

IN THE SUPREME COURT OF INDIA

A76

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

NOTE ON PROOF OF BELIEF – I

Skanda Purana, Travelers, Gazetteers

BY DR. RAJEEV DHAVAN, SENIOR ADVOCATE

ADVOCATE ON RECORD: EJAZ MAQBOOL

NOTE ON SKANDA PURANA, TRAVELLERS AND GAZETTEERS

A. INTRODUCTION

1. The plaintiffs in Suit 5 have heavily relied on Skanda Purana, travelers and Gazetteers to support the following arguments:-
 - a) The birthplace of Lord Ram can be traced to the site of the Babri Mosque.
 - b) The Babri Mosque was built after demolishing a previous temple built on the site.
2. It is submitted that the Hon'ble High Court has observed that no clear picture emerges from the History books. The relevant finding is as follows:-

What lie underneath? This question is of extreme complication ranging in a period of more than 500 years' of history. No clear picture emerges from various history books etc. In fact, the contemporary record did not answer the issues, one or the other way, with certainty but some record, authored after about 200 years i.e., 18th Century, state about existence of temple, its demolition and the construction of the disputed building, while some well known historians dispute it and some history books are silent. [Para 3672 @ pg. 2142/Vol. 2 of the Impugned Judgment]

3. Further the Hon'ble High Court has also held that the exact location of birthplace of Lord Ram cannot be traced even from Skanda Puran. The relevant finding is as follows:-

To our mind instead of puzzling ourselves in so much literature etc., certain aspects which emerge from whatever we have mentioned above may be summarised which probably may give some idea as to how the questions are to be answered. The antiquity of Ayodhya is not disputed. It is also not disputed that Ayodhya is known as the principal place of religion and mainly concerned with Vaishnavites, i.e., the followers of Lord Rama. Lord Rama was born at Ayodhya and ruled thereat. The religious texts like Valmiki Ramayan and Ramcharitmanas of Goswami Tulsidas and others like Skandpuran etc. mention that Lord Rama was born at Ayodhya and it is his place of birth but do not identify any particular place in Ayodhya which can be said to be his place of birth. On the one hand we do not get any idea about the exact place or site but simultaneously we can reasonably assume that once it is not disputed that Lord Rama was born at Ayodhya there must be a place which could be narrowed down at the site of his place of birth. It is true that a search of a place of birth after long time even today may not be very easy if one tried to find out in this regard just three or four generations back. Therefore, for making such kind of inquiry in a matter of such an antiquity is almost impossible. But when a dispute in such a manner is raised then we go by the

well accepted principle in law of evidence particularly as applicable in civil cases, i.e., preponderance of probability. [Para 4372 at pg. 2784/Vol. III of the Impugned Judgment]

4. The Hindu parties have again made detailed submissions relying on the skand purana, travelers and gazetteers and therefore it is necessary to examine these documents in detail.

B. DETAILED CHART

RELIED FOR	COMMENTS
SKAND PURAN EXHIBIT 93:Pages 1/1 to ¼ to the affidavit of OPW 16 [Extract of Skand Mahapuran Part II, Ayodhya Mahatmya (2-8) with Hindi Translation (5 pages)] [See pg. 1767-1778/Vol VIII- Running Volume 80]	
<p>Read out verses 13 to 25 from "Ayodhya Mahatmya" Skandapurana : Vaishnavakhanda edited by Sri Krishnadas Kshem Raj Shresthi (1910) [Pgs. 1777-78/Vol. 80]</p> <p>It was argued that these verses attach special importance to Ram Janam Bhoomi in addition to Ram Lalla and the same may have relevance in view of the deity issue.</p>	<p>It is submitted that as per the <i>Historians Report to the Nation</i>[which has been exhibited by Plaintiffs in Suit 5 as well as Plaintiffs in Suit 4. It is Exhibit 45 in Suit 5 (Pgs. 432-449/Vol 74) and Exhibit 62 in Suit 4 (1720 – 1757/Vol. 11)], the location described in the Ayodhya Mahatmya of Skand Puran does not match with the present-day location of Babri Masjid. The Ayodhya Mahatmya uses the term Janamsthan & Janambhumi, if we take both of these to be the same place, the resultant place does not match with the site of the Babri Masjid. According to Ayodhya Mahatmya of Skand Puran, Janamsthan should be located either:-</p> <ol style="list-style-type: none"> Somewhere west in the vicinity of Bhahamakunda close to the bed of Sarayu. Or Somewhere between Rinamochana and Bharmakunda on the Bank of Sarayu. <p>No place in Ayodhya is associated with Rama's birth either in 11th Century or even 6 centuries after.</p> <p>When a place is associated with the birth of Lord Ram, possibly in the late 18th Century its location given in the various Mahatmyas does not tally with the Babri Masjid.</p> <p>Even in the Impugned Judgment, it has been observed that no exact place of birth of Lord Ram can be traced on the basis of religious texts like Valmiki Ramayan and Ramcharitmanas of Goswami Tulsidas and others like Skandpuran etc. [Para 4372 at pg. 2784/Vol. III of the Impugned Judgment]</p>
EXHIBIT 19- Photocopy of page 176 from the book "Early Travels in India 1583-1619 by William Foster" containing the report of William Finch (1608-1611) by William Foster[See pg. 190/Running Volume 73]	
<p>Read the entire typed portion on page 19 of Running Volume 73 and</p>	<p>It is relevant to note that by virtue of this document attempt has been made to establish that no mosque at all existed at the disputed site. It is</p>

<p>stated that William Finch did not find the disputed site to be of any importance to Muslims. He just found remains of Lord Rama's castle in the ruins of which Brahmins were praying. It was submitted that if the mosque had been built in 1528, then the William Finch would have noticed it and William Foster would have mentioned it.</p>	<p>however submitted that the Plaintiff in Suit 5 has itself mentioned that Babur destroyed the previous Janamsthan Temple and built a mosque on the said site in 1528. It has also been admitted that upto 1855 both the Hindus and Muslims were worshipping at the disputed site and after 1855, British put up an outer enclosure in front of the mosque- so that Muslims can pray inside the mosque and Hindus can pray outside on the platform in the outer courtyard. [See Para 23 of the Plaintiff in Suit 5 at pgs. 245-246/Vol. 72- Pleadings Volume] In fact the Plaintiff of Suit 5 seems to suggest that though a mosque was built by Babur at the disputed site, but it could not have been a valid mosque according to Sharia [See para 24 of the Plaintiff in Suit 5 at pg. 247/Vol. 72- Pleadings Volume].</p> <p>It is thus submitted that there was no dispute between the parties about the fact that Babri Masjid was infact built by Babur in 1528 at the disputed site. Only the fact whether the same was built after destroying a temple or not has been disputed. This document therefore, does not help the Plaintiffs as they have admitted the existence of Babri Masjid.</p>
<p>Exhibit 133- Historique Et Geographique De L Inde by Father Joseph Tieffenthaler (1770 AD) [Pgs. 1133-1155/Vol. 77; Also at pgs. 4116-4122 /Vol. 3 of the Impugned Judgment]</p>	
<p>Relied to show that the disputed site was worshipped as the birthplace of Lord Ram.</p>	<p>It is relevant to note that Tieffenthaler also records the following points:-</p> <ol style="list-style-type: none"> Aurangzebe demolished the fortress called Ramcote and erected on the site, a Mohammedan temple with a triple dome. According to others it was erected by Babur. [Pg. 4119 of Vol. III of Impugned Judgment]. <i>It is submitted that the source of this information is local belief which itself is hearsay evidence. More so, he talks about demolition of Fortress and not temple. The information who demolished is also not specific and hence not reliable.</i> It is relevant to note that Tieffenthaler also mentions a bedi (cradle) and states that it was on this where Beshan (Vishnoo) was born in the form of Ram. [Pg. 4119-4120 @ pg. 4120 of Vol. III of Impugned Judgment] This has to be read with statement of DW 3/18 who states that Ram Chabutara was also called Bedi. This shows that the Hindu belief was that Lord Ram was born on Chabutara. [Pg. 10663/Vol. 58] Further the statement of OPW 9, Dr. T.P. Verma (who is an Expert Witness- Epigraphist and Historian) is also relevant in this regard. He is a witness who has deposed on behalf of the Plaintiffs of Suit 5. This witness states that the belief of the Hindus was that Lord Ram was born under the central dome and that Hindus by agreement had started offering their prayers outside, taking Ram Chabutara to be the birthplace. He further stated that there is no mention of Chabutara in any gazetteers rather there is mention of cradle. He then clarifies that this cradle must have been kept above this chabutara. [Pgs. 2822-2824/Vol. 3 at pgs. 2823-2824]

The East India Gazetteer of Walter Hamilton (2nd ed.) [1828] [See Impugned Judgment at Vol. II: Pg. 1652 pr. 2959 and Vol. III: Pg. 3090-3093]	
<p>This was not read out in Court.</p> <p>This documents records that the remains of the ancient city of Oude (Ayodhya), the Capital of Great Rama was still in existence wherein pilgrimages are performed. He does not record the existence of a mosque but mentions that whatever may have been the former magnificence of the ancient city of Oude, exhibits nothing but a shapeless mass of ruins. [Pg. 3090-91/Vol. 3]</p>	<p>He did not record that he saw a mosque in his gazetteer but mere non recording of this fact by Walter Hamilton , does not lead to the conclusion that the mosque never existed. In any event, as mentioned above, the existence of the mosque has not been disputed by the Plaintiffs in Suit 5 as is evident from Para 23 of the Plaint [See Para 23 of the Plaint in Suit 5 at pgs. 245-246/Vol. 72- Pleadings Volume].</p>
Exhibit 20: Report of Robert Montgomery Martin, 1838 [See Pg. Nos. 192-197 Running Vol. 73; Also in the Impugned Judgment at Vol. II: Pg. 2021 pr. 3515]	
<p>This was not read in Court.</p> <p>This report suggested that the pillars in the Babri Mosque were of black stone which have been taken from a Hindu building. [Pg. 197/Vol. 73]</p>	<ol style="list-style-type: none"> This report doubts the theory that any temples were built at the disputed site during the times of King Vikramaditya. [Pgs. 194-194, 197/Vol. 73]. It is relevant to note that the Plaint in Suit 5 at para 23 [Pg. 245/Vol. 72- Pleadings Volume], states about the temple at the disputed site of Maharaja Vikaramaditya's time. States that destruction of this alleged temple at Vikramaditya's time is usually attributed to Aurangzeb. [Pg. 195/Vol. 73] States that thereafter, a mosque was erected the place of the temple. [Pg. 195/Vol. 73] Clarifies that the mosque at the place is built by Babur as is mentioned in the inscription on the mosque. He provides the copy of the inscriptions as well. [Pg. 195/Vol. 73] Mentions that though the pillars in the mosque built by Babur were taken from a Hindu building, the images thereon have been cut off to satisfy the conscience of the bigot. [Pg. 197/Vol. 73]
Exhibit 5: The Gazetteer of Edward Thornton, 1858 [Pgs. 31-37/Vol. 73; Also at Pgs. 4040-4042/Vol. III of the Impugned Judgment]	
<p>Relied to state that the mosque was built after demolishing the temple.</p>	<ol style="list-style-type: none"> The Gazetteer mentions at pg. 33(Running Volume 73) that: - <i>"The desire expressed in the General Courts of the East-India Company that an authentic Gazetteer of India should be offered to the British public in a cheap and convenient form, has led to the publication of this present edition."</i> Heavily relied upon the report of Buchanan.(Pg. 34/Running Volume 73) Agrees that Mosque was built by Babur- places reliance on the inscriptions. (Pg. 35/Running Volume 73). It is relevant to mention that at this time there could have been no doubt about the authenticity of the inscriptions. <i>It is submitted that Thornton has not talked about the specific demolition of a temple but several temples. He has accepted that the native tradition of demolition of temples by Aurangzeb is falsified by inscription.</i>

	<p>d) The 14 kasauti pillars (which he refers to as columns) have been taken from ruins of a Hindu fane, to which they had been brought by Lord Hanuman from Lanka or Ceylon. [Pg. 35 /Running Volume 73]</p> <p>e) A quadrangular coffer of stone, whitewashed, five ells long, four broad and protruding five or six inches above ground is pointed as the cradle in which Rama was born as the seventh avatar of Vishnu and is accordingly abundantly honored by the pilgrimages and devotions of the Hindus.[Pg. 35-36(Running Volume 73)]</p> <p>f) It is submitted that this Cradle was at the Ram Chabutara:</p> <ul style="list-style-type: none"> ❖ Statement of DW 3/18 (witness on behalf of Nirmohi Akhara) who states that Ram Chabutara was also called Bedi. This shows that the Hindu belief was that Lord Ram was born on Chabutara. [Pg. 10663/Vol. 58] ❖ Statement of OPW 9, Dr. T.P. Verma (who is an Expert Witness- Epigraphist and Historian) is also relevant in this regard. He is a witness who has deposed on behalf of the Plaintiffs of Suit 5. He has stated that this cradle must have been kept above this Chabutara. [Pgs. 2822-2824/Vol. 3 at Pgs. 2823-2824]
Archaeological Survey of India reports (by A.S. Cunningham, C.S.I) [1862-63-64-65][See Vol. III of the Impugned Judgment at Pgs. 4042-4051 @ 4048-49]	
<p>Relied to show that Vikramaditya had built a temple on all the holy places referring to the history of Rama.</p>	<p>Cunningham after mentioning that King Vikramaditya had re-built Ayodhya and had restored all temples referring to the History of Rama has himself stated that these sites were destroyed by Muslimans. However, he later again refers to the existence of a Janamsthan Temple. [Pgs. 4048-4049/Vol. III of the Impugned Judgment]</p> <p><i>It is submitted that the source of information is popular tradition which itself is hearsay evidence. Also relied upon the Ramayan. He did not mention about demolition of Janamsthan temple and construction of Mosque.</i></p> <p>It is relevant to note that the Janamsthan temple mentioned by Cunningham is about one-quarter of a mile away from Lakshman Ghat[Pg. 4049/Vol. III of the Impugned Judgment].It is submitted that the Babri Mosque is atleast 5 miles away from Lakshman Ghat and thus it is possible that Cunningham was referring to another temple altogether.</p>
P. Carnegy's book 'Historical Sketch' (1870) [Pgs. 477-489/Vol. 74 ; Also See Vol. III of the Impugned Judgment at pgs. 4054-4062]	
<p>Relied to show that Babur built a mosque on the site of the erstwhile Janamsthan Temple.</p>	<p>The following points are relevant:-</p> <ol style="list-style-type: none"> a) Carnegi records that Babur built a mosque at the Janamsthan (Pg. 4061/Vol III of the Impugned Judgment) b) He further records that the mosque bears the name of Babur & also notices the two inscriptions. (Pg. 4061/Vol III of the Impugned Judgment) c) The Kasuati pillars, which may have been a part of a previous temple, have been used in the construction of Babari Mosque strongly resemble Buddhist pillars. (Pg. 4062/Vol III of the Impugned Judgment)

	<p>d) A rupture took place between the Hindus and Muslims in 1855 and at that time, the Hindus, in their third attempt took the Janamshtan at the gate of which 75 Mohemmadans were buried in the Martyrs Grave (Ganj Shahid) (Pg. 4062/Vol III of the Impugned Judgment)</p> <p>e) Till 1855, Hindus and Mohemmeddians alike used to worship in the Mosque- Temple. (Pg. 4062/Vol III of the Impugned Judgment)</p> <p>f) Since British rule a railing has been put up to prevent disputes. It is within this railing that the mosque exists and that is where the Muslims pray. Whereas the Hindus pray outside the fence where they have raised a platform. (Pg. 4062/ Vol. III of the Impugned Judgment)</p>
Exhibit 7: Gazetteer of the Province of Oudh, W.C. Bennett [Pgs. 47-52/Vol. 73; See Vol. III: Pg. 4062-4065]	
Relied to show that Janamsthan Temple existed on the place Lord Ram was born and on the site of this Janamsthan temple, Babari Mosque was built.	<p>The following are the relevant points in the abovementioned Gazetteer:-</p> <p>a) Mentions 7 akharas in Ayodhya including Nirmohi. [Pgs. 4063-4063/ Vol. III of Impugned judgment]</p> <p>b) Babur built a mosque at the Janamsthan (Pg. 4064/Vol III of the Impugned Judgment)</p> <p>c) Janamshtan marks the place where Ram Chandar was born (Pg. 4064/Vol III of the Impugned Judgment)</p> <p>d) According to Leyden's Memoirs of Babar, the Emperor encamped at the junction of the Serwa and Gogra rivers two or three kos east from the surrounding country. A well-known hunting ground is spoken of in that work, sever or 8 kos about outh on the banks of Sarju. In Babarnama, the pages that relate to his doings in Ayodhya are wanting. (Pg. 4064/Vol III of the Impugned Judgment)</p> <p>e) In two places at the mosque the year in which it was built i.e. 935 H., corresponding with 1528 A.D is carved in stone alongwith inscriptions dedicated to the glory that Emperor.(Pg. 4064/Vol III of the Impugned Judgment)</p> <p>f) The Kasuati pillars, which may have been a part of a previous temple, have been used in the construction of Babari Mosque and they strongly resemble Buddhist pillars. (Pg. 4064/Vol III of the Impugned Judgment)</p> <p>g) A rupture took place between the Hindus and Muslims in 1855 and at that time, the Hindus, in their third attempt took the Janamsthan at the gate of which 75 Mohemmadans were buried in the Martyrs Grave (Ganj Shahid) (Pg. 4064-65/Vol III of the Impugned Judgment)</p> <p>h) Till 1855, Hindus and Mohemmeddians alike used to worship in the Mosque- Temple. (Pg. 4065/Vol III of the Impugned Judgment)</p> <p>i) Since British rule a railing has been put up to prevent disputes. It is within this railing that the mosque exists and that is where the Muslims pray. Whereas the Hindus pray outside the fence where they have raised a platform. (Pg. 4065/ Vol. III of the Impugned Judgment)</p> <p>j) The source of information is <i>locally affirmed</i> which itself is hearsay evidence. [Pg. 50/Vol. 73]</p>
Exhibit 8: A.F. Millett in his "Report of the Settlement of the Land Revenue of the Faizabad" 188- [Pgs. 53-63/Vol. 73 and Pgs. 4065-4068 of Vol. III of the Impugned Judgment]	

Relied to show that Janamsthan Temple existed on the place Lord Ram was born and on the site of this Janamsthan temple, Babari Mosque was built.	<p>a) Millet records that Babur built a mosque at the Janamsthan (Pg. 4067/Vol III of the Impugned Judgment)</p> <p>b) He further records that the mosque bears the name of Babur & also notices the two inscriptions. (Pg. 4067/Vol III of the Impugned Judgment)</p> <p>c) The Kasuati pillars, which may have been a part of a previous temple, have been used in the construction of Babari Mosque strongly resemble Buddhist pillars. (Pg. 4067/Vol III of the Impugned Judgment)</p> <p>d) A rupture took place between the Hindus and Muslims in 1855 and at that time, the Hindus, in their third attempt took the Janamsthan at the gate of which 75 Mohemmadans were buried in the Martyrs Grave (Ganj Shahid) (Pg. 4067/Vol III of the Impugned Judgment)</p> <p>e) Till 1855, Hindus and Mohemmeddians alike used to worship in the Mosque- Temple. (Pg. 4067/Vol III of the Impugned Judgment)</p> <p>f) Since British rule a railing has been put up to prevent disputes. It is within this railing that the mosque exists and that is where the Muslims pray. Whereas the Hindus pray outside the fence where they have raised a platform. (Pg. 4067/ Vol. III of the Impugned Judgment)</p> <p>g) The source of information is <i>locally affirmed</i> which itself is hearsay evidence. (Pg. 61/Vol. 73)</p> <p>h) He relied upon report of P. Carnegy. (Pg. 58/Vol. 73)</p>
Exhibit 123: The Encyclopaedia of India and of Eastern and Southern Asia by Surgeon General Edward Balfour, 1885 [Pgs. 859-860/Vol. 76 and Pgs. 4083-4084/Vol. III of the Impugned Judgment]	
Relied to show that a mosque existed on the site of the Janamsthan temple.	Records the existence of Babri Masjid. [Pgs. 4083/Vol. III]
Exhibit 92: Report of Archaeological Survey of North West Provinces and Oudh [Pgs. 727-731/ Vol. 75]	
Not read in Court. Relied to show that Babri Masjid was built at the spot of the old temple of Janamsthan.	<p>This report also records the following:-</p> <p>a) Babri Masjid at Ayodhya was built in 1528 AD by Mir Khan at the spot of the old temple of Janamsthan. (Pg. 729/Vol. 75)</p> <p>b) Notes the inscriptions and gives their translations. (Pgs. 729-730/Vol. 75)</p> <p>c) The pillars of the old temple of Janamsthan have been used in the construction of Babri Masjid. (Pg. 730/Vol. 75)</p>
Exhibit 9: A. Fuhrer, Archaeological Survey, North Western and Oudh 1891 [Pg. Nos. 64-70/Vol. 73 and See Vol. III of the Impugned Judgment at Pg. 4084-4090]	
Not read in Court.	<p>The following points are important:-</p> <p>a) According to Ramayan, the city of Ayodhya was founded by Manu. Ayodhya of Ramayana is said to have been destroyed after the death of Brihadbala, after which it lay deserted until the time of Vikaramaditya of Ujjayini, who according to tradition came in search of the Holy City, erected a fort called Ramgarh, but down the jangal by which the ruins were covered and erected 360 temples on the spots sanctified by the extraordinary actions of Rama. The Vikaramaditya of this story, General Cunningham takes to be Chandragupta II. (Pg. 4085/ Vol. III of the Impugned Judgment)</p> <p>b) In the very heart of the city, stands the Janamsthanam, or "birth-place temple," of Rama. (Pg. 4086/ Vol. III of the Impugned Judgment)</p>

	<p>c) Mir Khan built a masjid on Janamsthan in A.H. 930 during the reign of Babar, which still bears his name. (Pg. 4086/ Vol. III of the Impugned Judgment)</p> <p>d) Kasauti pillars of the old temple have been utilized for construction of Babari Masjid. (Pg. 4086/ Vol. III of the Impugned Judgment)</p> <p>e) The source of information is locally affirmed which itself is hearsay evidence. (Pg. 70/Vol. 73)</p>
Exhibit 69: "Ain-e-Akbari" by Abul Fazal Allami, translated by Colonel H.S. Jarrett, Vol. 2., 1891 [Pgs. 680-685/Vol. 75]	
Not read in Court. Makes no mention of the Babri Mosque.	After having accepted the existence of the Babri Mosque in the plaint [Para 23 of Pg. 245/Vol. 72- Pleadings Volume], the absence of the mention of Babri Mosque in Ain-e- Akbari is of no consequence. Further the existence of the Mosque has been judicially noticed in the order of the District Judge dated 18/25.03.1886[Ex. A27, Suit No.1 @ pgs. 4200-4201/Vol. 3 of the Impugned Judgment]
Fyzabad Gazetteer, Volume XLIII of the District Gazetteers of the United Provinces of Agra and Oudh by H R Nevill [1905 Edition at pgs. 4070-4074 and 1928 Edition at Pgs. 4074-4078/Vol. 3 and See Also 1905 Edition at pgs. 77-91/Vol. 73 & 1928 Edition at pgs. 92-104/Vol. 73]	
<p>Not read in Court.</p> <p>Relied to show that Babur destroyed the Janamsthan temple and on the site of the said temple built the Babri Mosque.</p> <p><i>destroyed</i></p>	<p>At the outset it is relevant to note that Nevill also records the following:-</p> <p>a) In the preface of his gazetteer, Nevill states that much of what was contained in Carnegie and Millet was of "purely traditional & speculative character" (Pgs. 4070 & 4074/Vol III of the Impugned Judgment)</p> <p>b) In 1528 A.D. Babur came to Ajodhya and halted there for a week. He distorted an ancient temple and, on the site, built a mosque known as Babar's Mosque (Pgs. 4071 & 4076/Vol III of the Impugned Judgment)</p> <p>c) The Mosque has two inscriptions, one on the outside and other on the pulpit, both are in Persian and bear the date 935 Hijri. Of the authenticity of the inscription there can be no doubt. (Pg. 4071 & 4076/Vol III of the Impugned Judgment)</p> <p>d) Till 1855, Hindus and Mohammedans alike used to worship in the Mosque- Temple. (Pgs. 4072 & 4076/Vol III of the Impugned Judgment)</p> <p>e) A rupture took place between the Hindus and Muslims in 1855 and at that time, the Hindus, in their third attempt took the Janamshtan at the gate of which 75 Mohemmadans were buried in the Martyrs Grave (Ganj Shahid) [Pgs. 4072 & 4076 / Vol. III of the Impugned Judgment].</p> <p>f) Since British rule a railing has been put up to prevent disputes. It is within this railing that the mosque exists and that is where the Muslims pray. Whereas the Hindus pray outside the fence where they have raised a platform. (Pgs. 4072 & 4076/ Vol. III of the Impugned Judgment)</p>
Exhibit 10: Imperial Gazetteer of India Provincial Series United Provinces of Agra & Oudh, Vol. II [Pgs. 71-76/Vol. 73 and Pgs. 4068-4070 of Vol. III of the Impugned Judgment]	
Not read in Court. Relied to show that that the Mosque was built by Babar from the remains of an old temple, and that the mosque was erected at the place of	The gazetteer also records that though most of the enclosure is occupied by a mosque built by Babar, in the outer portion, a small platform and shrine mark the birthplace. [Pg. 4069/Vol. III of the Impugned Judgment]

where fort of Lord Rama once existed.	This shows that the Hindus were always praying at the Ram Chabutara and that the belief was that Chabutara was the birthplace of Lord Ram.
Exhibit 22: Ayodhya ka Itihas by Awadwasi Lala Sitaram, 1032 [Pgs. 202-220/Vol. 73 and Vol. III of the Impugned Judgment at pg. 3067]	
Not read in Court. Relied to show that the mosque was constructed after demolishing the Janamsthan Temple.	<p>The following points are relevant:-</p> <ol style="list-style-type: none"> In 1528, Babur marched towards Ayodhya with his army and camped at the place where rivers Serva and Ghaghra meet. [Pg. 214/Vol. 73] Two theories of why Babur demolished the Janamsthan Temple to build the Babri Mosque are provided. [Pgs. 214-215/Vol. 73] Mentions that the material of the temple have been used in construction of the masjid, particularly the kasauti black pillars. [Pgs. 216/Vol. 73] Mentions the inscriptions, reproduces the text and translates it. [Pgs. 216-218/Vol. 73]
Exhibit 23: Hans Baker made research thesis in respect to Ayodhya pursuant to grant of Project of University of Groningen (Netherlands). The book was titled as "Ayodhya" and published in the year 1986. [Pgs. 2217-2253/Vol. 82 and also see Vol. II of the Impugned Judgment at pgs. Pg. 2038-2050 pr. 3537-3541]	
Relied to show that the site of Babri Mosque is the place of Janamsthan of Lord Ram.	<p>The following points are relevant:-</p> <ol style="list-style-type: none"> Hans Baker's book is actually a thesis submitted to the Faculty of Letters of University of Groningen Oriental Studies. [Pg 2038 @ para 3537 of Volume III of the Impugned Judgment] Hans Baker first states that it is possible that the historical town of Saketa is the site of Ayodhya. [Pgs. 2221-2222/Vol. 82] He further states that Rama is not indissolubly connected with the city of Ayodhya and that some texts mention Benaras as the capital of Rama. [Pgs. 2228/Vol. 82] He then states that Ayodhya was probably a creation of the poet's imagination. He states that probably the poet had city of Saketa in his mind while describing Ayodhya. He further states that the information about Ayodhya in the early Epic Literature does not furnish us with historical data concerning an old city of that name, let alone Ayodhya. [Pg. 2229/Vol. 82] He then proceeds on the assumption that the ancient city of Saketa was Ayodhya and states that historical information about Ayodhya can be gathered only from the Archaeological data and texts concerning Saketa. [Pgs. 2231/Vol. 82] He further states that rediscovery of Ayodhya by Vikramaditya was not mentioned in any Sanskrit literature. [Pgs. 2249/Vol. 82] Janamsthan temple was destroyed by Babur and replaced by a mosque in 1528 AD. This mosque still exists and the black columns of the erstwhile temple have been utilized by Mir Baqi in the construction of this mosque. [Pg. 2038 at para 3537, Pg. 2040 at para 3538, Pg. 2048 at para 3540/Vol. II of the Impugned Judgment] Quotes Martin to state that the pillars of the mosque were taken from a Hindu building which is evident from the traces of images being observable on some of their bases, although the images have been cut off to satisfy the conscience of the bigot. [Pg. 2038 at para 3537/Vol. II of the Impugned Judgment] Notifies the inscriptions and translates both the inscriptions. [Pg. 2045/Vol. II of the Impugned Judgment]

	<p>j) He is unable to trace the actual place of Janamsthan with the help of Ayodhya Mahatamaya, and hence concludes as follows:- <i>"Notwithstanding all the difficulties discussed above, the original location of the Janmasthan temple is comparatively certain since it seems to be attested by the location of the mosque built by Babur, in the building of which materials of a previous Hindu temple were used and are still visible. The mosque is believed by general consensus to occupy the site of the Janmasthan."</i> [Pg. 2047/Vol. II of the Impugned Judgment]</p> <p>Thus the submission that Hans Baker used the Skand Puran and traced the Janamsthan to the site of the Babri Mosque is erroneous as Hans Baker himself states that there is difficulty in finding the location of the Janamsthan but uses the site of Babri Mosque and the local consensus to make this statement.</p> <p>k) He states that Muslim rulers permitted Hindus to perform Puja on a platform near or even within the precincts of the mosque. [Pg. 2049/Vol. II of the Impugned Judgment]</p> <p>l) After annexation of Oudh by British, a railing was put up around the mosque to prevent the disputes within which, in the mosque, the Mahomedans pray while outside the fence the Hindus have raised a platform on which they make their offerings. [Pg. 2049/Vol. II of the Impugned Judgment]</p> <p>m) In 1949, on the night of December 23, Hindus succeeded in installing idols within the mosque. [Pg. 2049/Vol. II of the Impugned Judgment.]</p> <p>n) In respect of the book of Hans Baker, the impugned judgment records as follows:- <i>This description of Baker is either a reiteration of the information supplied in various Gazetteers or that contained in History book. However, at places he has simply proceeded by assuming many things on his own without assigning such information.</i> [Pg. 2050 at para 3541/Vol. II of the Impugned Judgment.]</p>
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C. CONCLUSION

I. RE: SKANDA PURANA & AYODHYA MAHATAMYA

1. It is submitted that as per the *Historians Report to the Nation* [which has been exhibited by Plaintiffs in Suit 5 as well as Plaintiffs in Suit 4. It is Exhibit 45 in Suit 5 (Pgs. 432-449/Vol 74) and Exhibit 62 in Suit 4 (1720 – 1757/Vol. 11)], the location described in the Ayodhya Mahatamya of Skand Puran does not match with the present-day location of Babri Masjid. The Ayodhya Mahatamya uses the term Janamsthan & Janambhumi, if we take both of these to be the same place, the resultant place does not match with the site of the Babri Masjid.
2. According to Ayodhya Mahatamya of Skand Puran, Janamsthan should be located either:-
 - c) Somewhere west in the vicinity of Bhahamakunda close to the bed of Sarayu. Or
 - d) Somewhere between Rinamochana and Bharmakunda on the Bank of Sarayu.

3. No place in Ayodhya is associated with Rama's birth either in 11th Century or even 6 centuries after.
4. When a place is associated with the birth of Lord Ram, possibly in the late 18th Century its location given in the various Mahatamyas does not tally with the Babri Masjid.
5. Even in the Impugned Judgment, it has been observed that no exact place of birth of Lord Ram can be traced on the basis of religious texts like Valmiki Ramayan and Ramcharitmanas of Goswami Tulsidas and others like Skandpuran etc. [Para 4372 at pg. 2784/Vol. III of the Impugned Judgment]
6. Further reliance on Hans Baker to state that Babri Masjid was built on the birthplace of Lord Ram is misplaced as:-
 - a) Hans Baker proceeds on the presumption that Ayodhya is not a real city but a figment of the poet's imagination. [Pg. 2229/Vol. 82]
 - b) He proceeds by equating Ayodhya to the city of Saketa. [Pg. 2231/Vol. 82]
 - c) Even while mapping the birthplace from Ayodhya Mahatamya, he cites considerable difficulties and ultimately states that Babri Masjid is built at the birthplace as is confirmed by local belief. Pg. 2047/Vol. II of the Impugned Judgment]
 - d) Even the impugned judgment records that Hans Baker proceeds on the basis of conjectures without assigning any reason. [Pg. 2050 at para 3541/Vol. II of the Impugned Judgment.]

II. RE: EXISTENCE OF THE MOSQUE

7. It is submitted that almost all the travelers/ gazetteers mentioned above note the existence of the Babri Masjid. Those who have noted its presence are:-
 - i. Tieffenthaler
 - ii. Montgomery Martin
 - iii. Edward Thornton
 - iv. Carnegi
 - v. W.C. Benett
 - vi. A.F. Millet
 - vii. Balfour
 - viii. Report of Archaeological Survey of North West Provinces and Oudh
 - ix. A. Fuhrer
 - x. Nevill
 - xi. Imperial Gazetteer of India Provincial Series United Provinces of Agra & Oudh
 - xii. Ayodhya Ka Itihas
 - xiii. Hans Baker
8. Further the following travelers/gazetteers note inscriptions:-
 - i. Montgomery Martin
 - ii. Edward Thornton
 - iii. Carnegi
 - iv. W.C. Benett
 - v. A.F. Millet
 - vi. Report of Archaeological Survey of North West Provinces and Oudh
 - vii. A. Fuhrer
 - viii. Nevill
 - ix. Imperial Gazetteer of India Provincial Series United Provinces of Agra & Oudh
 - x. Ayodhya Ka Itihas
 - xi. Hans Baker

9. Moreover, the following travelers/gazetteers have noted the iron grill railing (which was installed after the riots of 1855) and saw that Muslims were praying inside the grill enclosure inside the mosque, whereas the Hindus were praying outside at the platform (i.e. the Ram Chabutara):-
 - i. Carnegi
 - ii. W.C. Benett
 - iii. A.F. Millet
 - iv. Nevill
 - v. Hans Baker
10. This shows that prayer was happening even before 1855.
11. It is submitted that these travelers have themselves seen the mosque, its inscriptions and have witnessed the Muslims offering prayers in the inner courtyard inside the mosque and the Hindus worshipping outside in the outer courtyard at the Chabutara. However, the notings in these traveler's accounts as well as the gazetteers about the mosque having been built after destruction of temple is mere hearsay and holds no value.
12. The following writers have not mentioned Babri Mosque:-
 - i. William Foster (on William Finch)
 - ii. Walter Hamilton
 - iii. Cunningham:-
 - ❖ Cunningham after mentioning that King Vikramaditya had re-built Ayodhya and had restored all temples referring to the History of Rama has himself stated that these sites were destroyed by Muslamans. [Pgs. 4048-4049/Vol. III of the **Impugned Judgment**]
 - ❖ It is relevant to note that the Janamshtan temple mentioned by Cunningham is about one-quarter of a mile away from Lakshman Ghat [Pg. 4049/Vol. III of the **Impugned Judgment**]. It is submitted that the Babri Mosque is atleast 5 miles away from Lakshman Ghat and thus it is possible that Cunningham was referring to another temple altogether.
 - iv. Ain-e-Akbari:- This dealt with Akbar's life and therefore it mentions the mosques built during Akbar's reign. No occasion arose for it to mention Babri Masjid.
13. In any event, the fact that Babri Mosque was not noticed by the abovementioned travelers is immaterial as the existence of the Babri Mosque has been admitted in the Plaint of Suit 5 [See Para 23 of the Plaint in Suit 5 at pgs. 245-246/Vol. 72- Pleadings Volume].

III. BEDI/ CRADLE AT THE RAM CHABUTARA WAS BELIEVED TO BE THE BIRTH PLACE

14. The following travelers have noted that the Bedi/Cradle/Ram Chabutara was the birthplace of Lord Ram:-
 - a) Tieffenthaler:- Mentions a bedi (Cradle) and states that it was on this where Beshan (Vishnoo) was born in the form of Ram. [Pg. 4119-4120 @ pg. 4120 of Vol. III of **Impugned Judgment**]
 - b) Edward Thornton:- A quadrangular coffer of stone, whitewashed, five ells long, four broad and protruding five or six inches above ground is pointed as the cradle in which Rama was born as the seventh avatar of Vishnu and is accordingly abundantly honored by the pilgrimages and devotions of the Hindus. [Pg. 35-36(Running Volume 73)]

- c) Imperial Gazetteer of India Provincial Series United Provinces of Agra & Oudh:-records that though most of the enclosure is occupied by a mosque built by Babar, in the outer portion, a small platform and shrine mark the birthplace[Pg. 4069/Vol. III of the Impugned Judgment]
15. As mentioned above, witness DW 3/18 [Pg. 10663/Vol. 58]and OPW 9 [Pgs. 2822-2824/Vol. 3 at pgs. 2823-2824] have already mentioned that bedi/cradle was at the Ram Chabutara.
16. In view of the foregoing it is clear that the Ram Chabutara was believed to be the birthplace of Lord Ram and was worshipped as such. This can be corroborated with the plaint of 1885 suit as well as the order of the District Judge, dated 18/25.03.1886 passed therein.[Ex. A27, Suit No.1 @ pgs. 4200-4201/Vol. 3 of the Impugned Judgment]

IV. NO TRAVELLER/GAZETTEER MENTIONS THE PLACE BELOW THE CENTRAL DOME AS THE BIRTHPLACE OF LORD RAM.