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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**

**NOTE ON PROOF OF BELIEF – II**  
**INSCRIPTIONS**

**BY DR. RAJEEV DHAVAN, SENIOR ADVOCATE**

ADVOCATE ON RECORD: EJAZ MAQBOOL

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## NOTE ON INSCRIPTIONS ON BABRI MASJID

### A. INTRODUCTION

1. The factum of the construction of Babri Masjid by or under the command of Emperor Babar may be ascertained from the inscriptions found on the Babri Masjid. It is submitted that the inscriptions indicate that Babri Masjid was constructed by Mir Baqi on the desire and command of Emperor Babur in the year 1528 A.D.
2. The two inscriptions which are relevant to the issue of construction are, one at the pulpit and the other on the main Gate of the Masjid. The third inscription inside the mosque bears "kalmah"/ Islamic phrase and does not mention anything about the building or its construction. However it does reinforce the fact that the disputed structure was in fact a mosque.
3. It is relevant to note that inscription on the entrance of the Babri Mosque is visible in the Photo No. 92, 93 and 94 of the Colour Photo Album. [Submission No. A21, tendered by C S Vaidyanathan, Sr. Adv].
4. Inscriptions show that the disputed structure with its three domes was constructed by Emperor Babar or under his orders somewhere in the year 1528 A.D. The inscriptions on the pulpit were partly destroyed during the riots of 1934, however when the mosque was subsequently repaired, the inscriptions were restored as per the original.

### B. INSCRIPTIONS WERE NOTED BY TRAVELLERS

5. The following travellers/gazetteers note the presence of inscriptions:-
  - a) **Montgomery Martin:** The Report of Montgomery Martin was published in 1838 wherein it is quoted that the mosque in Ayodhya was built by Babur as ascertained by the inscriptions on its walls.

[See: pg. 94/Vol.1; Also pg. 1053- 1061/Vol 1, para 1600-1601, see also pg. 973/Vol. 3, para 1409]

- b) **Edward Thornton:** In the Edward Thornton Gazetteer 1854/58, it has been noted that as per the native tradition, temple was demolished by Aurangzeb but this was in fact, falsified by the inscription on the wall of the mosque attributing the work to Babar. [See: pg. 94-95/Vol. 1; see also pg. 974/Vol 1, para 1410]
- c) **P. Carnegi:** In Carnegi's sketch (1870), in appendix A, it has been recorded the as per the description of Babar's Mosque in Leyden's memoirs, there were inscriptions in two places in the Babari Mosque. These inscriptions mention that the mosque was built in 935 Hijri and secondly, they are dedicated to the glory of the emperor. [See: @pg. 96/Vol. 1; see also pg. 974-975/Vol 1, para 1413-1414]
- d) **W.C. Benett:** In Gazetteer of Oudh, by Benett, P. Carnegi's extract on Ayodhya is reproduced and it mentions inscriptions on Babri Masjid and that year of building it as 935H/1528A.D. [See pg. 975 /Vol. 1 para 1416-1417]
- e) **A.F. Millett:** In the Report on the settlement of the Land Revenue of the Fyzabad District", by A.F. Millett there is repetition of what was said in P Carnegi's Historical sketch. [See pg. 9756/Vol. 1 para 1418-1419]
- f) **Fyzabad-a Gazetteer being Vol. XLIII of the District Gazetteers of the United Provinces of Agra and Oudh" by H.R. Nevill published in 1905 :**In this reference to two inscriptions has been made and it has been stated that-*"The mosque has two inscriptions, one on the outside and the other on the pulpit; both are in Persian*

*and bear the date 935 Hijri."* [See pg. 977-78 / Vol. 1 , para 1421-22]

- g) **Fyzabad Gazetteer 1928 by Nevil:** This again mentions two inscriptions on Babri Mosque, one on the outside and the other on the pulpit; both are in Persian and bear the date 935 Hijri. [See pg. 983/ Vol. 1, para 1432]
- h) **The "Uttar Pradesh District Gazetteers-Faizabad" by Smt. Esha Basanti Joshi, year 1960:** It mentions that there are two inscriptions in Persian, one on the outside and the other on the pulpit bearing the date 935 Hijri. [See pg. 984/ Vol. 1, para 1434]
- i) **The Sharqi Architecture of Jaunpur; with notes on Zafarabad, Sahet-Mahet and Other Places in the North-Western Provinces and Oudh by A. Fuhrer; Original edition 1889:** It describes the three inscriptions on Babri masjid:
- ❖ Inscription No. XL- This was over the central mihrab and was written in Arabic characters and gave the Kalimah twice;
  - ❖ Inscription No. XLI- This was on the mimbar (right hand side of the disputed building) written in Persian poetry, indicating that Babri Masjid was built by Babar; and
  - ❖ Inscription XLII- This was above the entrance door of the disputed building written in Persian poetry indicating construction date as 930 Hijri. [ See pg. 984 – 987/Vol 1 at para 1436-39] *At the outset, it is submitted that mentioning of 930 Hijri in place of 935 Hijri is the case of miscalculation/ skipping of alphabets while ascertaining the date of construction and this aspect will be dealt in detail in a later section of this note.*



j) **Baburnama by A. S. Beveridge, 1921:** Beveridge refers to two such inscriptions on the Mosque, one inside the mosque and another outside the mosque. She reproduces the text of the inscriptions but caveats the same by stating that – *“while reproducing the text a few slight changes in the term of expression have been made for clearness sake”*. The translation of these inscriptions, provided by Beveridge reveal that:-

- ❖ The mosque was built under the Command of Babur
- ❖ The mosque was built by Mir Baqi.

[See@ pg. 987-989/ vol 1, para 1441-1444]

k). **Epigraphia Indica-Arabic & Persian Supplement (In continuation of Epigraphia Indo- Moslemica) 1964 and 1965:**

This book was written by Late Maulvi M. Ashraf Husain and was edited by Z.A. Desai. The book under the chapter “Inscriptions dated A. H. 935” refers to mosque built under the order of Babur. [See pgs. 989-994/Vol. 1, para 1445-1451]

l) **Mugalkalin Bharat- Babar (1526-1530 AD) translated by Syed Athar Abbas Rizvi (first published in 1960 and in 2010:** This mentions about the text of two inscriptions and states that the mosque was built by Emperor Babar. [See pg. 996/Vol.1, para 1453]

m) **Book titled as Babar by Dr. Radhey Shyam, published in 1978:** This book mentions the text of two inscriptions and indicates the name of Emperor Babar and further mentions that the building was constructed in the year 935 Hijri. [See pg. 998/Vol 1, para 1454]

- n) **The Monumental Antiquities And Inscriptions In The North-Western Provinces And Oudh**” described and arranged by A. Fuhrer published by the Superintendent, Government Press, N.-W. Provinces and Oudh, 1891: This describes that Mir *Khan* built a Masjid, which bears the name of Babar. [See pg. 1008/Vol 1, Para 1475; also at pg. 4086]
- o) **Babarnama translated by Yugjeet Nawalpuri, 1974**: This is a Hindi translation of F G Talbot’s “Memoirs of Babar”. This refers to the inscriptions as mentioned in Beveridge’s work and reaffirms the fact that the mosque was built under the Command of Babur in 935 Hijri. [See pg. 1008/ Vol 1, para 1476]
- p) **Ayodhya Ka Itihas by Awadwasi Lala Sitaram**: This book was published in 1932 and it makes a specific mention of the disputed building being treated as Mosque and the inscriptions of Mosque have also been referred. The description of inscriptions is identical to the one given by Beveridge. [See pg. 1012-1013/Vol 1, para 1479, also at @ Pg. 3067/ Vol 3]
- q) **Hans Baker in the book titled as "Ayodhya"**: This refers to two inscriptions on the mosque, stating that the mosque was built by Babur in 935 Hijri. [See pg.2045/Vol.1, para 3538]

### **C. ARGUMENTS ADVANCED BY OPPOSITE PARTIES IN RELATION TO INSCRIPTIONS:-**

- a) The first argument that has been advanced in regard to inscriptions is that, these inscriptions were in fact the only evidence to show that the mosque

was built by/under the orders of Babur in 935 Hijri and since the authenticity of these inscriptions is questionable (as different text mention slightly different versions), there remains no evidence to support the averment that the mosque was built by Babur.

- b) Another argument advanced in relation to the inscriptions is regarding the identity of Mir Baqi, wherein it has been argued that the inscriptions mention the name 'Mir Baqi' which was not mentioned in Babur Nama and that the other references to 'Baqi Tashkandi' and 'Baqi Shaghawal', were not to Mir Baki. It was further stated that Mir Baqi was not even a real person.
- c) Both these arguments were advanced by Mr. PN Mishra. The second argument regarding the co-relation of variation in names of Mir Baki, will be dealt with by Mr. Nizam Pasha, Advocate.

#### **D. UNREFUTED CONCLUSIONS WHICH CAN BE DRAWN FROM THE INSCRIPTIONS**

- 6. It is submitted that on a bare perusal of various accounts of inscriptions, one can draw the following conclusion:-
  - a) The mosque was built under the command of Babur
  - b) It was built in 935 Hijri (which corresponds to 1528 AD)
- 7. It is relevant to mention that these inscriptions on the mosque have been acknowledged since early 19<sup>th</sup> century by several travellers/authorities like Dr. Buchanan, Montgomery Martin, P. Carnegi, W.C. Bennett, A.S. Beveridge as well as the ASI, which leaves no scope for any argument pertaining to the alleged tampering of these inscriptions.

8. Further, as mentioned above, these inscriptions have been noticed even prior to the riots of 1934, when there could have been no chance of tampering.

#### **E. OPPOSITE PARTIES HAVE THEMSELVES ADMITTED TO AND REFERRED TO THE INSCRIPTIONS**

9. It is submitted that the Plaintiffs in Suit 5 have themselves admitted to the existence of two inscriptions- one outside and one at the pulpit. They have admitted that these inscriptions mention the date of 935 Hijri (1528 AD) and the name of Babar on the Babri masjid. Thus, the exercise of examining the veracity of inscriptions was uncalled for as there was no dispute regarding the same. [See pg. 245-246, Running Volume 72]
10. That the Plaintiffs cannot selectively rely upon the contents of the Gazetteer and deny the presence of inscriptions prior to the riots of 1934, having admitted the existence of inscriptions in their plaint itself.

#### **F. REASONING IN THE IMPUGNED JUDGMENT FOR REJECTING THE INSCRIPTIONS IS ERRONEOUS**

11. It is submitted that the Report of Montgomery Martin wherein the presence of the inscription has been noted has been rejected on a flimsy ground that local people believed that the mosque was built by Aurangzeb and that it was unbelievable that till 1807, there was no Hindu person available who was capable of reading Persian/Arabic in order to ascertain that the mosque was actually constructed by Babur. It is on this frivolous ground that Justice Agarwal creates a new doubt and then disregards the report of Martin. [See pg. 1060-1061/Vol 1, Para 1601]



12. Further Justice Agarwal supplemented his finding by observing that since the text of the inscriptions and the number of inscriptions have not been mentioned in the report, the report was not reliable. [ See pg.1061/Vol 1, para 1601]

13. It is submitted that Martin, in his report, clearly mentions that the inscriptions show that the mosque in question was built by Babur. In such circumstances, to reject the inscriptions merely because a word by word translation was not given by the author is erroneous. It is further submitted that the second ground of rejection which presupposes that some Hindu ought to have known Persian/Arabic is also an imaginary ground and it is in any event unascertainable to determine whether at that time any Hindu could have read/understood the inscriptions.

14. **Qua Edward Thornton Gazetteer:** Justice Agarwal discarded the evidentiary value of inscription by observing that it was based on secondary evidence and that it is not known if Thornton had viewed the same himself or could read Persian/ Arabic. It has further been assumed in the judgment that this information *might* have been received by Thornton from someone else or *might* have been based on Martin's Report. Finally, Justice Agarwal concluded from the words "an inscription" that there must have been only one inscription i.e. on the wall attributing it to Babar. [See pg. 974/Vol 1, para 1411-1412]

15. It is submitted that if the reasoning of Justice Agarwal is accepted, then the entire evidence of travellers' would have to be set aside, until it is proved that all of them were fluent in the local language. Further, it is relevant to point out that the accounts of several travellers have been

selectively taken into consideration even when those observations have been prefixed by phrases “*locally believed*”, which directly shows that the observation was based on a mere hearsay.

16. It is therefore submitted that the Report of Thornton written in the year 1858 ought to be considered, particularly when the same was published way before 1934, raising no doubts about its authenticity. Further, the veracity of the inscriptions is supported by *Carnegi's Historical Sketch* which notes the presence of inscriptions (and mentions that the Babur built the mosque in 935 Hijri). However, even these observations have been summarily rejected on the reason that no details of the inscriptions are given. [See reasoning for Rejection @pg. 97/Vol 1 (Justice Khan) and @pg. 975/Vol 1, para 1415 (Justice Agarwal)]

17. Further, Justice Agarwal conducts a comparison of the translations given by the following texts:-

- a) The Sharqi Architecture of Jaunpur with notes on Zafarabad, Sahet-Mahet and Other Places in the North-Western Provinces and Oudh by A. Fuhrer [Published in 1889]
- b) Babur- Nama by A.S. Beveridge [Published in 1921]
- c) Epigraphia Indica-Arabic & Persian Supplement [Published in 1964-65]
- d) Mugalkalin Bharat- Babar (1526-1530 AD) [Published in 1960]
- e) Babar by Dr. Radhey Shyam [Published in 1978]

And observes as follows:-

*“From perusal of the text of the inscription said to be found inside the mosque i.e., the 6 lines inscription it is evident that*



*the text quoted by Fuhrer, Beveridge and Maulvi F. Ashraf Hussain has apparent and demonstrable differences."*

[ See pg. 1002/ Vol 1, para 1445-1462; see also pg. 1088/Vol 1, para 1650-1651]

✓ 18. Justice Agarwal points out the following distinctions after conducting the comparison:-

- a) non mention of word "honour" before Babar,
- b) mention of Mir Khan instead of Mir Baqi and
- c) use of words "lofty building" instead of word "mosque" vis a vis 1<sup>st</sup> inscription.
- d) Mention of the year 930 H (1523 A. D.) instead of 935 H (1528 AD)

[See pg. 1007/ Vol 1, para 1463 and para 1474]

✓ 19. Further, Beveridge 's report on the inscription have been discarded on the ground that she herself had neither read the said texts nor visited Ayodhya at any point of time., thus hers was based on secondary evidence. [ See pg. 1006/Vol. 1, Para 1468. Also see pg. 1090/Vol. 1, para 1651]

✓ 20. It is submitted that the aforesaid comparison is misleading for the following reasons:-

- a) The discrepancies in the translations are minor, and the translations, even with their variations, reflect that the Mosque was built by Babur in 935 Hijri (1528 AD)
- b) Further apart, from **Fuhrer's work on North-Western Provinces and Oudh, 1889 and "Babur- Nama" by A.S. Beveridge (first published in 1921)**, rest are all post 1949 documents and thus ought

not be considered for the purpose of determining the credibility of the inscriptions.

- c) It is further relevant to note that the comparison conducted by Z.A. Desai (author of Epigraphia Indica), while noting the text of the inscriptions, mentions the year 935 Hijri in words, which leaves no scope for any doubt as to the year 935 Hijri. [See pgs. 993-994/Vol. 1 of the Impugned Judgment]
- d) It is also submitted that that it was only at one place that 930 H was mentioned. This confusion arises due to Fuhrer's mis-transcription and mis-translation of pulpit inscription in Persian where date given in the form of Arabic/ Persian alphabets arranged into words.
- e) In any event, the Plaintiff in Suit no. 5 have themselves relied upon Fyzabad Gazetteer which indicates the date as 935 Hijri and therefore no question of any discrepancy arises.
- f) Further, discarding Beveridge's inscription on the ground of those being based on other sources is selective appreciation of evidence.

21. Further, *qua* Nevill's work of 1928, Justice Agarwal observed that Nevil has placed reliance on Elliot and Dowson's "History of India" Vol. 4 page 283 which is English translation of "Tuzak-I Babari" which is said to be Leyden and Erskine's translation as per the prefàce of the book. He further observed that since he was unable to find the said reference at the aforementioned page of Leyden's translation, no reliance could be placed on Nevill's work. [See pg. 983/Vol. 1 at para 1433]

22. It is relevant to note that the factum of inscription as mentioned in Leyden's work was also referred to by Carnegi and thus it is evident that Leydon's work did mention the said inscriptions.

23. It is further relevant to note that Justice Agarwal also observed that the inscriptions were unreliable due to the following discrepancies [See @page 1013/Vol 1, para 1480-1484]:

- a. Further says "*a lofty building*" erected by Mir Khan under command of Babar in 930 H. i.e. 1523 A.D.
- b. Beveridge reveals that Mir Baki built "*alighting place of angels*" in 935H.
- c. ASI report of 1964-65 edited by Z. A. Desai the transcript whereof says that "by the order of King Babar that descending place of Angles was built by the fortunate noble Mir Baki". In respect to another inspection, Desai text says that "a lofty building and lasting house (of God) was founded by Mir (and) Khan (Baqi)". The words placed within brackets are that of Mr. Husain or Dr. Desai's own insertion and do not find place in the text of the inscription as such.
- d. Inspection of Akhtar Ahasan as reproduced in judgment dated 30.03.1946 in R.S. No. 29/1945 (Shia Sunni dispute) wherein the first inscription the words are "by the order of Shah Babar, Amir Mir Baki built the resting place of angles in 923 A.H. i.e. 1516-17 AD". In respect to second inscription, he says that "Mir Baki of Isphahan in 935 AH i.e. 1528-29 AD".

24. It is submitted that all the above points though mention the slight difference of translation in the inscriptions, they all reflect the same thing, i.e., the mosque was built by Mir Baki under the command of Babur. It is one thing to say that the word mosque has been described by different authors as – the lofty building or the place of descending of the angels ,



Incorrect approach  
in relying on Arabic

the resting place of angels, but none of the authors has stated that this was to describe anything else but the mosque. Further none of the authors have doubted that the mosque was not constructed by Mir Baki by/or under the command of Babur. Therefore merely for the reason that each author has expressed the translation of the inscription in his/her own way, the inscription cannot be discredited, particularly when the bottom-line meaning deduced by each author is the same.

25. Further, the discrepancy regarding 923 H being mentioned by Inspector Akhtar Ahasan can be explained by the error in reading the date. The source of error is misreading of the date given in the form of Arabic/Persian alphabets. It is submitted that for the expression, *the good will remain everlasting*, the Persian original is 'buwad khair baqi', which, rendered into cardinal numbers, comes to 935 A.H./1528 A.D., as under :

$$b=2$$

$$w=6$$

$$d=4$$

$$kh = 600$$

$$I = 10$$

$$r = 200$$

$$b=2$$

$$a=1$$

$$q = 100$$

$$i = 10$$

$$\text{Total} = 935$$

26. Muslim authors have invariably erred in dating the event as 923 or 930 A.H. instead of 935 A.H. The source of the error is a misreading of the date given above in the form of Arabic /Persian alphabets arranged into words, which are : b u w a d k h a i r b a q i . What they have done about it is to drop 'b u w a d' . If word 'buwad' is missed from calculation, the

calculation of rest of the words comes out to be 923 A.H. Therefore this is the case of miscalculation/ skipping of alphabets while ascertaining the date of construction. [This reasoning is mentioned in the arguments of Shri H.S. Jain, Advocate as recorded in Judgment of Justice Sharma at pgs. 3196-3197/Vol. 3 of the Impugned Judgment.]

27. It is submitted that based on the above findings that the inscriptions were unreliable, Justice Sudhir Agarwal has concluded that the mosque was not built by or under the command of Babur in 1528 AD and Justice Sharma has proceeded to hold that the mosque was not built in 1528 AD. The Hon'ble Judges have also supported this finding with the fact that the inscriptions were repaired in 1934 and therefore cannot be relied upon. [See page 1100/Vol 1, para 1679-1681; pg. 1650-51/Vol 1, para 2953-2954 and pg. 3242 of Vol. 3]
- Same reason as Epigraph repaired in 1934

28. As demonstrated above, despite the minor discrepancies on the basis of which the inscriptions were discarded from evidence, it relevant to mention that all translations attribute the construction of the mosque to Babur. Further the discrepancy regarding 935 Hijri being misread as 930 or 923 Hijri has already been explained.

## G. CONCLUSIONS

29. In the light of the aforesaid, following conclusion emerges-
- The Plaintiffs in Suit 5 have admitted the existence of two inscriptions- one outside and one at the pulpit. They have admitted that these inscriptions mention the date of 935 Hijri (1528 AD) and the name of Babar on the Babri masjid. Thus, the exercise of examining the veracity of inscriptions was uncalled for as there was no dispute regarding the same.

- b) Without prejudice to the foregoing, it is submitted that as demonstrated above, it is clear that:
- i. The appreciation of inscription as mentioned in the Gazetteers have been done selectively.
  - ii. Almost all the travellers and Gazetteers have recorded the existence of inscription attributing the building to Babar for the year 1528 A. D., the other inscriptions which have mentioned 923Hijri or 930 Hijri were due to an error in reading the Arabic/Persian word.
  - iii. Further, the inscriptions have been compared with books/ Gazetteers post 1949 and thus the findings arose therein ought not to be considered.
  - iv. Moreover, the Montgomery Report, Edward Thornton's gazetteer and the Gazetteer of 1908 note the inscriptions prior to the riots of 1934, thereby eliminating all apprehensions of tampering.

#### H. QUERY FROM THE BENCH

30. Regarding Hon'ble Mr. Justice Bobde's specific query as to if there exists any other mosque with Sanskrit inscriptions: It is submitted that there are many mosques with Sanskrit inscriptions in the country. Some examples are:

❖ Quwwatul Islam Mosque, in the Qutub Minar complex:

- a) The architect inscribed the following words :

*"the work was completed by the grace of Shri Vishvakarma"*



- b) It is relevant to mention that the Architect was one Chahada, son of Devapala and thus the invocation to the deity Vishvakarma was done in the inscription while carrying out certain repairs in the Mosque. (Ref: Pushpa Prasad, "Sanskrit Inscriptions of Delhi Sultanate 1191-1526" Oxford university press, 1990, pp. 33-34)

❖ Atala Masjid, Jaunpur

- a) A set of inscriptions in Nagari script was inscribed on the mosque after it was built. The Hindu Mason inscribed the following prayer:

*"(May) favourable fortune (and) great facility (attend).  
Wednesday, the fifth day of the dark fortnight in the  
month of Chaitra in the Samvat year 1465"*

(See Pushpa Prasad "Sanskrit Inscriptions of Delhi Sultanate 1191-1526" Oxford University Press, 1990, p. 181).

❖ Rectangular Pillar, Lal Darwaza Masjeed, Jaunpur

- a) The rectangular pillar containing a temple inscription was taken from Benares, now known as Varanasi during the reign of Emperor Akbar and was installed in the Precincts of the previously built Lal Darwaza Masjid. (See Pushpa Prasad "Sanskrit Inscriptions of Delhi Sultanate 1191-1526" Oxford University Press, 1990, p. 149-152.)