No.9 :- Is the suit barred by provision of Section (5)(3) of the Muslim Waqfs Act (U.P. Act 13 of 1936)?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 9 (Suit-L) is decided In favour of plaintiffs (Suit-I). (Para 1075, Page 836, Vol 1).	Connected with Issues No. 5-a, 5-b, 5-c, 5-d, 5-e, 5-f, 7-b, 17 (issue no. 17 of O.O.S. No.4 of 1989 has already been decided by the Civil Judge, Faizabad) 18, 20-a, 20-b, 23, 24, 25 and 26 of Original Suit No. 4 of 1989, wherein these issues have been decided in favour of defendants and against the plaintiffs, (Page 34-83-Vol 3).
Issue No. 9 (a):- Has the said act no application to the right of Hindus in general and plaintiffs of the present suit in particular to his right of worship?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 9(a) (Suit-I) is answered in favour of plaintiffs and in favour of Hindu parties in general (Suit-I). (Para 1078, Page 837, Vol 1)	Read with Pages: Issue 5-a: Page 2998, Issue 5-b: Page 2998 Issue 5-c: Page 2998 Issue 5-d: Page 2999, Issue 5-e: Page 3020, Issue 7-b: Page 3022, Issue 17: Page 3035, Issue 18: Page 3036, Issue 21-a: Page 3049, Issue 20-b: Page 3049 Issue 23: Page 3060-3061, Issue 24: Page 3060-3061 Issue 25 and 26: 3062
Issue No. 9 (b):- Were the proceedings under the said act referred to in written statement para 15 collusive? If so, its effect?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 9(b) (Suit-I) is answered against the plaintiffs. (Para 1181, Page 876, Vol 1)	

Issue No.9 (c):- Are, the said provisions of the V.P. Act 13 of 1936 ultra-vires fOT reasons given in the statement of plaintiffs counsel dated 9.3.62 recorded on paper No. 454-A?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 9(c) is decided in negative. (Para 1192, Page 879-880, Vol 1)	
Issue No. 10 :- Is the present suit barred by time?	Suit no. 3, 4 and 5 are held not to be barred by limitation. (Page 87)	Issue 10 (Suit-I) is answered in negative, i.e., in favour of plaintiffs of Sukt-L. (Para 2567, Page 1514, Vol 2)	Negative. (Pages 3488-89 Vol 3)
Issue No. 11(a) :- Are the provisions of Section 91 C.P.C. applicable to present suit? If so is the suit bad for want of consent in writing by the advocate general?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	In view of the above we answer issue no. 11(a) (Suit-I) in negative' (Para 1282 Pages 907 Vol 1)	Decide in favour of Plaintiffs and against the Defendants. (Pages 3487 Vol 3)
Issue No. 11(b) :- Are the rights set up by the plaintiff in this suit independent of the	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue No. 11(b) (Suit-I) is answered in affirmative (Para 1282 Pages 907 Vol 1)	

	provisions - of Section 91 C.P.C.? If not its effect?			
Issue No. 12 :- Is the suit bad for want of steps and notices under order 1 Rule 8 C.P.C.? If so its effect?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	No arguments advanced by Defendants. Issue answered in negative, i.e., in favour of the plaintiffs. (Para 1287 Pages 908; Vol 1)	Decided in favour of Plaintiffs and against the Defendants. (Pages 3488 Vol 3)	
Issue No. 13 :- Is the suit No.2 of 50 Shri Gopal Singh Visharad Vs. Zahoor Ahnradbad for want of notice under section 80 C.P.C.?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Suit 1 need not be rejected as barred by S.80. Question answered in negative in favour of the plaintiff. (Para 665; Page 676, Vol. 1)	Decided in favour of defendants and against the plaintiffs. (Pages 3483-85 Vol 3)	
Issue No. 14 :- Is the suit No.25 of 50 Param Hans Ram Chandra Vs. Zahoor Ahmad bad for want of valid notice under section 80 C.P.C.?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 14 (Suit-I) has become redundant after dismissal of Suit No. 25 of 1950 as withdrawn. (Para 666; Page 676, Vol. I) _	Withdrawn, no finding is required. (Pages 3488 Vol 3)	
Issue No. 15 :- Is the suit bad for non joinder of defendants?	As per the statement recorded at Page 109 (mid) para (e), Khan, J. confirms the findings of Agarwal, J.	We answer is-sue no. 15 (Suit-1) in negative, i.e., in favour of the plaintiffs (Suit-1). (Para 1287; Page 908, Vol 1)	Answered in negative. For want of any evidence, it is not possible to hold that the suit is bad for non-joinder of defendants. Issue no. 15 of	

				is decided accordingly. (Page 3488 Vol 3)
	Issue No. 16 :- Are the defendants or any of them entitled to special costs under Section 35-A C.P.C.?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Learned counsels for the defendants have at the outset stated that they do not press any cost whatsoever and for them the biggest compensation would be the decision of the matter at the earliest and, therefore, none has pressed the above issue. In the result issue 16 (Suit-L) is answered in negative, i.e., in favour of the plaintiff (Suit-I). (Para 1290; Page 909, Vol 1)	Plaintiff is not entitled for the relief claimed and the suit is dismissed with easy costs. (Page 3489 Vol 3)
	Issue No. 17 :- To what reliefs, if any, is the plaintiff-entitled?	As per the statement recorded at Page 109- (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Since the site in dispute includes part of the land which is believed to be the place of birth of Lord Rama- ... held to be a deity and place of worship' of Hindus, the plaintiffs right to worship cannot be doubted. To this extent the plaintiff is entitled for a declaration, which is ordered accordingly. However, it is "made clear that such right of the plaintiff is always subject to restrictions which may be found necessary by the competent authority on account of security, safety and maintenance of the place of	

			<p>worship., 'Since the place of worship is a "Swayambhu deity", whether an idol is kept there or not, would make no difference and it is the matter to be seen by those who are responsible for management of such place, and according to the majority of the worshippers as to how they intend to keep and maintain the place of worship without disturbing its nature as deity. No individual worshipper can insist that such place of worship be maintained in a particular manner. Therefore, except the declaration as above, the plaintiff (Suit-II) is not entitled to any other relief. (Para 4555; Page 2867, Vol 3)</p>	
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<p style="text-align: center;">Other Original Suit No.3 of 1989 (Regular Suit No.26 of 1959) Nirmohi Akhara and others Vs. Baboo Priya Datt Ram and others</p>	<p>Issue No. 1 :- Is there a temple of Janam Bhumi with idols installed therein as alleged in para 3 of the plaint?</p>	<p>Accordingly, from the above it is proved that the constructed portion of the premises in dispute was constructed as a mosque by or under orders of Babar. It was actually built by Mir Baqi or someone else is not much material. (Page 99)</p> <p>Accordingly, In such scenario the only finding which may be recorded is that till 1934 Muslims were offering regular prayers and since 1934 till 22.12.1949 only Friday prayers. In the premises in dispute. However, offering of only 'Friday prayers is also sufficient for continuance of possession and use. (Page 100)</p> <p>It is held that the idols were kept on the pulpit inside the constructed portion/ mosque for the first time in the night of 22nd/23rd December, 1949. (Page 105)</p> <p>The 'only thing' which can be said is that Ram Chabutra came into existence before visit of "Joseph Tieffenthaler (1766 to</p>	<p>The premises in dispute cannot be treated to be a temple. In the manner it is being pleaded and claimed by the plaintiffs (Suit-3). Though there are other aspects of the matter which we have already discussed, subject to those findings, as pointed out above also, in our view, issue No. 1 (Suit-3) has to be answered in negative. It is decided accordingly. (Para 4425, Page 2829, Vol 3)</p>	<p>Connected with Issues .No. 1, 1(a), 1(b), 1B(b), 12, 19(d), 19(e) and 19(f) -of O.O.S. No. 4 of 1989, wherein these issues have been decided in favour of defendants and against the plaintiffs. (Pages 3494 Vol 3)</p> <p>Read with Pages: Issue I: Page 3243 Issue 1(a) and (b): Page 3243 Issue 1B(b): Page 2975 Issue 12: Page 3244 Issue 19(d): Page 3039 Issue 19(e): Page 3046 Issue 19(f): Page 3048</p>
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		1771 A.D.) but after construction of mosque (152'8 A.D.). (Page 105)		
Issue No.2 :- Does the property in suit belong to the plaintiff No.1?	As per the statement recorded at Page 109 (mid) parafe), Khan.. J confirms the findings of Agarwal, J.	The plaintiff, though claimed to be the owner thereof and its counsel' has also made a statement to this effect under Order X Rule 2' C.P.C., hut not even a single document has been, placed -on record to show the title. Faced with this situation, the plaintiff sought to claim acquisition of title by way of adverse possession against the' Muslim patties. This' claim we have already negated above. We answer this" issue in: negative, i.e., against the plaintiff. (Para 4482, Page 2846, Vol 3)	Connected with Issues No. IB(c), 2, 4, 10, II, 12, 13, 14, 15, 19(a), 19(b),' 19(c), 27 & 28 of O.O:S. No.4 of 1989. Decided against: the Plaintiffs. (Pages 3494 Vol 3)	Read with Pages: Issue I-B(c) Page 2976 Issue 2: page 3378 Issue 4: Page 3378 Issue 10: 3378 Issue II: Page 3454 Issue 12: Page 3244 Issue 13: Page 3454 Issue 14: Page 3454 Issue 15: Page 3378 Issue 19-a: Page 3454 Issue 19-b: page 3038 Issue i9-c: Page 3454 Issue 27: Page 3062 Issue 28: Page 3378
Issue No.3 :- Have plaintiffs acquired title by adverse possession for over 12 years?	Both the parties are in joint possession before 1855 hence there is no need to decide the question of adverse possession and its re quirement. (page 109)	Issue 3 (Suit-3) answered in negative, i.e., against the plaintiffs. (Para 3024, Page 1673, Vol12)	These issues are" i-dentical to Issues No. 1B(c), 2,4-, 10, 11, 12, 13, 14, 15, 19(a), 19(b), 19(c), 27 & 28 of O.O.S. NO.4 of 1989. No separate finding is needed.s'Pages 3494 Vol 3)	

			<p>Read wish Pages: Issue 1-B(c) Page 2976 Issue Zrpage 3378 Issue 4: 'Page 3378 Issue 10 : 3378 Issue 11 : Page 3454 Issue 12 : Page 3244 Is-sue 13 : Page 3454 Issue 14: Page 3454 Issue 15: Page 3378. Issue 19-a: Page 3454 Issue 19-b: page 3038 Issue 19-c: Page 3454 Issue 27: Page 3062 Issue 28: Page 3378</p>
Issue No. 4 :- Are plaintiffs entitled to get management and charge of the said temple?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	The plaintiffs having disputed this incident being a factitious and fabricated story, the question of treating them as Shebait in respect of the idols placed under the central dome on 22nd/23rd December, 1949 does not arise since according to their own pleadings, they have not admitted any whereof taking care of the deity in the inner courtyard under the central dome of the disputed structure. Issue No. 4 (Suit-3), therefore, is answered in negative, i.e., against the plaintiffs. (Para 4484; Page 2847, Vol 3)	<p>These issues are identical to Issues No. IB(c), 2, 4, 10, 11, 12, 13, 14, 15, 19(a), 19(b), 19(c), 27 & 28 of O.O.S. No.4 of 1989. No separate finding is needed. IPages 3494 Vol 3)"</p> <p>Read with Pages: Issue 1-B(c) Page 2976 Issue 2: page 3378 Issue 4: Page 3378 Issue 10: 3378 Issue 11: Page 3454 Issue 12: Page 3244 Issue 13: Page 3454 Issue 14: Page 3454</p>

				Issue 15: Page 3378 Issue 19-a: Page 3454 Issue 19-b: page 3038 Issue 19-c: Page 3454 Issue 27: Page 3062 Issue 28: Page 3378
	Issue No.5 :- Is the property in suit a mosque made by Emperor Babar known as J3abari masjid?	Accordingly, from the above it is proved, that the constructed portion of the premises in dispute was constructed as a mosque by or under orders of Babar. It was actually built by Mir Baqi or someone else is not much material. (Page 99) Accordingly, in such scenario the only finding which may be recorded is that till 1934 Muslims were offering regular prayers and since 1934 till 22.12.1949 only Friday prayers in the premises in dispute. However, offering of only Friday prayers is also sufficient for continuance of possession and use. (Page 100)	(A) Issue no. 6 (Suit-I) and Issue No.5 (Suit-3) are answered in negative. The defendants have failed to prove that the property in dispute was constructed by Shanshah/Emperor Babar in 1528 AD. Accordingly, the question as to whether Babar constructed the property in dispute as a 'mosque' does not arise and needs no answer. (Para 1292 Page 909, Vol. 1)	Connected with Issues No. 1, 1(a), 1(b), 1B(b), 12, 19(d), 19(e) and 19(f) of O.O.S. No.4 of 1989, wherein these issues have been decided in favour of defendants and against the plaintiffs. (Pages 3494 Vol. 3) Read with Pages: Issues 1, 1(a) and (b): Page 3243 Issue 1B(b): Page 2975 Issue 12: Page 3244 Issue 19(d): Page 3039 Issue 19(e): Page 3046 Issue 19(t): Page 3048,
	Issue No.6 :- Was the alleged mosque dedicated by Emperor Babar	It cannot be said that the mosque was not a valid mosque. (Page 107)	Issue (Suit-3) is also decided in favour of defendants (Suit-3). Issue 6 (Suit-3) is not proved	

	for worship by Muslims In general and made a public waqf property?		hence answered in negative. (Para 3345, Page 1913, Vol 2)	
	Issue No. 7(a) :- Has there been a notification under Muslim Waqf Act (Act no.13 of 1936) declaring this property in suit as a Sunni Waqf?	As per the statement recorded at Page 109 (mid) para (e), Khan., J confirms the findings of Agarwal, J.	Issue 7(a) and 7(b) (Suit-3) are answered in negative, i.e., in favour of plaintiffs and against the defendants in Suit-3. Para 1077, Page 836 Vol L	Connected with issues no. 5(a), 5(b), 5(c), 5(d), 5(e), 5(f), 7(b), 17, 18, 20(a), 20(b), 23, 24, 25 and 26 in O.O.'S No.4 of 1989, wherein these issues have been decided against the plaintiffs. (Page 3495 Vol 3)
	Issue No.8:- Have the rights of the plaintiffs extinguished for	Both the parties are in joint possession before 1855. hence there is no need to decide the	Issue-8 (Suit-3) is decided in negative. (Para 3075, Page 1690, Vol 2)	Connected with Issues No. 13(c), 2,4, 10, 11, 12, 13, 14, 15, 19(a), 19(b), 19(c), 27 & 28 of O.O.S. No.4 of 1989. Decided against

	want of possession for over 12 years prior to the suit?	question of adverse possession and its requirement. (Page 109)		the Plaintiffs. (Pages 3494 Vol 3) Read with Pages: Issue 1-B(c): Page 2976, Issue 2, 4 and 10: Page 337"8, Issue 11: Page 3454, Issue 12: Page 3244, Issue 13: Page 3454, Issue 14 and 15: Page 3378, Issue 19(a) and(c): 3454, Issue 19(b): Page 3038 Issue 27: Page 3062 Issue 28: Page 3378
	Issue No.9 :- Is the suit within time?	Suit no. 3, 4 and 5 are held not to be barred by limitation. (Page 87)	Suit is barred by Limitation vide Article 120 of the Limitation Act. (Para 2580, Page 15 16, Vol 12)	Connected with issues no. 3 decided in -O.O.S. No. 4 of 1989. Decided in favour of defendants and against the plaintiffs. (Page 3495 Vol 13) Read with Page 2998 of Vol 3.
	Issue No. 10(a) :- Is the suit bad for want of notice u/s 80C.	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal.T.	Issue 10 (Suit-3) is decided in favour of plaintiff. It is also held that a private defendant cannot raise objection of maintainability of suit for want of notice under Section 80 CPC. (Para 644; Page 670, Vol 1)	Decided in favour of the plaintiffs and against the defendants. (Page 3495 Vol 3)

<p>Issue No. 10(b) :- Is the above plea available to contesting defendants?</p>	<p>As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.</p>	<p>Issue 10 (Suit-3) is decided in favour of plaintiff. It is also held that a private defendant cannot raise objection of maintainability of suit for want of notice under Section 80 CPC. (Para 644; Page 670, Vol 1)</p>	
<p>Issue No. 11 :- Is the suit bad for non joinder of necessary defendants?</p>	<p>As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.</p>	<p>We, therefore, answer issues no. 11 and 12 (Suit-3) in negative, i.e., in favour of the plaintiffs (Suit-3). Issue no. 15 (Suit-3) is answered in affirmance, i.e., in favour of the plaintiff (Suit-3). (Para 1292 Page 909, Vol 1)</p>	<p>Connected, with Issue No. 21 of O.O.S. No.4 of 1989. Decided in favour of defendants and against the plaintiffs, (Page 3495 Vol 3). Read with Page 3060 of Vol. 3</p>
<p>Issue No. 12 :- Are defendants entitled to special costs U/S 35 C.P.C.?</p>	<p>As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.</p>	<p>We, therefore, answer issues no. 11 and 12 (Suit-3) in negative, i.e., in favour of the plaintiffs (Suit-B), Issue no. 15 (Suit-3) is answered in affirmance, i.e., in favour of the plaintiff (Suit-3). (Para 1292 Page 909, Vol 1)</p>	<p>Negative. (Pages 3496 Vol. 3)</p>
<p>Issue No. 13 :- To what relief, if any, is the plaintiff entitled?</p>	<p>As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.</p>	<p>Issue 13 (Suit-3)-The plaintiff is not entitled for any relief in view of the findings in respect of issues 2, 3, 4, 14 and 19. (Para 4557 Page 286-8, Vol 13)</p>	<p>Suit is Dismissed. (Pages. 3496 Vol. 3)</p>

Issue No. 14 :- Is the suit not maintainable as framed?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	The plaintiffs did not seek any declaration about its title or status and without determining the same, the Civil Judge could not have directed handing over chargee from the Receiver to the plaintiff. It is for this reason, in our view, Suit-3 is not maintainable. The issue is answered accordingly. (Para 4486, Page 2847, Vol 3)	Decided in favour of the plaintiffs and against the defendants. (Pages 3495 Vol, 3)
Issue No. 15 :- Is the suit property valued and Court-Fee paid sufficient?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	We, therefore, answer issues no. 11 and 12 (Suit-3) in negative, i.e., in favour of the plaintiffs (Suit-3). Issue no. 15 (Suit-5) is answered in affirmance, i.e., in favour of the plaintiff (Suit-3). (Para 1292 Page 909, Vol 1)	(Already decided) (Page 3496 Vol. 3)
Issue No. 16 :- Is the suit bad for want of-notice u/s 83 of U.P. Act 13 of 1936?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	If non issuance of notice and defect under S.53 is not pressed by the concerned Board before the Court, non compliance of S. 53 would not vitiate the suit. The issue is answered accordingly. (Para 1198, Page 881, Vol I)	Connected with issues no. 5(a), Sib), 5(c), 5(d), 5(e), 5(f), 7(b), 17, 18, 20(a), 2D(b), 23, 24, 25 and 26 in O.O.S No. 40 of 1989, wherein these issues have been decided against the plaintiffs." (Page 3495 Vol. 3)

Read with Pages.:
Issue 5-a: Page 2998,
Issue 5-b: Page 2998
Issue 5-c: Page 2998
Issue 5-d: Page 2999,

				Issue 5-e: Page 302(), Issue 7-b: Page 3022, Issue 17: Page 3035, Issue 18: Page 3036, Issue 20-a: Page 3049, Issue 20-b: Page 3049 Issues 23: Page 3060-3061, Issue 24: Page 3060-3061 Issue 25 and 26: 3062
	Issue No. 17 :- (added by this H n'b urt order dated 23.2.96) "Whether Nirmohi Akhara, Plaintiff, is Panchayati Math of Rama Nand sect of Bairagis arxd as such is a religious denomination following its religious faith and per suit according to its own custom."	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the fmdings of Agarwal, J.	Issue 17 (Suit-S) is decided In favour of pLaintiffs. Nirmohi Akhara is held a Panchayati Math of Ramanandi Sect of Bairagi, is a religious denomination following its religious :faith and pursuit according to its own customs. However, its continuance at Ayodhya is foi.mdsometime after 1734 AD and not earlier thereto. (Para 799; Page 751, Vol 1)	Deci-ded in favour of the plaintiffs and against the defendants. (Pages 3496 Vol. 3)

<p style="text-align: center;">Other Original Suit No.5 of 1989(Regular Suit No.236 of 1989) Bhagwan Sri Ram Lala Virajman and others Vs. Rajendra Singh and others.</p>	<p>Issue No. 1 :- Whether the plaintiffs 1 and 2 are juridical persons?</p>	<p>There cannot be any doubt that an idol is a deity capable of holding property. (Page 259)</p>	<p>Issue 1 {Suit-5} is answered in affirmative. Plaintiffs 1 and 2 both are juridical persons. {Para 2110 Page 1299, Vol 1}</p>	<p>Decided in favour of the plaintiffs and against the defendants. (Pages 3532 Vol 3)</p>
	<p>Issue No. 2 :- Whether the suit in the name of deities described in the plaint as plaintiffs 1 and 2 is not maintainable through plaintiff no.3 as next friend?</p>	<p>As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.</p>	<p>We decide Issues No. 2 and 6 (Suit 5) in negative. i.e in favour of the plaintiff (Para 2141 Page 1305, Vol 1).</p>	
	<p>Issue No.3(a):- Whether the idol in question was installed under the central dome of the disputed building (since demolished) - in the early hours of December 23, 1949 as alleged by the plaintiff in paragraph 27 of the plaint as clarified on 30.04.92 in their statement under order 10 Rule 2 C.P.C.?</p>	<p>It is held that the idols were kept on the platform inside the constructed portion/ mosque for the first time in the night of 22nd/23rd December, 1949. (Page 109 mid)</p>	<p>Issue No. 3 (a) Suit-5 is answered in affirmative. (Para 2110 Page 1299, Vol 1)</p>	<p>Decided in favour of the plaintiffs and against the defendants. (Pages 3554 Vol 3)</p>

Issue No.3(b):- Whether the same idol was reinstalled at the same place on a chabutra under the canopy?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	In view thereof we answer issues no.3(b) and (d) (Suit-5) in affirmative and issue no.3(c) (Suit-5) In negative. (Pa.ra 4534 Page 2864, Vol 3)
Issue No. 3(c):- "Whether the idols were placed at the disputed site on or after 6.12.92 in violation of the court's order dated 14.8.1989, 7.11.1989 and 15.11.91.	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	
Issue No. 3(d):- If the aforesaid issue is answered in the affirmative whether the idols so. placed still acquire the status of a deity?"	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	
Issue No. (4):- Whether the idols in question had been in existence under the "Shikhar" prior to 6.12.92 from time immemorial as	It is held that the idols were kept on the pulpit inside the constructed portion of mosque for the first time in the night of 22nd/23rd December, 1992. (Page 105 mid)	Issue 4 (Suit-5) is answered in negative. The idol in question kept under the Shikhar existed there prior to 6th December, 1992 but not from time immemorial and instead kept thereat in the night of

	alleged in paragraph-44 of the additional written statement of defendant no.3?		22nd/23rd December, 1949. (Para 4498 Page 2854, Vol 3).
	Issue No. (5):- Is the property in question properly identified and described in the plaint?	Accordingly, it is abundantly clear that firstly no temple was demolished for constructing the mosque and secondly until the mosque was constructed during the period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram, which was not known to anyone for centuries and then got constructed the mosque on the said site. (Pages 103)	since the property in dispute is against which now the 'Court is required to consider whether the plaintiffs are entitled for relief or not is well identified and known' to all the parties, there is no ambiguity. Issue No.5 is answered in affirmative i.e. in favour of the plaintiffs. (Para 4453 Page 2837, Vol 3)
	Issue No. (6):- Is the plaintiff No.3 not entitled to represent the plaintiffs 1 and 2 as	As per the statement recorded at Page 109 (mid) para (e), Khan.T confirms the findings of Agarwal, J.	We decide Issues No.2 and 6 (Suit 5) in negative. (Para 2141 Page 1305, Vol 1)
			Decided in favour of the plaintiffs and in favour of the defendants. (Pages 3533 Vol 3))
			Decided in favour of the plaintiffs and against the defendants. (Pages 3532 Vol 3)

	their next friend and is the suit not competent on this account?			
	Issue No. (7):- Whether the defendant no. 3 alone is entitled to represent plaintiffs 1 and 2, and is the suit not competent on that account as alleged in paragraph 49 of the additional written statement of defendant no. 3?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	On this aspect the case of defendant no. 3, i.e., Nirmohs Akhar-a has already been considered by us while discussing the issues relating to adverse possession. For the reasons thereof and as discussed, issue 7 (Suit-5), in its entirety is answered in negative. {Para 45(8); Page 2856, Vol 3).	Decided against the defendant no.3 and in favour of plaintiffs no. 1, 2 and 3. (Pages 3535 VER
	Issue No. (8):- Is the defendant Nirmohi Akhara the "Shebait" of Bhagwan Sri Rama installed in the disputed structure?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 8 (Suit-5) is answered against the defendant no. 3, Nirmohi Akhara. (Para 4538; Page 2865, Vol 3).	
	Issue No. (9):- Was the disputed structure a mosque known as Babri Masjid.	Accordingly, from the above it is proved that the constructed portion of the premises in dispute was constructed as a mosque by or under orders of Babar. It was	Issue 9 (Suit-5) is answered against the plaintiffs. {Para 3409, Page 1932, Vol 2)	Connected with issues No.1, 1(a), 1(b), 1B(b), 11, 19(d), 19(e) & 19(f) in G.G.S. No. 4 of 1989. Decided against Sunni Waqf Board and in favour of the plaintiffs. (Pages 3514 Vol 3)

	<p>actually built by Mir Baqi or someone else is not much material. (Page 99)</p> <p>Accordingly, in such scenario the only finding which may be recorded is that till 1934 Muslims were offering regular prayers and since 1934 till 22.12.1949 only Friday prayers in the premises In dispute. However, offering of only Friday prayers is also" suffi-cient for continuance of possession and use. (Page 100)</p>		<p>Read with Pages: Issue 1, 1(a) and 1(b): Page 3243, Issue 1B(b): Page 2975 Issue L1: Page 3454 Issue 19(d): Page 3039 Issue 19(e): Page 3046 Issue 19(f): Page 3048</p>
Issue No. (10):- Whether the disputed structure could be treated "to be a mosque on the allegations contained in paragraph-24 of the plaint?	It cannot be said that the mosque was not a valid mosque. (Page 107)	We have discussed similar issues in the category of those relating to characteristics of mosque, dedication, valid waqf etc. In the light of the findings recorded therein we answer issues I-O and 11 (Suit-5) In affirmative. (Para 4511, Page 2858, Vol 3)	
Issue No. (11):- Whether on the averments made in paragraph-zf of the	It cannot be said that the mosque was not a valid; averments made in mosque. (Page 107)		Decided in favour of the plaintiffs and against the -defendants, (Pages 3562 Vol 3)

<p>plaint no valid waqf was created in respect of the structure In dispute to constitute is as a mosque?</p>			
<p>Issue No. (13):- Whether the suit is barred by limitation?</p>	<p>Suit no. 3, 4 and 5 are held not to be barred by limitation. (Page 87 top)</p>	<p>Issue 13 (Suit-5) is answered in negative, i.e., in favour of plaintiffs. It is held that suit is not barred by limitation. (Para 2738, Page 1565, Vol 12)</p>	<p>Decided in favour of the plaintiffs and against the defendants. (Pages 3585 Vol 3)</p>
<p>Issue No. (14):- Whether the disputed structure claimed to be Babri Masjid was erected after demolishing Janma-Sthan temple at its site.</p>	<p>Accordingly, it is abundantly clear that firstly no temple was demolished for constructing the mosque and, secondly until the mosque was constructed during the period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is iraconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram, which was not known to anyone for centuries and then got</p>	<p>Issue 3(b), 3(d), 5, 10, 11, 14 and 24 (Suit-S) are answered in affirmative. {Para 4059; Page 2508, Vol 2}.</p>	<p>Connected with issues No. 1, 1(a), 1(b), 1B(b), 11, 19(d), 19(e) & 19(f) in O.O.S. No. 4 of 1989. Decided against Sunni Waqf Board and in favour of the plaintiffs. (Pages 3514 Vol 3)</p> <p>Read with Pages: Issue 1, 1(a) and 1(b): Page 3243, Issue 1B(b): Page 2975 Issue 11: Page 3454 Issue 19(d): Page 3039 Issue 19(e): Page 3046 Issue 19(f): Page 3048</p>

		constructed the mosque on the said site; (Pages 103)		
Issue No. 15:- Whether the disputed structure claimed to be Babri Masjid was always used by the Muslims only regularly for offering Namaz ever since its alleged construction in 1528 A.D. to 22nd December 1949 as alleged by the defendant 4 and 5?	Accordingly, from the above it is proved that the constructed portion of the premises in 'dispute was constructed as a mosque by or under orders of Babar. It was actually built by Mir Baqi or someone else is not much material. (Page 99)	Issue 15 (Suit-5)-It is held that the Muslims at least from 1860 and onwards, have visited the inner courtyard In the premises in dispute and have offered Namaz there at. The last Namaz was offered -on 16th December, 1949. (Para 4500; Page 2855, Vol 3).	Connected with issues rso. 1:- B(c), 2, 4, 12, 13, 14, 15, 19(a), 19(b), 19(c), 27 & 28 of O.O.8. No.4 of 1989. Above issues are decided against Sunni Central Waqf Board and Others. (Page 3514 Vol 3)	
	Accordingly, in such scenario the-only firing which may be recorded is that till 1934 Muslims were offering regular prayers and since 1934 till 22.12.1949 only Friday prayers in the premises in' dispute. However, offering of only Friday prayers is also sufficient for continuance of possession and use. (Page 100)		Read with Pages: Issue I-B(c): Page 2976 Issue 2: Page 3378 Issue 4: Page 3378 Issue 12: Page 3244 Issue 13: Page 3454 Issue 14: Page 3454 Issue 15: Page 3378 Issue 19(a) and 19(c): Page 3454 Issue 19(b): Page 3038 Issue 27: Page 3062 Issue 28: Page 3378	
Issue No. 16:- Whether the title of plaintiff 1 & 2, if any, was extinguished as alleged in,	Both the parties are in joint possession before 1855 hence, there is no need to decide the question of adverse reacquisition thereof ever arise. paragraph 1	Issue 16 (Suit-S)- The title of plainiffs 1 and 2 never 'extinguished-nor the question of reacquisition thereof ever arise. Para 31 23, Page 1749, Vol 2)		

	25 of the written statement of defendant no.4? If yes, have plaintiffs 1 & 2 re-acquired title by adverse possession, as alleged in paragraph 29 of the plaint?	possession and its requirement. (Page 109)		
	Issue No. 18:- Whether the suit is barred by section 34 of the Specific Relief Act as alleged in paragraph 42 of the additional written statement of defendant no.3 and also as alleged in paragraph 47 of the written statement of defendant no.4 and paragraph 62 of the written statement of defendant no.5?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J:	Issue 18 (Suit-5) is answered in negative, i.e., against the defendants no.3, 4 and 5. (Para 4478, Page 2846, Vo'l 3)	Decided in favour of the plaintiffs and against the defendants. (Pages 3552 Vol 3)
	Issue No. 19:- Whether the suit is bad for non-joinder of necessary parties, as pleaded in paragraph-	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 19 (Suit-S) is answered in negative. (Para 4516, Page 2859, Vol 3)	Suit is maintainable. (Pages 3536 Vol 3)

	43 of the additional written statement of defendant No.3?			
	Issue No. 20:- Whether the alleged Trust; creating the Nyas defendant no. 21, is void on the facts and grounds stated in paragraph 47 of the written statement of defendant no. 3?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 20 (Suit-5) is not answered being unnecessary for the dispute, in the case in hand. (Para 1294 Page 910, Vol 1)	Decided in favour of the plaintiffs and against the defendant no.3. (Pages 3537 Vol 3)
	Issue No. 21:- Whether the idols in question cannot be treated as deities as alleged in paragraphs 1,11,12,21,22,27 and 41 of the written statement of defendant no.4 and in paragraph 1 of the written statement of defendant no.5?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 21 (Suit-S) is answered in negative, i.e., against the defendants no. 4 and 5. (Para 2110 Page 1299, Vol 1)	Decided in favour of the plaintiffs and against the defendants no. 4 and 5. (Pages 3537 Vol 3)
	Issue No. 22:- Whether the premises in question or any part thereof is by	Accordingly, it is abundantly clear that firstly no temple was demolished for constructing the mosque and	In view of the above discussion-of the matter, we are satisfied and hold that the place of birth as believed and worshipped by	-Conneeed with issues No.1, 1(a), 1(b), 1B(b), 11, 19(d), 19(e) & 19(f) in O.O.S. No. 4 of 1989. Decided against Sunni

	<p>tradition, belief and faith the birth place of Lord Rama as alleged in paragraphs 19 and 20 of the plaint? If so, its effect?</p>	<p>secondly until the mosque was constructed during the period of Babar, the premises in dispute was neither treated nor believed to be the birth-place. nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram, which was not known to anyone for centuries and then got constructed the mosque on the said site. (Pages 103)</p>	<p>Hindus is the area covered under the central dome of three donated 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. 1L(Suit-4), 1 (Suite-L) and 22 (Suit- 5) accordingly. (Para 4418; Page 2828, Vol 3)</p>	<p>Waqf Board and in favour of the plaintiffs. (Pages 3514 Vol 3)</p> <p>Read with Pages:</p> <p>Issue 1, 1(a) and 1(b): Page 3243, Issue 1B(b): Page 2975 Issue 11: Page 3454 Issue 19(d): Page 31-39 Issue 19(e): Page 3046 Issue 19(f): Page 3048</p>
	<p>Issue No. 23:- Whether the Judgment in suit no.61/280 of 1885 filed by Mahant Raghuber Das in the Court of Special Judge, Faizabad is binding upon the plaintiffs by application of the principles of estoppel and res-judicata as</p>	<p>As virtually nothing was decided in the said suit (original suit no, 61/280 of 1885) hence main part of the, Section-II C.P.C. is not attracted. (Page 87 bottom)</p> <p>Judgment of 1885 suit, admissions and assertions made or omitted to be made in the pleading of the said suits are admissible under Section 42 Evidence Act as well as Section 13 read with Section</p>	<p>Issue Sed) (Suit 1), 7(c) and 8 (Suit 4) and 23 (Suit 5) in negative, (Para 1063; Page 829, Vol 1)</p>	<p>Decided against the defendants and in favour of the plaintiffs.. (Pages 3515 Vol 3)</p>

	alleged by the defendants 4 and 5?	42 of the Evidence Act. (Page 90)		
	Issue No. 24:- Whether worship, has been done of the alleged plaintiff deity on the premises in suit since time immemorial as alleged in paragraph 25 of the plaint?	Accordingly, it is abundantly clear that firstly no temple was demolished for constructing the mosque and secondly until the mosque was constructed during the period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram, which was not known to anyone for centuries and then got constructed the mosque on the said site. (Pages 103)	Worship of both the plaintiffs was going on for such a long time which satisfies the term "times-immemorial". Issue No. 24 (Suit-5) therefore is also answered in affirmative. (Para 4073; Page 2521, Vol 2)	Connected with issues no. 1-B(c), 2, 4, 12, 13, 14, 15, 19(a), 19(b), 19(c), 27 & 28 of O.O.S. No. 4 of 1989. Above issues are decided against Sunni Central Waqf Board and O-thrs. (Page 3514 Vol 3) Read with Pages: Issue I-B(c): Page 2976, Issue 2: 3378, Issue 4: Page 3318 Issue 12: Page 3244, Issue 13: Page 3454 Issue 14: Page 3454 Issue 15: Page 3378, Issue 19(a) and (c): Page 3454 Issue 19(b): Page 3038 Issue 27: Page 3062 Issue 28: Page 3318
	Issue No. 25:- Whether the Judgment and decree dated 30 th March 1946 passed in suit no. 29 of 1945 is not binding upon the	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Admittedly, the plaintiffs of suit in question were not party in the said suit. The judgment, therefore, cannot be said to be binding upon the plaintiffs. No authority on this question has been placed before us which is binding upon us to take a	Decided in favour of the plaintiffs and against the defendants. (Pages 3549 Vol 3)

	plaintiffs as alleged by the plaintiffs?		different view. Issue 25 (Suit-S) is accordingly answered holding that the judgment and decree dated 30.03.1946 in Suit No. 29 of 1945 is not binding upon the plaintiffs (Suit-5). (Para 4519; Page 2859, Vol 13)	
	Issue No.- 26:- Whether the suit is bad for want of notice under section 80 C.P.C. as alleged by the defendants 4 and 5?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issues 26 and 27 (Suit-5) are answered in negative, i.e., in favour of plaintiffs (Suit-5). (Para 666; Page 676, Vol 1)	Decided against defendant nos. 4 & 5. (Pages 3548 Vol 3)
	Issue No. 27:- Whether the plea of suit being bad for want of notice under section 80 C.P.C. can be raised by defendants 4 and 5?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issues 26 and 27 (Suit-5) are answered in negative, i.e., in favour of plaintiffs (Suit-5). (Para 666; Page 676, Vol 1)	
	Issue No. 28:- Whether the suit is bad for want of notice under section 65 of the U.P. Muslim Waqfs Act, 1960 as alleged by defendants	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	In the totality of the circumstances, as also the discussion as above, we are clearly of the view that the suits in question cannot be held untriable at this stage by virtue of Section 87 of 1995 Act. (Para 1275; Page 905, Vol 1)	Decided in favour of the plaintiffs and against defendants no. 4 and 5. (Pages 3550 Vol 3)

	4 and 5? If so, its effect.			
	Issue No. 29:- Whether the plaintiffs are precluded from bringing the present suit on account of dismissal of suit no.57 of 1976 (Bh.agwan Sri Ram Lala Vs. state) of the Court of Munsif Sadar, Faizabad.	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 29 (Suit-5) is answered in negative i.e., in favour of: plaintiffs and against the pLaintiffs. (Para 1065; Page 329, Vol 1)	Decided in favour of the defendants. (Pages 3550 Vol 3)
	Issue No. 30:- To what relief, if any, are plaintiffs or any of them entitled.	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 30 (Suit-5)-The suit is p.artly decreed In the manner the directions are issued in para 4 566. ; decreed with easy costs. (Para 4566; Page 2871, Vol 3)	Plaintiffs are entitled for the relief claimed and the suit is decreed with easy costs. (Pages: 3586 Vol 3)

<p style="text-align: center;">Other Original Suit No.4 of 1989(Regular Suit No.12 of 1961) The Sunni Central Board of Waqfs, U.P. and others Vs.Gopal Singh Visharad (since deceased) and others</p>	<p>Issue No.1 :- Whether the building in question described as mosque in the sketch map attached to the plaint (hereinafter referred to as the building) was a mosque as claimed by the plaintiffs? If the answer is in the affirmative -</p> <p>(a) When was it built and by whom-whether by Babar as alleged by the plaintiffs -or by Meer Baqui as alleged by defendant No. 13?</p> <p>(b) Whether the building had been constructed on the site of an alleged Hindu temple after</p>	<p>Issue 1 (Suit-4) & Issue 1 (Suit-4)-Accordingly, from the above it is proved that the constructed portion of the premises In dispute was constructed as a mosque by or under orders of Babar. It was actually built by Mir Baqi or someone else is not much material. (Page 99)</p> <p>Accordingly, in such scenario the only finding which may be recorded is that till 1934 Muslims were offering regular prayers and since 1934 till 22.12.1949 only Friday prayers in the premises in -dispute. However, offering of only Friday prayers is also sufficient for continuance of possession and use. (Page 100)</p> <p>Issues 1(b) (Suit-4) - Accordingly, it is abundantly clear' that firstly no temple was demolished for constructing the mosque and secondly, until, the mosque was constructed during the</p>	<p>Issue 1 (Suit-4-) is answered in favour of plaintiffs. (Para 3409, Page 1932, Vol 2)</p> <p>Issue No.1(a) (Suit-4) is answered In negative. The plaintiffs have failed to prove that the building in dispute was built by Babar. Similarly defendant no.13has also failed to prove that the same was built by Mir l3aqi. The further question as to when it was built and by whom cannot be replied with-certainty since neither there is any pleading ncsr any evidence has been led nor any material has been placed before us to arrive at a concrete finding on this aspect. However, applying the principle of informed giasess, we are of the view that the building in dispute may have been -constructed.. probably, between 1659 to 1707 AD i.e. during the regime of Aurangzeb, (Para 1682; Page 11)0, Vol 1)</p> <p>Issue 1(b) (Suit-4) is answered in affirmative. (Para 4059; Page 2508, Vol 2)</p>	<p>Issue 1 (Suit-4) & Issue 1 (a)(Suit-4) - Decided in favour of defendants and against the plaintiffs. (Pages 3243, Vol 3)</p> <p>Issues 1(b) (Suit-4) - Decided in favour of defendants and against the plaintiffs on the basis of A.S.I. Report. (Pages 3243, Vol 3)</p>
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	demolishing the same-as alleged by defendant no. 13? If so, its effect?	period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (Or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram, which was not known to anyone for centuries and then "got constructed the mosque on the said site. (P-ages 103)		
	Issue No. 1-B (a) Whether the building existed at Nazul plot no. 583 of the Khasra of the year 1931 of Mohalla Kat Ram Chandra known as Ram Kot, City Ayodhya (Nazul estate?) Ayodhya? If so its effect thereon?"	As the structure which was standing at the time of filing of the suit has been demolished' on 6.12.1992 hence it is no more necessary to decide the question of identification of the property and plot no. etc. now the premises in dispute including the site of the demolished constructed portion is to be ascertained by the possession of the present makeshift temple constructed on 6/7 December 1992 under the Central Board. (Page 109)	In view thereof and fortified by the law laid down in State of Bihar and others Vs. Sri Radha Krishna Singh (supra) despite the fact that building is shown to be continued as Nazul plot no. 583. of Khasra of the year 1931 of Mohalla Kat Ram Chandra, we find that it will not make any impact upon the claim of the various parties of the two communities since the State of U.P. is not claiming any right over the property in dispute and has specifically taken a stand of no contest. The issue 1(B)(a) (Suit-4)	Property existed on Nazul Plot No. 583 belonging to Government. (Page 2970-71, Vol 3).

			is answered accordingly. (Para 4455; Page 2837, Vol 3)	
	Issue No. I-B (b) :- Whether the building stood dedicated to almighty God as alleged by the plaintiffs?	It cannot be said that the mosque was not a valid mosque. (Page 107)	Issue I-B(b) (Suit-4-) is not answered being irrelevant. (Para 3429; Page 1938, Vol 2)	Decided against the plaintiffs. (Pages 2975 Vol 3)
	Issue no. I-B (c):- Whether the building had been used by the members of the Muslim community for offering prayers from times immemorial? If so, its effect?	<p>Accordingly, from the above it is proved that the constructed portion of the premises in dispute was constructed as a mosque by or under orders of Babar. It was actually built by Mir Baqi or someone else is not much material. (Page 99)</p> <p>Accordingly, in such scenario the only finding which may be recorded is that till 1934 Muslims were offering regular prayers and since 1934 till 22.12.1949 only Friday prayers in the premises in dispute. However, offering of only Friday prayers is also sufficient for continuance of</p>	Issue I-B(c) (Suit-4)- Since both the parties have been using the building in dispute in accordance with their system of worship." belief and faith, both continuing for last more than eighty years before filing of the first suit i.e. Suit-I and therefore, it can be said that the premises within the inner courtyard and the building in dispute were not restricted for use of anyone community. The issue in question is answered accordingly. (Para 3448; Page 1976, Vol 2)	Decided against the plaintiffs. (Pages 2976 Vol 3)

		possession and use. (Page. 100)		
Issue No. 2:- Whether the plaintiffs were in possession of the property in' suit upto 1949 and were dispossessed from the same in 1949 as alleged in the plaint?	In view of the findings and in accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were/ are joint title holders in possession of the premises in dispute, (Page 107)	Issue 2 (Suit-4) is answered in negative, i.e., against the plaintiffs. (Para 3 III, Page 1746, Vol 2)	These issues are decided against the plaintiffs. (Pages 3378, Vol 3)	
Issue No. 3:- Is the suit within time?	Suit no. 3, 4 and 5 are held not to be barred by limitation, (Page 87)	Issue 3 (Suit-4) is answered in negative, i.e., against the plaintiffs. It is held that Suit-4 is barred by limitation. (Para 2565 Page 1514 Vol 2)	Decided against the plaintiffs and in favour of defendants. (Pages 29-98 Vol 3)	
Issue No. 4:- Whether the Hindus in general and the devotees of "Bhagwan Sri Ram in particular have perfected right of prayers at the site by adverse and continuous possession as of right for more than the statutory period of time by way of prescription as	In view of the findings and in accordance with the principle of Section 110, Evidence Act; i.e. title follows possession-it is held that both the parties were/ are joint title holders in possession of the premises in dispute. (Page 107) Both the parties are in joint possession before 1855 hence there is no need to decide the question of adverse	Issue 4 (Suit-4)-At least since 1856-57, i.e., after the erection of partition wall the premises in outer courtyard has not been shown to be used/possessed by muslim parties but so far as the inner courtyard is concerned it has been used by both the parties. (Para 3115, Page 1747, Vol 2)	These issues are decided against the plaintiffs. (Pages 3378, Vol 3)	

	all-eged by the de:fendants?	possession and its requirement. (Page 109)		
	Issue No. 5(a):- Are the defendants estopped from challenging the character of property In suit as a waqf under. the administration of plaintiffNo.1 in view of the provision of 5(3) ofU.P. Act 13 of 19 36? (This issue has already been decided in the negative vide order dated 21.4.1966 by the learned Civil Judge)	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issues No. 17, 5(a), 5(c), 5(d): (This issue has already been decided in the negative vide order dated 21.4.1966 by the learned Civil Judge). (Page 29'98 Vol 3) Para. 1070; [... 5(a) also stands auto:matically decided against the plaintiffs ofthe leading case and in favo-ur of the defendants...]Operative Portion@ Pg. 835 bottom-836 top, Vo.I i. Issue 5(d) not pressed @ Para '1072, page 836, Volle	
	Issue No.5(b):- Has the said Act no ap-plication to the right of Hindus in general and de:fendants : in particular jo the right of theirworship?	As per. the statement recorded at Page 109 (mid)para (e), Khan, J confirms the findings. 'of Aga.rwal, J.'	Issue 5(b) (Suit-4) is answered in favour of defendants and Hindu parties in general. (Para 1078, Page 830, Vol I)	Decided against the plaintiffs and in favour of defendants. (Pages 2998 Vol 3)

Issue No.5(c):- Were the proceedings under the said Act conclusive? (This issue has already been decided in the negative vide order dated 21.04.1966 by the learned civil Judge.)	As per the statement recorded at Page 109 (mid)para (e), Khan, J confirms the findings of Agarwal, J.	Issues No. 17, 5(a), 5(c), 5(d) (This issue has already been decided in the negative vide order dated 21.4.1966 by the learned Civil Judge.) (Page 2998 Para 1070; [...Bar of S. 5(3) UP. Vol 3) Act No. 13/1936 does not hit the defence of the defendants of the leading case...] Operative Portion@ Pg 835 bottom-836 top, Vol 1. Issue Sed) not pressed @". Para 1072; page 836, Vol 1.
Issue No.5(d):- Are, the said provisions of the Act XIII of 1936 ultra vires as alleged in written statement? (This issue was not pressed by counsel for the defendants, hence not answered by the learned Civil Judge, vide his order dated 21.04.1966).	As per the statement recorded at Page 109 (mid)para (e), Khan, J confirms the findings of Agarwal, J.	Issues No. 17, 5(a), 5(c), Sed) (This issue was not pressed by counsel for the defendants, hence not answered by the learned Civil Judge, vide his order dated 21.4.1966). (Page 2999 Vol 3)
Issue No.5(e):- Whether in view of the findings recorded by the learned Civil Judge on 21.04.1966. on issue no. 17 to the	As per the statement recorded at Page 109 (mid)para (e), Khan, J confirms the findings of Agarwal, J.	Issue 5(e) (Suit-4) is decided in favour of plaintiffs subject to that issue 6 (Suit-3) is also decided in favour of defendants (Suit-3). (Para 1167, Page 871, Vol 1)

	effect that, "No valid notification under section 5(1) of the Muslim Waqf Act (No. XIII of 1936) was ever 'made in respect of the property in dispute", the plaintiff Sunni Central Board of Waqf has no right to maintain the present suit?			
	Issue No.5(f):- Whether in view of the aforesaid finding, the suit is barred on account of lack of jurisdiction and limitation as it was filed after the commencement of the D.P. Muslim Waqf Act, 1960?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issue 5(f) {Suit-4} is answered in negative, i.e., in favour of plaintiffs and against the defendants. (Para 1202, Page 882, Vol I).	
	Issue No. 6:- Whether the present suit is a representative suit, plaintiffs representing the	As per the statement recorded, at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	The issue is accordingly answered in the affirmative. (Para 1277, Page 906, Vol 1).	Decided in favour of plaintiffs and against the defendants. (Pages 3020 Vol 3)

	interest 'of the Muslims and defendants representing the interest of the Hindus?			
	Issue No. 7(a):- Whether Mahant Raghubar Dass, plaintiff of Suit No. 61/280 of 1885 had sued on behalf of Janma-Sthan and whole body of persons interested in Janma-vSthan?	As virtually nothing was decided in the said suit (original suit no. 61/280 of 1885) hence main part of the Section-LI C.P.C. is not attracted.-(Page 87) Instead the judgment of 1885 suit, admissions and assertions made or omitted to be made in the pleading of the said suits are admissible under Section 42 Evidence Act as well as Section 13 read with Section 42 of the Evidence Act. (Page 90)	Issue 7(a) (Suit-4) is answered in negative. It is held that there is nothing to show that Mahant Raghubar Das filed Suit-1885 on behalf of Janamsthan and whole body of persons interested in Janamsthan. (Para 874; Page 771; Vol I).	Decided against the plaintiffs and in favour of the defendants. (Pages 3D21 Vol 3)
	Issue No.7(b):- Whether Mohammad Asghar was the Mutwalli of alleged Babri Masjid and did he contest the suit for and on behalf of any such mosque?		Issue 7(b) (Suit-4) is answered in affirmative, i.e., In favour of plaintiffs (Suit-d). (Para 1066; Page 830, Vol I)	Decided against the plaintiffs and in favour of the defendants. (Pages 3022 Vol 3)

	<p>Issue No. 7(c):- Whether in view of the judgment in the said suit, the members of the Hindu community, including the defendants, are estopped from denying the title of the Muslim community, including the plaintiffs of the present suit, to the property in dispute? If so, its effect?</p>		<p>Issue 5(d) (Suit 1), 7(c) and B (Suit 4) and 23 (Suit 5) in negative. (Para 1063; Page 829, Vol 1)</p>	<p>Decided against the plaintiffs. (Pages 3023 Vol 3)</p>
	<p>Issue No. 7(d):- Whether in the aforesaid suit, title of the Muslims to the property in dispute or any portion thereof was admitted by plaintiff of that suit? If so; its effect?</p>		<p>issue 7(d) (Suit-4) is answered in negative to the extent that there is no admission by Mahant Raghubar Das plaintiff of Suit-1885 about the title of Muslims to the property in dispute or any portion thereof. Consequently, the question of considering its effect does not arise. (Para 876; Page 77-1, vol 1)</p>	<p>Decided against the plaintiffs. (Pages 3025 Vol 3)</p>

		ascertain the exact birth-place of Lord Ram, which was not known" to anyone for centuries and then got constructed the mosque on the said site. (Pages 103)		
	<p>Issue No. 12:- Whether idols and objects of worship were place inside the building in the night intervening 22nd and 23rd December, 1949 as alleged in paragraph 11 of the plaint or they have been in existence there since before? In either case effect?</p>	<p>It is held that the idols were kept on the pulpit inside the constructed portion! mosque for the first time in the night of 22nd/23rd December, 1949. (Page 105)</p>	<p>We accordingly answer Issue No. 12 (Suit-4) in negative. The effect of this answer shall be considered at the relevant stage and need not be answered at this stage, (Para 2109; Page 1299, Vol 1)</p>	<p>Idols were installed in the building in the intervening night of 22/23rd December, 1949. (Pages 3244, Vol 3)</p>
	<p>Issue No. 13:- Whether the Hindus in general and defendants in particular had the right; to worship the Char-ens and 'Sita Rasasi' and other idols and other objects of worship, if any,</p>	<p>In view of the findings and in accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were/are joint title holders in possession of the premises in dispute. (Page 10?)</p>	<p>As we have already discussed while considering issues relating to site as birthplace and the existence of temple as also the issues pertaining to possession therefore, Hindus in general had been entering the premises within the inner courtyard, as a matter of right for the last several centuries, hence cannot be denied this right</p>	<p>Decided against the plaintiffs. (Pages 3454 Vol 3)</p>

<p>Issue No. 8:- Does the judgment of case No.61/280 of 1885, Mahant Raghubar Dass V.s. Secretary of State and others, operate as res-judicata against the defendants in suit?</p>		<p>Issue No. 9 (Suit 1), (S) and 23 (Suit 5) in negative. (Para 1063; Page 829, Vol 1)</p>	<p>Decided against the plaintiffs and this judgment will not operate as res-judicata against the defendants in suit. (Pages 3035 Vol 3)</p>
<p>Issue No. 10:- Whether the plaintiffs have perfected their rights by adverse possession as alleged in the plaint?</p>	<p>Both the parties are in joint possession before 1855 hence there is no need to decide the question of adverse possession and its requirement. (Page 109)</p>	<p>Issues- 10 and 15- (Suit 4) are answered in negative, i.e.; against the plaintiffs and Muslims in general (para 311 2, Page 1746, Vol 2)</p>	<p>These issues are decided against the plaintiffs. (Pages 3378, Vol 3)</p>
<p>Issue No. 11:- Is the property in suit the site of Janam Bhumi of Sri Rasn Chandraji?-</p>	<p>Accordingly, it is abundantly clear that firstly no temple was demolished for constructing the mosque and secondly until the mosque was constructed during the period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to</p>	<p>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-L) and 22 (Suit- 5) accordingly. (Para 4418; Page 2828, Vol 3)</p>	<p>Decided against the plaintiffs. (Pages 3454 Vol 3)</p>

	<p>existing in or upon the property in suit?</p> <p>Issue No. 14:- Have the Hindus been worshipping the place in dispute as Sri Ram Janam Bhumi or Janam Asthan and have been visiting it as a sacred place of pilgrimage as of right since times immemorial? If so, its effect?</p>	<p>Accordingly, it is abundantly clear that firstly no temple was,, demolished for constructing the mosque and secondly until the mosque was constructed during the period of Babar, the prerraises in dispute was neither tre ated nor believed to be the birth-place nothing' but birth-p-lace and the whole birth-place of -LLord Ram. It is inconeeiv able that Babar (or Aurangzeb) should have first made or got made thorough researcri to ascertain the exact birth-place of Lord' Ram, which was not - .known to anyone for centuries and then got constructed the mosque on the said site. (Pages 103)</p>		
	<p>Issue No. 15:- Have the Muslims been in possession of the property in suit from 15-28' A.D. Continuously, openly and to the knowledge</p>	<p>In view of the findings arad in accordance with the principle. of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties werel are joint title holders in</p>	<p>Issues 10 and 15 (S-uit 4) are answered in negative, i.e., against the plaintiffs and Muslims in general. (Para 3112, Page 1746, Vol 2)</p>	<p>These issues are decided against the plaintiffs. (Pages 3378, Vol 3)</p>

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	of the defendants and Hindus ira general? If so, its effect?	possession of the premises in dispute. (Pajge 107) Both the parties are in joint possession before 1855 hence there is no need to decide the question of adverse possession and its requirement. (Page 109)		
	Issue No., 16:- To what relief, if any, are the plaintiffs or any of them, entitled?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal; J.	Issue 16 (Suit-4)-No relief since the suit is liable to be dismissed being barred by limitation. (Para 4553, Page 2867, Vol 2)	Plaintiffs are not entitled for any relief. The suit is dismissed with easy costs. {Pages 3474 Vol 3}
	Issue No. 17:- Whether a valid notification under section 5(1) of the U.P. Muslim Waqf AetNo.XIII of 1936 relating to the property in suit was ever done? If so, its effect? (This issue has already been decided by the learned Civil Judge by order dated 21.04.1966)	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J..	Issues No. 17, 5(a), 5(c), 5(d) (Suit-4) stood decided on 21.04.1966. (Para 1068, Page 830, Vol 1). 'Order dated 21.04.1996 Para 1070; [...S.5(3) of UP Act. No. 13/1936 does not hit the hit the defence of the defendants... and . is decided accordingly...[Operative Portion@ Pg 835 bottorn-Bdfisop; - Vol 1. Issue .5(d) not pressed @ Para1072, page 836, VolL Also @para 1077	(This issue has already been decided by the learned Civil Judge by order dated 21.4.1966). (Pages 3035 Vol 3)

	<p>Issue No. 18:- What is the effect of the judgment of their Lordships of the Supreme Court in Gulam Abbas and others Vs. State of U.P. and others, A.I.R. 1981 Supreme Court 2198 on the finding of the learned Civil Judge recorded on 21st April, 1966 on issue no. 17?</p>	<p>As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.</p>	<p>Issue 18.(Suit-4) It is held that the decision of the Apex Court in Gulam Abbas Vs, State of U.P. and others, AIR 1981 'SC 2199 does not affect findings on issue 17 (Suit-4) and on the contrary the same stand supported and strengthened by the said judgment. (Para 1176, Page 875, Vol 1)</p>	<p>Decided against the plaintiffs and in favour of the defendants. (Pages 3036 Vol S)</p>
	<p>Issue No. 19(a):- Whether even after construction of the building in suit deities of Bhagwan Sri Ram Virajman and the Asthan Sri Ram Janam Bhumi continued to exist on the property in suit as alleged on behalf of defendant No. 13 and the said places continued to be visited by devotees for purposes of worship? If so,</p>	<p>Accordingly, it is abundantly clear that firstly no temple was demolished for constructing the mosque and secondly until the mosque was constructed during the period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram, which was not</p>	<p>Issue 19(a) (Suit-4)-It is held that the premises which is believed to be the place of birth of Lord Rama continue to vest in the deity but the Hindu religious structures in the outer courtyard cannot be said to be the property of plaintiffs (Suit-5). (Para 4495, Page 2853-54, Vol 3)</p>	<p>Decided against the plaintiffs. (Pages 3454 Vol 3)</p>

	<p>whether the property in dispute continued to vest in the said deities?</p> <p>known to anyone for centuries and then got constructed the mosque on the said site, (Pages 103)</p> <p>The only thing which can be said is that Ram Chabutra came into existence before visit of Joseph Tieffenthaler (1766 to 1771 A.D.) but after construction of mosque (1528 A.D.). (Page 105 bottom)</p> <p>In view of the findings and in accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were/ are joint title holders in possession of the premises in dispute, (Page 110,</p>		
	<p>Issue No. 19 (b):- Whether the building was land-locked and cannot be reached except by passing through places of Hindu worship? If so, its effect?</p> <p>As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.</p>	<p>Issue 19(b) (Suit-4) is answered in affirmative to the extent that the building was land locked and could not be reached except of passing through the passage of Hindu worship. However, this by itself was of no consequence. (Para 4067; Page 252), Vol 12)</p>	<p>Decided against the plaintiffs and in favour of the defendants. (Pages 3038 Vol 3)</p>

	<p>Issue No. 19 (c):- Whether any portion of the property in suit was used as a place or worship by the Hindus immediately prior to the construction of the building in question? If the finding is in the affirmative, whether no mosque could come 'into existence in view of the Islamic tenets at the place in dispute?</p>	<p>Accordingly, it is abundantly clear that firstly no temple was demolished ' for constructing the, mosque and secondly until the mosque was constructed during the period of Babar, the premises' in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research' to ascertain the exact birth-place of Lord Ram, which was not known to anyone for centuries and then got constructed the mosque, on the said site. (Pages 103)</p>	<p>Issue 19(c) (Suit-4)-It is held that Hindus 'were worshipping at the place in dispute before construction of the disputed structure but that would not make any difference to the status of the building in dispute' which came to be constructed at the command of the sole monarch having, supreme power which cannot be adjudicated by a Court of Law, came to be constituted or formed much after, and according to the law which was not applicable at that time. (Para 4522-23; Page 2861, Vol 3)</p>	<p>Decided against the plaintiffs. (Pages 3454 Vol 3)</p>
	<p>Issue No. 19 (d):- Whether the building in question could not be a mosque under the Islamic Law in view of the admitted position that it did not have minarets?</p>	<p>It cannot be said that the mosque was not a valid mosque. (Page 1(7))</p>	<p>Issue 19(d) and 19(e) (Suit-4) are answered In favour of the plaintiffs. (Para 3433; Page 1942, Vol 2)</p>	<p>Decided against the plaintiffs and in favour of the defendants. (Pages 3039 Vol 3)</p>

	<p>Issue No. 19 (e):- Whether the building in question could not legally be a mosque as on plaintiffs own showing it was surrounded by a grave-yard on three sides.</p>	<p>It cannot be said that the mosque was not a valid mosque. (Page 107)</p>	<p>Issue 19(d) and 19(e) (Suit-d) are answered In fa-vour of the plaintiffs. (Para 3433; Page 1942, Vol 2)</p>	<p>Decided against the plaintiffs." (Pages 3046 Vol 3)</p>
	<p>Issue No. 19 (f):- Whether the pillars inside and outside the building in question contain images of Hindu Gods and Goddesses? If the finding is in affirmative, whether on that account the building in question cannot have the character of Mosque under the tenets of Islam.</p>	<p>Accordingly, it is abundantly clear that firstly no temple was demolished for 'constructing the mosque and secondly until the mosque was constructed during the period of Babar, the premises in dispute was neither treated nor believed to be the birth-place nothing but birth-place and the whole birth-place of Lord Ram. It is inconceivable that Babar (or Aurangzeb) should have first made or got made thorough research to ascertain the exact birth-place of Lord Ram; which was not known to anyone for centuries, and then got constructed the mosque on the said site. (Pages 1)3)</p>	<p>Issue 19(f) (Suit-4)-In so far as the first part is concerned, is answered in affirmative. The second part is left unanswered being redundant. In the ultimate result the issue is answered in favour of plaintiffs (Suit-4). (Para 3447; Page 1975, Vol 2)</p>	<p>Decided against the plaintiffs and in favour of the defendants. (Pages 3048 Vol 3)</p>

		It cannot be said that the mosque was not a valid mosque. (Page] 07)		
	Issue No. 20 (a):- Whether the waqf in question cannot be a Sunni Waqf as the building was not allegedly constructed by a Sunni Moharnmedan but was allegedly constructed by Meer Baqi who was allegedly a Shia Muslim and the alleged Mutwalis were allegedly Shia Mohammedans? If so, its effect?	It cannot be esaid that the mosque was not a valid mosque. (Page]07)	Issue 20(a) being irrelevant not answered. (Para'4542; Page 2866, Vol 3).	Decided against the plaintiffs. (Pages 3049 Vol 3) ,
	Issue No. 20 (b):- Whether there was a Mutwalli of the alleged Wa-qf and whether the alleged Mutwalli, non having joined in the suit, the suit is not maintainable so far as	As per the state.ment recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J. -	Issue 20(b) (Suit-4)-It is held that at the time of attachment of the building there was a Mutawalli.. i.e., one Sri Javvad Hussain and in the absence of Mutawallirelief-of possession cannot be allowed to plaintiffs who are before the Court in the capacity of worshippers. (Para 4505; Page 2856, Vol 3).	Suit is not maintainable and the issue is decided in favour of the defen-dants.H'agcs 3049 Vol 3)

	it relates to relief for possession?		
Issue No. 21:- Whether the suit is bad for non-joinder of alleged deities?	Even though deity is not one of the defendants in suit no.4 still the suit cannot be dismissed on this ground as deity is sufficiently represented. (Page 108-109)	Issue 21 (Suit-4) is decided in negative, i.e., in favo-ur of the plaintiffs. The suit is n-ot bad for non-joinder of deities. (Para 2131, Page 1303, Vol I)	Decided against the plaintiffs and in favour of the defendants. (Pages 3060 Vol 3)
Issue No. 22:- Whether the suit is liable to be dismissed with special costs?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	No special costs need be awarded. (Para 1278, Page 906, Vol 1)	Plaintiffs are not entitled for any relief. The suit is dismissed with easy costs. (Pages 3474 Vol 3)
Issue No. 23:- If the waqf Board is an instrumentality of state? If so, whether the said Board can file a suit against the state itself?	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	Issues 23 and 24 (Suit-4) are held that neither the Waqf Board is an instrumentality of State nor there is any bar in filing a suit by the Board against the State. It is also not a 'State' under Article 12 of the Constitution and can very well represent the interest of one community without infeeding any provision of the Oonstitution. (Para 1243, Page 891, Vol 1)	Issues are decided against the plaintiffs and the suit is not maintainable. (Pages 3060-61 Vol 3)
Issue, No. 24:- If the waqf Board is state under Article 12 of the constitution? If so, the said Board	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J."	Issues 23 and. 24 (Suit-4) are held. that neither the Waqf Board is an instrumentality of Stat-e nor there is any bar in filing a suit by the Board against the State. It is also :	Issues are decided against the -plaintiffs and 'the suit is not maintainable. (Pages 3060-61 Vol 3)

	being the state can file any suit in representative capacity sponsoring the case of particular community and against the interest of another community.		not a 'State' under Article 12 of the Constitution and can very well represent the interest of one community without infringing any provision of the Constitution.' (Para 1243, Page 891, Vol 1)	
	Issue No. 25:- "Whether demolition of the dispute structure as claimed by the plaintiff, it -can stil! be called a: mosque and if not whether the claim of the plaintiffs is liable to be dismissed as no longer maintainable?"	As per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.	In our view, issues no.25 and 26 (Suit-4) are answered in the manner 'that as a result of the demolition" of disputed structure, Suit-4 of the plaintiffs muslim parties cannot be said to be not maintainable. No further aspect needs to be answered. Issues no.25 and 26 (Suit-4) are answered accordingly. (Para 4547; Page: 2866, Vol 3).	Decided against the plaintiffs and in favour of the defendants. (Pages 3062 Vol 3)
	Issue No. 26:- "Whether Muslims can use the open site as mosque to offer prayer when structure which stood thereon has been demolished?"	As-per the statement recorded at Page 109 (mid) para (e), Khan, J confirms the findings of Agarwal, J.		Decided against the plaintiffs and in favour of the defendants. (Pages 3062 Vol 3)

	<p>Issue No. 27:- Whether the outer court yard contained Ram Chabutra, Bhandar' and Sita Rasoi? If so whether they were also demolished on 06.012.1992 along with the main temple?"</p>	<p>The only thing which can be said is that Ram Chabutra came into existence before visit of Joseph Tieffenthaler (1766 to 1771 A.D.) but after construction of mosque (1528 A.D.). (Page 105)</p>	<p>The parties also admit during the course of argument that all these three structures were demolished on 06.12.1992 when the disputed structure was demolished. Issue 27 (Suit- 4) is accordingly answered in affirmative. (Para 4421, Page 2828, Vol 3)</p>	<p>Yes, issue is decided in p-ositive. (Pages 3062 Vol 3)</p>
	<p>Issue No. 28:- "Wheth-er the defendant No. 3 has ever been in possession of the disputed site and the plaintiffs were never in its possession?"</p>	<p>In view of the findings and in accordance with the principle of Section 110, Evidence Act, i.e. title follows possession it is held that both the parties were/ are joint title holders in possession of the premises in dispute. (Page 107)</p>	<p>Issue 28 (Suit-4)-It is held that plaintiffs have failed to prove their possession of the disputed premises, i.e., outer and inner courtyard including the disputed building ever. (Para 3114, Page 1747, Vol 2)</p>	<p>These issues are decided against the plaintiffs. (Pages 3378, Vol 3)</p>