OPW-2 SHRI DEVAKI NANDAN AGARWAL
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BEFORE COMMISSIONER, NARENDRA PRASAD, ADDITIONAL DISTRICT JUDGE/OFFICER ON SPECIAL DUTY HIGH COURT, LUCKNOW

OTHER ORIGINAL SUIT NO.5/1989

(ORIGINAL SUIT NO.236/89)

BHAGWAN SRI RAM VIRAJMAN
AT SHRI RAM JANAM BHOOMI
AYODHYA AND OTHERS ..... PLAINTIFFS

VERSUS

RAJENDRA SINGH
AND OTHERS ..... DEFENDANTS

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Plaintiff No.2, Shri Devaki Nandan Agarwal son of late S.L. Agarwal, age about 80 years, resident of 59/56, Dilkusha Naya Katara, Allahabad,solemnly affairm and stated on oath as under :

I started practice in 1955. I was enrolled as advocate in 1958. Gradually, I shifted to High Court in 1960. In the year 1971, I was appointed as a standing Advocate of Income Tax Department of the Central Government in Allahabad High Court. In 1976, I was nominated as a senior advocate under the Advocates Act by the High Court. When I was nominated as senior advocate, then I was appointed as a Senior Standing Advocate of the income Tax Department for the entire State of Uttar Pradesh. At that time, there were two other Standing Advocates working with me, i.e. Shri Ashok Gupta and Hon'ble Justice Shri R.S. Dhawan, who is at present Chief Justice of Patna High

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Court. In the year 1977, the then Chief Justice, Hon'ble Shri K.B. Asthana took my consent for being appointed as a justice in the High Court. In the year 1973 when Hon'ble Justice Shri D.S. Mathur was acting Chief justice of the High Court, he took my written consent for being appointed as a justice of the High Court. But, as my appointment was not made till he became Chief Justice, I withdrew my concurrence. (At this stage, Shri Ranjit Lal Verma, advocate raised an objection. The Advocate of the witness said that this has been stated to indicate the status of the witness). After I withdrew my concurrence I was not appointed till the retirement of Hon'ble Chief Justice, Shri K.B. Asthana. Then at the dinner hosted at the time of his retirement on 9 May 1977, the then Hon'ble Chief Justice, Shri D.H. Chandra Shekhar asked me to see him, howsoever late it might be. Then I met him at 11.00 P.M. on that night and he asked for my concurrence and I gave my concurrence to him. Thereafter, a notification was issued either in October or November and on 17th November 1977, I was the first one among the 9 Justices to take oath as permanent Judge of the High Court. October 3rd, 1983 was my last working day as a Justice and I took retirement on 4th October 1983. The Centre of Auravindo Society in Allahabad is located in my residence. I think that this Centre has been functioning here since 1965-66. After the death of Shri Sumitra Nandan Pant in 1977, I was made its President. I retired from this post in the year 2000 on health grounds, but the Centre is still located at my residence. It is the belief of the followers of Shri Arvind that he was an incarnation of Lord Shri Krishna, A French lady, Maria Alfanza had met Shri Arvindo in 1914 and then from 1920, She started living in Pondichery permanently. Everybody used to call her Sri Maa. We consider Shri

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Krishna as incarnation of Lord Vishnu. By 'we' I mean, followers of Vaishnavism.

After retiring from the post of Justiceship, I did not do any work for earning money. I had decided about it before hand. I know about The Vishwa Hindu Parishad. Ekatmata Yatra (journey for unity) was started by The Vishwa Hindu Parishad in 1983. During this yatra, water from the holy rivers situated in every corner of the country was collected and filled in pitchers (kalash) and brought from one place to another. There is a Mahila Sankirtan Bhawan near my house in my locality. My mother was one of the founders thereof. A kalash was brought and placed in that Bhawan. As my mother fell ill, she had expressed a desire that I should go and worship there. I personally went there, did worship, offered water and performed 'Sankalp pujan'. In 'sankalp', people perform worship and give donations.

On January 25, 26 and 27 in the year 1979, Second Vishwa Hindu Sammelan (World Hindu Conference) was held in Prayag. This was held in festival area over the embankment. One day before this conference, World Sanskrit Conference was held during the centenary year Sri Maa. People from all over the world had come to attend this conference. Being the President of the local Centre of Shri Arvindo Society, I was made Vice-Chairman of the Reception Committee of this conference. Kashi Naresh was Chairman of the Reception Committee. Because of 'Bhadra' (a typical conjunction of stars), he did not come. As a result, I got the opportunity of reading the welcome address. Among the people, who had come from abroad in that conference, Dalai Lama was most prominent and dharmacharyas (religious leaders) of all the places in the world, where Hindus live had also come. At present, I do

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not exactly remember their names. After perusal of the booklet, published on that occasion, I can tell the names of the people who had come. This booklet is the issue of March-April 1979 of 'Hindu Vishwa', which is now before me. The name of the publisher is not printed in it, but I know there is logo of The Vishwa Hindu Parishad on it. Then he said that name of Shri Shyam Sunder Das has been printed as publisher. After going through the booklet, the witness said that Kushak Bakula from Laddakh, Shri Vishwesh Tirth of Pijawar Peeth, the then President of The Vishwa Hindu Parishad, Maharana Bhagwat Singh Ji of Mewar, Shri M.P. Degwekar, General Secretary of The Vishwa Hindu Parishad, Shri Bala Saheb Devras, Sarsangh Chalak of R.S.S., Shri Navjot Ji, Shankracharya of Jyotir Peeth, etc. many persons attended. Hon'ble Mr. Justice Shri Shiv Nath Katju (Retired) was the provincial President of Eastern Uttar Pradesh of The Vishwa Hindu Parishad.

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The Vishwa Hindu Parishad had started a movement for the liberation of Ram Janam Bhoomi. Shri Dau Dayal Khanna was the propounder of this movement and Mahant Avaidya Nath Ji, Go Raksha Peethadhishwar was Chairman of Shri Ram Janam Bhoomi Mukti Yajna Samiti. Under the movement, rath yatra was started from Sitamarhi in September 1984 and it was decided that on 7th October, 1984, those people would take a resolve at the bank of Saryu river to liberate Ram Janam Bhoomi. It was also decided that similar resolve will be taken on the banks of all prominent holy rivers. In connection with the movement, a meeting was organized in Prayag on the bank of Ganga river in front of Bade Hanumanji temple which is situated near the Eastern wall of the fort. Hon'ble Shri Shiv Nath Katju addressed the meeting. I also got the opportunity to accompany him. After the address, people were called upon

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to take a resolve and sign the resolution paper and resolve to liberate Ram Janam Bhoomi. In that meeting, a thought struck to my mind whether it was legally or morally appropriate to remove the structure situated there in order to liberate Ram Janam Bhoomi. It struck to me that it would be proper on the basis of religion and morality to construct a temple by removing the structure which was built by a tyrant after demolishing the temple which earlier existed there. Then I expressed these very views in the meeting and took a resolve that I would participate in Ram Janam Bhoomi movement.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

16.6.2001

Typed by the stenographer in the open court as dictated by me in presence of Advocates of the parties. In continuation for further examination in chief tomorrow 17.6.2001.

Sd/-

(Narendra Prasad)

Commissioner

16.6.2001

Dated: 17.6.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 16.6.2001)

With the news of death (killing) of Indira Gandhi, in October, 1984 the country engulfed in grief and on account of this Rath Yatra was stopped. Thereafter, Rath Yatra remained suspended and was resumed after one year.

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During this period, I tried to obtain information about the litigation that was going on in this regard. I have come to known that since 1966 the proceeding (hearing) of the cases was withheld. In April 1966, in the suit No.12/61 (Other Original Suit No.4/89) and suit Nos.2/50,, 25/50, 26/59 connected therewith, it was decided by the Civil Judge on a preliminary point of issue that the notification of February 1944 was not related to the disputed property. A copy of this decision is included in suit No.12/61. He further stated that the original decision was also in that file. This has been a final decision. Thereafter, the plaintiffs of suit No.12/61 did not make any efforts for the trial of the suit. Eventually, Babu Priya Datt Ram, who was appointed as Receiver for arranging worship etc. of Bhagwan Shri Ram Lalla, Virajman at the disputed structure, died. It was decided with the concurrence of all the parties of all of the four suits that Receiver may be appointed by the Civil Court. The Receiver was appointed in 1970. Pt. Shri Ram Mishra, who was a senior advocate of Faizabad, was appointed as a Receiver. An appeal was filed against his appointment, which was heard in Allahabad High Court. High Court cancelled the appointment of the above-mentioned Receiver and remanded for the appointment of a new Receiver and passed a comprehensive order with regard to worship (puja archana). This order, i.e. all these orders are available in the file pertaining to suit No.12/61. A person named Ramlakhan Sharan filed an appeal against this order in the High Court. Its title was 'Ramlakhan Sharan versus Sunni Central Board of Wakf and others'. In this appeal, an objection was raised by the Lucknow Bar that its hearing should be made in Lucknow Bench instead of in Allahabad. Eventually, a decision was taken by the Full Bench of the five Hon'ble Justices of Allahabad High Court that it should be heard in Lucknow Bench as it falls within the jurisdiction

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of Lucknow Bench. In Lucknow Bench, the number of appeal was F.A.F.O. No.17/1977. When I tried to seek information about this appeal during 1984-85, Shri Sarvajit Lal Verma, advocate, father of Shri Ranjit Lal Verma, advocate, who was the Advocate for the Hindus side, told me that the file was very voluminous and he was ailing and information of the exact position can be given only after going through the file and he was not in a position to do so at that time. In 1984-85, I got a copy of the order of 1974 of the Civil Judge through some person.

In the meanwhile, movement of Rath Yatra which had discontinued in 1984, again gathered momentum during 1985 and Shri Vir Bahadur Singh, the then Chief Minister of Uttar Pradesh had come to Faizabad on 17th December 1985 in connection with the Ramayan festival held in Ayodhya. A five members delegation, led by Hon'ble Shri Shiv Nath Katju met him in the Circuit House. Apart from Hon'ble Shri Shiv Nath Katju, the delegation included myself, Shri S.C, Dikshit, retired Director General of Police, Shri J.S. Srivastava, who was President of The Vishwa Hindu Parishad, Lucknow, and Shri Rajeshwar Singh, President of The Vishwa Hindu Parishad, Saket. This delegation apprised the Chief Minister that there is no court order for locks being put on both doors of grilled boundary wall in the inner courtyard of the disputed structure and on account of that the prohibitory order passed in 1950 by the Civil Judge to the State Government is being violated that there should be no obstacle in the way of 'darshan' and worship. At this, the Chief Minister assured that he would get the matter looked into, but when no response was received even after the passage of one month, a huge meeting was held on 19th January, 1986 in Jhandewala Park in Lucknow. I was also present in the meeting. Hon'ble

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Shri Shiv Nath Katju and the Goraksha Peethadhiswar announced that if locks were not opened by the next Shivratri, then 'satyagrah' would be launched and they would be first among the 'satyagrahis'. In this very context, Mahant Param Hans Ramchandra Das Ji made announcement for self-immolation.

On the basis of my study of the matter, I came to the conclusion that the matter of opening of locks can be taken up in the suit F.A.F.O. No.17/1977 pending against the Receiver in the Lucknow bench of the High Court and the Receiver who was responsible for making arrangements for worship, etc. of Lord Shri Ram could easily sort out this matter by getting the locks opened. But The Vishwa Hindu Parishad or anyone amongst us was not a party in the case and before action was taken by Param Hans, the events took a new turn and a lawyer, named Umesh Chandra Pandey submitted an application in suit No.2/50 in the court of Munsif that "as these locks are an obstruction in the implementation of the prohibitory order passed in 1950, the Government of Uttar Pradesh may, therefore, be ordered to get the locks removed immediately. The Munsif, in whose court the case was pending, refused to pass such an order. Shri Umesh Chandra Pandey filed suit against his order in the court of District Judge of Faizabad, in which the then District Judge recorded the statements of District Magistrate and Police Superintendent of Faizabad and after hearing the objection raised on behalf of Muslims, ordered the Government of Uttar Pradesh to open the locks immediately. For implementing the order, the locks were broken and opened on February 1, 1986. I received this information on telephone at about 10.00 in the night from Shankar Viman Mandapam, situated in Prayag, of Jagat Guru Jayendra Saraswati Maharaj, Shankaracharya of

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Kanchi Kamkoti and on 2nd February. I, alongwith my wife and daughter, who came from England, proceeded to Ayodhya for 'darshan' of Bhagwan Shri Ram Lalla. There was such an atmosphere of excitement and joy and such a big crowd of devotees had gathered that I could not reach Ram Janam Bhoomi in spite of all my efforts and I turned back and, in order to go to Ram Janam Bhoomi, taken the route of Faizabad, Ayodhya road and reached 'Dorahi Kuan' via Paschimi Marg and then taking a turn from there, reached Manas Bhawan Dharamshala and stayed there. Shri Zaffaryab Jilani, the learned Advocate of respondent No.4, raising an objection said that this statement has nothing to do with the suit and was not relevant. Shri Vireshwar Dwivedi, the learned Advocate of the plaintiff argued that as the plaintiff has filed the suit as 'next friend' of plaintiff Shri Bhagwan Ram Lalla and is giving evidence, and this has been framed as a point of plaint, the statement was, therefore, relevant.

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Babri Masjid Action Committee was formed after the opening of locks and during that week, some temples were also demolished at some places. Some riots were also reported to have taken place. According to my information, a delegation of Muslim members of Legislature had met the Governor. (Shri Mushtaq Ahmed Siddiqi, the learned Advocate of respondent No.5, raised an objection at this stage that this statement was also not relevant). I also came to know that on 3rd February 1986, M. Hasim had filed a writ in Lucknow Bench of High Court and at this, Mr. Justice Brajesh Kumar issued a show cause notice to the other party as to why this petition should not be admitted for consideration and why status quo should not be maintained in the meantime. I used to work on two parallel fields. One was the political field so that the basic amity

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and harmonious relations among the citizens of India should be maintained and this dispute should be settled through negotiations and the second one was to offer advice regarding the petitions which may have to be filed. For the second one, Param Hans Ram Chandra Das Ji and Dharam Das Ji approached me. Then it happened that Virendra Kumar Chaudhury started pleading the case in Lucknow Bench of the High Court. Pandit Puttu Lal Mishra also joined him on behalf of Param Hans Ram Chandra Das Ji and Dharam Das ji. I could not go to Lucknow Bench and I used to give advice from far away. Then again, the witness said that he used to give advice from Allahabad. Eventually, the suit regarding Receiver that is suit No.F.A.F.O. No.17/1977 and the writ petition filed by Sunni Wakf Board, were all heard in the Lucknow Bench by Hon'ble Mr. Justice Kamaleshwar Nath and according to his decision given in 1987, admitting the F.A.F.O. 17/77, passed an order that all the four above-mentioned original suits, which are scattered in different courts, be transferred for trial to an Additional District Judge in Faizabad, whose tenure in Faizabad was likely to continue for about 18 months, and he should appoint a suitable person as Receiver in place of Shri K.K. Ram Verma who was removed according to decision given on appeal. He gave an indication in his decision as to what kind of a person he should be. Besides, he gave detailed directions in his orders for arrangements for darshan, worship, etc. As far as writ petition was concerned, he did not give any decision thereon and it remained pending. Thereafter in December 1987, the Government of Uttar Pradesh submitted an application under Section 24 of Civil Procedure Code (C.P.C.) that the High Court may call for all those four civil suits before it for trial and may try them at its earliest, as it is becoming very difficult to maintain peace and order in

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the State because of the pendency of these suits. It was also prayed that the trial of petition filed by M. Hasim and another petition filed against the orders of February 1, 1986, may be postponed, as the issues raised therein, have also been the issues of the above-mentioned original suits.

This application submitted by the State Government remained pending in the court and approximately after 6 months of pulls and pressures, the Additional District Judge appointed another Receiver (Adata). Then he was also removed and in his place another person was appointed and things went on going. Eventually, in the month of May 1989, when the application submitted by the Government under Section 24, came up for trial before the Bench, the Honourable Judge expressed the view that the number of Judges in the High Court is so less and the number of pending cases is so high, that the court is unable to accept the said request of the Uttar Pradesh Government, unless at least 6 more Judges are appointed and on an assurance, given by Shri Shanti Swarup Bhatnagar, the then Advocate General, the date for hearing the said application of the Government of Uttar Pradesh was fixed for 10th July,1989.

On the other hand, a delegation of The Vishwa Hindu Parishad met the then Home Minister, Sardar Buta Singh. A delegation of Muslims had also met him. I was among the members of the delegation of The Vishwa Hindu Parishad which met him twice. During the meeting, it surfaced that the Central Government was not fully apprised of the issues involved in this dispute and I was directed that I should meet Shri Prasad, Joint Secretary in the Ministry of Home Affairs and place full papers before him and apprise the Central Government of the issues of this dispute. I met him

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2-4 times in Delhi and I gave him the documents available with me and also put forward my point of view before him.

Prince Anjum Qudar, who was a descendant of Nawab Wajid Ali, a Shah and who was living at his mausoleum situated in Calcutta, also met Shri Buta Singh, the Home Minister and initiated negotiations on behalf of Shias, because he felt that if the disputed structure was a mosque, then it would be a Shia mosque.

Prince Anjum Qadar was the then President of the All India Shia Political Conference. He took initiative to start dialogue with the Shia side. Because he realized that if the disputed place was a masjid then it would have been Shia masjid. He was also a member of All India Muslim Personal Law Board. The main issue of negotiation with him was that if the Shia community agrees to shifting of the disputed structure from Shri Ram Janam Bhoomi site, then the matter and the dispute could be settled on behalf of the Hindu side, because Hindus were never prepared to relinquish the claim of Ram Janam Bhoomi under any circumstances and nor are they now. Prince Anjum Qadar told Shri Buta Singh that he would go to Pakistan and get a 'fatwa' from the Chief of the Shia community that the disputed structure can be shifted. He also said that he would go to Iran and to some University in Cairo, the name of which I do not remember, and meet the officials there and get a 'fatwa' from there that under the circumstances prevailing in India, this structure could be shifted. He went to Pakistan and obtained a 'fatwa' to this effect. Negotiations for going to Iran were continuing with the Central Government, but the Central Government, perhaps, did not give him money for this purpose and on account of this, he could not go. Prince Anjum Qadar corresponded

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with Shri Shahabuddin in this regard and after the fall of the Government of Shri Rajiv Gandhi and after Shri V.P. Singh became the Prime Minister, I gave him a representation. In response to that, Prince Anjum Qadar wrote a letter to the Prime Minister, the copy of which is available in the files.

I made Prince Anjum Qadar a respondent party in this suit. Prince Anjum Qadar expired during the suit and according to the orders of the High Court his name has been omitted as a respondent in the suit. Apart from this, the name of All India Shia Conference, whom I had made respondent No.25, has been omitted, on the basis of my application, from the list of parties of the suit by an order of the court. Shri Vireshwar Dwivedi, the learned Advocate of the plaintiff invited the attention of the witness to the document No.107C/289 alongwith list No.107C filed in Original Suit No.5/89, and after seeing the list, the witness stated that this is the original copy of the letter dated 4.7.1987, sent by Sayyad Shahabuddin to Prince Anjum Qadar and which was given to me by Prince Anjum Qadar. This letter is in the handwriting of S. Shahabuddin and it also bears his signatures. Prince Anjum Qadar told me that this letter was written by Shri Shahabuddin in his handwriting and it bore his signatures. After seeing document No.107C/1/240 of this list, the witness stated that this is office copy of the letter dated 2nd September, 1988 written by Prince Anjum Qadar to Sayyad Shahabuddin. It bears the signatures of Prince Anjum Qadar. He stated further that in the margin of the first page, there are 7-8 lines written by him. Prince Anjum Qadar had said these are his signatures on the letter and it was his handwriting. He himself had given the office copy. Then after seeing paper No.107- C/1/243 the witness stated that this is a

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copy of the application sent by Prince Anjum Qadar on the pad of All India Shia Conference from Pakistan to Maulana Sayyad Naqui Sahib. This application has been written in the hand writing of Prince Anjum Qadar and on the back side of this letter, there is a 'fatwa' of Maulana Naqui Saheb written in his hand and bearing his signatures. This letter (paper) is a copy of original letter; because Prince Anjum Qadar had told me that he had given the original to the Ministry of Home Affairs of the Central government and this photocopy was prepared there itself. Paper No.107-C/1/244 and 245 is its Hindi transcript. After seeing paper No.107-C/1/246 and 247, the witness stated that it was its English translation, which was typed by him. After seeing paper No. 107-C/1/24l and 242, the witness stated that it was a copy of that letter, which the Prince had written to Hon'ble Prime Minister Shri Vishwa Nath ji and was endorsed to me by post and it was bearing the signature of Prince Anjum Qadar. He stated further that 'it was bearing and it bore' means the same thing to him. I had filed a suit on my behalf and on behalf of Bhagwan Shri Ram Lalla Ji on July 1, 1989. In it the first plaintiff is Bhagwan Ram Virajman at Ram Janam Bhoomi, Ayodhya; He is also called as Bhagwan Ram Lalla ji. I had filed this suit in the court of Civil Judge, Faizabad. It is suit No.236/89. Plaintiff No.1 and 2 are juristic persons and I have filed this case in the position of their next friend. I got this advice from a senior legal expert that as Bhagwan Shri Ram Lalla, who is the real owner of the disputed property according to law, is not a party in 3 suits, i.e. suits Nos. 2/50, 25/50 and 26/59, among the suits going on in Ayodhya, he cannot, therefore, get suitable relief. Besides, as these suits were going on for a number of decades, it was, therefore, necessary to incorporate the events that took place during the intervening period, it was, therefore, necessary in the

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interest of his devotees and in order to remove hurdles in the way of construction of the temple, to file this suit. When I instituted this suit on July 1st, 1989, I submitted along with the plaint, an application under Section 80, to get a waiver from the requirement of giving prior notice to the Government and for getting myself appointed as a next friend by the court. It was considered by Honourable the Civil Judge and he permitted the suit to be registered. Thereafter on July 7th. 1989. I sent an application to the High Court that the High Court may transfer this civil suit of Bhagwan Shri Ram alongwith 4 other suits instituted earlier, before itself for trial and expeditious disposal. And after necessary pleading and after giving notice to all concerned, this application of mine was admitted on 10th July 89 after being presented alongwith the application of the Government of Uttar Pradesh presented to the Bench of the High Court. And on an application submitted by the Uttar Pradesh Government and on a directive given by the Court, this special full bench of 3 Judges was constituted and this suit is being pursued before this full bench. Sayyad Shahabuddin had demanded from the Central Government that a full bench should be constituted and I had also given my concurrence to the Home Minister for it and 6 Judges were appointed during the summer vacation of 1989 and were administered oath.

The negotiation which was being conducted by the then Home Minister with Anjum Qadar till 1988, failed because money was not provided to him forgoing to Iran, etc. Elections took place in 1989 and the Congress Government had lost it. Shri Vishwa Pratap Singh became the Prime Minister and a delegation went to meet him. And in January 1990, the issue of launching a movement for the construction of the temple gained momentum and a meeting

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of saints was held during the Magh festival under the auspices of The Vishwa Hindu Parishad. I was called by Shri V.P. Singh on telephone, so that their cooperation could be obtained in finding a solution of the problem. So, I went to him. Thereafter, an appeal was issued by Shri V.P. Singh that 4 months time may be given to him to find a solution in this matter. The matter was considered by the Committee constituted for the construction of the temple and it was decided that appeal of the Prime Minister should be honoured and no agitational programme should be conducted. Shri V.P. Singh had constituted a Committee and Shri Madhu Dandvate was perhaps one of the members of that Committee and a meeting was held in Rail Bhawan, which was also attended by the representatives of the Muslim side. I also attended that meeting. But the Committee constituted by Shri V.P. Singh did not make any special efforts and the matter remained in doldrums. On the other hand, efforts were made in the court to stop the work of Shila-pujan (worship of bricks), which was to be conducted on 30th September, 1989. This application was not accepted by the High Court and the writ petition filed in the High Court was also rejected on 30th September, 1989, shilas were worshipped throughout the country and in other countries too including China and USA, and in India according to the decision of The Vishwa Hindu Parishad about more than 6 crores of people, by taking a 'sankalp' of one and a quarter of a rupee, resolved to construct the temple. An amount of more than Rupees eight crores was collected which is deposited with Ram Janam Bhoomi Nyas. The amount at present is about Rs. I0 crores. (The witness is himself giving the statement for the last 30 minutes and his learned Advocate has not asked any question, this objection was raised by Shri Zaffaryab Jilani and Shri Mushtaq Ahmed, the learned Advocates of respondent No.4

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and 5. On this, Shri Vireshwar Dwivedi, the learned advocate of the plaintiff contended that the witness himself is the plaintiff of this suit and is himself giving statement in support of the plaint. Upon this, Shri Zaffaryab Jilani, the learned Advocate of respondent No.4 and Shri Mushtaq Ahmed Siddiqi contended that either the plaintiff will himself give a statement or his advocate will ask questions and the witness will give statement. Statement cannot be given both the ways.) (The witness, plaintiff No.3 stated that he was himself competent to give statement). At this stage, Volunteer: that he would himself give statement and he cannot be denied the legal assistance of his lawyer.

The deed of Ram Janam Bhoomi Nyas, mentioned above, is at enclosure No.4 of our plaint. After seeing it, the witness stated that it is an exact photocopy of the original 'patrak'. The original 'patrak' has been kept in the safe custody of the office of Ram Janam Bhoomi Nyas and after the commencement of evidence in due course in original suit No.5, which will start after the conclusion of evidence in suit No.4 and the conclusion of evidence in Original Suit No.1 and 3, it will be summoned and presented at the proper time. This photocopy has been prepared in my presence from the original 'patrak'. And I was myself the writer of this 'patrak' and it was signed by Jagad Guru Swami Ramanandacharya Shri Sivaramacharya who has expired since then. After the work of 'shila-pujan' was completed successfully, the worshipped 'shilas' were collected and deposited in Ayodhya and the 'shilas' brought from foreign countries have been kept in safe custody in the Delhi Office of Ram Janam Bhoomi Nyas. All these shilas will be used in the construction of the temple and the amount, which was collected through 'sankalp' at the time of 'shila-pujan' and has been kept with the Ram Janam;

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Bhoomi Nyas, will be spent for the construction of the temple. I possess this information because after the constitution and registration of the Nyas I was also one of the trustees. The details of its constitution, objects and trustees have been given in clauses 15, 16 and 16a of the plaint of civil suit and the same are correct. Ram Janam Bhoomi Nyas is interested in the construction of the temple and in the worship, service etc. of the Lord, who is a plaintiff in the suit. The aims and objectives of the Nyas have been clearly stated in the trust deed (patrak) and I attest that all that is true and correct. (This was stated by the witness after seeing the plaint). Then after a programme of The Vishwa Hindu Parishad, came turn of the programme of laying the foundation, which was fixed to be performed during November 1989. Applications were filed against this programme and finally an application was filed on behalf of the Government of Uttar Pradesh seeking clarifications from the court about its order of 14th August 1989. The court gave an order on 7th November 1989 that plot numbers mentioned in the plaint of Sunni Wakf Board would all be treated as disputed property. Thereafter, the Government of Uttar Pradesh and the Central Government, through the Ministry of Home Affairs enquired whether the place, where the foundation laying ceremony was proposed to be performed, was disputed in the plaint of Sunni Wakf Board. Hon'ble Advocate General expressed his opinion that the plot where foundation stone would be laid was not disputed in the plaint of Sunni Wakf Board. At this, the Government of Uttar Pradesh granted permission to The Vishwa Hindu Parishad and Ram Janam Bhoomi Nyas for laying the foundation of the main gate of the temple and the ceremony of laying the foundation stone was performed successfully and peacefully on 9 and 10th November. But because of opposition of some of our Muslim brethren, the

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Government stopped further action of construction of temple at that place and The Vishwa Hindu Parishad and Shri Ram Janam Bhoomi Nyas did not take any further action for the construction of temple in compliance of the orders of the Government.

The negotiations, started in the presence of Hon'ble Shri Vishwa Nath Pratap Singh, did not bear any fruit and no significant progress was made in the suit, because on an objection raised by the Sunni Wakf Board, further trial of the suit filed by me was stopped with my consent. Thereon, Shri Ashok Singhal ji started giving such type of statements that the construction of temple was not dependent on the decision of the court. I had great faith in Shri V.P. Singh and it was continuing since long. Therefore, I wrote letters to The Vishwa Hindu Parishad, Ram Janam Bhoomi Nyas and resigned from all the posts. I wrote this letter to Shri Ashok Singhal and gave this letter to Shri R.D. Joshi, who was then the Director of Intelligence of the Central Government and was the senior-most officer of the Police Department and requested him to hand over this letter to Shri V.P. Singh during his daily meeting with him at night.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
17.6.2001

Typed by stenographer as dictated by me in the presence of advocates of both sides. In continuation to this Appear at 10.00 A.M. tomorrow, the 18.6.2001 for further examination in chief .

Sd/-
(Narendra Prasad)
Commissioner
17.6.2001

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Dated: 18.6.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal. in continuation of 17.6.2001)

Thereafter, yatra (pilgrimage) of Shri Advani ji started from Gujarat to Ayodhya and when he reached Bihar, his yatra was stopped by the Chief Minister of that State and because of certain political developments, that took place after that, support was withdrawn from the Government of Shri V.P. Singh and it became certain in October 1990 that the Government of Uttar Pradesh would not remain in power. Shri Mulayam Singh Yadav was then the Chief Minister of Uttar Pradesh. He around 15th October, the actual date I don't remember, wanted to get me arrested by sending police force. At about 1.00 or 2.00 A.M. during the night, police personnel started knocking the eastern outer door of my home and I was asked to open the door. I asked them what they wanted from me during the dead of night and requested them to come in the morning. I was sleeping upstairs. At this, some of them became violent and others started abusing. A couple of police personnel entered the courtyard after climbing the western wall of my courtyard. (At this point, Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, and Shri Zaffaryab Jilani, the learned Advocate of defendant No.4 objected that the above statement was outside of the pleading and was irrelevant and it would entail unnecessary cross-examination which would take a large number of days). The witness stated that its relevancy would appear soon. I am myself careful about it. Continuing his statement, the witness said that when an attempt was made to break open the door, then I rang to Director of Intelligence in Delhi and got registered a report about it to him and came downstairs and opened the front

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door. Upon opening the door, they stormed inside the room and inspite of my asking them to show me the warrants, two of them forcibly lifted me and put me in the car. My wife, my daughter and my grand-daughter, who had come from abroad, were startled. But the police, without giving any information, took me to Colonelganj police station. There, they had a telephonic conversation and then took me to Kennington police station and threw me there. I kept sitting there on the ground throughout the night. There was no arrangement of sleeping, nor was there any cloth to cover. There was no blanket there. A chair was lying there and I kept sitting on it. After about one or two hours, Dr. Krishna Bahadur, who was Professor of Chemistry in Allahabad University and who has since expired, was also brought there and he also kept lying there. There was no proper place in the police station for easing oneself out. The bathroom situated in the police station was extremely dirty and was stinking and we were unable to enter inside that. We kept lying there in this way throughout the night shivering without any food and water. My wife informed Shri V.K. S. Chaudhury about this incident and he filed a *habeas corpus* petition in the High Court to locate about my whereabouts. And then, probably through some press correspondents, he came to know that I was whisked away in this manner.

At about 4'O clock, Shri Swarup Saheb, who was a Magistrate there, came to the police station and he told me that instructions have been received from the Central Government to release me and if I sign a personal bond, then I would be released, otherwise I would be sent to Fatehpur prison according to the earlier orders in the ambassador car, which was standing outside. Fatehpur prison was an open air prison. In the meantime, Dr. R.K.

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Agarwal, who was Head of the Department and Professor of Cardiology Department, Medical College, Allahabad, reached there. And as I was his patient since 1977 and was under his treatment for heart ailment, he advised the Magistrate after examining me that I could not be taken to Fatehpur jail in any case and he got me admitted in Medical College Hospital under his custody as my condition had very much worsened because of strain and tension, which I had undergone throughout the night. I refused to fill up the personal bond, because I suspected that if I fill up the personal bond, the Government of Shri Mulayam Singh Yadav would publicise that I had got myself released by tendering an apology. I was taken to Medical College by Dr. R.K. Agarwal under the custody of the Magistrate and I was kept there in I.C.U. for a day and then I was shifted to a private ward nearby. During the hearing of writ petition for habeas corpus, a statement was given perhaps by a Daroga or some other police officer on behalf of the Government that we three, that is I, Dr. Krishan Bahadur and Dr. N.K.S.Gaur, who was Professor of Physics in Allahabad University and who has since retired, and presently is a Minister, had collected a crowd near Laxmi Talkies after the end of the second show and had been giving provocative speeches and myself and Dr. Krishna Bahadur were caught and attested by them on the spot, but Dr. N.K.S. Gaur had fled away. Cross-examination were given during the hearing of writ petition. In the meantime, I got an opportunity in the hospital to talk and give instructions to Shri Daya Shankar Mishra, advocate but I instructed him, according to the wishes of my wife, not to file any claim of damages against the Daroga Ji, because the amount of damages would have been very heavy and he was not in a position to pay that amount of the damage. Then, 12-14 days thereafter, the bench of the High Court found that my

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arrest was illegal and passed an order to release me. Daroga Ji came in the evening and he discharged me. All these developments took place by the end of October. During this period, Shri Vishwa Nath Pratap Singh was unseated or relinquished the office of Prime Ministership, I don't remember and he no longer remained the Prime Minister. I went to Delhi during the first week of November. My son was posted there. I went to meet Shri Vishwa Nath Pratap Singh Ji at his new residence, to which he had shifted after leaving the office of the Prime Minister. My grandson was very much annoyed with me for my going to see Vishwa Nath Pratap Singh Ji, because in his opinion, he was responsible for the suicide of a very large number of youngmen. Then I told Vishwa Nath Pratap Singh Ji, in the presence of all his colleagues, among whom I remember the name of Shri Sharad Yadav, that my grandson had stopped talking to me and the reason given by him was that Shri V.P. Singh was responsible for the suicide of a large number of youngmen. Thereafter, I lost my reverence for Vishwa Nath Pratap Singh because of his Mandal Policy etc., though I still personally have regards for him and consider him a good person. (At this stage, Shri Zaffaryab Jilani, the learned Advocate of defendant No.4, objected that this whole statement was irrelevant and it should be struck off and Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, objected that the statement of today was politically motivated and the controversy of 'Mandal' and 'Kamandal' was being unnecessarily dragged before the court. The witness stated that answer to this would be given by him or his learned Advocate before the Honourable Court at the time of cross-examination).

Continuing the statement, the witness said that he had already disassociated from the offices of The Vishwa Hindu Parishad and as he had no particular interest in taking part

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in political issues, he had, therefore, been looking after the cases which were going on in the courts. And when I came to know that the Special Bench has dismissed the application submitted for rejection, under rule 11 of Civil Procedure Code, the plaint of Mahant Param Hans Ram Chandra Das and Mahant Shri Dharma Das and an appeal has been filed against it in the Supreme Court, then I took part in it, because I could appear in Supreme Court as an advocate and the Supreme Court passed such an order in that appeal that it would be appropriate for the Special Bench of the High Court to consider the point whether the suit No.4/89 is maintainable on the basis of time-limit. And when a review application was submitted on behalf of the plaintiffs of Sunni Wakf Board, the Supreme Court passed an order that it was appropriate in their opinion, but they had not given any direction to the High Court. Both the orders of the Court are available in the file, then said that it should be available in the file. Thereafter, an application was submitted in the Special Bench in Lucknow on behalf of Mahant Dharm Das that issues of maintainability and limitation might be settled as preliminary issues in suit No.4 (O.S. No 4/89). And the case was argued on their behalf by Shri V.K.S. Chaudhury. And as my suit, U.S .5/89, was standing, I could not therefore, appear in the court. And I was not a party in these suits. I was told that Shri V.K.S. Chaudhury, inter-alia, stated before the Special Bench that if the decision of the court was against them, then they would not appeal against it in the Supreme Court and if the decision was in their favour, then the original suit No.4/89 would be finally settled. (At this point, Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, objected that this statement is hearsay and is not admissible in evidence.). Continuing his statement, the witness said that in spite of this, the Special Bench held that it would not be

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proper to dispose off the case on preliminary point of issue, because in view of the circumstances; in which this case is going on and has been transferred to Special Bench for hearing, it is necessary, in their opinion, to take a decision in regard to all the issues on merit and if they do not do it, then an appeal would be filed against their decision, whatever that might be, in the Supreme Court and it would create hurdle in the final disposal of the case and cause delay. Mahant Dharm Das filed an appeal against this decision in the Supreme Court and I had settled it. Because of this, the facts came to my knowledge. Whenever that appeal was presented, the then Chief Justice RangaNath Mishraji used to put it off by saying that let the case regarding 'Mandal' be disposed of first, the 'Kamandal' would be taken thereafter. And the appeal was never taken up for hearing, inspite of it being listed.

Here in Lucknow, Param Hans Ram Chandra Das, after getting fed up, prayed, by submitting an application, that he withdrew his case, because he was fighting this suit for the last forty years. Although, after the suit was transferred to High Court, he had hoped that the case would be disposed of expeditiously, but that did not materialise. He no longer had the stamina to fight the case and as such he withdrew the case. (At this point, Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, objected that the anguish of an other person could not be expressed by the witness in his statement. Shri Zaffaryab Jilani, the learned Advocate of defendant No.4, objected that the statement regarding the contents of any document can be given only when the facts contained therein are relevant to the suit, not otherwise. As the facts mentioned in the application of Param Hans Ram Chandra Das regarding the withdrawal of suit are not relevant at any

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point to the disposal of the suit, the statement in regard to those facts is not admissible in the evidence. At this, the witness stated that the reply to these points would be given in Hon'ble High Court in due course.

Continuing his statement, the witness stated that it was learnt thereafter that issues and other applications connected with other 3 pending suits were being considered by the court and in the suit of Sunni Wakf Board, i.e. in the Other Original Suit No.4189, date has been fixed for oral evidence. When I came to know this, I gave an application to the Special Bench for recall of stay order granted in my suit, because some issues were common in original suit No.4/89 and U.S. No.5/89 and if the O.S. 4/89 was decided first, then I would have to give evidence in my O.S.5/89 after the completion of whole proceeding again, because the decision in O.S. No.4/89 would not be binding in the suit of Lord Ram from the point of view of law. After considering all these facts and hearing the cross-examination of plaintiffs and objections O.S. No.4/89, the Special Bench admitted my application and by recalling their order of stay in my O.S. No.5/89, took up that suit also for trial and held the first hearing of the case duly on 30th April 1992 and recorded as to which Advocate was present on behalf of different parties and against whom the suit was being proceeded ex-parte and issues were also framed. On a request of Shri Ranjit Lal Verma, Advocate of defendant No.3, my statement was recorded under order 10, rule 2 of Civil Procedure Code and issues were framed.

In the meantime, the Government of Uttar Pradesh acquired during October 1991, the land situated around the disputed structure; the area of land was 2.77 acres. The land within the inner premises of the disputed structure was

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not acquired, but land outside was acquired which meant that outer premises was acquired. The control and management of the inner area of the disputed structure was in the hands of the Receiver appointed by the High Court. A writ petition was filed against this acquisition in the High Court. After hearing those petitions, the Lucknow Bench of the High Court admitted those petitions for hearing and gave an interim order that while the Government of Uttar Pradesh can keep the acquired land under its possession and can act in accordance with the objectives of the acquisition, no permanent structure can be constructed there.

(At this point Shri Zaffaryab Jilani, the learned Advocate of the defendant No.4, objected that the above statement regarding acquisition is completely irrelevant and it has no relevance with any relevant fact of the case, it is, therefore, not admissible And this matter has been finally settled by the decision of the Special full Bench of 11.12.99.). Shri Ranjit Lal Verma, the learned Advocate of defendant No.3 objected that statement cannot be given in regard to the procedural business that took place in the High Court. The witness said that its reply would be given in Hon'ble High Court at the proper time. Continuing the statement, the witness said that this matter was raised in the High Court. And as far as his information goes, the Government of Uttar Pradesh took the acquired land under its possession under this order. Thereafter the Supreme Court, in its order of 15.11.1991, confirmed the interim order given by the Special Full Bench of the High Court and also transferred the writ petition, submitted to them to the Special Full Bench. The Special Full Bench devoted the whole time in hearing the writ petitions and hearing of the earlier pending suits, which included my pending suit also,

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remained suspended. And this hearing stood suspended, till the Special Full Bench did not pass its final order in regard to this acquisition. I had given an application on 15th July 1992, under my suit for injunction, so that the political activities being conducted in connection with the movement of 'kar sewa' for the construction of proposed temple could be strenghtened out, but the Special Bench postponed hearing of my application by passing a written order.

During the Prime Ministership of Shri Narsimba Rao, an Ayodhya Cell was constituted in 1992 and Secretary Naresh Chandra was appointed its head. Negotiations regularly kept on going. I cannot give details of those negotiations because I do not consider them relevant to the issues connected with my suit.

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These negotiations were discontinued 3-4 days before 30 October 1992. Shri Sharad Pawar had come and he had given a statement on behalf of the Prime Minister that these negotiations may be stopped. And preparations for 'kar-sewa' planned by The Vishwa Hindu Parishad, which was proposed for December 6th, 1992, continued to be made. But I kept aloof from all these activities and I was not taking part in any meeting etc. I had earlier already tendered my resignation. I used to stay in my home and watch the proceedings of the suits. November 30, 1992 had been fixed for the hearing of the suits. I had also gone to Lucknow. It was expected that on that day decision on writ petitions regarding acquisition of land will be given by the Full Special Bench and trial of the suit will begin. After waiting for two to two and a half hours, the sitting of the Special Bench did not take place and another date was fixed for our suits. (At this point, Shri Zaffaryab Jilani, the learned advocate of defendant No.4, objected that to take

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statement of the witness in regard to the proceedings of the Special Bench pertaining to this suit was not only improper, but could also become scandalous for the court. Therefore, there should not be any such statement. The witness said that reply to this would be given in Hon'ble High Court at the appropriate time.

Continuing the statement, the witness said that he was at his home on 6th December 1992 and when he switched on the T.V. at noon then a dome of the disputed structure was shown falling and then the second dome was shown falling and by 4 or 5 P.M. the whole structure was demolished. When the whole structure fell down, I felt happy that the obstacle in the form of structure in the way of construction of temple and which we could not have removed for even fifty years by the execution of decree even if the suit had been decided in our favour, had disappeared by the grace of God. Thereafter, I did not go to Avodhya. On 7th January 1993, the Central Government promulgated an ordinance and made a Presidential reference. Then I came to know that all the proceedings in our civil suits had been abated. Then, on the date fixed for our suits, I gave an application opposing the abatement of the suits. In suit No.4/89 and 3/89, an objection was raised that this Ordinance was unconstitutional. Then it struck me that this point cannot ordinarily be raised in this suit and had these suits been pending in any subordinate court then this question would have to be transferred by the subordinate court to the High Court, but these suits were pending in the High Court, therefore, overlooking all the technicalities, I submitted that this question may be framed as a point of issue whether these suits stand abated or not and as the constitutionality of the ordinance was challenged, it was, therefore, necessary to issue a notice to

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the Attorney General. (At this point, the learned Advocate of the defendant No.4, Shri Zafarvab Jilani objected that any fact about the above statement regarding the Ordinance of 7th January 1993 and the court proceedings was not relevant to the suit because this matter had been finally decided by the judgement of the Supreme Court of dated 24th October 1994 and any statement regarding any application or writ petition submitted in connection with this matter or any observation made by the court or any proceeding connected with it was not admissible as an evidence.The witness stated that reply to it would be given in Hon'ble High Court at the time of cross-examination). Continuing the statement the witness said that the Special Bench issued notice to the Attorney General. Before any proceedings could have started in the Special Bench, a notice was received from the Supreme Court that we should present our case there. I presented my whole case before the Supreme Court within the stipulated time. Then in September 1993, the Supreme Court, by its order, transferred the writ petitions, which were pending with the Special Bench, before itself and also transferred this point of issue for consideration before itself, whether the suit stood abated or not. Since then, I have been regularly appearing in Supreme Court and as the learned advocate, Shri Zaffaryab Jilani has said, the Supreme Court announced its final decision on 24th October 1994. The Constitution Bench of the Supreme Court, in its majority judgement, had announced that the abatement of these civil suits was unconstitutional. The Ordinance, which had been converted by then as Act No.33 of 1993 and barring clause 4, which pertained to the abatement, all the other sections were valid within the interpretation given in their judgement. Then the Special Bench was reconstituted in Lucknow Bench and the date for hearing was probably fixed in

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January 1994 and the proceedings began. And since it was also directed by the Supreme Court that in the changed circumstances, the parties of the civil suit would have the right to amend their pleadings, therefore, applications on my behalf and on behalf of others also were submitted and according to the orders of the Special Bench of the Court, some of the amendments were admitted, while others were not. Points of issues were determined again and further proceedings began.

(At this stage, the witness said that he wanted to give further evidence by refreshing his memory after looking into the plaint. At this, the learned Advocate of defendant No.4, Shri Zafarvab Jilani and learned Advocate of defendant No.3, Shri Ranjit Lal Verma objected that the whole statement cannot be given by seeing plaint but if while giving statement he wanted to refresh his memory about any particular fact by seeing any documents, the witness could do so. Shri Ranjit Lal Verma also contended that plaint did not come within the definition of document.

At this stage, the witness started reading plaint of original suit No.5/89 and stated plaintiff No.1 and 2 was a juridical person. I am a Vaishnava and a Hindu and I have filed this suit in the capacity of next friend. And I am also plaintiff No.3, and I have no personal vested interest in the suit. I have filed this suit with an intent of service in respect of plaintiff No.1 and 2. Details of the disputed property have been given in annexure No.1, 2 and 3 enclosed with the plaint and the original copies thereof are available in the records of original suit No.1/89. These details of the disputed property are sufficient and well known throughout the world. (At this point, Shri Ranjit Lal Verma, the learned

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Advocate of defendant No.3, objected and said that the witness could not be the spokesman of the whole world).

Continuing his statement, the witness said that because of delay in the decision of the suits filed earlier, this suit O.S. No.5/89 has been filed. The devotees of plaintiff No.1 and 2 were very discontented and unhappy and they were also dissatisfied with the arrangements made for their worship, etc. (At this stage, Shri Zaffaryab Jilani, the learned Advocate of defendant No.4 and Shri Ranjit Lal Verma, learned Advocate of defendant No.3 objected that this entire statement was being given by reading the plaint, which was highly objectionable and was not maintainable in evidence).

Continuing his statement, the witness said that the plaint had been drafted by him and he was refreshing his memory by reading it and the original suit, which he had filed in the court, typed by him and because 12 years have elapsed since it was filed, it was, therefore, necessary to look into it for refreshing the memory.

Continuing the statement, the witness said especially the way, the Receiver was making arrangements, Innumerous devotees used to come and make offerings to the deity. Priests and other staff members used to usurp the offerings. The Receiver did not put any check on them and not a single paisa was deposited out of the offerings. The devotees of the plaintiffs wanted to have a new temple constructed in keeping with the glory of plaintiffs and the structure, standing there, to be removed. In this context, the devotees held a meeting and entrusted this task to Guru Ramanandacharya Swami Shivaramacharya of Kashi, who was head of the Ramanandi Sect. Most of the sadhus

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and bairagis of Ayodhya are his followers. And he, according to the above decision, through a registered deed, which was registered in Delhi and whose photocopy is enclosed as Annexure No.4 and whose original copy is kept in Delhi Office of Shri Ram Janam Bhoomi Nyas {At this point, Shri Ranjit Lal Verma and Shri Zaffaryab Jilani, learned Advocates of defendants No.3 and 4 respectively, objected that statement could not be given on the basis of photocopy (Annexure 4 of plaint). The witness said that it was part of my pleadings}, announced the setting up of Ram Janam Bhoomi Nyas and the said facts mentioned in paragraph 15, 16 and 16A of the plaint in regard thereto are true.

At this stage, the witness said that my further examination-in-Chief would be got conducted by my advocate, Shri Vireshwar Dwivedi. Thereafter, examination-in-Chief started. Plaintiff No.2 in this suit is Ram Janam Bhoomi. According to the faith and belief of Hindus, the place, where disputed structure stood, is a place where Maryada Purushottam Shri Ram Chandra Ji took birth as a son of king Dashratha and appeared as an incarnation of Lord Vishnu. Hindus revere this place and this tradition is continuing since lakhs and lakhs of years. According to the faith and belief of Hindu religion, the time of birth of Shri Ram Chandra Ji son of king Dashratha cannot be determined through arithmetic. He stated further that 9th day of the month of 'chaitra' is celebrated as Ram Navami. He appeared in Dwapar Yuga. On that day, festivals are organized in whole of the country and specially in Ayodhya. According to the faith of Hindu religion, worship, etc. is performed at that place. Footprints of Lord Ram have been built on that place for worships. There is also Sita Ji's kitchen and when the temple, which earlier existed there,

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was demolished and the disputed structure took its place, then the idol of Bhagwan Shri Ram Lalla was installed on Ram Chabootra and worship of Bhagwan Ram Lalla is being continuously done there. And devotees go there for having 'darshan' and doing worship. Lakhs of people go there. I have studied the history of this place and I have presented the material, which I have gone into while doing this study, in the suit and that material will be presented in the court as and when necessary. By my suit, I mean the suit No.5/1989 of Bhagwan Shri Ram Virajman etc. versus Shri Rajendra Singh and others. According to purest form of Hindu religion, Divine is formless and immutable but for practical purposes an image of Purushottam has been contemplated, image of 'Purushottam' and Prakriti' (nature) have been assumed. And this whole nature, living beings are manifestation of that divine. Then he said that translation of manifestation was 'abhivyakti' (expression).

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And the persons, who contemplate that divine, are of different levels. Some of them require an idol to contemplate him and by contemplating that idol, they reach to the divine, and the persons, who are at a higher level, reach to the divine without the help of any idol, through the process of Yoga. In this respect, the philosophy of 'advaitvad' (monism) was propounded by Shankracharya Ji, 'Adi Guru Shankracharya. And then under the philosophy of 'Vishishta Advaitvad' he established four seats (maths) and temples at four prominent places of India, i.e. at Badri Nath, Puri, Dwarika and Sringeri, where Lord is worshipped in the form of idol. He had meditated in Kedar Nath: There is no idol in the temple situated there, only a horse-back like hill is there and that is worshipped inside the temple. Similarly, there is a temple of Alop Shankari in Pravag (Allahabad), where there is no idol, only a symbol is worshipped there.

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In Varanasi also, there is a temple where only a symbol is worshipped. There is a temple in Gaya also, where worship is done, but no idol is installed there and according to our faith, an idol is not necessary for performing worship (puja), but majority of people install an idol for doing worship and an idol can be of eight metals or stone or of any other matter. Matter is not worshipped. The idol is consecrated by recitation of 'mantras' and for the purpose of reaching to the divine, the worship of that deity is done, whose idol it is. Accordingly, the followers of Vaishnava Sect in India worship Lord Krishna through his idols and the masses worship Lord Ram in the form of idols and try to reach to the spirit of divine. Among the devotees of Bhagwan Shri Ram, the Ramanand Sect occupies and has occupied a place of pre-eminence.

I have also made some studies regarding the construction of mosques.

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Question: Have you found in your studies that there are some mandatory requirements in the mosques?

Answer: Yes sir.

Question: Would you give oral and written evidence in this regard?

Answer: I have submitted as documentary evidence, the extract of the books, which I have studied, in the form of written evidence alongwith my suit No.5/189 and copies thereof were submitted at the time of evidence of the opposite parties. Original books were also filed and which are law books will also be submitted.

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Oral evidence is, that there were no minarets in the disputed structure, which were necessary for giving 'ajan' (prayer call), when there was no practice of loud-speakers. These minarets were invariably constructed in big (jama) mosques, so that by giving 'ajan', faithful people could be intimated that time has come for offering namaz and they should, therefore, gather there. And when after 'ajan', all persons collect and offer 'namaz' then it becomes a mosque. When faithful people collect for namaz, then ordinarily there is a provision of water tank in all mosques for 'vaju'.

I have visited the disputed place. I have also seen the disputed structure, which has since been demolished. I did not see any minaret or any arrangement of water for performing 'vaju' in that structure, because it did not exist there.

First of all in 1932, when my father was posted in Faizabad as Inspector of School, Seventh Circle Faizabad, I went several times to Hanumangarhi and to the disputed structure also, with my mother, when she used to go to take bath in the Saryu river. She used to go to do worship at the birth place of Bhagwan Shri Ram. Thereafter in 1934, when my father was transferred, I came back from there. Thereafter in 1955, when I started legal practice, the landlord of Faizabad, Raja Mohan Manuva engaged me as his lawyer in almost all his cases and I got opportunity of frequently coming to Faizabad. I do not remember whether I ever went to the disputed place, because perhaps I did not have any spare time. Then I certainly went to the disputed place in 1984. During the period 1932 to 1934, whenever I went to the disputed place with my mother, I saw priests making people do worship of the idol of Bhagwan Shri Ram installed on Ram Chabootra and make people offer

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garlands of flowers, etc. on Sita Rasoi and on footprints and receive their Sankalp donations from them. I also remember that a picture of Bhagwan Shri Ram Lalla was also lying inside the disputed structure and priests used to take flower garlands from the people and offer them to Bhagwan from a distance. There were two pillars of touchstone at the gate of the disputed structure, which were used for its construction after demolishing the temple which earlier existed there. There were two similar pillars also inside the structure, which could be seen from a distance. But two locks were affixed on the gate of the inner premises of the disputed structure and because of them, the police did not allow anybody to enter inside and worship etc. of Bhagwan Shri Ram Lalla, who was Virajman inside, was done from outside the gate and non stop recitation and chanting of name of Lord was being continuously done in the outer premises. There was a store-room in it where Bairagis used to live. Another idol was installed on Ram Chabootra also and worship was done there also, and worship of Sita Rasoi and foot prints, etc. was also done. But neither during the period from 1932 to 1934, nor in 1984 or after that, I saw any Muslim inside the disputed structure, nor I saw or heard anybody offering namaz there.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
18.6.2001

Typed by the stenographer, as dictated by me in the presence of advocates of both the parties.In continuation of this Appear for examination in chief at 10.00 O' clock in the morning on 19.6.2001.

Sd/-
(Narendra Prasad)
Commissioner
18.6.2001

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Dated: 19.6.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 18.6.2001)

According to Hindu religion, an idol is called 'Vigrah', till it is consecrated and it acquires divinity. Then it is called 'vigrah' of God. Vigrahas are both of movable and immovable kind. The vigrah of Bhagwan Shri Ram Lalla seated in a cradle and installed on Ram Chabootra in Ram Janam Bhoomi was a moveable vigrah. In accordance with the wishes of devotees, Param Hans Ram Chandra Das, Abhiram Das and others among whom were Laxman Qiladheesh, who has since expired and Abhiram Das has also expired, shifted this vigrah from Ram Chabootra and installed it under the middle dome of the disputed structure while observing all the prescribed rifuals, whatever was necessary was done. All these persons were Bairagis. I had gone to Varanasi to ascertain whether such an auspicious work can be performed at a time when sun is in Dakshinayan (southern direction). The scholars there told me that Bairagis could do this. I met there Indu Shekhar Pandey Jyotishacharya, who was a professor in Sampurna Nand Vishwavidyalaya. He gave me an article written by him and which has been filed by me. He had told me that it was an auspicious time and this work could be done at that time. In addition to him, there was a scholar of astrology who was a resident of Prayag and lived in Bahadur Ganj, Prayag. He has since expired. His surname was Dwivedi. He had given me a paper under his signature. After seeing paper No.107C/1/231 of Other Original Suit No.5/189, the witness said that this was the same paper which Indu Shekhar Pandey had given to him and which was written in his own handwriting. I certify his paper. He had an almanac and he had written this paper after consulting almanac. After seeing paper No.107C/1/232 of the same suit, the

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witness said that this was the paper, which was given to him by Pandit Hari Sharan Dwivedi,
Jyotishacharva and Dharmacharya. This paper was written by Pandit Hari Sharan Dwivedi in his own hand, on his own letter head and he had signed this paper. I attest the veracity of this paper. The above-said vigrah was shifted in the divine hours of the morning on the above-mentioned date.

Whether it is a wakf or a mosque or any other property, Allah is the owner thereof. As far as I know on the basis of my studies, the person, who is proprietor of that property, does not donate it, but abandon it, i.e. relinquish his ownership. Such a person is called 'Wakif'. Before the 'wakif' of a mosque, two conditions have to be fulfilled. First he said temple then said in case of a mosque, 'wakif' should be an absolute proprietor of the property. Thereafter, when 'namaz' is performed 'in Jama' on Friday after 'ajan', then the 'wakf' is treated as complete.

At this place, a temple was built by Vikramaditya. I am saying this on the basis of my study. The temple built by Vikramaditya was again reconstructed or renovated by Gadhwal dynasty in about 1100 A.D. and lastly Meer Baki, who was a commander in the army of Babar, in 1528 tried to build a mosque there at the instance of some mendicants (faquirs). But the task of construction of mosque could not be completed. Even a minaret could not be built there. Hindu kings, masses and Bairagis struggled against anyone whosoever tried to build a mosque. During the regime of Muslims, battles were fought 75 or 76 times, then he said struggles took place. Last battle took place in 1855 when there was dominance of Hindus, but some Muslims made an attack and entered Hanumangarhi. Later on, Hindus

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made a counter-attack and expelled them and more than eighty Muslims died in that conflict and they were buried in a pit outside this structure and this place was called Ganj-e-Shahida. The relevant portions of the books, which I have studied in this connection, have been filed by me in my suit. After seeing paper No.107C/I to 107C/I/5, the witness said that these papers were the same relevant portions, which were filed by me after study. These were the photocopies of those relevant portions. (Shri Zaffaryab Jilani, learned Advocate of defendant No.4 and Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that in the absence of the original copy, this statement cannot be recorded). Then continuing the statement, the witness said that 107C-1/10 and 107C-1/11 are photocopies of page 739 and 740 of gazetteer of territories under East India Company written by Edward Canutin. (At this point, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that as the original was not present, therefore, statement cannot be given on the basis of photo copy).

Question: Whether the papers, filed with list No.107C-1/ to 107C-1/9, have been written by persons belonging to a particular community or by persons of different communities, such as Hindus, Muslims and foreigners?

Answer: Papers of serial No. I to 9 of the list have been written by Englishmen.

Besides, the rest of the papers filed with the list have been written by Muslims. Some of them have been written by Hindus and some by the foreigners. Among the papers filed with this list, there is book 107C- 1/154, which is an original copy. Apart from that, 107C-1/239 is original and

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107C-1/240 is original. No.107C-1/246 is also original serial No.107C-1/248 to 250 are attested true copies. Paper No.107C-1 /244 and 107C-1/245 are carbon copies. Paper No.107C-1/230 is not a photocopy, but it is a typed copy. Similarly, paper no.107C-1/155 is a typed copy. Paper No.107C-1/76 is an article written by Professor Grover, which is in his own handwriting. List No.107C-1/1 to 107C-1/9 have been signed by me. Paper No.106C-1/1 is a listed paper, on which my signatures are affixed. Alongwith this, I have filed five papers. Paper No.116C/2A, filed with it, is an original newspaper cutting. Paper No.116C-1/2B is a photocopy of the same newspaper cutting and paper No.116C-1/3 to 116C-1/5 are photo copies. (Shri Zafaryab Jilani, learned Advocate of defendant No.4, and Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that as the original copies are not before us, it is, therefore, completely illegal to refer to these photo copies in the statement and statement should not be given about photo copies. Continuing his statement, the witness said that he had got these photocopies prepared from the original ones. All the papers filed in this list were photocopies. Papers No.115 C-I/11 to 115C-1/17 were photo copies of the original article written by him. Then Volunteer : that he had himself typed that paper. I have filed papers in this suit with list No.118C-1/A and 118C-1/B. After seeing paper No.118C-1/1 to paper No.118C-1/20, filed with this list, the witness stated that this is the attested copy, which he had obtained from the Supreme Court and it was an affidavit of Shri Arvind Verma in interlocutory application No.10/1992 in contempt petition No.97/92. Similarly, paper No.118C-1/21 to 118C-1/32 is a attested photo copy of affidavit of Shri Radhe Shyam Kaushik filed in Supreme Court in the above-mentioned interlocutory application in the said contempt petition. Shri Arvind Verma was Commissioner of

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Faizabad Division (Mandal) and was the first authorised person appointed under Ordinance No.8 of the year 1993, who was entrusted with the work of management under the said Ordinance and afterwards, Shri Radhey Shyam Kaushik became Commissioner and the authorised person. Besides, a video cassette has been filed, whose No. is 118C-1/33 and the number of other one is 118C-1/34. Both these video cassettes were shown in the presence of the parties of the suit in Lucknow Bench. Paper No.118C-1/35 to 118C-1/35 is a book. Paper No.118C-1/36 is a printed copy of October 92 issue of 'Hindu Vishwa'. Paper No.118C-1/37 is a photocopy of a letter sent by the National Archives of the Government of India to the Minister of State in the Ministry of Home Affairs. (Shri Zaffaryab Jilani, learned Advocate of defendant No.4 again objected that as the original paper is not before us, therefore, reference to photocopy can not be made in the statement). Continuing his statement; the witness, after seeing paper No.118C-1/38 to 118C-1/59, stated that this is a copy of the annexure of the above-mentioned letter. Then, after seeing Paper No.118C-1/60 to 118C-1/64, the witness stated that this is a photocopy of a published article written by Ajay Mitra Shastri, titled 'Ayodhya and God'. After seeing Paper No.118C-1/65 to paper No.118C-1/90, the witness stated that it was a photocopy of a note, which was given to me by Dr. Swarajya Prakash Gupta. After seeing Paper No.118C-1/91 to 118C-1/114, the witness said that this is a photocopy of a portion of the same article. Similarly, Paper No.118C-1/115 to 118C-1/144 were photo copies, which were given to me by Dr. S.P Gupta and which he got prepared from the original copies. Paper No.118C-1/145 is a photo copy of the front page of a book, titled 'Puratatva'. I have filed this book.

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I got information about Meer Baki from my studies. He was a Shia. I got information about Babar also. He was a Sunni.

A suit was filed in the Tribunal, which was the then Civil Judge, constituted under Section 5 of U.P. Muslim Waqf Act, 1936 by the Central Shia Board of Waqf, U.P. against the Sunni Central Board of Waqf questioning the notification issued in 1944 under Section 5 of the said Act, on the ground that Waqf i.e. so called Babri Masjid Waqf was not a Sunni Waqf but it was a Shia Waqf. Plaintiff of suit no.5/89 or any Hindu was not a party to that suit. No such legal notification was ever issued under the Waqf Act about the so-called Waqf that the disputed place was Waqf.

After seeing the original plaint of other original suit No.4/89, whose number in the Court of Hon'ble Civil Judge was 12/61, the witness stated that this is the original plaint of that suit. On the upper portion of the left side of its last page, date of 18.12.1961 is written. Under the signature of advocate, below the word 'plaintiffs', date of 16.12.1961 is written. This plaint contain verification clause on this page. The date of verification has been written as 6th December 1961 at Ayodhya. An amendment has been made on this page with red ink. Schedule 'A' is written at the top. At the end of Section 2 of this plaint, amendment has been made with red ink. The date of amendment is 3/1/62. There is a report of 'Munsarim' of the court on this suit which is of date 18.12.61. The order of the court has been written below this. The court had pointed out certain defects. These were written in their hand.

(At this point, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that the above statement,

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which is about the plaint of suit No.4/89 is absolutely unnecessary and irrelevant and pertains to the records of the Court.)

During the talks of negotiations, which were in process during the time of Prime Minister Shri Chandra Shekhar, documentary proofs were demanded by the parties. Among the parties, there were representatives of The Vishwa Hindu Parishad on one side and representatives of Babri Masjid Action Committee on the other. The parties presented historical, archaeological, legal and also literary proofs. Later on, it was decided to set up 3 groups of experts to look into the documents, one for historical and archaeological, second for revenue records and third for legal. I, Justice D.B. Sehgal and Justice Guman Mal Lodha were among the members of the group of legal experts constituted on behalf of The Vishwa Hindu Parishad. The fourth one was Shri V.K.S. Chaudhury. I do not remember the name of the fifth member at this time. Among the members of the expert group of Babri Masjid Action Committee were Shri Zaffaryab Jilani, who is sitting in front of me, another was a lawyer from Sultanpur, who was presented probably in connection with survey and another one was Shri Siddiqui, who was a lawyer. In the expert group of historian and archaeologists, there were Professor R.S. Sharma, Dr. Athar Ali Saheb, Dr. D.N. Jha and Dr. Suraj Bhan and on behalf of The Vishwa Hindu Parishad, there were Shri V.P. Sinha, who has since expired, Dr. S.P. Gupta and Professor B.R. Grover, who has also expired recently. I do not remember the names of other persons at this moment. In connection with these negotiations, a meeting was held in Gujarat Bhawan in New Delhi. The meeting was attended by one Mohd. Azam Khan Saheb, who was convener of Babri Masjid Action

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Committee and was also a Minister in the Cabinet of Shri Mulayam Singh Yadav. He was also present in that meeting and it was decided in the meeting that experts of both parties be divided in 3 groups and they should look into the documents pertaining to their subject and submit their report and it was also decided to hold their meeting on the next day. The experts of The Vishwa Hindu Parishad kept on waiting for about two and a half to three hours, but none of the experts appointed by the Babri Masjid Action Committee turned up.

(At this point. Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that this statement regarding negotiations was completely outside the scope of the pleading and it was not connected with any point of issues.)

Continuing the statement, the witness stated that during the negotiations, Prof. R.S. Sharma said that the Central government should give one or two months' time to him and his colleagues to go to Ayodhya and make enquiries about the subject-matter, as they do not have any local information, and, therefore, they would be able to give their views if only Central Government provided them an opportunity to go to Ayodhya and obtain information about the subject-matter. No paper was filed during these negotiations. Papers had already been filed. But things did not move further during the time of Shri Chandra Shekhar and in the mean time, his Government fell. However, during this intervening period, the Home Ministry of the Central Government sent the documents, submitted by both parties, to National Archives for verification and the National Archives sent its report to the Home Ministry. After seeing paper No.118C-1/37 to 118C- 1/59, the witness said that this is the photocopy of the same letter and information. (At

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this point, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that the original copy was not before the court, therefore, statement could not be given on the basis of the copy.)

Chanting of name of God (Bhajan-kirtan) was not done in the outer courtyard of the disputed premises, but worship of another 'vigrah' (idol) installed by Shri Nirmohi Akhara in place of 'vigrah' of Bhagwan Shri Ram Lalla, shifted to Ram Chabootra, was done and worship of Sita Rasoi and footprints was done. There was a store room, where Bairagis used to live. But because of mutual dispute between priests and Dharma Das and his guru Abhiram Das, outer courtyard was attached and suit under 145 was launched. And after 1949, bhajan-kirtan. etc. was done in the eastern side in front of the main gate of the outer premises. In this connection, Nirmohi Akhara had filed a suit against the priest or the priest had filed a suit against Nirmohi Akhara, which was going on in the Civil Court. In that suit, Mahant Ram Kewal Das, who was then the Mahant of Nirmohi Akhara, left the case in favour of the priest and an agreement was reached in that suit of 145 between the said priest and Dharma Das. The papers regarding this have been filed in suit No.3/89. I do not know who had filed it. Agreement was arrived at between the priest and Dharma Das in the suit of 145 and the priest relinquished all the rights in favour of Dharma Das.

During 1986, on 10th day of the month of Chaitra Shukla, that is on the day next to Ram Navami, a conference of saints was held in Ram Janam Bhoomi Complex in Ayodhya. This conference of saints was held under the auspices of The Vishwa Hindu Parishad. This conference was attended by saints, office-bearers of The

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Vishwa Hindu Parishad and persons associated with Ram Janam Bhoomi liberation movement. Among the prominent saints, who attended this conference, were Jagat Guru Ramanandacharya, Shri Swami Shivaramacharya, Jagat Guru Shankaracharva Shri Swami Shanta Nand Saraswati, Goraksha Peethadhiswar Mahant Avaidhya Nath, Mahant Ram Kewal Das, Mahant Dharma Das, Param Hans Ram Chandra Das, Mahant Nritya Gopal Das etc. Besides, among the persons, associated with The Vishwa Hindu Parishad, I myseff. Shri Ashok Singhal, Shri Shreesh Chandra Dikshit, Shri Omkar Bhave, Mandakini Dani, Acharya Girl Raj Kishore, other office bearers and other prominent persons attended the conference. Report of this conference has been given in the issue of 'Hindu Vishwa', which has been filed in the plaint, as referred to above. The significant event of the conference was, in which I was also a party, that Mahant Ram Kewal Das and Mahant Dharma Das surrendered all their rights in Shri Ram Janmabhurni in favour of Jagat guru Ramanandacharya, Shri Shivaramachar and announced that he may manage the affairs of Ram Janam Bhoomi according to the announcement he had made vide circular dated 18th December 1985 in regard to the Ram Janam Bhoomi Nyas. When this happened, I was directed by them to put it in writing. Then I, on the spot, recorded it on a stamp paper in my own hand and Mahant Ram Kewal Das and Mahant Dharma Das put their signatures on it in my presence and Mahant Avaidya Nath Ji, Jagat Guru Shankaracharya Swami Shanta Nand Saraswati, Shri Shreesh Chandra Dikshit, Mandakini Dani, Onkar Bhave and I signed over it as witnesses. Mahant Ram Kewal Das and Mahant Dharma Das touched the feet of Jagat Guru Ramanandacharya, Shri Swami Shivaramacharya and made this announcement after standing. As far as I, remember, the suit pending in

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Faizabad was filed in 39/82, because I was once called for evidence. My evidence could not be taken on that day. The paper No.119C-I/1 (Other Original Suit No.5189) which is before me and is a list of proofs, bears my signatures. I have filed only one document with it, whose No. is 119C-1/2 and is an original newspaper cutting. Paper No.119C-1/C is also a list of proofs and it bears my signatures. I had given an application with it, which is paper Nos.119C-1/A and 119C-1/B. The facts of that application were verified on oath and this was admitted on the order of the court. This order is written on the back of this application. I have filed ten papers with this list and it has been written in that list that what this paper is about. But that I mean the list of proofs No.119C-1/C. Photo Nos.119C-1/1, 119C—1/2, 119C—1/3, 119C—1/4, 119C—1/5, 119C—1/6, 119C—1/7, 119C-1/8, 119C-1/9, 119C-1/10 were filed with this list. These are photos of the pillars situated in the temple in the disputed structure. Paper No.120C-1/1 of this suit is a list of documents. It bears my signatures and it has been written in my own hand-writing. I have filed two original books with this list. One is 'Ayodhya' written by Hains Baker and the other is 'The History of Islam' by Thomas Pratrick Huges, and copies of some of its pages are also enclosed. The number of these two books are paper No.120C-1/2 and 120C-1/3 respectively. Paper No. 120C-I/4 and 120C-1/5 are list of papers of proof, which bear my signatures. I have filed 10 sets of papers with this list, which are extracts from the book written by the above-mentioned Hains Baker. These are photocopies of the relevant extracts. Paper No.121C-1/1 is also a list of proof and a paper has been filed with it, which is a photocopy of relevant extracts from the book 'Indian Architecture (Islamic period)', written by Percy Brown. As far as I remember, I had also filed the book. (At this stage, Shri Zaffaryab Jilani,

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learned Advocate of defendant No.4, objected that as the original was not there, therefore, reference could not be made on the basis of photocopy). Continuing the statement, the witness stated that the relevant extracts filed by him are on paper No.120C-1 /2 to 120C-1/9. After seeing the papers No.254C-1/1 and 254C-1/2 of this very suit No.5/89, the witness stated that this is a list of proof, which bears my signatures and which has been filed by me. Five sets of documents have been filed alongwith this, whose No. is 254C-1/3. It is an issue of December 1996 of a magazine 'Itihas Darpan' published by Bhartiya Itihas Sankalan Yojana Samiti, Delhi.

Paper No.254C-1/4 to 254C-1/8 were photo copies of incomplete text of rock inscription in Vishnu Hari Temple of Ayodhya and whose printed copy has been published on page 62 to 66 of the above magazine 'Itihas Darpan' and photocopy of short notes in English, which are printed on page 67-68. Paper No.255C-1/1 is also a list of proof, which has been written in my hand and bears my signatures. These five papers contain those questions which I put to plaintiff No.9 of other original suit No.4/89, Sayyed Aklakh Ahmed during the cross-examination. Those are papers No.255C-1/2, 255C-1/3, 255C-1/4, 255C-1/5 and 255C-1/6 to 255C-1/12.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal

19.06.2001

Typed by Stenographer as dictated by me in the presence of the Advocates of the parties. In continuation for futher examination in chief Appear tomorrow the 20.06.2001 at 10.00 A.M...

Sd/-
Narendra Prasad)
Commissioner
19.06.2001

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Dated 20.06.2001

(Commencement of statement on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 19.06.2001)

By looking into the records and papers filed in other original suit No.4/89 and from the copies thereof, which were filed in other original suit No.1/89 and 2/89, it is learnt that Meer Baki, the builder of so called mosque at Janam Sthan, was a Shia and his descendants became 'mutavalli' (trustee) thereof and one or two persons among them who existed during 19th century and in early 20th century were entitled to the right of mutavalli. It has always been claimed that the so-called mosque is a Shia mosque and there was never a Sunni mutavalli in it. Then he Volunteer said: that actually there was never any mutavalli there. Those who were called mutavalli, refused from 'tauliat'. I have heard the name of Bukanan. East India Company, who ruled over some parts of India after 1757, had sent D. Bukanan from England to India approximately during 1790 to undertake survey of some particular places and submit a report. He submitted a report regarding the so-called mosque of Janam Sthan. When I came to know that he had submitted a report, then I obtained a certified copy of that report from Prof. B.R. Grover, who had obtained a certified copy thereof through The Vishwa Hindu Parishad's unit in United Kingdom. It was obtained from the British Museum where its original copy had been kept. And as it was written by hand in 19th century, so I read it and got it transcribed and typed and, as far as I remember, filed it in this court during the cross-examination of Shri Sushil Srivastava in suit No.4/89 alongwith my affidavit. After seeing paper No.189C-2/1 and 189C which were filed during cross-examination of P.W.15 in original suit No.4/89, the witness

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said that it was his affidavit. After seeing paper No.189C-2/3, the witness stated that it was the letter which was sent by United Kingdom Unit of The Vishwa Hindu Parishad to the Central Office of The Vishwa Hindu Parishad in India. After seeing paper No.189C-2/4, 189C-2/5, 189C-2/6 and 189C-2/7, the witness stated that this was the attested photocopy of the report of D. Bukanan, which was apparently written by him in his own hand and signed by him and which was obtained by the United Kingdom Unit of The Vishwa Hindu Parishad from the British Museum. After seeing paper No.189C-2/8 and 189C-2/9, the witness said that it was the enclosure of the same report which was about the so-called janmasthan. This is the photocopy of the entire printed report.

Question: Is there hand written text also at the end of paper No.189C-2/8?

Answer: The witness stated that he was not in a position to read it. Then he stated that he would not read the content of the document. (Then he Volunteer said: that it was copy of inscriptions in Persian inscribed on janmasthan mosque.

After seeing paper No.189C-2/10, 189C-2/11 and 189C-2/12, the witness stated that he had a transcribed copy of the above hand-written report of Shri Bukanan, which bore his (witness's) signatures and it has been written on it in my hand-writing that 'type written by me from original'. (Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that paper No.189C-2/3 to 189C-2/9 are photocopies, the originals of which had not been filed in the court, nor were they before the witness. Those papers, therefore, are not admissible in the evidence and statement could not be made on its basis. Similarly, paper

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No.189C-1/10 to 189C-2/12 were also not admissible on the same ground. At this stage, Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that the above documents, whose copies were reported to have been obtained from England, had not been verified by any representative of the Government of India and, therefore, they were not admissible in evidence.)

After 1932-34 and since 1984, I have visited Ayodhya twenty times or may be fifty times till the last year. I have gone inside the disputed structure, which is demolished now, after the opening of locks. According to my studies, the disputed structure cannot be a mosque. The first reason is that it is situated on the birth place of Bhagwan Shri Ram, where, before the construction of the disputed structure, existed a temple of Bhagwan Shri Ram and worship, etc. of Bhagwan Shri Ram has been going on since time immemorial and according to law, the owner of that place was Bhagwan Shri Ram, 'Virajman' there. The second reason is that according to 'Shariat' (Muslim religious law), before making a place 'waqf', it is necessary for its earlier owner to abandon it. When this structure was built, Bhagwan Shri Ram Virajman were its owner. Third reason is that Allah does not accept the waqf of that land which is occupied or taken into possession forcibly, and if 'namaz' is offered there, Allah does not accept it. And secondly, it is not proved by any record that namaz was read it in the capacity of owner of land after 'ajan'. Rather, from all the books and literature, whether written by Hindus or it is in Urdu, or written by Muslims or written by the rulers in English, it is evident that fights were continuously waged regarding this place and the Hindu community never allowed it to be used as a mosque. So much so that during his reign, Emperor Akbar came alongwith Todarmal and his

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queen Jodha Bai. Todarmal made revenue settlements there and on the insistence of Jodha Bai, Emperor Akbar gave free rights to Hindus and the followers of Ramanand sect, whose deity is Bhagwan Shri Ram and are also called Ramait, to install an idol on Ram Chabootra in the courtyard of the same building and gave free rights to offer worship, etc. and members of Hindu community have been regularly doing worship there. During the regime of Aurangzeb, it so happened that some Muslims tried to obstruct worship, but they did not succeed in their efforts. Then afterwards, when Mughal Empire started fragmenting, the Nawab of Avadh, who was called Nawab Wazir, became ruler of Ayodhya. He was Shias and they never put any obstruction in the worship done by the Hindus. And in the documents of survey conducted by Britishers in 1855, such as Cunningham and gazetteer, it has been mentioned that this place was a temple of birth place of Bhagwan Shri Ram and even in 1856, when British Government annexed Avadh; under its rule, this place was in possession of Hindus and members of Muslim community could not enter inside it and 'namaz' was not held there. Thereafter, in 1857, first war of independence took place. Britishers called it sepoy mutiny and in Urdu, it was called 'gadar' (revolt). (At this stage, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, and Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that the above statement was not connected with any point of issue of the suit and was totally irrelevant and hearsay). The witness continued his statement.

Question: Is there any other reason, why the disputed structure cannot be treated as a mosque?

Answer: The reason is that during 1857, Hindus and Muslims fought against the Britishers side by

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side. And thereafter British empire was established and then they erected a wall of iron-bars and divided the courtyard. The disputed structure fell into inner premises and Ram Chabootra lied in the outer portion. Under the policy of divide and rule, the Britishers tried that Muslims offer namaz in the inner premises, but as there were places of worship of Hindus in the outer premises and way to mosque should be freely opened without any obstruction and Hindus, especially Bairagis of Ramanand Sect and Bairagis of Nirmohi Akhara who used to worship at Ram Chabootra, did not allow Muslims to enter inside. Therefore, namaz could never be performed in this place in spite of efforts made constantly. There is another reason that the Britishers gave this place as 'nankar' as a rent-free land) to a landlord who was loyal to them and who had helped them during the mutiny, but they never admitted that it is a place of 'waqf', and he was bound to spend the income earned from 'nankar' on it. And the last reason is that they had refused from 'tauliat' also. Eventually, when 'zamindari' was abolished in UP, he got compensation in lieu of this rent-free land instead of getting annuity fixed. Had this place been a 'waqf for the mosque, then he would never have done so. Therefore, this was my conclusion that this place was never Waqf for the masjid. (At this stage, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that except last sentence, all remaining statements have been given on the basis of hearsay and, therefore, they are not admissible.

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Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that zamindari of the disputed place has not been demolished, this statement is, therefore, irrelevant). Continuing his statement, the witness said that in Ordinance No.8 and Act No.33 of 1993, it has been described as 'inner' and 'outer' premises, but the actual position is that these are integral part of one and the same courtyard.

From 1984 till last year, when the disputed structure existed there, whenever I went there, I saw pictures of human figures, pitchers and gate keepers and other auspicious symbols inscribed on pillars of touchstone situated there. Such symbols are found only in temples. When this structure had not been demolished, there was a symbol of lotus built on its dome. In the suit of 145, which I have referred to earlier, an application for transfer was given in the Allahabad High Court by Shri Anisur Rahman, who was pleading at that time on behalf of Muslim community and was also perhaps a party to the suit. After seeing the original file of suit under 145 C.R.P., the witness said that it includes an affidavit of Anisur Rahman son of Maulvi Wazimiddin, Caste - Sayyed, Resident of Begampura, Ayodhya, Faizabad. The affidavit comprises of 3 leafs or 6 pages. This is the same copy of the affidavit which was sent by the High Court and through which the Hon'ble High Court had asked for the comments of the concerned Magistrate. All these three pages bear the seal of the High Court. (At this stage, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that the affidavit was neither original not was it an attested copy. It was, therefore, not admissible in evidence). All these three papers are part of the file of the court regarding suit under

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Section 145 of Criminal Procedure Code. According to my knowledge, Anisur Rehman has died long ago. In this suit under Section 145 of C.P.C., some Muslims had submitted statements on oath. I think there were 12, 13 persons.

During 1934, on the occasion of Bakarid, Bairagis got enraged because of cow-slaughter and killed three Muslims and hanged them outside the disputed place and caused much damage to its dome. After the riots of 1934, that place got desecrated and no Muslim went towards that place. Even if somebody wanted to go, he could not do so, because the Bairagis, who lived there, threw shoes and chappals on them.

After India got freedom and before December 23, 1949 and particularly when the Constitution of India was framed, the feeling generated that the birth place of Bhagwan Shri Ram should be liberated. As Gandhi Ji had desired that Ram Rajya should be established in the country, it was, therefore, necessary to liberate the Ram Janam Bhoomi and Shri Ram Manohar Lohia and other prominent leaders came to Ayodhya and made efforts that Muslims relinquish their claim. And Bairagis also took decision and during September and October dug the graves which were there on all sides and levelled the land and more than one thousand people did 'jap' (special recitation of mantras) and purified that land.

There was an inspector of Sunni Waqf Board in Faizabad at that time. Sunni Waqf Board had asked him to make enquires on the spot and send a report. He had submitted his first report on December 10, 1949 and the copy of the report was filed by Sunni Waqf Board in their suit. Besides this, he gave another report on 23rd December 1949. This report has been filed in suit No.1/89

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and No.4/89. Original has been filed in one suit and an attested copy has been filed in the other one. There was another report, which he had addressed to the Secretary of the Waqf Board and wrote that the so called 'mutavalli' had died and in his place another 'mutavalli' should be appointed and for that there was a descendent of Meer Baki and who is a village head (numbardar). He should apply for appointment as 'mutavalli'. But according to my information he did not give any such application, as he had refused from 'tauliat'.

The Government of Uttar Pradesh had issued the notification for acquisition in October 1991. Hon'ble High Court had given an interim order on a writ that the Government of Uttar Pradesh can promote programme of tourism by taking possession of land but it cannot build any permanent structure there. After this order, the Government of Uttar Pradesh on 2nd November, 1991 took the land in its possession. Then after confirmation of that order by Supreme Court, the work of levelling of land was started from February-March 1992 in my presence. Work of levelling started at the same place. During levelling of land, some artifacts and some remains of walls and floor were found there. Those articles were kept in a building outside the palace of the ruler of Ayodhya, which would be still there. Even today specialists had also come there to see and examine those articles. A seminar of those experts was also held, who had duly checked those articles and had also prepared a report. I had also received a copy of that report. I had filed that report in my other original suit No.5/89. I was present in that seminar in the capacity of as an observer.

At the time of demolition of the disputed structure in 1992, a number of articles were found. Those articles included artifacts and remains of the earlier constructed

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temple on that place. The special articles were placed in Ram Katha Kunj, though Uttar Pradesh was under central rule. Some articles are lying outside. An application was submitted to keep them in a systematic manner. In accordance with the orders of the court, they were first studied by the experts and then shifted and kept. Experts themselves wanted to study the documents, as it was difficult to read them properly from stampages. Properly means completely. On the orders of the Supreme Court, the employees of the Archaeological Survey of India had taken their stampages. On the orders of the Court, the Archaeological Department of the Uttar Pradesh State was directed to inspect all the articles lying on the disputed place, take photos thereof and submit a report. Some remains are still lying at the disputed place apart from Ram Katha Kunj and Raj Sadan (pieces of stones are lying).

I have seen the plaint of other original suit No.4/89. No Shia Muslim is a party thereof.

Hindus believe in four 'yugas', i.e. Satyug, Treta Yug, Dwapar Yug and Kali Yug, which is currently going on. In Treta Yug, Lord Vishnu took incarnation as Bhagwan Shri Ram. In Dwapar yug, Lord Vishnu was incarnated as Bhagwan Shri Krishna.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
20.06.2001

Typed by Stenographer as dictated by me in the presence of the Advocates of the parties. Examination-in-chief of Shri Devaki Nandan Agarwal concluded.

Sd/-
(Narendra Prasad)
Commissioner
20.06.2001

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Dated 06.08.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 20.06.2001).

(Cross-examination by Shri Ranjit Lal Verma, advocate, on behalf of defendant No.3, Nirmohi Akhara),

XXX XXX XXX XXX

I stayed in Faizabad from 1932 to 1934. I stayed there because my father was posted there as Inspector of Schools, Seventh Circle, Faizabad. At that time, I studied in standard 7 and 8 in Faizabad. I was then about 11 years old. I stayed in Faizabad mostly in a big house built in the compound of Pirpur Kothi. For some days, I stayed in a small house near Government School. My parents were believers in Sanatan Hindu Dharma. Ayodhya was at a distance of about 4 miles from my residence. My parents also used to go to Ayodhya for having 'darshan' in the temples. I had started understanding all the things at that time. There was no place of worship (puja ghar) in my house. But my father used to do morning and evening prayers. In those days, festivals of Vedic Sanatan Dharma were celebrated in my home and fasts were undertaken. Worship of that deity was performed, whose festival fell. I cannot say whether an idol or picture was placed on the occasion of Janmashtami. Janmashtami is celebrated on the eighth day of the fortnight of the waning moon (Krishna paksha). Birth day of Lord Shankar is not celebrated. The day of marriage of Lord Shankar is celebrated in the form of festival named Shiv Ratri. I do not know as to why the birthday of Shankar Ji is not celebrated. I did not come to know of this even from my parents. Birth day of Bhagwan

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Ram is celebrated. Birth day of Bhagwan Ram falls on 9th day of 'shukia paksh' of month of Chaitra. Birth day of Bhagwan Ram is celebrated at 12 O' clock during the day. I cannot tell the number of days on which my mother used to undertake fast. She used to keep all the fasts. I have been an intellectual from the very beginning. It is correct that my family was under the influence of Sanatan Vedic Hindu Dharma, but after reading literature of Shri Arvind, I started believing in Arvind literature that is in Vaishnav Dharma. Then he said that the Uttar Pada speech specially influenced him. Influence of the ideology of Shri Arvind took effect on me after 1960. During the period from 1932 to 1960, Sanatan Dharma did not influence me, because I had no spare time from studying and thereafter from the practice of law. After 1932, I passed B.A. in 1940. Then after an interval of 12 years, I again took admission in the University in 1952 and passed the law examination in 1954. Between 1932 and 1940, I did not study any religious book. From 1932 to 1940, I did not hear any discourse, etc. of any saint, mahatama or guru. I did not listen any discourse of Ramcharitmanas or Bhagwat during this period. Ayodhya Kand of Ramcharitmanas, written by Tulsidas, was part of the syllabus of subject of Hindi in B.A. examination. Some verses of Kabir Das Ji and Surdas Ji were also included in the course. I cannot say whether I got some knowledge about Tulsidas Ji or Kabir Das Ji at that time. At that time, the character of Bhagwan Ram did not have any effect on me inspite of my studying Ayodhya Kand. What I know about Kabir Das Ji is only that he was a weaver and he was a disciple of Swami Ramanandacharya. His 'ulat bansis' (contradictory form of couplets) are very famous. I cannot define 'ulat bansis'. Surdas Ji was an exclusive devotee of Krishna. His name has been mentioned. Now, after the passage of 60 years, I cannot say whether the character of

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Krishna influenced me or not. This is correct that by that time, I had come to know that Shri Krishna was an incarnation of God. (Then he Volunteer : that Bhagwan Shri Ram was also an incarnation of God and he is worshipped). I came to know of these things by that time, but I cannot say whether I fully realised them. After the passage of 60 years, 'I am unable to say whether the character of incarnation of Bhagwan Shri Ram had influenced me or not. No trade and business was conducted in my family. During the period between 1940 to 1952, I did business of brick kiln and also worked as a contractor. I did this work till 1954 during my studies also. During the period from 1940 to 1954, when I was doing business, I had no time to take interest in religion. I never did idol worship. Then Volunteer : that his mother used to worship idols. My wife also used to do idol-worship. During my business, my financial year was from Dussehara to Dussehara and on the day of Dussehara, I used to do worship of my account-books and weighing scale etc. I was not doing worship of Lakshmiji on that day. I was not doing worship of even Ganesh Ji on that day. On the day of Diwali idols of Lakshmi and Ganesh was brought and I also used to worship them. This worship is being done traditionally and I was, therefore, following it. I was not doing it for the purpose of acquiring money. I am unable to answer this question whether I used to worship Lakshmi and Ganesh for acquiring money. After 1955 and since 1960 I came under the influence of Shri Arvind Ji. During 1960, my sister came into contact with Dr. Mira Srivastava who was an ardent devotee of Shri Arvind Ji and my wife also came into their contact and she was also influenced by Shri Arvind. As I was living, with them, I was influenced by the writings of Shri Arvind. My mother used to get 'kirtan' (chanting of name of God) performed in my home. That kirtan was

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connected with Bhagwan Shri Ram and Shri Krishna. Idols were not placed during kirtan. In the meantime, I read books written by Shri Arvind. I read "Essays on Gita", "Uttar Para Speech" of Shri Arvind. I also read radio broadcast of Shri Arvind given on 15th August 1947. I read those books after 1965. Meetings used to be held in my house regarding, the thoughts of Shri Arvind after 1965. After 1965 till 1971, meetings I were being held in my house, but it did not have any special effect on me. The thoughts of Sri Arvind do not constitute any separate religion, they a are part of Sanatan Dharma, i.e. Sanatan Vedic Dharma. The main philosophy of the thoughts of Shri Arvind is 'Integral Yoga', in which all the three yogas, i.e. gyan yoga, karma yoga and bhakti yoga propounded in Gita have been integrated. And the philosophy is, that man should surrender his ego and then he can receive divine grace. This has also been a main component of his philosophy that this world is not an illusion but an expression of divine. About 'Ishwar' he said that Bhagwan, Allah, God are all concept of non-being, i.e. concept of God without form and attributes and who is in the world in every form, which means that he exists in every living being, in every insect and in every thing. In other words, we can say that God exists in each and every particle of the Universe it is cause of it and also the end of it. It has no particular form and it has innumerable forms. I am unable to give definition of yoga, that is I cannot give it in a court, it is a matter for reading. I do not possess knowledge of Sanskrit language, I will, therefore, not be able to say that the word yoga has originated from the word 'Punj', which means 'to unite'. I cannot say whether union of body and soul is called yoga. I cannot say that in Vedic Sanatan Dharma, yoga is one of the philosophy (darshan) among the six philosophies. I am not in a position to say that 'Hiranya Garbha' is the basis of yoga, on which Sage

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Patanjali has written a commentary. I do not know that when bodily senses are controlled by jap, tap, rules and samadhi, then it is called yoga. It is correct to say that Lord Krishna gave sermon to Arjun in Gita about two yogas that is about Sankhya yoga and karma yoga. But alongwith this, he taught him Bhakti yoga also. It is wrong to say that Bhakti Yoga has not been explained in Gita. Philosophy of Shri Arvind is based on Gita. I do not have knowledge of Sanskrit, I will, therefore, not be able to tell as to what has been written in 13th shloka of 13th chapter of Gita. I cannot even tell about its translation that it has been written therein that I (the lord) exist in every particle. It is wrong to say that thoughts of Shri Arvind are based only on devotion (sadhana); rather 'sadhana is a path through which divine can be reached. The main ashram' of Shri Arvind is situated in Pondichery. I do not know if there is any ashram in Kerala or not. The name of his ashram situated in Pondichery is Shri Arvind Ashram. There is no such thing as Auroville Society. It is correct that a suit was fought between Shri Arvind Society and Auroville Trust. Supreme Court held in that suit that Shri Arvind is not a separate religion. It is wrong to say that Hon'ble Supreme Court had held that the thought of Shri Arvind constitute a separate system. Shri Maa was the closest disciple of Shri Arvind. Shri Mother was originally a French woman, but since 1920 she constantly remained with Shri Arvind. The Uttar Para speech of Shri Arvind is of the year 1910. I read this speech about 30 years ago. Shri Arvind Society was probably constituted in 1960.

It is not correct to say that Shri Arvind Society was established by Shri Arvind. Shri Arvind Society was set up in 1960. The registered office of this Society is in Bengal. During the year 1965-66, Shri Maa had established a centre

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of Shri Arvind Society in my house after seeing the photograph of my wife.

At that time, Preeti Adaval was Secretary and Shri Sumitra Nandan Pant was President of the above centre. In 1977-78, after the death of Shri Sumitra Nandan Pant, I was appointed as President of that Centre. The Centre of Shri Arvind Society, situated in my house, is not separately registered under the Societies Act. Shri Arvind Society is registered in Bengal. The Society has framed its by-laws. During the year 2000, I resigned from the office of the President of the Society on grounds of health and since then Shri Sanyal has been discharging the responsibilities of the President and all the files pertaining to the Centre are in his custody. I do not remember as to what are the aims of Shri Arvind Society. Even these days, meetings and prayers are held in the Centre situated in my house. Meetings are specially organised on special occasions. There is a library in the Centre. Apart from this, what are the objects of Society, I do not know. The expenditure incurred on running the Centre is met by the contributions made by the members. Besides, there is an account in the bank and interest earned on it, is also used to meet the expenditure. It is correct to say that Shri Maa is the founder — President of the Society and even after her demise, she is considered to be the President. Shri Arvind Ashram and Shri Arvind Society are two separate entities, i.e. institutions. When Gyan Peeth Puraskar was awarded to Shri Sumitra Nandan Pant, he deposited rupees seven thousand five hundred in the bank in the account of Allahabad Centre. That amount, together with the contributions made by the members, had increased to an amount of about twenty thousand rupees. Shri Maa never came to Allahabad. She never used to go outside

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Pondichery. Shri Maa had expired after 1972 after the centenary year of Shri Arvind. She might have expired during 1973. It is correct to say that the philosophy of Shri Arvind has been propounded in his book 'The Life Divine'. I came to know from, the teachings of the Holy Mother that Shri Arvind was an incarnation of Bhagwan Shri Krishna. I did not acquire this knowledge from any book. After the establishment of the Centre of Shri Arviiid Society in my home in 1968, my faith in the philosophy of Shri Arvind went on increasing. By 1974-75, I had complete faith in it. I still have faith in the philosophy of Shri Arvind. No expenditure is incurred for Ram Janam Bhoomi Nyas from my home or from the Centre established in my home. May be some amount would have been credited to the Ram Janam Bhoomi Nyas by Shri Arvind Sadhanalaya situated adjacent to Ram Janam Bhoomi. It is correct that before 1990, balance-sheet of the expenditure of Ram Janam Bhoomi Nyas used to be prepared. It was audited also. I resigned from the membership of the Board of Trustees in 1990.

As far as I think, there is no Centre of Arvind Society located at present in Ayodhya. It is correct to say that Shri Arvind Sadhanalaya is situated adjacent to Ram Janam Bhoomi Nyas in the south of Amava Mandir Kothi. Ayodhya Centre of Shri Arvind Sadhanalaya is run by Shri Arvind Ashram, Pondichery. I do not know who is the manager of Shri Arvind Sadhanalaya, Ayodhya. It is correct to say that the land of Shri Arvind Sadhanalaya, Ayodhya was donated by the owner of Amava Kothi. That land was first given to Arvind Ashram, Pondichery and thereafter the Mahatma of Arvind Ashram gave that land to Arvind Ashram. And later on, that land was converted into Sadhanalaya. It is absolutely wrong to say that Shri Arvind Society Centre,

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Allahabad gets its expenditure from Ram Janam Bhoomi Nyas. Shri Sumitra Nandan Pant had deposited some amount, out of the prize money which was awarded to him as Gyan Peeth Puraskar, in the account of Shri Arvind Society Centre in Allahabad. That account is operated both by the Secretary and the President of the Centre. It is operated by the signature of both the persons. It is correct to say that I was President of Allahabad Centre of Shri Arvind Society from December 18th, 1985 to April 30th, 1987. It is also correct to say that during that period, the bank account was operated jointly under my signatures and the signatures of the Secretary of the Centre. Accounts of the Centre of the Society were not prepared regularly.

(The advocate, who was cross-examining, drew the attention of the witness to paper No.182C-2/54 enclosed with affidavit objecting the miscellaneous application No.550/95 filed in other original suit No.5/89.) After seeing it, the witness said that it has been written therein that the expenditure of Shri Arvind Ashram is Rs.3533.50 and this has been written as preliminary expenditure. On the next page of the same affidavit, i.e. on paper No.182C-2/58, the expenditure of Shri Arvind Ashram has been shown as Rs 1990.65. This account of expenditure pertains to Shri Arvind Sadhanalaya, Ayodhya. For some time, the management of Shri Arvind Sadhanalaya was entrusted by the Trustees of Shri Arvind Ashram, Pondicherv to Shri Mahesh Narayan Singh of The Vishwa Hindu Parishad through me. I do not remember the exact date and year when it was entrusted, but my mediation was before the dates mentioned here. At that time, I was the Vice-President of the The Vishwa Hindu Parishad and was a trustee of the Ram Janam Bhoomi Nyas. Shri Mahesh Narayan was merely a worker of the Vishwa Hindu Parishad;

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he was not holding any office. It is correct to say that The Vishwa Hindu Parishad and Ram Janam Bhoomi Nyas are separate institutions. I cannot say as to under what authority amount for expenditure of Shri Arvind Sadhanalaya was given from Ram Janam Bhoomi Nyas. Answer to this question can be given by Shri Ashok Singhal who was at that time the General Secretary of the The Vishwa Hindu Parishad.

From 1934 to 1940, when I was studying for B.A., I did not adopt any mahatma or saint as my guru. My parents also did not adopt anyone as guru. At that time, i.e. during 1934 to 1940, we had nothing to do with any guru and there was, therefore, there was no question of having faith. In 1978, after listening the discourses of Brakmchari Vivek Chaitanya, disciple of Swami Chinmayanand Ji, I had accepted-him as my guru in my mind. My faith is not in any Mahant, Shankaracharya or saint, etc., but in principles.

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I do not know which sect Swami Chinmayanand Ji belonged to, but he was a Vaishnav. I have not seen him doing worship of an idol, but I have heard his discourses. His philosophy was based on the principles of Gita and Ramcharitmanas. I have not heard him saying to worship idols, i.e. worship the idols of Ram and Krishna. Advaitvad was propounded by Adi Shankaracharya ji. I do not have that much knowledge of history and culture or Hindu Vedic culture to enable me to say whether or not any guru had preached advaitvad before Adi Shankracharya Ji. I have not studied Vedas, but I know that Vedas are the main basis of Hindu religion. I have not studied Puranas and Smritis. Then he said that he has read some portions of Manu Smriti. I have studied the chapters dealing with conduct and some other chapters also. It is not correct to say that

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the laws regarding religious endowments are based only on Manu Smriti, but are based on commentary and digest. They are enunciated by Mitakshar Vigvaneshwar. This is a commentary on Yajnavalka Smriti. I cannot say whether or not it is based on Manu Smriti. I did not keep fast during the period between 1940 and 1954 but I used to go to the temple of Hanuman Ji and at times used to undertake fast on the occasion of Janmasthami. When I went to have 'darshan' of Hanuman Ji, then I used to take flowers, garlands, sweets, etc. with me. I had faith in Hanuman Ji, but not in the priest. After 19th November 1977, I heard the discourse of Brahmchari Vivek Chaitanya, disciple of Swami Chinmayanand Ji around 1978 in Vijaynagaram Hall of Allahabad University. I was invited to inaugurate the function. Between 1940 and 1954 I used to worship only Hanuman Ji. From 1954 to 1977, I used to go along with my wife and daughter to offer dress (chola). As there is no temple of Bhagwan Ram in Allahabad as per my information, I, therefore, did not go there to perform worship. Even today, whenever I find an opportunity, I go to the temple of Hanuman Ji to do worship. Besides, I go to Shankar Viman Mandapam also. As there is no temple of Ram Ji, therefore, I did not worship him till 1983. Then he said that he used to recite the name of Ram without rosary. I got the inspiration of reciting the name of Ram from the 'kirtan' which was held in our home. Since then I have been doing this. Kirtan is held in our home regularly since 1950. I am unable to answer this question, whether I have been doing 'jap' of the name of Ram since 1950. I do not take 'mantra' from anybody, nor I accept anybody as my guru. Therefore, the question of anybody giving me 'Ram Mantra' does not arise. In 1983, I went to Mahila Sankirtan Bhawan, Allahabad to perform 'kalash-pujan' (worship of sacred pitcher). It is a Kirtan Bhawan and an idol is installed in it. At this moment,

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it is difficult to say as to whose idol is installed there, but it could be an idol of either Bhagwan Shri Ram or Bhagwan Shri Krishna. I often go to Sankirtan Bhawan. I had been going to Sankirtan Bhawan for the last 30-40 years but in 1983, I went there for 'kalsh pujan' at the instance of my mother. After that, I went there for several times. As my eye sight is not so sharp, I cannot, therefore, tell that the idol of which God is installed there. It is not correct to say that my eye-sight was weak, but as I was not interested in looking at the idol, I will, therefore, not be able to say that idol of which God is installed there. I do not worship the idol regularly, but it would be wrong to say that I do not believe in it. By regular worship, I mean daily worship or worship of Hanuman Ji regularly on Tuesday or Saturday. Sankirtan Bhawan is situated at a distance of one furlong, not at a distance of 25 steps. It is correct that it is called Mahila Sankirtan Bhawan. It is correct that the 'kalsh' for the worship of which I had gone there, was sent by the The Vishwa Hindu Parishad. This 'kalash-pujan' was done in November 1983. I got associated with the The Vishwa Hindu Parishad during the year 1984. I got associated with the The Vishwa Hindu Parishad through Hon'ble Justice Shiv Nath Katju. Then Volunteer : that the World Sanskrit Conference was held in 1979, which was held one day before the World Hindu Conference, organised by the Vishwa Hindu Parishad. Because of that too, I came into contact with the Vishwa Hindu Parishad. In 1979, descendant of Maharana Pratap was President of The Vishwa Hindu Parishad. I do not remember his name now. When I came into contact with Maharana Bhagwat Singh, I did not come to know of The Vishwa Hindu Parishad from him. Thereafter, when I came in contact with Hon'ble Justice Shiv Nath Katju, then I got full information about Vishwa Hindu Parishad. I think The Vishwa Hindu Parishad

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was constituted' in 1966. I knew the by-laws, constitution, etc. of Vishwa Hindu Parishad before I became its Vice-President. During 1985-86 whenever need arose of making amendments in the by-laws then legal advice was taken from me. At that time, Ashok Singhal was the Joint General Secretary of the Vishwa Hindu Parishad and Shri Jaswant Rai was its Office Secretary. These people used to take legal advice from me. I had no connection whatsoever with Ashok Singhalji before 1984. Ashok Singhalji or some other person did not come to me to take legal advice, rather such questions were always asked in the meetings and whenever any such type of question was asked then I used to give legal advice after study. I used to attend these meetings as a member of Board of Trustees. At present, I do not remember whether I used to take papers or not with me for giving my opinion. I cannot say at the moment as to what is the object of the The Vishwa Hindu Parishad. Then he said that he could not tell by memory. The aim of constitution the Vishwa Hindu Parishad is to organize and unify the Hindus of the world — not on the basis of caste, but on the basis of Hindu religion defined as Vedic religion. Followers of Jain religion, Buddhist Sikhs, Bairagis, Kabir Panthi, Gosains can join The Vishwa Hindu Parishad, but Muslims and Christians cannot. I do not know the number of branches of The Vishwa Hindu Parishad during the period between 1966 and 1980. I do not know the reason why The Vishwa Hindu Parishad needed to organize kalash-pujan. The yatra connected with kalsh-pujan was named as 'Ekatmata Yatra'. I cannot tell as who started this yatra. I do not remember (then said I did not see) who took the kalash to each and every corner of the country during this yatra, but there would have been its workers and general masses as well. I cannot say whether the propaganda and publicity of this kalash yatra was confined to only ten

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provinces of North India or not, but I know that sea water from Rameshwaram was brought in kalash. I do not have much information about it. My mother instructed me that kalash has reached and asked me to go there and worship it, so I went there. I do not remember the details whether or not I offered water and money in connection with worship. I even do not remember, whether I took any 'sankalp' or not. It is correct that on page 3 of my statement, which was taken from me on I 6 June 2000 at my home, I had told that I had myself gone there and worshipped there and did sankalp pujan'. During sankalp', people do worship and give donations. But I will not be able to tell now as to what 'sankalp' I had taken. At present, I do not remember what donations did I make. I do not remember whether or not The Vishwa Hindu Parishad had earned crores of rupees on this 'kalash yatra'. I do not even remember that this 'sankalp' was taken to resurrect the Ram Janam Bhoomi Temple. The resolve to construct Ram Janam Bhoomi Temple was taken on September 30th 1979 at the time of worship of 'shilas'. But I do not remember whether or not the resolve to liberate Ram Janam Bhoomi temple was taken. It is correct that Ram Janam Bhoomi Liberation movement was launched by The Vishwa Hindu Parishad. As far as I think, this was raised in 1984 by Shri Dau Dayal Khanna in the office of the then Prime Minister, Smt. Indira Gandhi. This I cannot say whether or not Ekatmata yatra' had been started by then i.e. before 1984. It is correct to say that Ram Janam Bhoomi Movement was connected with Ayodhya. I am an intellectual from the very beginning. I cannot say in which field I am an intellectual, but I live on the basis of intellect. My intellect is not decreasing but increasing with age. I did not try to find out in the meeting organised by The Vishwa Hindu Parishad in 1984 as to what action had been taken from 1966 to 1984 ie. Upto the

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demolition of structure. I did not ask Shri Shiv Nath Katju as to what action had been taken by The Vishwa Hindu Parishad for the liberation of the disputed structure. It is correct that written Sankalp (resolve) forms were got filled up in the meeting and I had also filled one. I had read the Sankalp (resolve) form at that time and after reading the Sankalp (resolve) form, it did not occur in mind as what had been done by the Vishwa Hindu Parishad during the period from 1966 to 1983.

I did not have any contact with the Vishwa Hindu Parishad between 1966 and 1977. I do not know whether it had any branch in Allahabad. I never visited Ayodhya from 1934 till 1955, but during the period from 1955 to 1977, I had been going to Faizabad but I do not remember whether I ever went to Ayodhya. Then he said that he remembered that he had once gone to Ayodhya; then I was standing Advocate. Either I went during 1977 to 1983, I do not remember. But once when I was going from Lucknow to Gorakhpur, then on the way I had stopped at Ayodhya and took bath in Saryu river. This visit took place between 1977 and 1983 but I do not remember the exact date. During that visit, I took bath in Saryu, and perhaps went to Hanumangarhi but did not go to Ram Janam Bhoomi. By that time, I had started practice of Law and I had come to know about it from Shri Onkar Nath Mehrotra son of Chaudhury Kedar Nath, who practiced in Allahabad. I know that Chaudhury Kedar Nath was a pleader in this case. I cannot say when I came to know about this suit after 1955, whether in 1956 or in 1957. It is correct that I had come to know about this litigation much before when I halted at Ayodhya while going to Gorakhpur in the capacity of a Judge. I also knew that this dispute was between Hindus and Muslims. At that time, I had not been going to have

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'darshan' of Ram Janam Bhoomi. I cannot tell the reason why I was not going there. It is wrong to say that devotion to Bhagwan Ram had arisen in my mind after my retirement as a judge. I have only given this statement that 'dharmacharyas' had come in he second The Vishwa Hindu Sammelan, which was held in Prayag. I cannot say as to what should be the qualities of dharmacharyas'. It is correct that all Shankracharyas are Sanyasi. Mahant of Gorakh Naiid temple of Gorakhpur belongs to Nath Sect. The deity of Nath Sect is Lord Shankar. Shri Ram. Shri Krishna and Shankar Ji are deities of Sanyasis also. It is correct that Sanyasis are not called Vaishnavas, but they are known as followers of Shaiva Sect. Prayag Sammelan was attended by Sanyasis of Nath Sect, Vaishnavas and Dalai Lama and also by Bairagis. Bairagi Vishweshteertha was present in that conference. He is follower of Madhavacharya and have faith in dualism (dwaitvad). I do not know that Madhavacharya was founder of Shudha advaitvad (pure monism). I cannot say now whether followers of Vishishtadvaitvad were present or not in that conference, but some one must have been present there. The founder of Vishishtadvaitvad Sect was Adi Guru Ramanandacharya. The ashrams, mathas and temples in Ayodhya are connected with this Sect. Members of Rashtriya Swayam Sewak Sangh would also have been present in that conference. As far as I think, Bala Saheb Deoras was present there. A magazine is also published on behalf on The Vishwa Hindu Parishad. Its name was Hindu Vishwa. Its publication has since discontinued and another one is being published. Later on, it was published from Allahabad. I do not remember as to where it used to be printed earlier. Shri Dau Dayal Khanna was a resident of Muradabad. I do not know whether Ram Janam Bhoomi Mukti Yajna Samiti was constituted during Prayag Conference. I think that

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Samiti would have been constituted after 1983. The President of this Samiti is Mahant Shri Avaidya Nath ji of Gorakhpur temple.

Verified the statement after hearing
Sd/- Devaki Nandan Agarwal
06.08.2001

Typed by Stenographer as dictated by me in the open court. In continuation of this Appear on 08.08.2001 for further cross-examination .

Sd/-
Narendra Prasad
Commissioner
6.8.2001

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Dated : 08.08.2001

(Commencement of statement, on oath of P.W.-2, Shri Devaki Nandan Agarwal, in continuation of 06.08.2001)

I do not know that a meeting was held for the constitution of Ram Janam Bhoomi Mukti Yajna Samiti and whether or not I had attended it. Among the members of Ram Janam Bhoomi Mukti Yajna Samiti include Param Hans Ram Chandra Das of Bairagi Rama Nand Sect, Mahant Nritya Gopal Das and others. I do not remember the names of other persons at this time. After 1949 when the idol was shifted from Ram Chabootra to the place below the middle dome, a committee was constituted under the chairmanship of Param Hans Ram Chandra Das. This committee was constituted for the liberation of Ram Janam Bhoomi. Papers related thereto are filed in the suit. Then he said that not in this suit but in one of the 5 suits filed in this matter. I cannot say what was the name of that committee whether or not its name was Shri Ram Janam Bhoomi Sewa Samiti. I think that body had become defunct 15 years ago. I do not know whether all the members of Ram Janam Bhoomi Mukti Samiti belonged to Ramanand Bairagi Sect or not. Shri Gopal Singh Visharad must have been a member of this Samiti, as he was the mover of this case in 1950. I do not know whether or not Shri Gopal Singh Visharad used to receive money from Birlas to fight this suit. I do not know that the only job of this committee was to celebrate the function of appearance of Bhagwan Shri Ram, which falls on 23rd December. (He Volunteer : that function of appearance is not celebrated on 23rd December, 1949 but on 3rd day of the month of Paush Shukla, which corresponds to the above date). Shri Mahant Nritya Gopal Das might have definitely been Chairman of

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this committee, but I do not have any personal information about it. I have seen Mahant Nritya Gopal Das and Param Hans Ram Chandra Das reading and writing.

(At this stage. the Advocate, who was cross the witness, drew the attention of the witness to paper No.850C flied with other original suit No.4/89). After seeing this, the witness said that against the name of Mahant Nritya Gopal Das, there appear signatures, which could be his signatures. After seeing paper No.851C, the witness said that there are signatures at serial No.3. against the name of Param Hans Ram Chandra Das Ji and as it has become faint, I am, therefore, unable to read it. The name of Mahant Nritya Gopal Das Ji appears at serial No.1 of this paper. There are signatures against his name.

I do not know that Param Hans Ram Chandra Das had no interest in this suit till 20th August, 1978. This is the same Mahant Ram Chandra Das, who was a plaintiff in other original suit No.2/89, and is a party in this O.S.5/89. I have no information whether or not there was a committee between Ram Janam Bhoomi Yajna Samiti and Shri Ram Janam Bhoomi Samiti. The word 'Nyas' is called 'Trust' in English. Trusts are of two kinds. One is private trust and the other is public trust. Public Trusts are also of two kinds. One is religious trust and the other is charitable trust. But religious trust is treated as charitable trust. Definition of a trust has been given in Religious Endowment Act of Hindu Law. The person, who constitutes a trust, is called author of the trust.

Question: If any author, as you have mentioned, constitute a trust about Hindu 'Devottar' property, will he become owner of that property?

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Answer: Answer to this question can be given only by the Advocate.

Question: If any deity is 'virajman' in any such property, can the author constitute a trust of such property?

Answer: It is a hypothetical question and its answer can also be given by the Advocate only.

The deed of Ram Janam Bhoomi Nyas Trust was drafted by me. Jagat Guru Ramanandacharva, Swami Shivaramacharya and Ashok Singhal had told me that they wanted to announce such a trust and asked me to prepare a draft thereof. Then I prepared a draft thereof.

(At this stage, the Advocate, cross-examining him drew his attention to line two of paper No.3/35-A/1 of other original suit No.5/89. After seeing that, the witness said that it has been in the 3 line that "this deed of announcement, executed on Wednesday in Ayodhya, is witness of the Trust and of appointment of Trustees of the temple of Bhagwan Shri Ram, Virajman at Ram Janam Bhoomi Sthal." By that I meant the disputed place. It is correct that boundary of the disputed place has not been given in that deed and neither any number thereof has been indicated (Then he Volunteer : that it is well-known the world over). By that I mean that the disputed place is well-known all over the world. This deed was executed on 18 December 1985. I had prepared this deed as a lawyer, taking the directions given to me as an Advocate. I had prepared this deed as a lawyer without charging any fees. At that time, I was not in the profession of law.

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Shri Ashok Singhal and Swami Ramanandacharya did not come to me. Whenever a meeting was held in Ayodhya, then I was asked to prepare such a deed because of my legal knowledge. Much of information had come to my knowledge before December 18, 1985. (Then he Volunteer : that most of the information came to him in 1984 from you, i.e. Shri Ranjit Lal Verma). Shri Verma used to give him papers and from them, I got information. I did not give any special importance to oral information. I do not take him as my guru because of this information. I did not examine these papers before December 18th , 1985, because the papers were in High Court in Lucknow.

Question: The expression 'Trust of temple of Bhagwan Shri Ram' occurs in the upper 3rd and 4th line of the Trust deed. Did you treat it as the temple of Bhagwan Shri Ram at that time?

Answer: It cannot be concluded from the above that I treat this place as a temple. Rather I do not treat this place as a temple.

Bhagwan Shri Ram was 'virajman' below the middle dome of the building. The place, where Ram Bhagwan was 'virajman' was a temple, but remained disputed from the beginning Technically, I accepted that place as a temple, where Shri Ram was virajman under the middle dome of the three domes of the disputed building, but as it was a disputed place, there was, therefore, a programme of constructing a new temple in its place. This trust was constituted to construct a new temple by removing the disputed structure, which was technically a temple. By temple, I mean a place of worship, i.e. a building where worship is done. There are instances in India, where there

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are temples but there is no idol in them, such as Kedar Nath temple and Vishnu Pad temple in Gaya. In our Hindu architecture, the form of the construction of a Hindu temple is prescribed and is of different kinds. That building is a temple, where Bhagwan is 'virajman'. (At this point, the Advocate, cross-examining him, drew the attention of the witness to page 465 of paper No.258C-1/3 filed in other original suit No.5/89). After seeing this, the witness said that as he did not have full command over Avadhi language, therefore until he gets a chance to see the commentary of this couplet (doha), he would not be able to tell its correct meaning. On reading the first line of this 'doha', it appears that the meaning of temple (mandir) is home, but on reading the next line, it appears that 'mandir' might mean borne as well as a temple, which is meant for worship. I have filed this book. I have once read the whole book. The meaning of this 'doha' could be, that when Hanuman Ji went in search of Sitaji and searched Sitaji in every building the name 'mandir' might have been given to all the buildings. But I cannot say this with authority. It is correct that the place, where idol of any deity or Bhagwan is installed, is called a 'mandir', but ordinarily a building is required for it. I cannot say that if idol exist in the disputed structures, would it be a temple or not, because I have not found any proof whether an idol existed continuously in the disputed place after 1528. Shri Ram Ji was 'virajrnan' inside the disputed place much before 5th January 1950, I cannot say Ramanandacharya Swami Shivaramacharya was Mahant of which place, but his place was in Kashi. Mahant Nritya Gopal Das and Param Hans Ram Chandra Das were also trustees of Shri Ram Janam Bhoomi Nyas. This Nays is connected with The Vishwa Hindu Parishad. It is wrong to say that main work of running this Nyas is done by The Vishwa Hindu Parishad. The head office of this Nyas is

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situated in Sankat Mochan Ashram, Ram Krishan Puram, Sector-6, New Delhi. The head office of The Vishwa Hindu Parisahd is also situated in this building. I would not be able to tell as to who is the owner of this building.

When I became Vice-President of The Vishwa Hindu Parishad, I did not try to know as to who is the owner of the Sankat Mochan Ashram. (At this point, the Advocate, cross-examining the witness, drew the attention of the witness to para 3 of paper No.3A-1/38 of other original suit No.5/89). After seeing it, the witness said that it has been mentioned in it that Shri Ashok Singhal would be Manager and Shri Vishnu Hari Dalmia would be treasurer, and it is correct. It is also correct that Shri Shivaramacharya would be the Head and Dharmakarta of the Nyas. It is also correct what has been written below it in para-4, that the first seven persons, including the Head, would be appointed by The Vishwa Hindu Parisahd. But it has also been written above it that whenever a vacancy arises, a suitable person of the same kind will be appointed, i.e. will be nominated. That is, "First seven persons, including the Head, will be appointed by the Board of Guides (Marg Darshak Mandal) of the Vishwa Hindu Parishad from amongst the saints and this will also be the responsibility of this Board that any vacant place will be filled by the Board by appointing a prominent Acharya of Ramanand Sect and the vacancies of the last three i.e. of treasurer, manager and of an other person will be filled by the Central Executive of The Vishwa Hindu Parishad from amongst the prominent Hindu citizens." It is wrong to conclude from the above that all the ten trustees will be appointed by The Vishwa Hindu Parishad, but it means that appointments would be made by the Board of Guides of The Vishwa Hindu Parishad, keeping in mind the requirements written in the deed. It is correct that it has

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been in paragraph 5 of the deed that apart from above ten trustees, four saints will be appointed by the marg darshak mandal. It is also correct that it has been written in para 5 of the trust deed that the Central Executive of The Vishwa Hindu Parishad would appoint ten trustees of Shri Ram Janam Bhoomi Nyas from among the prominent Hindu citizens. I was one among those ten till August 30, 1990. When I was nominated, then Shri Shreesh Chandra Dixit, retired Director General of Police and others were appointed besides me. At present. I do not remember the name of others. Their names have been given in the plaint. At the moment, I do not even remember how long I remained as a trustee. It is correct that shila pujan programme was held in 1985 during the tenure of my trusteeship. It is correct to say that under the programme of shila-pujan about 6 crore people took 'sankalp' of Rs. One and a quarter of a rupee and contributed more than Rs. 8 crores for the construction of the temple. I do not know whether any programme was organised or not for collecting the money. I do not know whether or not a programme of 'Amrit Mahotsava' of Shri Ashok Singhal was organised.

(At this point, the Advocate cross-examining the witness drew the attention of the witness to para 6 of page No.3/40-A-I of other original suit No.5/89). After reading that, the witness said that whatever has written in it is correct. As it is necessary to have some property to declare a trust, therefore, a trust was formed by a contribution of Rs.Five thousand. I do not know whether this amount was contributed in Delhi or at any other place, but the trust was registered in Delhi and it was executed also in Delhi. Under the Hindu Law Endowment, math is also a juristic person; but I do not know if it is a corporate body or not. A trust is not a corporate body, but an association of persons. The

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concept of religious trust has come from English Law and the concept of 'math' has come from ancient Hindu Law. It is correct that there is a difference between the concepts of religious trust and math. Mathas are of two kinds. One is Hakmi and the second is Panchayati. I cannot properly say whether or not there are other kinds of mathas.

Question: Is the system of panchayati math based on democratic pattern or not?

Answer: Democratic pattern is a new pattern Panchayati mathas are governed according to their own customs and practices.

In my suit, I have made Param Hans Mahant Ram Chandra Das of Digambar Akhara, Ayodhya as defendant No.2. Digambar Akhara is a place, where he lives and he is known as its Mahant. (At this stage, the learned Advocate of cross-examining the witness drew the attention of the witness to para-16 of page-11 of the plaint). After seeing sub-para 5, the witness said that it is correct that Param Hans Mahant Ram Chandra Das Ji was acting head and Dharma-Karta of Digambar Akhara of Ayodhya. I cannot tell from whom I received the paper for reading, or whether I got it from Param Hans Mahant Ram Chandra Das Ji. Before filing this suit, I had met Param Hans Mahant Ram Chandra Das ii and we used to meet regularly. I never stayed at his place. Before filing of suit, I used to meet Param Hans Mahant Ram Chandra Das Ji at Ayodhya. He came to my home only once, but I do not remember when did he come. Sometime I used to stay in the dharmashala of Manas Bhawan in Ayodhya and at other times at the home of Shri Rajeshwar Singh Vakil of Faizabad.

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Before filing the suit, I did not examine the original file of the suit under Section 145, but I received papers connected with it from Shri Verma Saheb. At this time, I do not remember which were those papers and what was their number. But I do remember that there was an affidavit of one Shri Anisur-Rehman, and copies of 13 affidavits, which were filed, copy of the preliminary order and a copy of proceedings of attachment, a copy of the report filed by Shri Priva Dutt Ram Ji regarding worship and the copy of the order of the Magistrate closing the proceedings in 1953. In addition, there was a copy of the order of the High Court passed on the transfer application of Shri Anisur Rehman. Now, I do not remember whether those were provisional or confirmed copies of the said documents. I had believed that the papers, which I received from you, were authentic. Apart from the above-mentioned papers, I received the plaints of all the four suits. I received also the copy of the report of Shiv Shankar Lal filed in the suit of Shri Gopal Singh Visharad. It is correct that I checked the papers which I received and then verified from the court. Then he said that he got them verified through Shri Mahendra Nath Srivastava, who is at present D.G.C. and then filed them alongwith the suit at the time of filing the suit. Some papers were filed later on. Shri Mahendra Nath Srivastava was appointed as a Advocate on behalf of Mahant Ram Kewal Das and I obtained information of all these things through him. I do not know whether or not Shri Mahendra Nath Srivastava was a Advocate of Param Hans Mahant Ram Chandra Das Ji.

I saw the file of suit under Section 145, in this High Court after filing the suit.

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Question: The papers you received from me, were connected with the suit of 145. Did you find them correct after seeing the file of suit of 145 in this court?

Answer: I returned the papers to you, which I received from you before filing the suit. I think I had returned these papers in 1985.

Those papers would have remained with me for about one to two months. I have seen the original file of 145. I have heard the name of Abhiram Das. I do not know him. I know Shri Dharma Dasji. He describes himself as a disciple of Abhiram Das. I do not know whether or not he is a genuine disciple of Shri Krishna Das. I came to know Shri Dharma Das Ji much later after I received papers from you. I came to know him in 1985. I went to Ram Janam Bhoomi temple that is the structure situated on Ram Janam Bhoomi and in which idol of deity was installed, in 1985: I had gone there in 1984 also, but had not gone inside. I first went to the so-called Ram Janam Bhoomi temple in May 1984. Then Dharma Das, Param Hans Mahant Ram Chandra Das were not with me. No Bairagi Mahatma went there with me on that site. I had darshan of the idol from outside the grills. As I could not assess the height of the idol from a distance, I would, therefore, not be able to tell as to what was its height. I will also not be able to tell the numbers of the idols, whether they were one, two or three or more than three in number. I will not be able to tell which deity was that idol of. I had darshan of idol installed on the Ram Chabootra in the outer portion, and of chhathi sthal and of foot-prints, kitchen, etc. In Ram

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Chabootra temple, there was a temple-like wooden structure. I was told that Bhagwan Ram, Lalla was 'virajman' there. I do not remember whether I got 'charnamrit'. I am not that kind of a devotee who goes to have 'darshan' with a mind full of devotion. Rather I had gone there to ascertain as to what was the dispute all about. I do not know whether Tulsi Das Ji has described four kinds of devotees in Ramcharitmanas and the fourth kind of devotees are called inquisitive (jigyasu) devotees. I do not know whether I fall in that category. I do not remember whether I took flowers and fruits etc. with me when I went there to have 'darshan'. In those days, there were no shops of flower garlands, 'prasad' etc., en route to the disputed place. It is correct that when I entered inside, all the idols were visible on the Ram Chabootra. There was no obstruction in viewing. I think there would have been idols of Sitaji and Laxman alongwith the idol of Ram Chandra Ji. There was a cave-like basement in front of the Chabootra. I think it was not on the right or the left side. I came to know from the file that the inner courtyard was attached during 1949. When I went there in 1985, then Ram Chabootra was situated on the eastern side of the inner courtyard and 'kirtan' was held there. I do not remember whether there was a tin-shed where kirtan was held. There was a chhathi pujan shtal in the north of inner courtyard. There was staircase in the south of inner courtyard. There was no path in the west of inner courtyard, it was completely blocked. It was correct that if 'parikrama' had to be done, then it had to be done from outside of both outer and inner courtyards together. When I filed the suit, I did not know at that time as to when the idol of Ram Lalla,

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installed on the Ram Chabootra, was shifted to below the dome inside. That is, whether the same idol was shifted. I came to know of this after 1989 when issues were being framed, because I obtained information and gave my statement on that basis vide order No.10 of Rule 2 of C.P.C. I got this information about the above mentioned fact from Param Hans Mahant Ram Chandra Das. He told me that Abhiram Das was also with him. Besides, when I went to Ayodhya with Justice Gopi Nath Ji, then Laxman Kiladheesh also confirmed this. Then he Volunteer : that this was the same Abhiram Das, whom Dharam Das regarded as his guru he has since expired. Dharam Das Ji had a will from which we came to know that Abhiram Das Ji has expired. We had this information before the stay of our suit. Then he said that information regarding the death of Abhiram Ram Das Ji came to their knowledge in 1986, i.e. before the filing of the suit. I have never met Abhiram Das Ji. I met Kiladheesh Sitaram Sharan in 1990. Justice Gopi Nath had gone to meet him and I also accompanied him. I cannot tell in which month of the year of 1990, we met him. When we talked to Sitaram Sharan, he told that he was also present at the time of shifting of the idol. I had read in the newspapers that a Ramalaya Trust was established. I have no knowledge whether Swami Sitaram Sharan Ji Maharaj, Laxman Kiladheesh was a trustee in Ramalaya trust. This trust was formed during the tenure of Shri Narsimha Rao. I have no personal knowledge that Ramalaya trust was got formed by P.V. Narsimha Rao, but this was formed during his tenure. I had no interest in obtaining information regarding Ramalaya trust. Then he Volunteer : that in his opinion Rarnalaya Trust was a

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still-born. I had met Shri Buta Singh during 1988 and 1989. I had not met with Shri Bir Bahadur, the Chief Minister in connection with shila-nyas (laying of foundation stone). Then he Volunteer : that he was then not Chief Minister. I had a meeting with Bir Bahadur Singh on 17th December 1985 in the Circuit House. Hon'ble Shri Shiv Nath Katju went to meet Shri Bir Bahadur Singh with a delegation. I had also gone to meet him. Delegation had gone to meet him to request that the two locks fixed on the inner courtyard may be removed and the obstruction coming in the way of darshan and worship may be removed. Thereafter, in January 1986, a public meeting was held in Jhandewala Park, Lucknow. It is correct that Param Hans Mahant Ram Chandra Das Ji and Mahant Avaidya Nath Ji had announced to launch an agitation, but Param Hans Mahant Ram Chandra Das had also announced that he would immolate himself, if locks were not opened. After studying F.A.F.O.17/77, I had advised that by submitting an application a prayer can also be made to the court for getting the lock opened. It is wrong to say that I had advised that there was no need to launch an agitation. During 1985-86, I was not an office-bearer of the Vishwa Hindu Parishad, I was only an ordinary trustee which comes under the category of membership. There was no order of any authority or court to lock the doors, but the police had forcibly put the locks without any authority. I cannot say who was the police officer who had directed to put locks.

I knew that the charge of Ram Janam Bhoomi was with the Receiver. The order of the appointment of Receiver was given under the final orders of the High Court. Then he

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said that in the beginning, the appointment of Shri K.K. Ram as Receiver was made by the orders of City Magistrate and the High Court had continued it through interim orders during the appeal. I had read the interim order of the High Court. I do not remember that the High Court had passed this order that appointment of Receiver made by the criminal court would continue. I do not know whether Shri K.K. Ram, Receiver of Ram Janam Bhoomi used to submit the accounts of Ram Janam Bhoomi in the court of the City Magistrate. But according to my information, he never submitted any accounts. I know Shri Umesh Chandra Pandey who is a client of my lawyer, Shri Vireshwar Dwivedi. As far as I know, Munsif of Faizabad did not pass any order on the application of Shri Umesh Chandra Pandey for opening the locks. This was told to me by my lawyer, Shri Vireshwar Dwivedi that the Munsif had refused to pass any order on the application of Shri U mesh Chandra Pandey. I did not ask my lawyer as to why the Munsif Saheb refused to pass any order. Shri Vireshwar Dwivedi had told me about it at the time of opening of locks. As far as I think, this was told to me one or two months after the locks were opened.

That the District Judge had recorded the statements of the then District Collector and Police Superintendent came to my knowledge after I read the judgement of the District Judge. Without looking into the judgement, I cannot tell whether the appeal was filed in the court of the District Judge on January 29th, 1986 and the judgement was given on 1st February. The witness, after seeing paper No.A3/45 of the writ petition, said that it has been written in it at the very beginning that the appeal has been filed against the judgement of 28.1.1986. As the events had taken another twist, I had, therefore, not given any personal advice to

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Shri Param Hans not to take any action. When I went to have 'darshan', I did not feel that politicization of Ram Janam Bhoomi-Babri Masjid dispute and litigations related with it has started anew. I do not know that after this event, riots took place at various places and people were killed and property worth crores of rupees was damaged. Then he Volunteer: said that after this event, temples were destroyed in India and in Pakistan. It is correct to say that all the castes including Hindus, Muslims. Sikhs, Christians, etc. fought against the Britishers in the struggle for freedom for India. I do not have any knowledge about Bahadur Shah Zafar. I do not even know whether he participated in the war of independence of India. I do not know whether in 1556 any war was fought over the dispute of Ram Janam Bhoomi Masjid. I know the retired Chief Justice of Guwahati High Court, Shri Guman Mal Lodha. I do not remember whether Shri Guman Mal Lodha appeared in the court as my lawyer. Then he said that he appeared once or twice. I have not heard about the book titled "How long Shri Ram will be insulted in Ayodhya" written by Shri Guman Mal Lodha and published by The Vishwa Hindu Parishad I did not study all the books about Ram Janam Bhoomi and Babri Masjid before filing any suit, but I had filed my suit after obtaining information from some books. It is correct to say that I had filed my suit on July 1st, 1989 in the court of Civil Judge of Faizabad. It is correct to say that I knew at that time that the case of transfer of pending suits filed earlier in respect of Ram Janam Bhoomi had been pending in the High Court. At this time, I cannot say from which source I got this information. I had also given an application in this court on 7th July 1989 for the transfer of my suit. I had knowledge that 10th July 1989 was fixed for hearing of the application filed by the Government. I do not remember whether Shri Guman Mal Lodha was present in this court in

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the capacity of my lawyer. But it is correct that I was present in the court on the above date. A bench of two judges was hearing those applications on that day. I do not know whether one of the Judges of that Bench, Shri Umesh Chandra Srivastava had said that why did you people not settle this matter among yourselves.

Shri Pararn Hans Mahant Ram Chandra Das and Mahant Dharma Das Ji had engaged Senior Advocate, Shri V.K.S. Chaudhary for pleading through me. By pleading, I mean engaged for cross-examination. It is correct that Shri V.K.S. Chaudhary. Senior Advocate had cross-examined the case on behalf of these two persons, at advice of Puttu Lal Mishra, advocate.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

08.08.2001

Typed by Stenographer as dictated by me in the open court. In continuation of this Appear on 09.08.2001 for further cross-examination .

Sd/-

8.8.2001

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Dated : 09.08.2001

(Commencement of statement, on oath, of P.W.-2, Shri Devaki Nandan Agarwal, in continuation of 16.6.2001)

Shri Babu Ram Gupta, advocate was my lawyer in the beginning in suit No.5/89 filed by me, but later on, power of attorney was withdrawn from him. Shri V.K.S. Chaudhary is a senior advocate and consultations have been going on with him regularly. In addition to this suit, Shri V.K.S. Chaudhary has been my lawyer in the writ filed by me. After my arrest, Shri V.K.S. Chaudhary and Shri Daya Shankar Mishra, advocate, had filed a habeas corpus writ in Allahabad High Court on behalf of my wife. Shri V.K.S. Chaudhary has argued in suit No.4 as a senior lawyer on behalf of Shri Dharma Das Ji. A special leave petition was filed in the Supreme Court in connection with these suits, in which I acted as a lawyer on behalf of Shri Dharma Das Ji. This special leave petition was against an order in suit No.4. Most of the material and applications in this suit have been typed and filed by me. There is a road in the north, Ram Deewar in the east, in the south and in the west of the disputed suit property in my suit No.5. The suit property shown in the suit, fully belongs to Ram Janam Bhoomi Sthan.

It is correct that each and every particle of the disputed place is sacred and it is worshipped through different symbols. Symbols include Sita Koop, Feet, Sita Rasoi, Ram Chabootra etc. Devotees worship their deity Shri Ram by worshipping these symbols. The whole place is venerable according to me. A Survey Commission on behalf of this court went there. I was present during the time of survey. I do not remember for how many days survey was

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done and whether I was present or not on the spot. I do not remember whether my signatures were taken on the survey proceedings. I did not come to know during the survey as to which is the list-wise number of the disputed place.

(At this point, the learned Advocate drew the attention of the witness to page No.40A-1/1 of O.S.No.4/89). After seeing that, the witness said that this counter-statement, which was filed on behalf of Dharma Das ji, was typed by me. I had come to give evidence on behalf of Dharma Das Ji in suit No.39/82/ pending in the court of Second Civil Judge, Faizabad. On that day, I did not give my evidence, because the suit was not presented on that day. That day might be 16th August 1990, but I do not remember the date. I do not remember who had taken me to give evidence or who had told me that evidence was being given in the suit. I did not receive any summons from the court for giving evidence.

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I was a witness in a deed of conciliation and I had gone to stand as a witness in regard to that deed of conciliation. This conciliation or agreement had taken place between Mahant Ram Kewal Das and Mahant Ram Das Ji. I do not remember whether I had gone to sign the deed of agreement. Then the witness said that he did not remember the matter regarding which he had gone to give evidence. He Volunteer : that he remembers that he had gone to give evidence in respect of an agreement arrived at in a public meeting. I do not remember whether Shri V.K.S. Chaudhary, advocate, accompanied him on that day. At present, I even do not remember as to who were the parties of suit No.39/82. My evidence could not be taken on that day, because no sitting of the court was held on that day. I do not remember that the opposite party, i.e. Nirmohi Akhara

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has filed an application in the court that the witness was examining the file sitting in the court. I even do not remember this that the court had recorded my presence on that application. I do not even remember whether the suit was fixed for evidence on that day. It is wrong to say that I am giving a false statement. Rather the fact is that the evidence I am giving is absolutely true. In this suit, I had appointed Shri Triloki Nath Pandey, who is present in the court as a special attorney on behalf of Bhagwan Shri Ram Lalla. This special attorney is not registered. I think that Shri Triloki Nath Pandey is not the attorney of Mahant Pararn Hans Ram Chandra Das. He might be his follower.

(At this point, the learned Advocate drew the attention of the witness to paper no.183C-2/3 of original suit No.5/89) After seeing that, the witness said that this affidavit was filed by Shri Triloki Nath Pandey, in his capacity of pleader of Shri Ram Janam Bhoomi Nyas C/o Shri Ashok Singhal I do not make any payment to Shri Triloki Nath Pandey. I do not know that before I filed the suit, when I was in The Vishwa Hindu Parishad or in the Nyas, whether any amount thereof was spent on it or not. (At this point, the learned Advocate, cross-examining the witness, drew the attention of the witness to paper No.182C-2/54 to 61 filed in original suit No.5/89). After seeing them, the witness said that the legal expenditure shown in it, might have been incurred, but he did not know on which items it was spent. The learned Advocate read paper No.182C-2/56 and showed it to the witness. After reading and seeing it, the witness said that he did not know Shri Ragav Sharan, whose name has been mentioned on this page. The fact mentioned on this page is correct, because I have read this legal paper. This suit was in respect of Ram Chabootra. The outer courtyard was attached under the dispute of 145. I do not remember

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the date and year of attachment. In this regard, I have in my possession an attested copy thereof and because of that I have knowledge thereof. I do not remember when I had gone through it. Shri K.K. Ram Verma was Receiver in this suit. Then Volunteer : that after agreement was arrived at in regard to case of 145, all the proceedings were closed. I do not remember as to who were parties of suit of 145.

This agreement was arrived at first between Shri Ram Kewal Das and Siya Raghav Sharan and thereafter between Siya Raghav Sharan and Shri Dharma Das. Without looking into the papers, I cannot say whether or not this suit was fought among Shri Dharma Das, Nirmohi Akhara and Shri Siya Raghav Sharan. I do not have any information that Shri Siya Raghav Das had moved a case of dacoity against Shri Dharma Das. Nirmohi Akhara had filed a suit No.39/82 in a civil court against Shri Dharma Das in connection with this suit. I do not know that Shri Siya Raghav Sharan was a priest of Nirmohi Akhara. I do not even know that Shri K.K. Ram Verma, who was Receiver in the criminal court, was also appointed Receiver in this suit. It is true that Shri Siva Raghav Sharan Das had filed petition of C.R.P.C. under 482 in Lucknow High Court and the High Court had closed the proceedings of Section 145 of Criminal Procedure Code on the basis of that petition. Then he said that he did not exactly remember whether this petition was filed by Siya Raghav Sharan Das or by anybody else. I have not seen the file relating to the suit of 145, I cannot, therefore, say whether it included any order for the release of property. (The learned Advocate cross-examining the witness drew the attention of the witness to the book titled "Ram Janam Bhoomi — A Historical and Legal Perspective" which was marked as paper No.C-1-290/1 to 20. After seeing it, the witness said that this book has been written by him. This

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book was written by me when I went to see Prime Minister Shri V.P. Singh in 1990. This book, authored by me, was published by The Vishwa Hindu Parishad. This book was not priced. It was published for publicity. The legal expense shown in the accounts of Ram Janam Bhoomi Nyas, does not pertain to this book. At the time of writing of this book, I had already retired from the High Court. I have given my name in the book as Justice Devaki Nandan. There is no practice of writing retd. Then he said that when a Judge holds the office, he is referred to as Hon' Mr. Justice and after he is retired only the word Justice is prefixed before his name. Even the word Mr. is not prefixed before his name.

Shri Dharma Das had written a registered paper in 1986, but I do not remember whether it was in favour of the Nyas or for what purpose.

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(At this point, the learned Advocate cross-examining the witness drew the attention of the witness to paper No.182C-2/43 of original suit No.5/89). After seeing it, the witness said that this paper had been drafted by him. After reading the paper, the witness said that this resolution was in respect of outer courtyard, Ram Chabootra, etc. and about the whole premises which is called outer courtyard premises, in addition to auditorium (katha mandap). I cannot tell what is the number of this katha mandap. I cannot even describe its boundary. The number of the outer courtyard has also not been written in this paper.

The boundary and number of the outer courtyard had not been given in the resolution on paper. The source of title has not been given in this deed because there was no necessity of that. I do not know whether the outer courtyard

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was attached at the time of writing the deed of resolution. In the said deed of resolution, only katha mandap was donated. Inner and outer courtyard was donated for the construction of temple. This donation was made to Shri Ram Janam Bhoomi Nyas. At that time, the Head and Dharma karta of the Nvas was Jagat Guru Shri Ramanandacharya, Swami Shivramacharva Ji Maharaj. It is absolutely wrong to say that Jagat Guru Rarnanandacharva Swami Shivramacharya was annoyed with the personnel of The Vishwa Hindu Parishad and Ram Janam Bhoomi Nyas that because financial impurity had creeped in them and he left. (At this point, the Advocate, cross-examining the witness, drew the attention of the witness to paper No.201C-2/6 of original suit No.5/89). After seeing that, the witness said that the statement given it can never be the statement of Jagat Guru Ramanandacharya Shri Shivramacharya. Jan Morcha is a communist newspaper and it prints whatever it wanted. I do not know whether its denial was published or not. If a suit is filed on behalf of a deity under C.P.C., there is no clear provision for an appointment on behalf of the next friend. But according to a ruling of the Allahabad High Court, it is necessary for the next friend to give an application for appointment. The day when this suit was filed, there was no need to cite this ruling on that day. (At this point, the Advocate, cross-examining the witness, drew the attention of the witness to paper No.1 26C-2/42 of other original suit No.5/89). After seeing that, the witness said that this was correct that the press-note was on the pad of The Vishwa Hindu Parishad and it bore the date of May 20th, 1989. It bears my signatures. This press-note was issued by me in my capacity as vice-president of the Vishwa Hindu Parishad. It is correct that in this Pressnote, I have referred myself as Justice Devaki Nandan, vice president. It is also correct

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that after one month and 11 days of issuing of this press-note, I had myself gone to the court of Civil Judge to file this suit. I do not remember whether there was a strike on that day and I had filed my suit in the Chamber of the Civil Judge. Then he said that I had filed my suit with the Civil Judge, who was in his chamber. It is wrong to say that I had overwhelmed the Civil Judge by showing myself as a Justice. Then he Volunteer : that the fact was that he already knew him. It is correct that the Civil Judge gave me permission under Section 80(2) and directed the suit to be registered and our application under Section 32(5) was allowed the same day, subject to the objection. I have seen my parents listening to the story (katha) of Satya Narayan many a times and I have also heard that katha. It is correct that seats of cow-dung are prepared before listening to the katha of Satya Naravan Bhagwan. I do not remember that Ganesh and Laxmi are invoked for their auspicious presence. Form and image is not required for installing a deity; rather invocation is required, but it is not necessary in every circumstances. It is correct that idol of Durgaji is installed during Durga puja, but I have not seen the process of installation with my own eyes. It is wrong to say that when an idol is removed from a place, where it was installed, then it is necessary to immerse it in a river. I do not know that after I heard the 'katha' the cow-dung seats in which Ganesh and Laxmi were installed, were immersed in the river or not by the Pandit Ji. Ordinarily it is necessary that the person who is going to install an idol, should be the owner of the land where idol is to be installed. It is correct that after consecration of the idol, the God of that idol gets seated (virajman) in that idol. It is wrong to say that after consecration of an idol, the person who is consecrating the idol would surrender his property to that deity, but the fact is that the act of surrendering is a part of the process of

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consecration and it takes place simultaneously. It is wrong to say that without the completion of the process of consecration by 'mantras', the act of surrendering cannot be performed, but as I have said these things are done simultaneously. I have not read Puranas, I cannot, therefore, tell that in which Puran, the process of consecration (Pran pratishtha) has been given. It is correct that after consecration, all acts in the service of Bhagwan are performed, such as that deity is given a bath and arti is performed, food is offered and he is put to sleep. In my statement, which I have given under order 10 of Rule 2, 1 have told about the ceremonies; they took the idol of Ram Lalla chanting and reciting his name and performed his worship, etc. there. They had told me this much, I would, therefore, not be able to tell that anything else was done or not. As they had told, thousands of people had gathered there and were doing bhajan-kirtan. When the idol of Ram Lalla was shifted, then the persons of Nirmohi Akhara placed another idol on Ram Chabootra. The above mentioned these things were not told to us by Param Hans Ram Chandra Das but I had seen it myself, when I went there in 1984. From 1949 to 1984, the idol of Ram Lalla was constantly there on Ram Chabootra and huge offerings were made there. These things were told to me by my client, Babu Raja Mohan Manuva and Prakash Chandra Jaiswal of Faizabad. At present, I will not be able to tell whether I heard about these things from anybody else also. About 20-25 years have passed since the passing away of Prakash Chandra Jaiswal. I met him last about 20-25 years ago. Worship of idols which existed earlier on Ram Chabootra and of the idol installed after 1949 was got done only by the people of Nirmohi Akhara till a quarrel arose with Dharma Das ji. (At this point, the Advocate cross-examining the witness, drew the attention of the witness to

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paper No.201C-2/8 of other original suit No.5/89.) After seeing that, the witness said that it is the photo copy of that paper which he had filed in reply in Hon'ble Supreme Court. Whatever has been written in its para 10, is correct. By the word 'past' mentioned in para 10 of this paper, I mean the period before September 23rd, 1949 when the idol was installed outside on Ram Chabootra. I cannot say since when that idol was there, whether it was before Manu Smriti, i.e. beyond living memory. I have seen the stone of Shaligram. I do not remember whether I have seen the rock of Shaligram in the Katha of Satya Naravan Ji. Many of our colleagues worship it, I have, therefore, seen it. The devotees of Shaligram take it along wherever they go. I do not know whether Shaligram is consecrated or not. But I have heard that it is self-begotten Bhagwan. I do not know that Shaligram are in form of 'shankh' and 'chakra' and the image of every deity can be contemplated in it. I do not even know that the consecration of movable idol has to be done according to marks of form found in the Shaligram. (At this point, the learned Advocate cross- examining the witness drew his attention to paper No.107C/23 I of other original suit No.5/89). After seeing that, the witness said that it is correct that this paper does not bear both the date or signatures. Then he Volunteer : that Shri Indu Shekhar Ji Pandey had given me this paper by writing it on his own pad and in his own hand-writing. The reason of it not bearing his signatures is this, that in those old days there was no practice of affixing signatures. So he only gave this paper by writing on letter pad in his own hand. The date of shifting has been mentioned in it. It is wrong to say that the date written in it is the date of preparing the horoscope of some client. I have said in my statement that there was a Jyotishacharya (astrologer) of Bahadurganj Prayag, by the surname of Dwivedi, who had given a paper written under

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his signatures. I have filed that paper in this suit, which is marked as paper No.107C/232. He had signed over it, because he belongs among the present generation He died about 2-4 years ago but I would not be able to tell the exact date. I received this paper in 1990. I had gone to him to enquire whether the idol was shifted at a auspicious moment (muhurta) or not. The details of muhurta, which was derived, have been given in this paper. I had obtained paper number in 1990. The number of the other paper is 107C-1/232. I do not remember which of the two was received first. I do not have any personal knowledge that when attachment was made, an inventory of two idols of Ram Lalla, six Shaligrams and one idol of Hanuman Ji was prepared. I even do not know that the Receiver had received it.

Question: Today after seeing the file, you came to know that Babu Priya Dutt Ram received in 1950 an inventory of two Ram Lallas, 6 Shaligrams and one Hanuman Ji?

Answer: I do not have personal knowledge of what has been written in the file.

He Volunteer : that on opening of locks in 1986, 1 went inside and then I saw Bhagwan Ram Lalla Virajman in a cradle. A picture of Bhagwan Shri Ram Lalla was kept above that and I did not see there the idols mentioned above. I cannot say whether that was the same picture which I saw inside the disputed place in 1934. It is correct that a similar reply to suit had been filed by Mahant Ram Chandra Das and Gopal Singh Visharad in O.S. No.4/89. Without looking into the records, 1 would not be able to tell whether Pindi Das Goswami was Advocate of both the

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persons. The learned Advocate cross-examining him, drew the attention of the witness towards paper No.461/A1 to paper No.461/8A of reply of Abhiram Das filed in other original suit No.4/89. After seeing them, the witness stated that he did not recognize the signatures of Abhiram Das Ji. I do not remember whether I had read this reply. After reading para 25 of this written statement, the witness stated that whatever has been written in it is correct. At this point, tile learned Advocate of cross-examiner drew attention of the witness to paper No.199C-2/48 of other original suit No.4/89. After seeing that, the witness stated that the thing written in para 53, page 41 is correct. It is correct that it has been written in it that Nirmohi Akhara is a religious institution, the character of which is of a math (It is correct that math is a juristic person. It is a panchayati math. Mention of all the seven akharas situated in Ayodhya has been made in para 52 of this paper. It is correct that barring the premises of inner courtyard, the total area of outer courtyard and the land adjacent to it which was acquired by the Government of U.P., is 2.77 acres. It is also correct that when it was acquired, Shri V.K.S. Chaudhary was the Advocate General. The notification is of 7th October 1999. The purpose of this acquisition was "development of tourism at Ayodhya". It is also correct that "providing amenities to pilgrims" was also written in that notification. It is correct that this notification of dated 7.10.91 had been challenged by Nirmohi Akhara and a writ petition was filed by them. It is correct that I had not challenged that notification, but I am unable to say as to why I did not challenge it. I am also unable to tell whether this non-challenging of notification had injured my faith. It is correct that all the ancient religious places have their mythological importance. It is correct that it is reflected from my suit that from the very beginning my aim was to get

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the structure demolished and construct a new temple. It is correct that after demolition, the Central Government acquired the whole of the disputed place. In 1993, when the Central Government acquired the whole disputed place, whether or not it hurt my faith, I would not be able to tell, because it is a matter of my personal faith. It is totally wrong to say that I was not interested in protecting the Ram Janam Bhoomi, in which I had faith. It is correct that after acquisition I had filed an application under the ordinance that the suit stood abated. I do not remember whether I had given separate application in each suit or not. It would be in the records. I do not remember that in suit No.3/89, the whole ordinance was challenged, but I do remember that abatement was challenged. After the Ordinance, it was an issue before the Special Bench whether all the suits have abated or not and the Supreme Court had transferred this issue before it for hearing. It is correct that the Central Government had invited both the parties to resolve this matter. One party among them was Babri Masjid Coordination Committee and All India Babri Masjid Action Committee and the other party was the Vishwa Hindu Parishad. Babri Masjid Action Committee was formed in the first week of February 1986. I did not go to participate in the negotiations conducted by the Central Government on behalf of The Vishwa Hindu Parishad in the beginning but later on went on their behalf. For the first time, I went for talks when Rajiv Gandhi was the Prime Minister. Seven or eight persons used to accompany us. Among them were Param Hans Mahant Ram Chandra Das, Mahant Avaidya Nath, Shri Shreesh Chandra Dixit, etc. At present, I do not remember the names of other persons. Then he said that Ashok Singhal was also among them. When Shri Chandra Shekhar was the Prime Minister then negotiations were started again in December 1990 and three Committees

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were constituted in January 1991. At that time, I was a member of the Legal Committee. When I used to go in the meeting, our ticket was purchased by the Vishwa Hindu Parishad. Rest of the expenses were met by me. It is wrong to say that the whole expenses were met by the Central Government from the very beginning. And when Shri Narsimha Rao became the Prime Minister and meetings were held, then the whole expense was met by the Central government, i.e. T.A. and D.A. was paid. Most of the time, I used to stay at my son's place and perhaps once I stayed in Uttar Pradesh Bhawan. It is correct that The Vishwa Hindu Parishad was a party in the negotiations, but it is not a party to any suit. When the Central Government invited both parties for negotiations, then I did not feel that it was a political drama. I had faith in the intention of the Prime Minister. I had in my earlier statement referred to the stamp paper on which I had written. I do not remember from where the stamp paper had come and who had brought that stamp paper, but it must have been brought by some worker. That stamp paper bears my signatures. I did not consider it necessary to file it in this suit. But it has been filed by some party in suit No.3/89. I do not remember whether this stamp paper bears the signatures of Mahant Ram Kewal Das of Nirmohi Akhara. I did not write Nirmohi Akhara C/o Mahant Sarvarakar Ram Kewal Das. I cannot tell the value of the stamp paper. It was not registered. It is a record of the resolution. I have read all the gazetteers which I have filed and as they are treated as correct, therefore, I also treat them as correct. Cunnighum was an archaeologist. Disputed place is a najul land and is under the zamindari of the Government. It was a zamindari of the Government till it was acquired. No annuity has been fixed of this land.

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I have not seen Vishnu Pad situated in Gaya, nor have I gone there. I do not know its history. In Kedar Nath, there is an image of the back of an ox. I have seen it. I have read that the five Pandavas had passed their period of anonymity (Agyat vas) there. I do not remember that Lord Shankar had come there to test the strength of Bhim in the form of Nandi and left his back, because Bhim had caught the tail. I do not know that head of Shankar Ji is situated in Pashupati Nathji. It is utterly wrong to say that I have filed this suit to earn cheap popularity and to remain in limelight in association with the Vishwa Hindu Parishad. It is also wrong that I have got protection from my sympathizers.

(Cross-examination by Shri R.L. Verma, Advocate, on behalf of defendant No.3, Nirmohi Akhara, concluded).

(Cross-examination by Shri Abdul Mannan, advocate, on behalf of defendant No.6 Shri Mahmud Ahrned)

xxx xxx xxx xxx

I have not heard any such thing that Babri Masjid must have been built in 1915.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
09.08.2001

Typed by the Stenographer as dictated by me in the open court.In continuation of this Appear tomorrow on 10.08.2001 for further cross- examination .

Sd/-
9.8.2001

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Dated: 10.08.2001

(Commencement of statement, on oath, of P.W.-2, Shri Devaki Nandan Agarwal, in continuation of 09.08.2001)

This mosque i.e. Babri Masjid was built by Meer Baki. But his efforts to construct the mosque could not succeed. It is correct that Meer Baki was commander of Babar. It is correct that Meer Baki built this mosque to appease Babar. Babar did not go to Ayodhya, but he went beyond Ayodhya across Saryu river. Babar did not even see this mosque. It is absolutely wrong to say that since the construction of this mosque, it has been constantly been used for worship by the Muslims. It is also wrong to say that till the time the S.O. Ayodhya got the idol placed from outside to inside of the mosque, this was being used for worship (ibadat). It is wrong to say that this idol was got placed inside the mosque during the night of December 23rd, 1949, rather the fact is that the idol was shifted from outer Ram Chabootra to the place below the middle dome in the early morning, i.e. about 4.00 A.M. on 23rd December 1949. It is correct that the S.O. Ayodhya had registered a report at about seven A.M. in the morning. What has been written in the report can be read therefrom. This report is in the records.

(At this point, the learned Advocate, cross-examining the witness drew his attention to the paper No.236A of original suit No.4/89 which is marked as exhibit No.51). After reading it, the witness said that it has been written in it "that Abhaya Ram Das, Ram Sakal Das, Sudarshan Das and other 50- 60 persons, whose names are unknown, have desacraded the mosque by causing disturbance, entering the mosque and installing an idol". I do not know whether

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any action was taken or not against the persons whose names were mentioned in the report. I even do not know whether those persons lived in Faizabad or not. I stayed in Faizabad from 1932 to 1934. At that time, I was 11 to 13 years old. I did not read about the incident that took place on 23rd December 1949. At that time, I was in Allahabad. Namaz was not performed in this mosque after that incident. Then he suo moto said that it was not performed even earlier to that incident. It was Friday on December 23, 1949, when this incident took place. I have no knowledge that on that day when Muslims went there to perform namaz of Friday, they were told by the City Magistrate to go back. I was appointed as a Judge of the High Court on 17th November 1977. October 3rd, 1983 was my last working day. I was a Senior Advocate, before I was appointed as a Judge. I know that secularism is the basic concept of our constitution. Then he Volunteer : that the basic concept of Hindu religion also is equal treatment and harmony with all religions. It was not a place of others, therefore, the question of my feeling good or bad does not arise. It is wrong to say that the mosque built in the time of Babar was being constantly used as a mosque for Muslims. The inner courtyard of the disputed place was attached on December 29. 1949. It is wrong to say that the outer courtyard had also been attached. It is wrong to say that after attachment, dispute was constantly going on; rather after the appointment of the Receiver on 5th January 1950, he has regularly been arranging worship there. At that time, only one civil suit was filed on 15th January 1950. Thereafter a second suit was filed between October to December 50; the third suit was filed in 1959 and the fourth was filed in December 18, 1961. All these suits were being pursued till 1966. Thereafter i.e. after 1966, the plaintiffs of suit of 1961, which was the leading case, used to get their dates

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extended and the suit was prolonging and no progress was made. These suits went on prolonging till 1970, when Shri Priya Dutt Ram — the Receiver, passed away. After the death of the Receiver, Shri Priya Dutt Ram, all parties applied to the Civil Court for the appointment of a new Receiver by the Civil Court. After that, a new Receiver was appointed in the suit and an appeal was filed against that order and the case was remanded and another Receiver was appointed. An appeal was again filed against it in Allahabad High Court and a point was raised during that appeal whether the Lucknow Bench or the High Court of Allahabad has a right to hear the appeal. Then in 1986-87 the full Bench decided that this suit i.e. appeal would be heard by the Lucknow Bench. By the time, the decision was announced in the appeal, I had retired.

During my tenure as a Judge, I had nothing to do with this suit, nor had I any interest in the case. Even after my retirement as a Judge, there was no question for me to feel good or bad because I thought that this land did not belong to the other religion. When on 7th October 1984, I had taken 'sankalp', I had come to know that this mosque had been built by demolishing a temple and, therefore, it cannot be a mosque according to 'Shariat' (Muslim religious law). Meer Baki had built a mosque by demolishing a temple and it was not even fully completed. I, therefore, thought that even according to 'Shariat', it cannot be a mosque, as it was against 'Shariat'. By 1984, I had come to believe that it cannot be a mosque and, therefore, we had taken a resolve that by removing it we would liberate that land. I had taken this 'sankalpa' (resolution) in a meeting held on embankment opposite temple of Mahavir Ji in Allahabad. The meeting was presided over by Hon'ble Shri Shiva Nath Katju. He had also taken this resolve. After 1984, a number

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of rath yatras were taken out and it was said that Bhagwan was imprisoned behind the bars and he should be liberated. Hon'ble Katju Saheb and I myself have full faith in the constitution of India and have knowledge about it. In this regard, we did not submit any application in the High Court for liberating it.

Rath Yatra was in progress during 1984, but on October 31, Hon'ble Smt. Indira Gandhiji was assassinated and passed away. Rath Yatra was then stopped.

Rath Yatra was again started about one year after that. The aim of Rath Yatra was the same that the bars should be removed behind which the Lord was imprisoned.

At that time, all the four suits had scattered because of appeals. If one was lying with the Munsif, the other one was with the Civil Judge. Nothing happened thereafter and I myself did not file any suit. It is correct that I filed a case on behalf of the deities on 1st July 1989 and the notice thereof was given to all the defendants. It is also correct that order was given to link all the suits together including the suit on behalf of the deities. Therefore, an application was moved on your behalf under Section 10 of C that this suit should be stayed. The suit was stayed on the basis of that, as I had also agreed to it. After the passage of about two years, I gave an application under Section 151 for restarting the suit, which was accepted and my suit was being heard alongwith all these suits. In the meantime, Param Hans Ram Chandra Das Ji withdrew the suit which had been filed by him. There is no lacunae in my suit. (At this point, the learned Advocate, cross-examining him, drew the attention of the witness to the paper No.236A-I (exhibit No.5 1) of original suit No.4/89). After seeing that, the witness said that this report was filed by Shri Ram Dev, sub-inspector, in-charge of Police Station, Ayodhya. I do not know whether the persons, against whom this report

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was filed, were Hindus or not, but Abhiram Das was a Bairagi. Bairagi means a Ram Bhakta, who is called Ramait. These were the people, who had shifted the idol of Ram Chandra Ji from outside to inside. When I said that Ram Chandra Ji was imprisoned behind bars, it meant that there was a wall of bars in the inner premises and it was locked.

Common people used to have 'darshan' from outside the bars, but 8-10 persons used to go inside for worship, etc. People outside, who used to have 'darshan' through bars, felt that the idol was imprisoned behind the bars. I know the meaning of secularism. I do not know that the meaning of word secularism is different in England from that in India. Hon. the Supreme Court has, in many cases defined secularism. Without looking into those cases, I cannot tell as to what definition has been given therein. In England in 18th century, secularism meant a person who believed in God. I do not know this. Definition of secularism has not been given in the Constitution of India, but the word secular has been used in its Preamble. I cannot say that the meaning of secular in India is that a person who believes in different religions and follows the tenets of all those religions. In India, so far Hindus are concerned, they are all secular. Hindus, Vaishnavas, Jains, Buddhists, Sikhs are all included in Hindus. Then he said that except Muslims, Christians and those who believe in zorarstism, all are Hindus. In Islam all are not secular, but some of them are not secular. All those Muslims who are common citizens of Hindustan and are living peacefully in India are not secular. There are some Muslim leaders and other persons who are secular. I cannot pin-point anybody. Similarly, I cannot pin-point whether Muslim League of Kerala is secular or not. The Muslims, who live in India, are all citizen and nationals of India. Then said that infiltrators, who have come from outside, are not nationals.

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After 1st February 1986 and after opening of locks at the disputed place, Babri Masjid Action Committee was formed. They also threatened to launch an agitation. They also threatened to boycott Independence Day and organize a march towards Ayodhya. They did not march to Ayodhya and it was withdrawn. It is wrong to say that my whole statement is false or untrue.

(Cross-examination on behalf of defendant No.4, Sunni Central Board of Waqf, UP., by Shri Zaffaryab Jilani, Advocate)

xxx xxx xxx xxx

I had started preparation 3-4 months before I had filed suit No.236/89 (original suit No.5/89). Shri Lal Narain Sinha, former Attorney General and at that time Constitutional Adviser of Shri Rajiv Gandhi, helped in preparing the draft of the suit and in a way he settled the draft. I met Shri Buta Singh in May 89. I met him after I had filed this suit. I did not have a meeting with Prince Anjum Qadar and Shri Buta Singh before I had filed this suit. I had a discussion with Shri Buta Singh regarding what I have written in para 33-34 of my plaint. I myself or my colleagues did not give anything in writing pertaining to this suit. In 1989, Shri Shreesh Chandra Dixit, Shri Ashok Singhal and Shri Dalmia, etc. gave a document to Shri Buta Singh.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
10.08.2001

Typed by the stenographer, as dictated by me in the open court.In continuation of this Appear on 10.09.2001 for further cross-examination .

Sd/-
Narendra Prasad
Commissioner
10.8.2001

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Dated: 12.09.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 10.08.2001)

I do not know whether the document given to Shri Buta Singh in November 1989 by Shri Shreesh Chandra Dixit, Shri Ashok Singhal and Shri Dalmia, etc. was given in the presence of Shri Narain Dutt Tewari, Chief Minister of Uttar Pradesh, or not because I was not present at that time. I do not remember what was written in that document. At that time, a press note was released in regard to that document. It is correct to say that the said press-note was released by the Central Government.

I had prepared the draft of the plaint of my suit myself after having consultation with Shri Lal Narain Sinha. Before having consultations and preparing the draft, I had gone through the pleadings of the other four suits. I had obtained the copies of the pleadings. I had also looked into the documents of all the four suits. The present numbers of those suits are, other original suit No.11/89, 2/89, 3/89 and 4/89. I had examined the pleadings and documents of the above suits in April/ May 1989. When I consulted Shri Lal Narain Sinha, then my plaint i.e. the suit No.5/89 had not been prepared. I consulted this also in April/ May 1989. As far as I remember, I had prepared the draft of my plaint in May 89 or in the early June 1989. After preparing the draft, I got it approved and settled by Shri Lal Narain Sinha. After it was settled, I myself typed the plaint and filed it on July 1, 1989. I had myself gone to Faizabad to file it. I do not properly remember whether I had engaged any lawyer at the time of filing of the suit. Then said that as far as I think, I had not engaged any lawyer. After seeing the plaint

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No.5/89, the witness said that a space is left after the word 'at' after verification clause but I had signed it in Faizabad. After seeing the plaint, he said that I had not engaged any lawyer at the time of filing of suit.

The learned Advocate, cross-examining the witness, drew his attention towards paragraph-2 of plaint of other original suit No.5/89. After seeing it, the witness stated that the two site-plans and the report of the Commissioner referred to in the plaint are marked as Annexure No.1, 2 and 3 and are parts of my plaint. And I treat those maps and whatever has been in the report of the Commissioner as correct. After seeing Annexure 1, he said that Ram Janam Bhoomi or Ram Janam Sthan has nowhere been written in it and temple has also not been written anywhere. After seeing Annexure 2, he said that in it also, nowhere has been written Ram Janma Bhumi or Ram Janma Sthal. Both the maps are of the disputed building and of the places around it as was the situation prevailing in 1950. I had referred to Shri Gopal Singh Visharad in para 3, but I do not know him at all, but I have heard that he passed away in 1985. I have also heard that he used to practice law, but he was not regular. I have come to know from the documents that the name of the son of Shri Gopal Singh Visharad is Shri Rajendra Singh, who is a plaintiff in suit No.1/89 and is defendant No.1 in my suit. All the 5 Muslim defendants, referred to in paragraph 3 of my plaint, have passed away. I do not have any knowledge about their successors. In para 5 of my plaint, I have mentioned the name of Param Hans Ram Chandra Das. He is the same person, who is O.P.W.-1 in my suit. I have seen the plaint of the suit, filed by Param Hans Ram Chanira Das. In para 6 of my plaint, I have referred to suit No.26/59. It was filed on behalf of Nirmohi Akhara. The last sentence written in

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para 6 of my plaint means that as no cause of action remains against the successors of Haji Feku, Mohd. Fayak and Mohd. Achhan Mian, they have, therefore, not been substituted by Nirmohi Akhara. After seeing record of suit No, O.O.S. 3/89, the witness said that after the death of Haji Feku, his successors Haji Mehboob and Haji Abdul Ahad were appointed as his successors. But I did not make both the successors as a party in my suits, because I did not think it as necessary. I have not made my suit a representative suit. It is clear that the relief sought by me in my plaint has not been sought against the persons, who have been defendants in my Suit. At this point, the witness, after seeing para 37 pertaining relief, stated that I have not sought any relief against Haji Mehboob and Haji Abdul Ahad, who are defendant in suit No.3/89. In my plaint, defendant No.4, 5, 6, 22, 23, 24, 25, 26, 27 have been made as Muslim party and from out of them the names of defendant No.23, 24, 25 and 27 have been cancelled. I have not made Ziauddin s/o Shahabuddin, Farookh Ahmad s/o Zahud Ahmad and Maulana Mahafuzur Rehman s/o Vakiluddin as party.

The learned Advocate, cross-examining the witness, drew the attention of the witness to the plaint of other original suit No.4/89. After seeing that, the witness said that it is correct to say that in plaint No.4/89, the above-mentioned three persons, i.e. Ziauddin, Maulana Mahafuzur Rehman, Farookh Ahmad are defendant No.6/1, 8/1 and 10/1. I have not made all the three above persons as party in my suit and neither have I claimed any relief against them, because I have filed my suit against the plaintiffs of other original suit No.1, 2, 3, 4/89 and have claimed relief against them. Another reason for not making Ziauddin, Farookh Ahmad and Mahafuzur Rehman as parties in my

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plaint is that the original suit No.4/89, filed by Sunni Central Board of Waqf, U.P., has been accepted by the court as a representative suit and on the basis of that, successors of some of the deceased defendants have been made parties in the suit after the expiry of limitation period. When these successors were made parties, then my suit No.5/89 was under stay, and I, was therefore not coming in the court. Because of that, I did not make the above successors as parties in my suit. It is not correct to say that since 4 my suit and three other suits are being proceeded with together. It is correct to say that hearing of all the five suits is being done jointly since the year 1989. One of the suits among them has since been withdrawn. I had attended the court on December 9, 10, 18 of 1991 in connection with the pleading of my suit and the other three suits were also being proceeded there. Then he sou Moto said that he was neither a party nor could I attend in any of the above three suits as a Advocate or in any other capacity. Now I do not remember that on what basis had I written in para 8 of my plaint that the suit No.12/61 which was filed in the court of the Civil Judge of Faizabad, was filed as a representative suit. I knew at the time of filing my suit that the above suit had been filed as a representative suit, but I do not remember at present as to how I got this information. I have written in para 8 of my plaint that defendant No.10 to 19 were made parties in suit No.12/61 in the court of Civil Judge of Faizabad on their own prayer, I had written this after reading the order sheet of the above suit. I had written in para 9 of my plaint about consolidation of suit No.2 and 25/50 and then of other four suits after reading the order sheets of the above suits. The reference to prohibitory order dated 16.1.50 and 19.1.50 made in para 10 of my plaint, had been made by me after seeing the office copies available with the lawyers. I think that I have not seen the

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attested copies of both the above orders. Similarly, the reference to order dated 3.3.51 and 20.4.55 in para 10 of my plaint was made after seeing office copies available with the lawyers. I had not seen attested copies of even those orders.

By constructing a mesh wall around the disputed building, the Ram Chabootra situated in the courtyard was separated. By the disputed building, I mean the building with three domes. Ram Chabootra was situated in the same courtyard at a distance of about 20-25 feet in the east. It is correct to say that Ram Chabootra was situated outside the wall of iron bars of the disputed building, but was within the outer wall. I was told by Param Hans Ram Chandra Das that in the early morning of 23.12.49 idols were shifted from Ram Chabootra to inside the disputed building and below the dome. I do not know how many idols were removed from Ram Chabootra and placed inside. I never had any information about the number of idols. Then he Volunteer : that according to information available with him, the idol of Bhagwan Shri Ram Lalla, which was in the cradle, was shifted from Ram Chabootra and installed below the main dome. I do not know that police had encircled the disputed building since early morning of 23.12.49 and no one was allowed to enter inside. Then he Volunteer : that after posting of police, priests used to go inside. It is wrong to say that during the period from 23.12.49 to 29.12.49, when attachment was made, nobody could go inside for worship or 'darshan'. I am giving this statement on the basis of records that visitors used to go inside the temple from 23.12.49 to 29.12.49. In this connection, I had seen the order of City Magistrate regarding attachment. In addition to that, it had been mentioned in the statements given during the hearing of other suits which were being

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prosecuted in the court and in the order sheet and in other documents that during the period from 23rd December to 29th December 1949, visitors used to go there for worship and 'darshan'. (At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.238C-1 (exhibit No. A-I) filed in other original suit No.4/89). After seeing it, the witness said that it has not been written in it that visitors used to go to the disputed place for having 'darshan'. Then Volunteer : that it has also not been written in this order that visitors did not go inside. At this point, the learned Advocate, cross-examining him drew the attention of the witness to the other original suit No.2/89. After seeing it, the witness said that it has also not been written even in this, that during the period between 23rd December 1949 to 29th December 1949, visitors used to go inside the disputed place for having darshan. Then he Volunteer : that it has also been written in this plaint that when the plaintiff went to the disputed place on 14th January 1950, then he was stopped from going inside. After seeing the plaint of original suit No.1/89, the witness said that it has nowhere written in it that from 23rd December to 29th December 1949, visitors used to go inside the disputed building. Then Volunteer : that it has not been specifically written anywhere. But after going through all the records, I concluded that between 23rd and 29th December 1949, visitors used to go for having darshan. It has been written in para three of original suit No.1/89 that when the plaintiff went to the disputed premises, then he was stopped outside from entering inside. I do not know whether it has been written correctly or not. The same thing has been written in para 2 of suit No.2/89 in similar words and I do not know whether it is correct or not. It is correct to say that it has been written in the order dated 29th December 1949 that the disputed building has

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been attached with effect from the date of the order and it has been written in this order that the disputed building has been given under the charge of the Receiver Priya Dutt Ram and he has been appointed as a Receiver. Even after the order of attachment, visitors used to go inside the disputed building It is correct to state that the Receiver had prepared a scheme of management and submitted it to the District Magistrate and a suggestion was given in it as to how the arrangements for offering of food (bhog) should be made and suggestions relating to expenditure thereon were also given. At this point, the learned Advocate, cross-examining the witness, drew the attention of the witness to page 2 of paper No.31-57 of file of 145 C.R.P.C. of other original suit No.4/89. After seeing it, the witness said that it has been written in it that — "The entry of the portion in dispute (sick) area will also be regulated as before. The pujaris, my local representative and other persons employed by me should be allowed free access."

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I do not know whether the suggestion of the above Receiver was implemented or not. Then Volunteer : that it has also been written in the same report of the Receiver that:

"On the income side we have the cash offerings only. The income from offerings commencing from 23rd December 1949 upto 5th January 1950, i.e. during the period before the charge was Rs.233/4/16. But the average monthly income will be Rs.300/- or thereabout only. The maintenance, therefore, becomes much too costly."

It is correct to say that before 23 December, 1949 these idols were kept outside on the Chabootra and offerings were also made. Then sou motu said that idols

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were on the Ram Chabootra. In most of the documents I have seen in this connection, it has been referred to as Ram Chabootra. I do not remember whether in the suits which was filed about this Chabootra in 1885, it was referred to as Ram Chabootra or not. It is correct that till 22nd December 1949, these idols were not inside the disputed building. Then Volunteer : that I cannot say about other idols. I cannot answer this question that there were no idols inside the disputed building. Then sou-motu said that it might be that there were no idols inside and it might also be that there were idols inside the disputed building till December 22nd, 1949. The offerings, that were made on these idols, were collected by the priests of Nirmohi Akhara. It is wrong to say that the income earned during the period 23.12.49 to 5.1.50 as shown in the scheme submitted by the Receiver of the court in paper No.31-37, is the income received from the offerings made from outside the wall of the iron-bars. Then Volunteer : that it is wrong to say that this was income from the offerings made by the visitors by going inside. At this point, the learned Advocate, cross-examining him, drew the attention of the witness to the exhibit A-25 filed in other original suit No.1/89. After seeing it, the witness said that it was correct that in this map, the Chabootra has been referred to as a disputed one and has not been referred to as Ram Chabootra.

The learned Advocate, cross-examining him, drew the attention of the witness to para 11 of plaint of other original suit No.5/89. After seeing it, the witness said that from the words 'in the meanwhile'. I meant that Priya Ram Dutt was making arrangements for taking care, worshipping and service of idols since 5.1.50, which were placed in the disputed building on 23.12.49. I cannot say as to who was making arrangements for the service and worship of these

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idols from 23rd December 1949 to 4th January 1950. The reference made about service, worship etc. and about Jagat Guru Ramanandacharya, Swami Shivararnacharya of Kashi in para 15 of the same plaint is about these very idols, management of which was being made by the Receiver. Receiver was not involved in the decision, which has been referred to in para 15. The public opinion which has been referred to in this para 15, has been described in the deed of 18.12.1985 which is at annexure 4 of the plaint. The deed at annexure 4 was drafted by me. The mention of this public opinion has been made in 2 paragraph of page 1 of that deed. The year of Samvat referred to in para 2, i.e. Annexure-4, means year 1984 of English calendar and the month could have been October or November. This meeting was held in Lucknow, but I do not know the place where it was held. This meeting was organised by Shri Dau Dayal Khanna, Mahant Avaidya Nath, etc., who were members of Dharma Sthan Mukti Yajna Samiti. Then said that Param Hans Ram Chandra Das, Mahant Nritya Gopal Das were included in them. I do not have detailed information about it whether any invitation letter was issued for holding this meeting or whether any poster was published or any advertisement was issued in newspaper or any news was published in newspapers. I even do not know who were invited to attend the meeting. I do not know how many people were invited. I do not even know how many people attended the meeting. But from the discussion held, it appeared that thousands of people had attended it. I had read about the discussion from the record of proceedings and I was told about it by Shri Onkar Bhave and also by other persons. These things were told to me when I was preparing the trust deed. I had verified, on the basis of my information, the things which have been stated in para 15 of this plaint. I got this information by going through the

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records of proceedings. I treat the knowledge based on records as my own knowledge. In my opinion, there is no difference between personal knowledge and own knowledge. I have not filed the record of proceedings of that meeting in this suit and neither is it available with me. It is correct that the record of proceedings was not in my possession even at the time of preparing of the suit. As far as I remember, this record of proceedings was written by hand. Records of proceedings must have been signed, but at the moment I will not be able to tell as to whose signatures were there on the records. It is correct that the trust made by the trust deed dated 18.12.85 also did not ever performed any service and worship, etc. of the idols installed at the disputed place. I functioned as a trustee till 1990 under the above trust deed dated 18.12.85 and thereafter 1 resigned on 30.08.90.

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By the word barrier, which occurs in the ninth line of para 12 of my plaint, I mean the wall of bars at the disputed place. It has been stated in para 12 of my plaint that the service and worship of plaintiff deities was regularly being performed but 'darshan' was done from outside the wall of bars; by that I meant the 'darshan' which was being done after 1970, and which is a period after the death of Babu Priya Dutt Ram. I have no personal knowledge whether till 1970 'darshan' was taken by going inside or from outside. Whatever have I stated about 'darshan' after 1970, is based on my belief. It is correct that I have no personal knowledge about it. It is also correct that I have no personal knowledge about 'darshan' till 1984. I have personal knowledge of 'darshan' after 1984. It is correct that whatever has been stated about worship and 'darshan' etc. in my plaint is based on my personal knowledge after 1984. It is also correct that I had no personal knowledge of

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the things before 1984. Similarly, the word custom used in para 12 of my plaint is not related to religion; rather its meaning is tradition.

Whatever has been written in para 15 of my plaint about service and worship, etc. is in respect of worship, services etc. to be done after the reconstruction of the temple by the trust. By the word nav-nirman, which occurs in this para, is meant the construction of a new temple at this place. At present, the Head and Dharma-karta of this trust is Param Hans Ram Chandra Das while earlier it was Swami Shivaramacharya of Kashi. It is correct that it has been stated in para 17 of the plaint that Shri Ram Janam Bhoomi Nyas is directly interested in service, worship, etc. but it is about service and worship, etc. to be done after the reconstruction of the temple. It is correct that I have filed this suit because of all the things which have been stated earlier in my plaint before para 18. Then the witness stated that some reasons have also been stated in para 18 also.

It has been stated in para 23 of my plaint that there was an old temple at Ram Janam Bhoomi in Ayodhya during the times of Maharaja Vikramaditya. it was about this very disputed place. it is correct that it has been stated in para 23 of this plaint that Meer Baki demolished the same temple of Vikramaditya. Then the witness said that the temple, which was demolished by Meer Baki, was not a temple of the period of Vikramaditya, but a temple of later period. He Volunteer : that the rulers of Gaharwal dynasty renovated that temple during 11th or 12th century. I came to know of this about 8-10 years ago that the temple during the times of Vikramaditya was renovated during 11th or 12th century. I came to know of this between 1991 and 1993, on being told by archaeologists and chiefly by Dr. S.P. Gupta

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among them. He told me about it orally also and I have also gone through the articles and papers written by him, which have been filed in this suit. Among the books of history, which I have mentioned in para 23 of my plaint, one is the book written by Dr. Radhe Shyam Shukla. It has been marked as paper No.107C/1/154 and has been filed by me. Similarly, another book has been written by Shri Avadh Vasi Sita Ram Ji and its name is 'Ayodhya ka Itihas' and is marked as paper No.107C-1/122, and has been filed by me. At the moment, I cannot tell that which of the books, mentioned in para 23 of my plaint as books of history, were read by me and on the basis of which I have written the statement made in para 23. At present, I will not be able to tell as to which were the public records about whom mention has been made in the first line of para 23 of my plaint. By public records, I mean the gazetteers, settlement records, orders passed under the proceedings of the courts and, in addition to these, other things, and articles published by Britishers which fall within the definition of public documents and within the definition of Evidence Act. At the moment, I do not even remember as to the proceedings of which court, it has been stated that there was a temple in the period of Vikramaditya on the disputed place. I do not even remember as to in which settlement record, it has been stated that there was a temple at the disputed place in the period of Vikramaditya. I do not even remember in which public document the above things have been stated. The settlement of Ayodhya, which I have mentioned about, is in respect of the first settlement and that settlement was made between 1860 to 1870. It is correct that in the sixth line from below in para 23 of my plaint. I have referred to the gazetteer of 1928 and the reference made in the first line of para 23 to the public records is also about the Gazetteer; i.e. the gazetteer of

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1928 and other gazetteers are also the basis of that. The quotation in fourth line from below in para 23 of page 17 has been taken from the gazetteer of 1928 and I believe in it, Reading the last five lines of para 23 of the plaint, the witness said that whatever has been written therein is correct.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

12.09.2001

Typed by Stenographer as dictated by me in the open court.In continuation to this Appear on 13.09.2001 for further cross-examination .

Sd/-

Narendra Prsad

Commissioner

12.09.2001

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Dated: 19.11.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 12.09.2001).

There have been many kings by the name of Vikramaditya. I cannot tell the names and periods of all of them. I do not have personal knowledge about king Vikramaditya whom I have mentioned in third line of para 23 at page 17 of my plaint. I do not exactly know the period of rule of king Vikramaditya, whom I have referred to. Historians can tell about it. But as far as I know, he either ruled in fourth or seventh century. As I do not possess any profound knowledge of history, I cannot, therefore, say whether this Vikramaditya had any relation with Emperor Chandra Gupta. Vikramaditya, after whose name Vikrami Samvat was started, has no connection with Vikrarnaditya referred to by me in para 23 of my plaint. Vikramaditya, whose name has been mentioned by me in para 23 of my plaint, is the same king who has been referred to in the book filed by me, which has been marked as paper No.107C-1/154. This book has been written by Shri Radhe Shyam Shukla. Description of that king Vikramaditya has been given in page No.4 to 9 of this book, whose name has been referred to by me in para 23 of my plaint. According to the description given in the book, the name of this king was Skand Gupta, who had been given the title of Vikramaditya and as I have stated earlier, a number of kings had adopted the title of Vikramaditya.

Question: Whether the name of king Vikramaditya, who you have mentioned in line 3 of para 23 of your plaint, was Chandra Gupta Second and Skand Gupta?

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Answer: As written in the book, I consider Skand Gupta as king Vikramaditya whose name I have referred to in para 23 of my plaint.

I cannot say Skand Gupta was the ruler of which State. Neither can I give the name of the capital of the kingdom. This king Skand Gupta ruled from 455 A.D. to 467 A.D. as written in this book filed by me. I cannot say on the basis of my memory or on the basis of books that Skand Gupta was Vikramaditya of which number, whether he was earlier Vikramaditya or later one. King Vikramaditya after whose name calendar was started, is known as the king of Ujjayini. I cannot say in what connection that king Vikramaditya had with 57 B.C, i.e. the year of commencement of Vikrami Samvat. I do not have any information whether or not any king by the name of Vikramaditya was there before Lord Christ. It is wrong to say that Vikram Samvat might not be connected with any king by the name of Vikramaditya. I have filed extracts of a book published by Archaeological Survey of India marked as paper No.107C-1 and on the basis thereof I have written in para 23 of my plaint that the pillars and stones used in Babri Mosque were of the same temple which was demolished by Meer Baki. After seeing the above mentioned paper No.107C-1/33, the witness said that no such pillars have been mentioned on which there were engraved figures of Hindu Gods and Goddesses. But in the report 'Historical sketch of Faizabad with the Old Capital Ayodhya and Faizabad 1870' marked as paper No.107C-17 to 24 and written by Shri P. Carnagie, Officiating Commissioner and Settlement Officer, Faizabad, use of such pillars and stones has been described, on which were engraved the figures of Hindu Gods and Goddesses and photos of such pillars and stones have also been given in that report. On page 17 of the book written by

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Shri Radhe Shyam Shukla and marked as paper No.107C-154, description of consecration by blood has been given and on second page sacrifice of Mehtab Singh has been described, but it has not specially been mentioned as to how many battles in all were fought on this disputed place. As for as I remember, several battles were fought after 7-8 time-intervals.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
19.11.2001

Typed by Stenographer as dictated by me in open court. In continuation of this Appear on 20.11.2001 for further cross-examination .

Sd/-
Narendra Prasad
Commissioner
19.11.2001

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Dated: 20.11.2001

(Commencement of statement, on oath, of P.W2, Shri Devaki Nandan Agarwal, in continuation of 19.11.2001).

The battles, referred by me in para 23 of my plaint, were 77 in number. The first five battles among the above 77 battles were fought during the regime of Babar. At present, I do not remember between whom these battles were fought. I even do not know the years during which these battles were fought and between whom they were fought. Then he said that he knew whatever was written in the book. It has been written in the book, titled 'Shri Ram Janam Bhoomi Ka Itihas' (Sachitra Pramanik Itihas) and written by Shri Radhe Shyam Shukia. Among those five battles, the first one was fought from June 3, 1528 to June 9, 1528. This battle was fought between Pt. Devi Din Pandey and Meer Baki. This battle was fought between the armies of both and they both took part in it. Before this battle, a battle was fought by Raja Mehtab Singh against the army of Babar.

Question: When did the battle of Raja Mehtab Singh, which you have referred to above, start and end?

Answer: That battle continued till year 1528, but I cannot say when did it start even after going through the book, because it has not been written in the book as to when did this battle start.

Mehtab Singh was ruler of Bhiti State. Bhiti State was situated in the eastern-southern direction at a distance of about 40 kilometers from Ayodhya. The third battle started on June 23rd, 1528 and continued for ten days. This battle

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was fought between Rana Ran Vijay Singh and the army of Babar. Rana Ran Vijay Singh was the ruler of Hansvar State which was situated in the eastern region of Faizabad. The fourth battle in this connection was fought between Rani Jai Raj Kumari and the army of Babar. Rani Jai Raj Kurnari was wife of Rana Ran Vijay Singh, and this battle was fought after the death of Ran Vijay Singh in the battle with Babar. Rani Jai Raj Kumari mostly kept on fighting guerilla war and this war continued till the reign of Humayun. During this battle Rani Jai Raj Kumari defeated the royal army and took possession of Janam Bhoomi. Later on, reinforcement of royal army reached and Rani Jai Raj Kumari killed while fighting with the royal army. This royal flect came during the reign of Humayun. The fifth battle took place between Balarmacharyaji and the royal army of Humayun. It has not been written in the book as to when this battle took place, I will, therefore, not be able to tell even after going through the book as to when the battle was fought, but it has been written in the book that it took place during the reign of Humayun. It has also been written in the book that 4 among the 77 battles took place during the reign of Babar and ten were fought during the reign of Humayun. I have, in my above statement, given details of four battles that took place during the reign of Babar and about one battle that was fought during the reign of Humayun. Apart from these five battles, information about any other battle has not been given in this book and my information is based on this book. I do not know about any other battle and about the parties between which it was fought and when it was fought. Apart from the above, 15 battles /wars, 20 battles took place during the reign of Akbar, 30 battles during the period of Aurangzeb, five during the regime of Nawab Saadat All, three during the period of Nasiruddin Haider, two during the period of Wazid

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Ali Shah and two battles took place during the regime of Britishers and as such total of 77 battles were fought. Details of parties between whom these battles were fought and when they were fought have not been given and as such I will not be able to give these details. Then he said that of the twenty battles fought during the reign of Akbar, details have not been given in that book, neither have I got details thereof. Then he sou motu said that Swami Balaramacharya obtained a right from Akbar of building a Chabootra in the courtyard of the temple and a three feet high temple made of screen of 'khas' was built on that Chabootra. Raja Todar Mal and Birbal had a hand in the grant of permission for it. I have not read any book other than the book written by Shri Radhe Shyam Shukla, I would, therefore, not be able to tell whether or not the details of the twenty battles fought during the reign of Akbar can be found in other books. As far as I remember, no mention has been made in any gazetteer about granting of permission of building a Chabootra during the reign of Akbar. During the reign of Aurangzeb, a battle took place between the army of Aurangzeb and Baba Vaishnav Das and his pincer-wielding disciples near Urvashi Kund. They attacked the army of Janbaz Khan, a commander of Aurangzeb and routed them. Urvashi Kund is situated between Ayodhya and Faizabad. I cannot exactly say as to how far away from the disputed place did this battle take place. I think the distance would have been less than five kilometers and more than two kilometers. At the time of that battle, that structure which was demolished on 6th December 1992, existed and that building/ structure was in possession of Hindus. This battle took place during the reign of Aurangzeb and at that time Hindus used to do worship, etc. in that structure i.e. building.

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Question: Did Hindus worship in that building i.e. structure as a Ram Janam Bhoomi temple or any other normal temple at the time of battle with Janbaz Khan?

Answer: Recognizing the courtyard of the structure as a place of worship, worship was done of Bhagwan Shri Ram Lalla virajman at the Chabootra and of the foot-prints of Bhagwan Shri Ram, which are called 'charan' and of Sita Rasoi, etc. It is correct that the building with three domes, which was demolished in 1992, did exist during the regime of Aurangzeb i.e. at the time of above battle. I think that at that time there was no idol below the building with domes. Worship was done inside i.e. it was done below the dome also, but I would not be able to tell as to whose worship was done. I think 'namaz' was not offered at that time. I think that from the times of Babar till the reign of Aurangzeb, namaz was never offered there. Janbaz Khan had come on the order of Aurangzeb to prevent Hindus from celebrating any religious festival in the mosque. According to the book of Shri Radhe Shyam Shukla, that structure was known as mosque/ building, as has been mentioned on page 22 and 23 of his book.

Janbaz Khan was opposed upto Urvashi Kund and he was driven away from there and he could not reach to the mosque. The second battle during the reign of Aurangzeb was fought between a large army under the command of S. Hasan Ali and Vaishnav Das and Sikh Guru Gobind Singh. This battle was fought in Rudoli Sayadat Ganj and Jalpa.

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Sayadat Ganj is a western end of Faizabad and Jalpa is situated near the present milk dairy of Ayodhya. This battle was fought before 1664 A.D. and in this battle, royal army was completely routed and Sayyad Hasan Ali Khan was killed. Army was sent by Aurangzeb for this battle for the purpose of preventing Hindus from celebrating any festival in the mosque. But this army could not reach upto the mosque. I would not be able to tell about the distance between Jalpa and the mosque i.e. the disputed place. After this battle, Aurangzeb himself came to Ayodhya with royal army and made an attack on Janam Bhoomi. It has not been mentioned in this book as to who led the fight on behalf of Hindus. But it has been written in the book that Aurangzeb dug the Chabootra and the priests took the idols with them and went away. Even after 1664, 'namaz' was not performed there, because sadhus did not allow namaz to be performed and used to pick up fights. Among the thirty battles fought durmg the reign of Aurangzeb, details of three of them have been given in this book and nothing has been written about the rest of them, nor do I know anything in this connection. After the year 1722, a battle was fought between the Raja of Amethi, Raja Gurudutt Singh and Saaadat Ali Khan, which was over the entitlement of 'subedari'; this battle is included in the five battles. Among the five battles that took place during the rule of Nawab Saaadat Ali Khan, one battle was fought between Gurudutt Singh and Sayadat Ali Khan and battles were fought constantly thereafter. Raja Raj Kumar Singh of Pipra had been fighting with Raja Saaadat Ali Khan. The battle was also over Janam Bhoomi. This battle continued for two-three years and later on Saaadat Ali Khan got tired and granted Hindus the right of doing worship. After 1664 worship at disputed place had stopped because of some obstruction, but it again started about two-four years after

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1722. I cannot say whether the battle, which took place in the reign of Saaadat Ali Khan, continued for two-three years or 10-15 years. Then he said that he could not tell it orally. Then said that it had been given in the book of Radhe Shyam Shukla. I cannot tell orally as after how many days the baffle between Sayadat Au Khan and Nasiruddin Haidar broke out. I cannot give the details of the battle, which was fought during the reign of Nasiruddin Haider, i.e. between whom it was fought and when it was fought. I cannot tell this orally. I can tell this after seeing the book of Radhe Shyam Shukla. I cannot tell this orally. The witness said that as he was not feeling well at that time, he was, therefore, unable to read the book. He could answer this question later after studying the book.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
20.11.2001

Typed by Stenographer as dictated by me in open court. In continuation of this appear on 21.11.2001 for further cross-examination.

Sd/-
Narendra Prasad
Commissioner
20.11.2001

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Dated :21.11.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 20.11.2001).

Statement of the witness, given by him on 18th June 2001 was read to him from line 3 from above on page 39 to line one of page 40. After listening it, the witness said that it was correct except that at one place word Dwapar Yuga had been written, it should have been Treta Yuga. In my above statement, I had said lakhs of years ago. It was period of Treta Yuga which was lakhs of years ago. I would not be able to say exactly whether or not it was 9 lakh years ago. The tradition to which I had referred to in my above statement, is the tradition of people having faith in Vaishnav Dharma and as I have heard from my parents and priests. The tradition is that Bhagwan Shri Ram had appeared at the disputed place and that is why people have faith in that place. It is a revered place. This belief is lakhs of years old that Bhagwan Shri Ram had appeared there lakhs of years ago. Then he said that he could not say whether or not this tradition was lakhs of years old but the belief in the tradition of appearance of Bhagwan had been going on from generation to generation. It is correct that I cannot say that how many years old this tradition is, whether it is one thousand years or two thousand years old or ten thousand years old. It is wrong to say that this tradition is less than one thousand years old. According to me, this tradition is more than two thousand years old. According to me this tradition would have been in existence before the Valmiki Ramayan. Valmiki Ramayan was written more than two thousand five hundred years ago. Some additions have been made in Valmiki Ramayan till 2nd century A.D. I cannot say whether there has been any

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mention in Valmiki Ramayan of the place of appearance of Bhagwan Ram, because I have not studied Valmiki Ramayan so minutely. The other book about the life-story of Bhagwan Ram, which is considered next in importance to Valmiki Ramayan, is Ramcharitmanas, authored by Tulsi Das. Besides Rarncharitmanas, there is another book written in Tamil language in South India, which is authentic. In addition, there is another Ramayan written in Hindi by Shri Radhe Shyam. The Ramayan by Shri Radhev Shyam was probably written in the twentieth century. There are many other Ramayans in addition to the above Ramayan. I do not remember their names at present. Mention has been made of appearance of Bhagwan Ram in Ramcharitmanas by Tulsidas, but it has not been written, at which specific place did he appear. It has been written that he used to play in the courtyard of king Dashrath. But it has not been written as to in which street or mohalla was that courtyard situated.

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I have heard the name of Ajay Mitra Shastri. He is a well known historian and epigraphist.

(At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.118C-1/60-64 filed in other original suit No.5/89). After seeing it, the witness said that he was not an expert in that subject, he could not, therefore, state whether he agreed or disagreed with what had been written in that. It has been written in it that the period of Bhagwan Ram was earlier than that of Lord Krishna. It is a fact known world over and I have faith in it. At this point, the learned Advocate, cross- examining him, drew the attention of the witness to the word 'irrespective' occurring in line 8 to the word 'Ramayan' occurring in 12th line of para I of paper No.118C-I/60, filed

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by him. After reading it, the witness said that he agreed with what had been written there.

It is correct that there is mention of episode of Ramayan in Mahabharat and I agree with it. Mahabharat was written by Maharishi Ved Vvas about 5-6 thousand years ago from today. After reading the first three lines (the two epics — gradual process) of para 2 of this paper, the witness said what had been written was correct and he agreed with that. It is correct that the faith in the appearance of Bhagwan Ram is in the appearance in the form of a human being and he was born as a son of King Dashrath and Queen Kaushalya, but we devotees call it appearance. After reading from third line to the end of this paper (According to — God Vishnu), the witness said that he agreed with it and he had given his statement on the basis thereof. After reading the line 8 of para 3 and of page 2 from 'for it conclusively' to 'quite popular' of line 13, the witness said he was in agreement with whatever has been written there. After reading paragraph 8 (As such much earlier), the witness said that he agreed with that. I agree with this opinion of Ajay Shastri that it is proved that Ayodhya was inhabited in eight hundred B.C., and I accept it.

Question: Whether according to Ajay Mitra Shastri, Ayodhya Mahatmya was included in Skand Puran in third century B.C?

Answer: The date of Vrindavan Manuscript of Ayodhya Mahatmya of Skand Puran has been fixed as third century B.C. by Ajay Mitra Shastri. I cannot say as to when was the chapter of Ayodhya Mahatmya was included in Skand Puran.

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At this point, the learned Advocate, cross-examining him drew the attention of the witness to tenth line from above to thirteenth line (then there are — thirteenth century A.D.) of column 2 of paper No.118C-1/63, which is an article written by Ajay Mitra Shastri. After reading it, the witness said that whatever was written there, would be correct and he agreed with that.

It is wrong to say that in this article, Shri Ajay Mitra Shastri has expressed his opinion that belief in the description of Shri Ram Chandra Ji, as given in Ramayan, was prevalent in 1300 A.D. Rather in my opinion, according to his article this was prevalent in before 400 B.C.

Question: Whether according to the way you have understood the article of Ajay Mitra Shastri, this can be said that it was prevalent in 400 B.C. and can I understand that any circumstances this belief cannot be more than 3000 years old?

Answer: According to me, this belief is more than 3000 years old. As I am not an expert, I cannot, therefore, express my agreement or disagreement with his opinion, and neither can I say anything.

The foot-prints and Sita Rasoi, which existed at the disputed place, were not from the times of Shri Ram Chandra Ji, but were from the time when the first temple was built there. I have not read these things anywhere, but this is our faith. The foot-prints which existed at the disputed place were actually not the foot-prints of Ram Chandra Ji, but were only symbol thereof, which were built afterwards by someone, but I cannot say when and by

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whom were they built. They are there since the time when this place would have been built. I have not read about these things anywhere, rather this is our belief. The foot-prints which existed at the disputed place, were not actually the foot-prints of Bhagwan Shri Ram Chandra Ji, but were only symbols thereof and which would have been built by someone later on. But when and by whom were they built, I have not read about it anywhere and neither have I any information about it. I would not be able to say whether those foot-prints were built somewhere else and taken from there and installed at the disputed place. I will also not be able to tell as to when those foot-prints were built and when were they placed at the disputed place. There was a rolling pin, a fire place and a board (belan, chulha and chakala) in Sita Rasoi that existed at the disputed place. It is correct that those three articles were also symbolic. Those were not from the times of Ram Chandra Ji, but those were kept there as symbols of worship. I think these three articles were placed at the disputed place of structure, which is called by you as Babri Mosque, during the times of Akbar or thereafter. I cannot say whether these three articles were built there or built somewhere else and brought from there and then placed at the disputed place. It is our faith that Sita Rasoi and foot prints and Ram Janam Bhoomi are revered places and worship is done of Shri Ram Chandra Ji through these symbols. There is no idol of Sita Ji at the disputed place and neither was her worship done there. There was an idol of Bhagwan Ram on the Chabootra at the disputed place which was later placed under the dome inside the disputed place. As far as I know, there is no idol of Sita Ji there. I do not know whether there was any idol of Laxman Ji there or not. I do not know whether or not worship of Sita Ji as a Goddess is done anywhere else. Through the medium of these articles, i.e. Sita Rasoi and

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foot-prints, worship not of Ram Chandra Ji, but of the place of his appearance is done for the purpose of reaching him. I cannot personally pin point the place of birth, but according to belief and faith, it was the palace of King Dashrath. I have not read anywhere nor heard about the length and breadth of the palace of King Dashrath. I have not seen palace of any Maharaj, I cannot, therefore, tell what could be the length and width of a palace. I do not remember the name of the present Raja of Ayodhya. May be Vimalendra Mohan Mishra is Raja of Ayodhya at present, but I do not remember it. May be his ancestors would have been rulers of Ayodhya before independence. One of his palace is situated near Kotwali in Ayodhya. It would be more than one hundred years old. Then he Volunteer : that they were appointed king during the period of Britishers and they were not at all connected with King Dashrath. There is a museum in that palace and I have seen it. This museum is situated in a room in the courtyard of the palace. I do not remember at present, whether while going inside the compound, I saw any particular building of that palace. The length of that museum was more than the room (Chief Justice Lucknow Bench, Court) in which our statement is being made, but width was less. I had seen the disputed building. According to my estimate, the palace of Ayodhya, in whose compound I visited the mueseum, was bigger than the disputed place. The compound of that palace is also bigger than the compound (inner and outer courtyard) of the disputed structure.

The tradition of calling the place, beneath the middle, as 'garbh grah' has started on the basis of the belief that there was a 'garbh grah' at that place of that temple which was demolished and at whose place, the disputed structure was built. My belief is based on hearsay, I have not read

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about it anywhere. I have no information as to what was the size or length and breadth of the temple which was demolished and where the disputed structure was constructed. I do not know how many rooms were there in the temple or what was the size of the 'garbh grah' and I have not read about it anywhere. I have not even heard about it (He Volunteer : that I have only heard that it was a grand temple). The Janam Sthan temple, situated in the north of the disputed place, was part of the first settlement No.163 of the disputed place. But this plot was divided in two parts because of construction of road by Britishers before the second settlement and plot number of the disputed place became plot No.159-160 and another plot number was allotted to Janam Sthan, which I do not remember at present. Because that Janam Sthan temple is situated in the north of the disputed place and existed in the same courtyard, therefore, some devotees started worshipping there and some devotees used to worship at the disputed place. Disputed place is mainly considered as the birth place of Ram Chandra Ji but as is the practice of priests (pandas), they started making people worship that Janam Sthan which was situated in the north of the disputed place. This worship at the Janam Sthan temple which is situated in the north of the disputed place, would have started after the year 1870 and before 1890. The building of Janam Sthan temple of the north was also built after 1870. The name of the temple in the north of road is called Sita Rasoi temple and is also known by that name.

Whenever I go from that place i.e., for the 20 years I have heard its name as Sita Rasoi. I have never gone inside that temple, so I will not be able to tell whose idol is in the temple and who is worshipped there. I have not seen any stone named Janamsthan near the Sita Rasoi or fixed in front of it. In my knowledge, Sita Rasoi temple was not

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known as Janamsthan temple twenty years ago. I have also not heard that even today Sita Rasoi was known by the name Janamsthan temple. I do not have any knowledge that Sita Rasoi which is located on the disputed site is known as Kaushalya Rasoi for the last 15-20 years. The Sita Rasoi on the disputed site is always known by the name Sita Rasoi. I do not remember whether any photography of the disputed place was done in my presence. This I definitely remember that photography of the disputed place was done in 1990.

(At this point the learned councel drew the attention of the witness to the photo No. 39 of black and white album prepared by U.P. Archaeological Department). The witness on seeing it said that Kaushalya Rasoi was written there and it is the same kitchen which is known as Sita Rasoi at the disputed place.

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(At this point, the learned Advocate, cross-examining the witness, drew his attention to the photo Nos.71-72 of coloured photo album prepared by the Archaeological Department of U.P.). After seeing them, the witness said that this was the same kitchen which was known as Sita Rasoi. As far as I remember, the last time when I went to the disputed building was in January 1990, when the Commissioner visited there last time. I do not remember whether at that time, I had darshan of Sita Rasoi. I cannot say when I had last time taken darshan of Sita Rasoi at the disputed place and in which year. But I remember that I visited Sita Rasoi twice in the year 1986 and once in 1988. I did not have darshan of Sita Rasoi after 1988. As far as I remember, when I had darshan of Sita Rasoi at the disputed place in 1986 and 1988, then I did not saw the words 'Kaushalya Rasoi' written over there. I did not even

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see Sita Rasoi written over there. Whenever I visited Sita Rasoi in 1986 and 1988. I do not remember that I saw any curtain hanging there as is visible in the above photo No.39 and in coloured photographs No.71 and 72. In the photos, referred to above, fire place, rolling pin and chakala are visible at that very place where I have seen them lying.

I do not think that I had 'darshan' of Sita Rasoi when I had visited the disputed place for the first time in 1932-34. I do not even remember whether Sita Rasoi was built in the same form as is shown above mentioned photo Nos.39 and 71 and 72. As the three article lying in Sita Rasoi, i.e. Chulha, belan and Chakala are made of marble, it does not, therefore, appear that they were made during the time of Akbar. I cannot say whether all the three articles were made within the last 100 years or not. It is wrong to say that all the above three articles, which are visible in the above mentioned photographs, would have placed there after the attachment of the disputed building in 1949. Marble stones fixed on the Chabootra, which are visible in black and white photo No.39, were fixed afterwards because date has been inscribed on it. I cannot even guess as to when those stones were affixed. it can be found by reading. I cannot say whether those stone were affixed after 1949, because alphabets and numbers, written on them, being very small, I am unable to read them. Photo No.70 of the coloured album is also of Sita Rasoi. The foot-prints and Chakala, Chulha and belan made there, are not of that old temple which was demolished, as stated on page 39 of my statement. On page 39 of my statement, mention has been made of installation of idol of Bhagwan Ram Lalla and of worship thereof; that idol was also not of the old temple, but it was installed during the times of Akbar. This information of mine is based on my study of different books.

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One of the book among them is written by Shri Radhe Shyam Shukla and has been filed in this suit. Then there is a writing in Akbar-nama; Akbar had gone there and Todar Mal had done revenue settlement there. I do not remember the names of other books at the moment. I think that alongwith Akbar, Maharani Jodha Bai would have gone in the disputed building, because she always used to go with Akbar but I have not read about it anywhere. The idol of Bhagwan Ram Lalla, referred to on page 39 of my statement, was a movable idol. I cannot say whether only the idol of Bhagwan Ram Lalla was installed on the Chabootra or whether the idols of Laxman, Sita and Hanuman were also installed alongwith the idol of Ram Lalla. I do not know that in 1949 before attachment, when the idol of Ram Lalla was installed in the disputed building, whether or not any other idol became available at the time of attachment, i.e. whether any other idol was placed inside the disputed building. On page 39 of my statement, it was stated that original copies of certain papers and material would be placed before the court, as and when necessary. Those papers would be placed before the court. Some of such documents are in my possession, some are available in the library and some of them are available in the library of the Secretariat. They will be filed after my statement, when statements of other witnesses of my suit would be given. (At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.107C-1/243 filed in other original suit No.5/89). After seeing that, the witness said that the original copy of this document was handed over to the then Home Minister, Sardar Butta Singh in January 1989. As far as I remember, original paper was not handed over to Shri Buta Singh in my presence. According to my information, this paper was given to Shri Prasad. Joint Secretary in the Ministry of Home Affairs. I

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was told about this by Prince Anjum Qadar. He gave it to the Home Ministry and I had concluded that it was given to Mr. Prasad. As Shri Anjum Qadar was representative of Shia community and he had given me a copy of the original paper in connection with talks which were being held at that time between Shri Buta Singh, Shri Anjum Qadar and Shri Ashok Singhal. These negotiations for reconciliation had started in the year 1987. I had also attended a number of meetings connected with these negotiations. One of these meetings was held in Ashoka Hotel and the other was held in the office of Shri Buta Singh. As far as I remember, Shri Ashok Singhal, who was General Secretary of the Vishwa Hindu Parishad, had also attended the meeting, which was held in the office of Shri Buta Singh. After the discussion held in that meeting, Shri Anjum Qadar had gone to Pakistan and he gave his original paper there and the Pakistani scholar had written his opinion on the same paper and returned it back and the same original letter was given to Shri Prasad, Joint Secretary in the Ministry of Home Affairs of the Government of India. Shri Anjum Qadar has told that the text of 'Fatwa' written on the back side of the original letter, was written by Maulana Sayyad Mahammed Naqi. In accordance with the negotiations held with Shri Buta Singh, Shri Anjum Qadar wanted to go to Iran and Egypt, but he could not go, because money was not provided to him. I do not know how much money did he want. He had also given a list of some persons; I do not know, who were included in the list. I do not even know as to how much money was given to Shri Anjum Qadar for going to Pakistan. It is correct that paper No.107C-1/243 was available with me, when I filed O.O.S.No.5/89. I did not refer to this paper in my plaint because it is not the basis of my suit. Attention of the witness was drawn to paper No.107C-1/249 and after seeing it, the witness stated that

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this letter is relevant to this suit. It is wrong to say that it has no connection with my suit or the negotiations. As far as I think, paper No.107C-1/249 was written by Sayyad Shahabuddin to Anjum Qadar Saheb. The letter was given to me by Anjum Qadar Saheb. I was told my Anjum Qadar Saheb that this letter was written by Sayyad Shahabuddin in his own hand-writing. I have no personal knowledge of his hand-writing. I do not recognize his hand-writing.

(At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.118C-1/35 filed in other original suit No.5/89). After seeing it, the witness stated that this book had been published by Shri K.S. Lal, Chairman of Historian Forum. As per my information, Shri K.S. Lal is a renowned historian. As far as I know, Historian forum is not an associate institution of The Vishwa Hindu Parishad. But it is sympathetic to The Vishwa Hindu Parishad. I do not know when this organization was formed. This institution was established in 84-85. I do not know in which way the 8 persons like Shri Yugg Dutt Sharma, etc., whose names have been given on the title page of the book, are connected with this institution. It is correct to say that Prof. B.R. Grover, Dr. S.P. Gupta and Prof. Devendra Aggrawal have often participated in the negotiations regarding the disputed premises on behalf of The Vishwa Hindu Parishad. All those three persons are associated with Ram Janam Bhoomi Liberation Movement since 84-85. 1 do not know whether the rest of the persons, whose names have been given on pp.118/33 of this book, are associated or not with Ram Janam Bhoomi Liberation Movement. During this litigation, after 1996, I had once seen Sudha Mallayya Sahiba in Ram Katha Kunj built near the disputed place. I remember that I never saw her before in 1991-92. As far as I remember, I had gone to the disputed place

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during 1991-92 once or twice. As far as I remember, I did not go to the disputed place after the acquisition of the outer portion of the disputed place in 1991. I have no personal knowledge of whatever has been written in the book marked as paper No.118C-1/35. I had gone through the book before I filed it. I think that everything written in the book is correct. Whatever has been written on page 13 of this book about Meer Baki (which was read) is correct. I agree with this statement, written under the heading 'British rule (Angrezi Raj)' on page 16 of the book, that after the establishment of British Rule in Avadh in 1856, a long phase of hearing of such disputes in the courts started. I agree with all the things written on this page under the heading 'New Evidence'.

Photocopy of paper No.1 18C-1137 filed by me and which was written on behalf of Director General, National Archives to Shri Kishore Kunal, O.S.D., Minister of State in the Ministry of Home Affairs, was given to me by historian Prof. B.R. Grover. Paper No.118C-1/38 to 118C- 1/59 were also enclosed with the above paper and they were also given to me by Prof. Grover. It is correct to say that these papers do not bear signatures of anyone. And neither any stamp of any Department is affixed on it. I do not know which officer prepared those papers. So far I have not made any demand to the Ministry of Home Affairs for the original documents. I will ask for the above documents when the turn for my side to give evidence will come. Report No.1 18C-1/114 has been prepared by two historians and one archaeologist, namely Professor B.R. Grover, Prof. Devendra Swarup Agarwal and Dr. S.P. Gupta. In this report, part-2 has come first and part-I comes next. This document is a copy prepared by cyclostyling process, which was given to me by Dr. S.P. Gupta. It is correct to say that these documents do not bear signature of any

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person. It is also correct to say that it has nowhere been written in these documents that this document was prepared by the above three persons jointly. It is also correct that date of preparation of document has not been given in it. Then he Volunteer : that in a photograph, marked as paper No.118C-1/114, the date has been given as June, 1992.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

21.11.2001

Typed by the Stenographer as dictated by me in open court. In continuation to this Appear on 22.11.2001 for further cross-examination.

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Sd/-

Devaki Nandan Agarwal

21.11.2001

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Dated :22.11.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 21.11.2001).

(Learned Advocate, cross-examining the witness, drew his attention to paper No.107C-1/154 of other original suit No.5/89 filed by him). After seeing that, the witness stated that things written in my plaint are based on other books in addition to this book. Almost all the books and material, apart from the book written by Shri Radhey Shvam Shukia, on which the things mentioned in my statement are based, have been filed in the court. I have read the above-mentioned book authored by Shri Radhey Shyam Ji Shukia. By and large, I have made the things written in the book of 'Shri Shukla as the basis of my plaint. At the moment, I will not be able to tell whether I disagree with certain things written in the book, because I have not read this book recently. I do not know whether or not Shri Radhey Shyam Shukla was a teacher in any University. According to my information, Shri Radhey Shyam Shukla is still alive and I have included his name in the list of my witnesses. In 1992, when I included his name in the list of my witness, then he was a co-editor of 'Amar Ujala' newspaper in Meerut. I purchased this book in Ayodhya in 1988-89 in 10 rupees. Then said that he purchased a number of copies. I have not read any other book written by Shri Radhe Shyam Shukla, neither do I know whether he has written any other book. He would be about 60 years old at present.

Under the heading 'discovery of Ayodhya by Emperor Vikramaditya' in para 2 on page 2 of this paper No.107C-1/154, it has been written that according to folk-lores of Ayodhya, it is continuously believed since centuries that

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Vikramaditya had re-discovered the deserted Ayodhya. It is correct. In the last line of page 1 and the first line of page 2 of this paper, it has been stated that according to the belief of people, Ayodhya was deserted and resettled many times. Then he said that this is not a popular belief but this is a tradition according to me. It would not be proper to call it a myth. That Ram Janam Bhoomi temple was constructed thrice, is not a myth, but is a tradition.

The statement given by me in regard to the disputed land from para 2 on page 62 to first nine lines of page 63 of my above statement is based on this thing, that I have not read in any record that namaz was performed there with the permission of the owner of the land. Then he said that namaz was not performed in 'jamayat' (group). On page 22 of this book, i.e. paper No.107C-I/154, it has been written under the heading 'puja bhi ajan', that since the time of Akbar both Hindus and Muslims started coming and Muslims often used to offer namaz on Friday; this must be definitely correct. Then he Volunteer : that namaz was not read with the permission of the owner of the land. Shri Ram was the owner of the land. On this very page of this book, it has been written under the heading 'peace and goodwill (Shanti Aur Sadbhav)' that till the time of Shahjahan (1627-1658 A.D.) an atmosphere of goodwill and peace prevailed. During this period of about 69-70 years, no struggle about the Janam Bhoomi appears to have taken place. Hindus used to come to this place with reverence and offer worship here and the Muslims used to come every Friday to offer namaz. This must be definitely true. Under the heading 'Aurangzeb ka kaal' on this very page of this page, it has been written that no struggle appears to have taken place. Hindus used to come with reverence here and perform worship and Muslims used to come on every Friday to offer

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namaz. This must have been definitely true. Under the heading 'Aurangzeb ke kaal mein phir sangharsh chhira' on this very page of this book, it has been written that Indians (Hindus) are tolerant by nature. They were satisfied with having got a small Chabootra (Platform). They considered that their own Bhagwan Ram was virajman in a mosque too and they were not irritated by the namaz offered by the Muslims; this is absolutely correct and I agree with it and I do not have any objection to it. I agree with what has been written under the heading 'Nawabi Raj on page 24 and 25 of this book. It has been rightly stated that peace prevailed during the rule of Nawabs. Bhagwan Shri Ram was 'virajman' on the Chabootra outside the disputed structure and Hindus, considering that Bhagwan Shri Ram was virajman inside the disputed building, used to worship the place, but on Fridays, Muslims also used to offer namaz there. Hindus did not object to namaz being offered by the Muslims, as there was rule of Muslims. In 1858, the Britishers divided the disputed building in two parts; one was outer courtyard and the other became the inner courtyard. Ram Chabootra was situated on the outer courtyard and there was disputed building with three domes in the inner courtyard. Britishers had permitted Muslims to offer namaz and Hindus were not allowed to enter inside. But as the way passed from the eastern side through the outer courtyard, Hindus did not allow Muslims to go inside and often quarrels used to take place. They sometimes used to throw stones and chappals on persons who came there for offering namaz. Mostly because of fear of the Bairagis, Muslims were not coming to offer namaz. Under the heading 'British Shasan Kaal (British Rule)' on page 28 of the same book, it has been written that after the first war of independence in 1857, Avadh came under British Rule, although there was no dispute about Janam Bhoomi during

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this period. Muslims used to offer namaz on every Friday. I agree with this. But Avadh had come under the British rule not in 1857 but in 1856. Whatever has been written under the heading 'Intervention by Queen Victoria' on page 29 of the same book, is correct. It is correct that during the British rule, that is after Avadh came under British rule, dispute took place between Hindus and Muslims about Babri Masjid only twice; first in 1912 and second in 1934. Then he said that litigation continued in courts. A suit was filed in 1885 for permission to construct a temple on this Chabootra and it was tried. The copies of the judgements given in that suit have been filed, i.e. the copies of judgements given by the sub-Judge, District Judge and Judicial Commissioner have been filed. The suit was filed by a Mahant. I do not know he was Mahant of which place, but he called himself Mahant of Janam Sthan. I stayed in Faizabad till June 1934 and then came to Allahabad. The riot of 1934 must have taken place in the month of March. I was at that time in Faizabad. It is correct that this riot broke out on the occasion of Bakrid on account of cow-slaughter. This incident of cow- slaughter had taken place in village Shahjahanpur situated at a distance of 2-4 kilometers from Ayodhya. In retaliation, Bairagis broke the dome of the disputed structure and killed three Muslims and hung their heads and slaughtered a pig and placed it in the compound of the disputed structure. After this riot, the Deputy Commissioner of Faizabad had imposed a punitive fine on the Hindu population of Ayodhya and as has been written in this book marked as paper No.107C-1/154 and with that amount got the mosques repaired and dome constructed. It has also been written that this work was done by a contractor. According to my information, Muslims never went there after 1934 to offer namaz there because they thought that the mosque had been desecrated and

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Bairagis would beat them. It has been written on page 31 of this book that after the riots, offering of namaz in the mosque had almost discontinued and rarely any person went there to offer namaz; may be this is correct, because Radhey Shyam Shukla has written it in his book and he might be having information about it. All the things written under the heading 'pratham jagaran' on page 34 of this book, are correct. It is correct that in October 1949 or one or two months earlier than that, a movement had begun to take back the so-called mosque from the possession of Muslims. It is correct that Shri Gopal Singh Visharad and Mahant Param Hans Ram Chandra Das were the prominent leaders. Then he Volunteer : that in addition to them, Baba Abhiram Das and main leader Ram Manohar Lohia were also taking prominent part. It is correct that during this movement, most of the graves near about so- called Babri Mosque i.e. in the Ram Kot area were dug. The witness said on his own accord that at that time, i.e. after the digging of graves, a 'jap' was performed in Ramkot and the whole area was purified. On the night of 22nd /23rd December 1949, the idol of Bhagwan Shri Ram, which was 'virajman' on the outer Chabootra, was shifted from there to the place below the middle dome. The time 'midnight' written on page 40 of book of Radhe Shyam is not correct. Shifting was done in 'Brahm Muhurta' in the small hours of 23rd December.

Question: Whether or not the same idol of Shri Ram Chandra Ji, which was installed on outer Chabootra, was shifted to the place under the middle dome during the mid-night of 22nd /23rd December 1949?

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Answer: It will not be correct to call it simply an idol. It was rather a deified idol. We, therefore, call it 'vigraha'. This work of shifting was performed by Param Hans Ram Chandra Das, Abhiram Das, Laxman kiladheesh and several other persons. In line 5 under the heading 'Shri Ram Vigraha' on page 40 of this book, it has been written that vigraha of Bhagwan Shri Ram appeared, but it means that when the vigraha of Bhagwan Shri Ram got installed there, then he appeared there for all the devotees.

Question: Under the heading 'Shri Ram Vigraha' on page 40 of the book, written by Shri Radhe Shvam Shukla, it has been written that suddenly in the middle portion of the mosque, a light illuminated and bells started ringing. Did it happened naturally or was it done by any human being or it was illuminated?

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Answer: According to my understanding, this work would not have been done by any human being, but it was perceived by a human being. The name of this human being has been given in this book later ahead. I cannot say whether this was perceived i.e. experienced by a single person or by several persons. The miracle, said to have taken place, as mentioned in para 2 of page 40 of the book of Shri Radhey Shyam Shukla, was experienced by the above-mentioned saints.

Then he said that the above saints performed the task of shifting the idol of Ram Lalla and experienced the miracle. I have no information about

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the thing written on page 41 of the above book that the police, immediately after reaching there, closed the door of the mosque and locked it. Then he said on his own accord that in the F.I.R., marked as exhibit 51, it has been written that against the locking of doors, thousands of people collected in the temple and kept on doing worship. Then he said that thousands of people remained in the compound of the temple; they wanted to go inside, but, according to F.I.R., could not enter inside. Nothing has been written in the F.I.R. about putting the locks. I, therefore, say that what has been written about putting the locks in the book of Shri Radhe Shyam Shukla, is incorrect. It is correct, as has been written on page 42 of the book of Radhey Shyam Shukla, that police filed the charge-sheet on January 1, 1950. I can guess that this charge-sheet would have been filed against these persons, against whom on 23rd December,1949 F.I.R. (exhibit 51) was registered. It has been written wrong in the book that the Deputy Commissioner attached the mosque in 1950 and appointed a Receiver for looking after it and managing it, rather the correct thing is that the mosque was attached on December 29th, 1949 and Shri Priya Dutt Ram was appointed Receiver and Shri Priya Dutt Ram submitted a scheme of management to the City Magistrate on January 5th , 1950 which was approved by the then Deputy Commissioner and the Receiver took charge on January 5th , 1950. I do not know that this was opposed by the Congress leader of that time and he had demanded for the removal of the idol from the mosque. This is correct that Akshya Brahmachari had started a hunger strike unto death in the office of U.P. Congress Committee, as has been written on page 44 under the heading 'Anshan' for

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removal of Shri Ram vigraha'. Other things written under the above heading 'Shri Ram Vigraha hatane ke liye anshan', are correct. I do not know whether the writing about removal of Shri Ram vigraha is correct or not. The he Volunteer : that he withdrew the hunger strike ie. discontinued midway. I have filed the book written by Shri Sita Ram, the title of which is Avodhya ka Itihas', and its extract is from document No.107C-1/122 to 107C-1/131. I have filed the complete book.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

22.11.2001

Typed by Stenographer as dictated by me in the open court. In continuation to this Appear on 10.12.2001 for further cross-examination.

Sd/-

Narendra Prasad

Commissioner

22.11.2001

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Dated : 06.02.2002

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 22.11.2001).

Details of the battle with Nasiruddin Haider, mentioned on page 156 of my statement, can be given by me tomorrow after reading the book of Shri Radhe Shyam Shukla. I do not remember the period of rule of Nasiruddin Haider. At present, I cannot tell whether Saaadat Ali Khan and Nasiruddin Haider were contemporary or ruled one after the other. Saaadat Ali Khan and Nasiruddin were probably ruler of Avadh, but I cannot say this with certainty. I do not remember whether Faizabad or Lucknow was the capital of Avadh during the reign of Saaadat Ali Khan or Nasiruddin Haider. It would be correct to say that earlier the capital of Avadh was Faizabad and then later on, Lucknow became its capital. As far as I remember, the fight between Hindus and Muslims in 1855-56 about the Babri Mosque took place on the disputed place. A Muslim by the name of Amir Ali Khan had made that attack and Amir Ali Khan did not follow the orders of even Nawab of Avadh, who called himself King, and a battle took place during which about 80-100 persons were killed. It is correct to say that in a battle, Amir Ali and his companions were one side and Nawab of Avadh and army of Britishers were on the other side. This battle was fought near Rudauli between Barabanki and Faizabad. I am not recollecting whether or not this was a battle between Hindus and Muslims. Then he said on his own accord that description thereof has been given in the book written by Fisher, a copy of which has been filed by me. I cannot say in detail whether that battle was connected with a mosque situated in Hanumangarhi. It is wrong to say that the battle which took place near

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Rudauli between Amir Ali and his companions and the army of Nawab and Britishers was not connected with Babri Mosque. The basis of the battles, which I have referred to on page 151 to 156 of my statement is mainly the book of Shri Radhe Shvam Shukla (Paper No.107C-I/154). In addition to the book of Shri Radhe Shyam Shukla, I have read many booklets and pamphlets. Apart from that, I have not read any other book of history. Information regarding these battles has not been given in any book of history and as far as I know, no such book of history has been written.

I cannot guess as to how many people used to come to the disputed place for worship etc. every month after the installation of idols in 1950. I cannot tell approximately how many people used to come for worship at the disputed place after attachment. I cannot even tell whether their number was one hundred to two hundred or one lakh. Thereafter, he said that thousand of visitors used to come every month for worship and 'darshan'. Visitors used to come in above number and they used to make some offerings. These offerings were in the form of flowers, fruits, sweets and cash. From the year 1950 to 1954, the number of visitors was quite large and then after 1954, the enthusiasm diminished and the number of visitors also decreased. It is correct to say that the enthusiasm which got diminished in 1954, again increased in 1983 and the feeling ignited in the minds of the people that Bhagwan was imprisoned behind bars and the enthusiasm of the people rose again and they became enlightened. It is correct to say that enthusiasm got boost as a result of yatra which came from Sitamarhi to Ayodhya in the month of September, 1983 or 1984. It is correct to say that the organisers of that rath yatra had spread this feeling during the same yatra that Bhagwan was imprisoned behind bars. it is correct to

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say that a tableau (rath) was taken alongwith the yatra, in which Bhagwan was shown imprisoned behind bars. I had retired from the office of Judge in 1983 before this yatra had commenced. I had not taken part in this yatra. The day when I myself and my colleagues had taken resolve (sankaip) on 7.10.84 on the bank of Triveni, the rath yatra had also reached Ayodhya on that very day, and persons, participating in the yatra, had also taken sankaip. I cannot tell the name of any person who had taken sankalp at the bank of Saryu in Ayodhya. I cannot even tell as to how many persons would have taken sankaip. Approximately hundreds of people would have taken sankaip. On 7.10.84 at the time of taking sankalp, this feeling arose in my mind that since the mosque was built after demolishing the temple, it would, therefore, be proper to construct a temple. I had always known this fact that this mosque had been built after demolishing the temple. During the period from 1932 to 34, when I was studying there and I used to go to the disputed place alongwith my mother, then I came to know that the mosque has been built after demolition of temple. At that time, I was studying in standard seven or eight I got this knowledge on being told by the priests and after observing that it was a deserted place and the form of structure was neither of a mosque nor of a temple. I did not get this knowledge by studying any book. During the period between 1932 to 1934, I had visited the disputed place. After the riot in 1934 on the day of occasion of Bakrid, I did not go to the disputed place and in the month of June went to Allahabad alongwith the members of my family.

During 1932 to 1934 pandas (priests) used to do 'pujapa' at the disputed building. No regular worship was done by ringing and beating bells. This 'pujapa' was got done at foot-prints, Ram Chabootra and Sita Rasoi. I got

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this information from other people that mosque had been built at the disputed site by demolishing the temple and not by seeing the building. Curiosity had arisen on observing the pillars, made of touchstone, and other things built in the building, which I do not remember because of age, that this building would have been a temple once. Then he Volunteer : that a 'parikrama' had been built around the building and from that it appeared that it would have been a temple. During 1932 to 1934, I went to the place with dome and there was no restriction at that time on going over there. Mostly, I had gone to the disputed place before 10 in the morning and between 10 to 12 O' Clock on the days of holidays. As far as I remember, I never went to the disputed place after 1.00 P.M. I was studying in 7th or 8th class at that time and I was also taught Urdu as a second language, which was second form i.e. it was taught in second form. I could read and write Urdu. I did not see stone, with an inscription in Persian on it, fixed on the gate outside the middle dome. I did not see any writing in Urdu on the western gate of the disputed building. I have gone to Jama Masjid of Delhi. I have also seen Moti Masjid. I cannot say whether it is situated in Agra or in Delhi. I have not seen any place in any mosque, on which stands the Imam and gives 'khataba' of namaz of 'Juma' (Friday). I had seen three-four steps adjacent to the western wall below the middle dome in the disputed building after 1983. When I saw them, then idols were placed on those very steps. I know steps built in a mosque for giving 'khataba' are called member. At this point, photo No.154/13, which is filed in other original suit No.1/89, was shown to the witness. After seeing it, the witness said the place with member is visible in this photo. The position visible in this photo was exactly similar in 1983. But during 1932 to 1934, such steps did not exist there; the place was not vacant,

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there were one or two steps which were smaller. At this point, photo No.154/5, which is filed in other original suit No.1/89, was shown to the witness. After seeing it, the witness said that in the form visible in the photo, wall is similar to what it was, but I do not remember whether there was a door or not. I do not even remember whether or not the door visible in the photo was there in 1932-34. I think it was not there.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
06.02.2002

Typed by Stenographer as dictated by me in the open court. In continuation to this Appear on 07.02.2002 for further cross-examination

Sd/-
Narendra Prasad
Commissioner
6.2.2002

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Dated 07.02.2002

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 06.02.2002).

I had referred on page 156 of my statement about battle that took place during the times of Nasiruddin Haider, but I will not be able to tell at present even after looking into the book of Radhey Shyam Shukla as to where the details of this battle have been given in this book. It could be that there is no mention of this battle in this book. I do not agree with everything that has been written in this book to be correct, as I have said earlier in my statement. (At this point, the learned Advocateor, cross-examining the witness, drew his attention to the written chapter titled 'Mutual struggle (Apasi sangharsh) on page 50-51 of the book of Shri Radhe Shyam Shukla (paper No.107C-1/154). After seeing it, the witness stated that it was correct in his 'Imkan'. I cannot give definition of 'Imkan'. By 'Imkan', I mean, I imagine it to be correct.

After reading the first paragraph 'Geographical Position' on page 69 of this book, the witness said that whatever has been written in it is correct. Whatever has been written in the first four lines of second paragraph 'Ayodhya's geographical position--- basis not found' of this very page is correct according to information then available.

I do not know whether Bhushundi Ramayan, and 'Teerth Prakash' written by Mitra Mishra are religious books of Hindus or not. I have not heard the names of these two books earlier. Even after reading the book writtenby Shri Radhey Shyam Shukia (Paper No.107C-1/154). I do not know about these books, i.e. Bhushundi Ramayan and

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Teerth Prakash written by Mitra Mishra. At present, I will not be able to orally answer that from which other books, apart from the book of Shri Radhey Shyam Shukla. I got information about the history of Ram Janam Bhoomi, but I have filed the photocopies of the relevant portion of all these books in the court. I acquired a great deal of information about the situation and history of Ayodhya from the book of Hayenes Baker. I also got information about the situation of Ayodhya from Ayodhya Mahatmya of Skand Puran. But in regard to these matters, I do not consider the book of Shri Radhey Shyam Shukla much reliable. This book perhaps does not contain all the details. After reading ten lines from 'AYODHYA MAHATMYA MEI..... KARIB NAU SAU METER PAR HAI' on page No. 70 of the book of Shri Radhe Shyam Shukla, the witness said that the description given in it was correct according to his information. The shloka (verse) given in footnote-1 on page 70 of this book is a shloka of Ayodhya Mahatmya of Skand Puran. Sita Pak Sthan and Sita Rasoi Mandir is one and the same thing and it is situated in the north of the road lying in the northern side of the disputed building and whatever is built there is new construction, i.e. construction after 1880. It is correct that this place is known as Janam Sthan Mandir, I have not seen Janam Sthan temple from inside. I will, therefore, not be able to say that there is a particular place inside the temple which is called Sita Pak Sthan. There was no Sita Pak Sthan or Rasoi there, but pandas, by telling people that Sita Ji used to cook food there, made people worship there and collected money by fleecing them. The distance between Janam Bhoomi Chabootra and the southern wall of Janam Sthan Temple would be about 30-40 feet. I would not be able to tell as to what is the length of 'dhanush' i.e. how many feet long is 'dhanush' which was used in olden days for taking measurement. It is correct

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that in Skand Puran, measurement has been given in terms of 'dhanush'. In the book of Hayenes Baker, the length of 'dhanush' has been given in meters or feet. I do not remember at present as to what length of a 'dhanush' has been given in that book. But I think that the length of dhanush given there would certainly be correct. The length and breadth of Sita Rasoi Sthan at the disputed place would have been 15-20 X 20-25 feet. I think that there is no mention in Skand Puran of Sita Rasoi at the disputed place. I would not be able to tell whether or not there is mention of this Sita Rasoi in any other book.

At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.107C-1/75 filed in other original suit No.5/89. After reading it, the witness said that it was an extract from "Ayodhya Mahatmya, Skand Puran, Vaishnav Khand, edited by Shri Khem Raj Shreshti (1910)'. I cannot understand it by reading it because it is in Sanskrit and I do not know much of Sanskrit. According to my knowledge, it has not been translated into Hindi. In this paper, there is mention of a place by the name of Vighneshwar, but I do not know where it is situated. There is also a reference to the ashram of Lomush Muni in it, but I do not know where it is located. Lomush was a seer, but I do not know about him. There is an ashram by the name of Vashishta Kund in Ayodhya, which I know of. This ashram is situated at a distance of two kilometer in the east of the disputed place. I do not know of any place by the name of Matta Gajendra. There certainly is a place by the name of Kaikayi Bhawan in Ayodhya, but I would not be able to indicate where it is. Sumitra Bhawan is at present situated in south-west of the disputed place at a distance of about 200-300 feet. At present, there does not exist any building by this name and building of a temple has started. Sita

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Koop is situated in south-east of the disputed place at a distance of about 100 feet. At this point, the attention of the witness was drawn towards line ten-eleven "VARTAMAN VASHISHTA KUND..... CHAR SAU PACHAS METER PAR HAI" on page 70 of the book of Shri Radhe Shyam Shukla and after reading it, the witness said that this Vashishta Kund is a different one from the Vashishta Kund referred by me in my statement. But mainly, the Vashishta Kund described in this book is more famous. That there no longer exists any ancient temple at Sumitra Bhawan, as has been written on page 71 of this book, is correct. I would not be able to tell as to who built the Janam Sthan temple, situated in the north of the disputed place. I have not heard the name of Sant Dev Murari, a resident of Prayag and disciple of Ram Das. It has been stated in the book written by Hayenes Baker paper No. 107C-1/149 that the length of one hundred 'dhanush' is equal to 182 meters; in my opinion, it is correct. On page 81-82-83 of the book written by Dr Radhe Shyam Shukla, two folk- tales have been given in respect of Vikramaditya; being a reasonable person I do not accept them, but a large section of Hindus believes in it and accepts it on the basis of mythological beliefs. In my suit, I have reflected the faith of devotees in the disputed place, as next friend of deities, i.e. I have expressed the faith of the devotees, I have no personal faith. There is no question of my faith. The faith of devotees that Ram Janam Bhoomi is situated at the disputed place, is a public knowledge and known world-wide. This faith of the devotees has been continuing since time immemorial. The mention thereof would certainly be in some religious book, but it is not in my knowledge. But there is no such mention in any book of history. This belief is not only since 1850 but many centuries before. It is correct that on the basis of this belief, devotees of Ram consider the Chabootra, which was

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17X21 in length and breadth and was situated in the outer courtyard of the disputed place as venerable and in addition consider the whole disputed place as worthy of worship. Then he said on his own accord that they consider not only the Chabootra but the whole complex as venerable and Chabootra is only a part thereof. It is wrong to say that during the 19th century, this faith was confined only upto the Chabootra. It is also wrong to say that before the 19 century there was no such faith among the devotees of Ram about this place or Chabootra. It is correct that I have stated in my statement that this Chabootra was constructed during the reign of Akbar. The basis of my statement is a tradition which has been described in the book of Shri Radhe Shyam, which has been filed in the Court. I have also stated in my statement, that worship on that Chabootra was traditionally got done by the people of Nirmohi Akhara of Ram Ghat, Ayodhya. It was Nirmohi Akhara in 19 century. I had seen a report written by an English author, who was a Settlement Commissioner. It has been mentioned therein. I do not know whether Mahant Raghubar Das, who had filed the suit of 1885, was the Mahant of Nirmohi Akhara. The number of that suit was 61/1885, Mahant Raghubar Das versus Secretary of State. This suit was decided on 24th December 1885. This suit was filed by Mahant Raghubar Das to build a pucca temple in place of the temple, which was kaccha. At this point, the learned Advocate, cross-examining the witness, drew his attention to exhibit No.A-22 of OS. No.1/89. After seeing it, the witness said that it could be that this map might have been filed by Raghubar Dayal with plaint. It is correct that the western part of the portion of Chabootra has been shown in this map as a mosque. It is wrong to say that in 1885, it was not believed that Ram Janam Bhoomi was in the inner portion of the

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mosque. He said that the faith was in the whole complex and the so-called mosque was also within it.

Question: Mahant Raghubar Das had described the disputed place as a mosque and not as Ram Janam Bhoomi in the map filed by him in 1885. What could be the reason thereof?

Answer: The reason was that near about in 1858, about a British Government had divided the whole complex and built a wall of bars in the middle and accepted the western part with domes as a mosque and prohibited Hindus from entering in it and allowed Muslims to offer 'namaz' there and accepted is as a mosque. Because of these reasons, Raghubar Das might have shown the portion situated in the west of the Chabootra as a mosque.

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At this point, the learned Advocate, cross-examining the witness, drew his attention to exhibit No.1/25, filed in O.S. No.1/89 and after seeing it, the witness said that this was a copy of the map drawn by the Amin, which was filed in suit No.61/1885. Apart from Dr. Radhe Shyam Shukla, I had seen it in the revenue records. This place has been described as Janam Sthan and the disputed mosque has been described as Janam Sthan mosque. I had seen it in the revenue records of 1870. This settlement was completed in 1870 and in the records of that settlement, this plot was entered as plot no 'abadi'. It could be that in the revenue settlement, which was completed in 1870, this place was not shown as Janam Sthan, but was shown as Janam Sthan mosque. Besides, I have read the book titled 'Ayodhya ka Itihas' (paper No.107C-1/122) written by shri

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Avadhvasi Bhup alias Sita Ram. In this book also I have read about, this place being described as Ram Janam Bhoomi. In addition to the above things, I have read it in the settlement report. I have seen in the gazetteer also. At the moment, I would not be able to tell whether apart from the above books, I have read in any other book or not that Ram Janam Bhoomi is situated at this place.

Babar was not a religious fanatic. He had envious towards Hindu temples. I cannot say whether he bore ill-will towards the Hindu religion. Then he said on his own that he had no knowledge of Hindu religion. I agree with "ANYATHA WAH HINDU DHARM ..... RAKHANE VALA NAHI THA" written in 6th and 7th line of footnote on page 16 of the book written by Dr. Radhe Shyam Shukla. It is correct that Babar had come to India to establish an empire and not to start jehad. It would also be correct that Babar had given exemption in respect of 500 bighas of land to Acharya Shri Swami Shatrughna Das Ji of Danta Dhawan Kund. I do not know where that place of 500 bighas is situated, or whether or not is it in Ayodhya. Again said that this place is there but where it is, I do not know. It is correct that Babar had gone to meet and have darshan of Shatrughna Das Siddha Yogi. It is correct that Babar had come to Ayodhya across the other bank of Saryu and stayed there. Then he said across Ayodhya i.e. across Saryu. I cannot say whether that portion was considered part of Ayodhya. That portion now lies in the Gonda District. It is correct to say that Babar was an invader, not a tyrant (AATTAI) That means a person who is cruel. I cannot say with certainty as when Hanumangarhi was established. I agree with 'SHUJAUDAULA..... SE SAHYOG KIYA THA' written in line 10 to 15 of para 2 on page 25 of the book, titled "Ram Janam Bhoomi' (paper No.107C-I/1 54), written

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by Dr. Radhe Shyam ShukLa. I also agree with 'ISI KAAL MEI.....KHUDAWA DIYA THA' written in line 15, 16 and 17 on the above-mentioned page. It is wrong to say that before the Mughal period, it was not a general practice to built minaret in the mosques. It is wrong to say that in many mosques built before Mughal period, there was no minaret. I do not have any information of the mosque of Kachhochha Sharif, which has no minaret. I cannot say whether there is any other mosque in Ayodhya, apart from the disputed mosque, where there is no minaret. I do not agree with 'YADYAPI MINARO KA NA HONA ..... NA MINARE HAI NA KUEY' written in line 4, 5 and 6 on page 72 of book 'Shri Ram Janam Bhoomi' of Dr. Radhe Shyam ShukLa. I had read this in the book 'Hindu and Muslim Religious Endowments' by Ganapati Ayyar that it is necessary for a mosque to have a minaret. I have referred to this in my plaint also. I have not filed the above-said book of Ganapati Ayyar in this suit. In addition to this, full details of a mosque have also been given in the dictionary of Islam and it has been stated in it that it is necessary to have minarets. I have filed a copy of 'Dictionary of Islam'. In addition to this, I have filed a copy of a book on Muslim architecture, in which information has been given especially about Jaunpur architecture. At present, I would not be able to say whether source has been indicated or not. I have not read in any book that arrangements for 'vazu' should necessarily be made in a mosque. Then Volunteer : that it is necessary to make arrangement for 'vazu' in a mosque and these are made. It is not technically correct that there should be a particular shape or size of mosque or it is necessary that there should be minarets or arrangement for 'vazu' and it is correct accordingly to 'shariyat'.

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It has been stated in my statement and in my plaint also that there was earlier a temple with 84 pillars at the disputed place and 14 pillars out of those 84 pillars were affixed in the disputed structure, i.e. in Babri Mosque. I have not read it in any book but it is based on tradition. Tradition means 'prampara'. It is wrong to say that this tradition is imagination, I agree with 'KI PARAMPARA SE BATAYA JATA HAI..... 84 SANKHYA HI KALPANIK HO' written in two lines of last para on 73 of the book 'Ram Janam Bhoomi' of Dr. Radhe Shvam Shukla. It is correct to say that when the disputed building was built, those 14 pillars were fixed there anew. Then he said that it was also possible that pillars might have been fixed by reversing them. I agree with 'YEH POORVA MANDIR..... LAGVAYA GAYA THA' written in line 9, 10 and 11 from above, on page 72 of the book of Dr. Radhe Shyam Shukla. Whatever I have said about the temple built by Vikramaditya in my suit, is based on tradition and later on, after study, it came to be known that this Vikramaditya was not the Vikramaditya of Vikrami Samvat; rather he belonged to 7th century A.D. and the same reconstructed temple was demolished and was again reconstructed by in the 12th century. And this temple was demolished during the times of Babar and the disputed structure was built there. I have come to know from rock inscriptions after the demolition of the disputed structure stampages thereof have been filed in this suit. It is correct that there was no reference in any document or book before December 6th, 1992, that this temple was built in 12th century. According to my information, there is no other evidence available that this temple was built in 12th century. I have filed the stampage of that inscription in this court. I am unable to decipher it. Only an epigraphist can read it. There is mention of this rock inscription in appendix 'A' of the book, titled 'Ayodhya

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ka Itihas' and archaeological paper No.289C-1 written by Dr. S.P. Gupta, and which I have read. He has not mentioned in his book as to how many pillars or rooms were there in the temple. As far as I know, no evidence is available in my book or anywhere else about that so-called temple which is said to have been built in the 12th century by Gahadwal rulers.

I think that rock inscription was found at the disputed place on 7 December 1992. This inscription was found by the officials of the Government of India. I do not know that the officer, who found that inscription, belonged to which department or whether he submitted any report. I do not even know as to whom this inscription was handed over by the above officer. The information of discovery of the rock inscription first came to the knowledge of Dr. S.P. Gupta and Dr. Sudha Mallayya in December 1992. I think they got this information when they went there after December 6, 1992. Shri S.P. Gupta and Dr. Sudha Mallayya themselves told me about it and they had also published such a paper.

Verified the statement after hearing

Sd/-
Devaki Nandan Agarwal
07.02.2002

Typed by Stenographer as dictated by me in the open court. In continuation of this Appear tomorrow, on 08.02.2002 for further cross examination .

Sd/-
Narendra Prasad
Commissioner
7.2.2002

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Dated: 08.02.2002

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 07.02.2002).

Wall of the disputed structure was not built of bricks, but was built of pieces of stones and gravel mixed in lime and it was plastered from outside with lime. This was the case with the wall around the building also. When I saw the disputed building in 1932-34, floor was old and built of lime. The wall of the disputed site would certainly have been two to two and a half feet wide. The thickness (length) from east to west of the wall was approximately two and a half to three feet. It is correct that the thickness of the wall of the door of the rear dome would have been approximately 6 feet; this wall was divided in two parts. One part was towards the dome and the other was part of the wall. It is correct that the wall was built of small pieces of broken stones. At this point, the learned Advocate, cross-examining the witness, drew his attention towards 'existing building is certainly a mosque from the point of view of architecture' written in the first line of first paragraph on page 2 and 'MASJID KI DIWAR KI CHUNVAI…… MALBA BHAR DIYA GAYA HAI' written in the fourth line from below of the same page of the book of Dr. Rabhey Shyam Shukla (Paper No.107C- 1/154) filed in other original suit No.5/89. After reading it, the witness said that he was in agreement with this view. I have not at all read Akbarnama although some of its extracts have been filed by me with my suit. I have no information about it, whether or not Akbar accompanied by Jodhabai visited Ayodhya or whether he went there alone or not. I had stated on page 166 of my statement that according to Akbarnama, Akbar had gone there; I have said it on the basis of tradition.

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Then he said that he had filed extracts of Ain-e-Akbari and not of Akbarnama, which is marked as paper No.107C-I/76 and is in the hand-writing of Prof. B.R. Grover. I had not tallied it with the original book of Ain-e-Akbari. It is correct that what I had stated in line 3 from below on page 133 of my statement that 'I did not have any talk with Prince Anjum Qadar and Buta Singh, before I filed my case' is correct. I did not had any talk with them about the filing of this suit and about the papers filed in the suit, before I filed my suit. I got the copy of letter of Prince Anjum Qadar, marked as paper No.107C-1/24 dated 31.12.88 in January or February, 1989. I got this copy from the office of Sardar Buta Singh. Prince Anjum Qadar had filed this letter in the Ministry of Home Affairs by that time. It is correct that I did not think it proper to refer to the 'Fatwa', written on that letter, in the plaint of my suit and that is why I did not refer to that 'fatwa' in my suit. As Prince Anjum Qadar was at that time President of Shia Conference and he used to refer him as representative of Shia community, I, therefore, accepted him as representative of Shia community for the purpose of this suit. I do not know who was the representative of the Shia community at the time when I filed my case. At this point, the learned Advocate drew the attention of the witness to paper No.1 18C-1/36 filed in other original suit No.5/89. After seeing it, the witness said that he did not know much about Dr. R. Nath, he only knew that he lived in England and was some authority on architecture. I have included his name in the list of my witnesses. He was earlier a Reader in the Department of History and Culture in the University of Rajasthan, Jaipur. On being reminded by the learned Advocate, he remembered that he was also a Research fellow of Homi Bhabha Council. He has written a book 'History of Mughal Architecture'. A copy of the book titled 'History of Mughal

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Architecture, Vol.1', written by Shri R. Nath and published by Humanities Press Incorporated, was shown to the witness and after seeing that, the witness answered that this was a book written by the same R. Nath, one of whose article, marked as paper No.118C-1/36 had been filed by him. It is correct that Shri R. Nath has dedicated this book to Babar.

It is correct that I had given this type of statement in the court that it was necessary for a mosque to have a minaret. Seven line of para 2 of page 6 of this book, marked as paper No.197-2/1-8 were read to the witness that 'it is surprising making'. The witness after reading the lines, said that he agreed fully with that. The photo of Quila-e-kohana mosque, marked as paper No.197C-2/4, was shown. There was no minaret in this photo. After seeing paper No.197C-2/5, the witness said that there was no minaret in this photo. After seeing paper No.197C/4, the witness said that Quila-e-Kohana was shown in the first picture, it was photo of Qibla Wall thereof. There was no minaret in this photo. After seeing paper No.197C- 2/7, the witness said that there was no minaret in the photo of so-called Nili Masjid Avadh Khas Delhi shown in it. Similarly in paper No.197C-2/8, there was no minaret in the photo of mosque of Isa Khan, so called mosque in Delhi shown in it.

The Vikramaditya referred by me in my yesterday's statement was the last Vikramaditya and he lived in the year 700 A.D. Then Volunteer : that the temple was built in 700 A.D. at the disputed place. The name of the above Vikramaditya was Skand Gupta and not Chandragupta, though some people call him Chandra Gupta. But according to established sources, his name was Skand Gupta. And then during twelfth century, the rulers of Gahadwal dynasty

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built a grand temple there. At this point, the learned Advocate, cross-examining the witness, drew his attention to the first paragraph of chapter 10 of the book 'Ayodhya ka Itihas' written by Shri Avadhvasi alias Sita Ram, marked as paper No.107C-1/122. After seeing that, the witness said that it was correct. I do not agree with 'this Vikramaditya..... Can be Chandragupta of Gupta dynasty' written in line 1 of para 2 of the same page. Regarding the writing of para 3 on page 133 of the same book, the witness said that as he did not know anything about it, he could not give any answer. After reading 'JIS TILEY PAR ..... YAGYA VEDI KEHATE HAI' written in line 2 of page 134 of the same book, the witness said that he would not be able to tell whether the mound, on which the disputed mosque was situated, was called 'Yajna Vedi'. After reading 'ESVI 1877 ..... JIRNODHAR KE SMAY KIYA THA', written in line 3 of the same page, the witness said that it was correct. It is correct that capital Ayodhya was resurrected by Chandragupta Vikramaditya. It is correct that Skangupta had not resurrected the Ayodhya capital.

I do not know whether Chandragupta had ruled in Ayodhya for 80 years, but if it was written in this book, then I would not dispute it. It is possible that it might be correct. It is correct that this Vikramaditya had got constructed 360 temples in Ayodhya. There could be some exaggeration in it. As is the habit of people, they exaggerate things. One thousand is described as ten thousand. The attention of the witness was drawn to 'PRASIDHA HAI ..... VARTAMAN HAI' written in the last three lines of the first paragraph on page 134 of this book. After reading it, the witness said that he did not agree with the above statement. After reading 'HARSHVARDHAN ..... KE AADHIN RAHI' written in the first two lines of para 3 of chapter-11 on page 138 of

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the same book, the witness said that it was correct. In the same book at page 140-141, it is written "Parihar in the 8th century----left bones to decay" is also correct. It is correct that rule of Gahadwal dynasty had started in Ayodhya during eleventh century itself and Raja Jai Chand was perhaps its last ruler. After reading 'AYODHYA MEI EK KHURD (CHOTA) MAKKA BHI HAI' written in the last two lines of the chapter 12 on page 143 of the same book (paper No.107C- 1/122), the witness said that he had also heard the same thing. After two pages of first chapter of this book (107C-1/122), a map of Ayodhya has been given, in which Masjid Janam Sthan has been shown. It is correct that the same disputed place has been shown there. This book is the original copy of the book titled 'Ayodhya ka Itihas' written by Shri Avadvasi alias Sita Ram and marked as paper No.197C- 1/1 22. it was published in 1932. I do not know who was Shri Avadhvasi alias Sita Ram i.e. what was his profession. I do not even know whether he was a historian or a professor in any University. The book filed by me and marked as paper no.118C-1/35, was published perhaps during 1994- 96. Among the persons, whose names have been mentioned on the title page of the book are, Shri S.P. Gupta, B.R. Grover, Devendra Swamp Agarwal and they used to participate in the negotiations which were held relating to the disputed structure. These negotiations were held during the Prime Ministership of Shri Chandra Shekhar Ji and Shri Narsimha Rao Ji. The Vishwa Hindu Parishad had nominated these three persons in the above negotiations as experts. During the time of Chandra Shekhar Ji, I had also participated in these negotiations at the later stage and also kept on participating during the time of Narsimha Rao. Then said that The Vishwa Hindu Parishad had nominated him as a legal expert for those negotiations. The paper No.107C-

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1/37 to 59 have been filed by me in this suit These papers were given to me by Prof. Grover. This paper was given to me by Shri Grover in 1995-96. These papers pertained to the papers submitted by us and Babri Masjid Action Committee during the negotiations held during the time of Shri Chandra Shekhar Ji. These papers were filed during the negotiations. It is correct that the report of National Archives of India had come during these negotiations. The negotiations ended in 1991. I came to know of this i.e. the paper No.118C-1/37 to 59 in 1995-96. Shri Triloki Nath is a special attorney of the plaintiff No.1 and 2 of this suit. He is a special attorney of Bhagwan Shri Ram Viraj man at Ram Janam Bhoomi, who is also called Ram Lalla. I have nominated him as attorney. He is my attorney as their next friend. I am plaintiff No.3 in this suit and he is not our special attorney. At this point, attention of the witness was drawn to the affidavit dated 18th January 2002 filed by his attorney with C.M. application No.2(0)/2002. After seeing it, the witness said that the word plaintiffs written in it was wrong. Shri Triloki Nath is general attorney of plaintiffs No.1 and 2. Shri Triloki Nath did not attend the negotiations, which were held during the times of Shri Chandra Shekhar and Narsimha Rao. At this point, attention of the witness was drawn to the affidavit dated 18.1.2002 and C.M. application No.2 (0)/2002. After reading para 4 of that affidavit, the witness said that what had been written in para 4, was told to Shri Triloki Nath Pandey by him in December 2001 when he (witness) was ailing. Similarly, what has been written in the first sentence of para 5, was told to Triloki Nath Pandey by him at that time. Through this application, I have prayed this court to summon the paper given in paper No.118C-1/37 to 59.

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If there is any temple, then Hindus will never demolish it. Then Volunteer : that if need arises to reconstruct a grand temple at its place and it is necessary to demolish it partially or fully then in that situation, it can be done. If the temple is in good condition and if still the Shivayat wants and his financial position is good, then he can demolish the temple and built at its place a grand temple. A Hindu can throw pork in a temple, if he bears enmity with Muslims. According to my view, a religious Hindu, who believes in religion, would not throw pork in a temple. Then said that he should not do so. Similarly, a religious Hindu will not break the dome of his temple. At this point, attention of the witness was drawn towards line 9, 8 and 7 from below on page 175 of his statement. After reading it, the witness said that Bairagis called the disputed structure a mosque and not a temple and wanted to remove it.

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Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

08.02.2002

Typed by Stenographer as dictated by me in the open court.In continuation of this Appear on 25.02.2002 for further cross-examination.

Sd/-

Narendra Prasad

Commissioner

8.2.2002

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BEFORE COMMISSIONER, NARENDRA PRASAD, ADDITIONAL DISTRICT JUDGE/OFFICER ON SPECIAL DUTY HIGH COURT, LUCKNOW

OTHER ORIGINAL SUIT NO.5/1989

(ORIGINAL SUIT NO.236/89)

BHAGWAN SRI RAM VIRAJMAN
AT SHRI RAM JANAM BHOOMI
AYODHYA AND OTHERS ..... PLAINTIFFS

VERSUS

RAJENDRA SINGH
AND OTHERS ..... DEFENDANTS

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Plaintiff No.2, Shri Devaki Nandan Agarwal son of late S.L. Agarwal, age about 80 years, resident of 59/56, Dilkusha Naya Katara, Allahabad,solemnly affairm and stated on oath as under :

I started practice in 1955. I was enrolled as advocate in 1958. Gradually, I shifted to High Court in 1960. In the year 1971, I was appointed as a standing Advocate of Income Tax Department of the Central Government in Allahabad High Court. In 1976, I was nominated as a senior advocate under the Advocates Act by the High Court. When I was nominated as senior advocate, then I was appointed as a Senior Standing Advocate of the income Tax Department for the entire State of Uttar Pradesh. At that time, there were two other Standing Advocates working with me, i.e. Shri Ashok Gupta and Hon'ble Justice Shri R.S. Dhawan, who is at present Chief Justice of Patna High

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Court. In the year 1977, the then Chief Justice, Hon'ble Shri K.B. Asthana took my consent for being appointed as a justice in the High Court. In the year 1973 when Hon'ble Justice Shri D.S. Mathur was acting Chief justice of the High Court, he took my written consent for being appointed as a justice of the High Court. But, as my appointment was not made till he became Chief Justice, I withdrew my concurrence. (At this stage, Shri Ranjit Lal Verma, advocate raised an objection. The Advocate of the witness said that this has been stated to indicate the status of the witness). After I withdrew my concurrence I was not appointed till the retirement of Hon'ble Chief Justice, Shri K.B. Asthana. Then at the dinner hosted at the time of his retirement on 9 May 1977, the then Hon'ble Chief Justice, Shri D.H. Chandra Shekhar asked me to see him, howsoever late it might be. Then I met him at 11.00 P.M. on that night and he asked for my concurrence and I gave my concurrence to him. Thereafter, a notification was issued either in October or November and on 17th November 1977, I was the first one among the 9 Justices to take oath as permanent Judge of the High Court. October 3rd, 1983 was my last working day as a Justice and I took retirement on 4th October 1983. The Centre of Auravindo Society in Allahabad is located in my residence. I think that this Centre has been functioning here since 1965-66. After the death of Shri Sumitra Nandan Pant in 1977, I was made its President. I retired from this post in the year 2000 on health grounds, but the Centre is still located at my residence. It is the belief of the followers of Shri Arvind that he was an incarnation of Lord Shri Krishna, A French lady, Maria Alfanza had met Shri Arvindo in 1914 and then from 1920, She started living in Pondichery permanently. Everybody used to call her Sri Maa. We consider Shri

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Krishna as incarnation of Lord Vishnu. By 'we' I mean, followers of Vaishnavism.

After retiring from the post of Justiceship, I did not do any work for earning money. I had decided about it before hand. I know about The Vishwa Hindu Parishad. Ekatmata Yatra (journey for unity) was started by The Vishwa Hindu Parishad in 1983. During this yatra, water from the holy rivers situated in every corner of the country was collected and filled in pitchers (kalash) and brought from one place to another. There is a Mahila Sankirtan Bhawan near my house in my locality. My mother was one of the founders thereof. A kalash was brought and placed in that Bhawan. As my mother fell ill, she had expressed a desire that I should go and worship there. I personally went there, did worship, offered water and performed 'Sankalp pujan'. In 'sankalp', people perform worship and give donations.

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On January 25, 26 and 27 in the year 1979, Second Vishwa Hindu Sammelan (World Hindu Conference) was held in Prayag. This was held in festival area over the embankment. One day before this conference, World Sanskrit Conference was held during the centenary year Sri Maa. People from all over the world had come to attend this conference. Being the President of the local Centre of Shri Arvindo Society, I was made Vice-Chairman of the Reception Committee of this conference. Kashi Naresh was Chairman of the Reception Committee. Because of 'Bhadra' (a typical conjunction of stars), he did not come. As a result, I got the opportunity of reading the welcome address. Among the people, who had come from abroad in that conference, Dalai Lama was most prominent and dharmacharyas (religious leaders) of all the places in the world, where Hindus live had also come. At present, I do

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not exactly remember their names. After perusal of the booklet, published on that occasion, I can tell the names of the people who had come. This booklet is the issue of March-April 1979 of 'Hindu Vishwa', which is now before me. The name of the publisher is not printed in it, but I know there is logo of The Vishwa Hindu Parishad on it. Then he said that name of Shri Shyam Sunder Das has been printed as publisher. After going through the booklet, the witness said that Kushak Bakula from Laddakh, Shri Vishwesh Tirth of Pijawar Peeth, the then President of The Vishwa Hindu Parishad, Maharana Bhagwat Singh Ji of Mewar, Shri M.P. Degwekar, General Secretary of The Vishwa Hindu Parishad, Shri Bala Saheb Devras, Sarsangh Chalak of R.S.S., Shri Navjot Ji, Shankracharya of Jyotir Peeth, etc. many persons attended. Hon'ble Mr. Justice Shri Shiv Nath Katju (Retired) was the provincial President of Eastern Uttar Pradesh of The Vishwa Hindu Parishad.

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The Vishwa Hindu Parishad had started a movement for the liberation of Ram Janam Bhoomi. Shri Dau Dayal Khanna was the propounder of this movement and Mahant Avaidya Nath Ji, Go Raksha Peethadhishwar was Chairman of Shri Ram Janam Bhoomi Mukti Yajna Samiti. Under the movement, rath yatra was started from Sitamarhi in September 1984 and it was decided that on 7th October, 1984, those people would take a resolve at the bank of Saryu river to liberate Ram Janam Bhoomi. It was also decided that similar resolve will be taken on the banks of all prominent holy rivers. In connection with the movement, a meeting was organized in Prayag on the bank of Ganga river in front of Bade Hanumanji temple which is situated near the Eastern wall of the fort. Hon'ble Shri Shiv Nath Katju addressed the meeting. I also got the opportunity to accompany him. After the address, people were called upon

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to take a resolve and sign the resolution paper and resolve to liberate Ram Janam Bhoomi. In that meeting, a thought struck to my mind whether it was legally or morally appropriate to remove the structure situated there in order to liberate Ram Janam Bhoomi. It struck to me that it would be proper on the basis of religion and morality to construct a temple by removing the structure which was built by a tyrant after demolishing the temple which earlier existed there. Then I expressed these very views in the meeting and took a resolve that I would participate in Ram Janam Bhoomi movement.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

16.6.2001

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Typed by the stenographer in the open court as dictated by me in presence of Advocates of the parties. In continuation for further examination in chief tomorrow 17.6.2001.

Sd/-

(Narendra Prasad)

Commissioner

16.6.2001

Dated: 17.6.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 16.6.2001)

With the news of death (killing) of Indira Gandhi, in October, 1984 the country engulfed in grief and on account of this Rath Yatra was stopped. Thereafter, Rath Yatra remained suspended and was resumed after one year.

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During this period, I tried to obtain information about the litigation that was going on in this regard. I have come to known that since 1966 the proceeding (hearing) of the cases was withheld. In April 1966, in the suit No.12/61 (Other Original Suit No.4/89) and suit Nos.2/50, 25/50, 26/59 connected therewith, it was decided by the Civil Judge on a preliminary point of issue that the notification of February 1944 was not related to the disputed property. A copy of this decision is included in suit No.12/61. He further stated that the original decision was also in that file. This has been a final decision. Thereafter, the plaintiffs of suit No.12/61 did not make any efforts for the trial of the suit. Eventually, Babu Priya Datt Ram, who was appointed as Receiver for arranging worship etc. of Bhagwan Shri Ram Lalla, Virajman at the disputed structure, died. It was decided with the concurrence of all the parties of all of the four suits that Receiver may be appointed by the Civil Court. The Receiver was appointed in 1970. Pt. Shri Ram Mishra, who was a senior advocate of Faizabad, was appointed as a Receiver. An appeal was filed against his appointment, which was heard in Allahabad High Court. High Court cancelled the appointment of the above-mentioned Receiver and remanded for the appointment of a new Receiver and passed a comprehensive order with regard to worship (puja archana). This order, i.e. all these orders are available in the file pertaining to suit No.12/61. A person named Ramlakhan Sharan filed an appeal against this order in the High Court. Its title was 'Ramlakhan Sharan versus Sunni Central Board of Wakf and others'. In this appeal, an objection was raised by the Lucknow Bar that its hearing should be made in Lucknow Bench instead of in Allahabad. Eventually, a decision was taken by the Full Bench of the five Hon'ble Justices of Allahabad High Court that it should be heard in Lucknow Bench as it falls within the jurisdiction

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of Lucknow Bench. In Lucknow Bench, the number of appeal was F.A.F.O. No.17/1977. When I tried to seek information about this appeal during 1984-85, Shri Sarvajit Lal Verma, advocate, father of Shri Ranjit Lal Verma, advocate, who was the Advocate for the Hindus side, told me that the file was very voluminous and he was ailing and information of the exact position can be given only after going through the file and he was not in a position to do so at that time. In 1984-85, I got a copy of the order of 1974 of the Civil Judge through some person.

In the meanwhile, movement of Rath Yatra which had discontinued in 1984, again gathered momentum during 1985 and Shri Vir Bahadur Singh, the then Chief Minister of Uttar Pradesh had come to Faizabad on 17th December 1985 in connection with the Ramayan festival held in Ayodhya. A five members delegation, led by Hon'ble Shri Shiv Nath Katju met him in the Circuit House. Apart from Hon'ble Shri Shiv Nath Katju, the delegation included myself, Shri S.C, Dikshit, retired Director General of Police, Shri J.S. Srivastava, who was President of The Vishwa Hindu Parishad, Lucknow, and Shri Rajeshwar Singh, President of The Vishwa Hindu Parishad, Saket. This delegation apprised the Chief Minister that there is no court order for locks being put on both doors of grilled boundary wall in the inner courtyard of the disputed structure and on account of that the prohibitory order passed in 1950 by the Civil Judge to the State Government is being violated that there should be no obstacle in the way of 'darshan' and worship. At this, the Chief Minister assured that he would get the matter looked into, but when no response was received even after the passage of one month, a huge meeting was held on 19th January, 1986 in Jhandewala Park in Lucknow. I was also present in the meeting. Hon'ble

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Shri Shiv Nath Katju and the Goraksha Peethadhiswar announced that if locks were not opened by the next Shivratri, then 'satyagrah' would be launched and they would be first among the 'satyagrahis'. In this very context, Mahant Param Hans Ramchandra Das Ji made announcement for self-immolation.

On the basis of my study of the matter, I came to the conclusion that the matter of opening of locks can be taken up in the suit F.A.F.O. No.17/1977 pending against the Receiver in the Lucknow bench of the High Court and the Receiver who was responsible for making arrangements for worship, etc. of Lord Shri Ram could easily sort out this matter by getting the locks opened. But The Vishwa Hindu Parishad or anyone amongst us was not a party in the case and before action was taken by Param Hans, the events took a new turn and a lawyer, named Umesh Chandra Pandey submitted an application in suit No.2/50 in the court of Munsif that "as these locks are an obstruction in the implementation of the prohibitory order passed in 1950, the Government of Uttar Pradesh may, therefore, be ordered to get the locks removed immediately. The Munsif, in whose court the case was pending, refused to pass such an order. Shri Umesh Chandra Pandey filed suit against his order in the court of District Judge of Faizabad, in which the then District Judge recorded the statements of District Magistrate and Police Superintendent of Faizabad and after hearing the objection raised on behalf of Muslims, ordered the Government of Uttar Pradesh to open the locks immediately. For implementing the order, the locks were broken and opened on February 1, 1986. I received this information on telephone at about 10.00 in the night from Shankar Viman Mandapam, situated in Prayag, of Jagat Guru Jayendra Saraswati Maharaj, Shankaracharya of

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Kanchi Kamkoti and on 2nd February. I, alongwith my wife and daughter, who came from England, proceeded to Ayodhya for 'darshan' of Bhagwan Shri Ram Lalla. There was such an atmosphere of excitement and joy and such a big crowd of devotees had gathered that I could not reach Ram Janam Bhoomi in spite of all my efforts and I turned back and, in order to go to Ram Janam Bhoomi, taken the route of Faizabad, Ayodhya road and reached 'Dorahi Kuan' via Paschimi Marg and then taking a turn from there, reached Manas Bhawan Dharamshala and stayed there. Shri Zaffaryab Jilani, the learned Advocate of respondent No.4, raising an objection said that this statement has nothing to do with the suit and was not relevant. Shri Vireshwar Dwivedi, the learned Advocate of the plaintiff argued that as the plaintiff has filed the suit as 'next friend' of plaintiff Shri Bhagwan Ram Lalla and is giving evidence, and this has been framed as a point of plaint, the statement was, therefore, relevant.

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Babri Masjid Action Committee was formed after the opening of locks and during that week, some temples were also demolished at some places. Some riots were also reported to have taken place. According to my information, a delegation of Muslim members of Legislature had met the Governor. (Shri Mushtaq Ahmed Siddiqi, the learned Advocate of respondent No.5, raised an objection at this stage that this statement was also not relevant). I also came to know that on 3rd February 1986, M. Hasim had filed a writ in Lucknow Bench of High Court and at this, Mr. Justice Brajesh Kumar issued a show cause notice to the other party as to why this petition should not be admitted for consideration and why status quo should not be maintained in the meantime. I used to work on two parallel fields. One was the political field so that the basic amity

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and harmonious relations among the citizens of India should be maintained and this dispute should be settled through negotiations and the second one was to offer advice regarding the petitions which may have to be filed. For the second one, Param Hans Ram Chandra Das Ji and Dharam Das Ji approached me. Then it happened that Virendra Kumar Chaudhury started pleading the case in Lucknow Bench of the High Court. Pandit Puttu Lal Mishra also joined him on behalf of Param Hans Ram Chandra Das Ji and Dharam Das ji. I could not go to Lucknow Bench and I used to give advice from far away. Then again, the witness said that he used to give advice from Allahabad. Eventually, the suit regarding Receiver that is suit No.F.A.F.O. No.17/1977 and the writ petition filed by Sunni Wakf Board, were all heard in the Lucknow Bench by Hon'ble Mr. Justice Kamaleshwar Nath and according to his decision given in 1987, admitting the F.A.F.O. 17/77, passed an order that all the four above-mentioned original suits, which are scattered in different courts, be transferred for trial to an Additional District Judge in Faizabad, whose tenure in Faizabad was likely to continue for about 18 months, and he should appoint a suitable person as Receiver in place of Shri K.K. Ram Verma who was removed according to decision given on appeal. He gave an indication in his decision as to what kind of a person he should be. Besides, he gave detailed directions in his orders for arrangements for darshan, worship, etc. As far as writ petition was concerned, he did not give any decision thereon and it remained pending. Thereafter in December 1987, the Government of Uttar Pradesh submitted an application under Section 24 of Civil Procedure Code (C.P.C.) that the High Court may call for all those four civil suits before it for trial and may try them at its earliest, as it is becoming very difficult to maintain peace and order in

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the State because of the pendency of these suits. It was also prayed that the trial of petition filed by M. Hasim and another petition filed against the orders of February 1, 1986, may be postponed, as the issues raised therein, have also been the issues of the above-mentioned original suits.

This application submitted by the State Government remained pending in the court and approximately after 6 months of pulls and pressures, the Additional District Judge appointed another Receiver (Adata). Then he was also removed and in his place another person was appointed and things went on going. Eventually, in the month of May 1989, when the application submitted by the Government under Section 24, came up for trial before the Bench, the Honourable Judge expressed the view that the number of Judges in the High Court is so less and the number of pending cases is so high, that the court is unable to accept the said request of the Uttar Pradesh Government, unless at least 6 more Judges are appointed and on an assurance, given by Shri Shanti Swarup Bhatnagar, the then Advocate General, the date for hearing the said application of the Government of Uttar Pradesh was fixed for 10th July,1989.

On the other hand, a delegation of The Vishwa Hindu Parishad met the then Home Minister, Sardar Buta Singh. A delegation of Muslims had also met him. I was among the members of the delegation of The Vishwa Hindu Parishad which met him twice. During the meeting, it surfaced that the Central Government was not fully apprised of the issues involved in this dispute and I was directed that I should meet Shri Prasad, Joint Secretary in the Ministry of Home Affairs and place full papers before him and apprise the Central Government of the issues of this dispute. I met him

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2-4 times in Delhi and I gave him the documents available with me and also put forward my point of view before him.

Prince Anjum Qudar, who was a descendant of Nawab Wajid Ali, a Shah and who was living at his mausoleum situated in Calcutta, also met Shri Buta Singh, the Home Minister and initiated negotiations on behalf of Shias, because he felt that if the disputed structure was a mosque, then it would be a Shia mosque.

Prince Anjum Qadar was the then President of the All India Shia Political Conference. He took initiative to start dialogue with the Shia side. Because he realized that if the disputed place was a masjid then it would have been Shia masjid. He was also a member of All India Muslim Personal Law Board. The main issue of negotiation with him was that if the Shia community agrees to shifting of the disputed structure from Shri Ram Janam Bhoomi site, then the matter and the dispute could be settled on behalf of the Hindu side, because Hindus were never prepared to relinquish the claim of Ram Janam Bhoomi under any circumstances and nor are they now. Prince Anjum Qadar told Shri Buta Singh that he would go to Pakistan and get a 'fatwa' from the Chief of the Shia community that the disputed structure can be shifted. He also said that he would go to Iran and to some University in Cairo, the name of which I do not remember, and meet the officials there and get a 'fatwa' from there that under the circumstances prevailing in India, this structure could be shifted. He went to Pakistan and obtained a 'fatwa' to this effect. Negotiations for going to Iran were continuing with the Central Government, but the Central Government, perhaps, did not give him money for this purpose and on account of this, he could not go. Prince Anjum Qadar corresponded

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with Shri Shahabuddin in this regard and after the fall of the Government of Shri Rajiv Gandhi and after Shri V.P. Singh became the Prime Minister, I gave him a representation. In response to that, Prince Anjum Qadar wrote a letter to the Prime Minister, the copy of which is available in the files.

I made Prince Anjum Qadar a respondent party in this suit. Prince Anjum Qadar expired during the suit and according to the orders of the High Court his name has been omitted as a respondent in the suit. Apart from this, the name of All India Shia Conference, whom I had made respondent No.25, has been omitted, on the basis of my application, from the list of parties of the suit by an order of the court. Shri Vireshwar Dwivedi, the learned Advocate of the plaintiff invited the attention of the witness to the document No.107C/289 alongwith list No.107C filed in Original Suit No.5/89 and after seeing the list, the witness stated that this is the original copy of the letter dated 4.7.1987, sent by Sayyad Shahabuddin to Prince Anjum Qadar and which was given to me by Prince Anjum Qadar. This letter is in the handwriting of S. Shahabuddin and it also bears his signatures. Prince Anjum Qadar told me that this letter was written by Shri Shahabuddin in his handwriting and it bore his signatures. After seeing document No.107C/1/240 of this list, the witness stated that this is office copy of the letter dated 2nd September, 1988 written by Prince Anjum Qadar to Sayyad Shahabuddin. It bears the signatures of Prince Anjum Qadar. He stated further that in the margin of the first page, there are 7-8 lines written by him. Prince Anjum Qadar had said these are his signatures on the letter and it was his handwriting. He himself had given the office copy. Then after seeing paper No.107- C/1/243 the witness stated that this is a

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copy of the application sent by Prince Anjum Qadar on the pad of All India Shia Conference from Pakistan to Maulana Sayyad Naqui Sahib. This application has been written in the hand writing of Prince Anjum Qadar and on the back side of this letter, there is a 'fatwa' of Maulana Naqui Saheb written in his hand and bearing his signatures. This letter (paper) is a copy of original letter; because Prince Anjum Qadar had told me that he had given the original to the Ministry of Home Affairs of the Central government and this photocopy was prepared there itself. Paper No.107-C/1/244 and 245 is its Hindi transcript. After seeing paper No.107-C/1/246 and 247, the witness stated that it was its English translation, which was typed by him. After seeing paper No. 107-C/1/24l and 242, the witness stated that it was a copy of that letter, which the Prince had written to Hon'ble Prime Minister Shri Vishwa Nath ji and was endorsed to me by post and it was bearing the signature of Prince Anjum Qadar. He stated further that 'it was bearing and it bore' means the same thing to him. I had filed a suit on my behalf and on behalf of Bhagwan Shri Ram Lalla Ji on July 1, 1989. In it the first plaintiff is Bhagwan Ram Virajman at Ram Janam Bhoomi, Ayodhya; He is also called as Bhagwan Ram Lalla ji. I had filed this suit in the court of Civil Judge, Faizabad. It is suit No.236/89. Plaintiff No.1 and 2 are juristic persons and I have filed this case in the position of their next friend. I got this advice from a senior legal expert that as Bhagwan Shri Ram Lalla, who is the real owner of the disputed property according to law, is not a party in 3 suits, i.e. suits Nos. 2/50, 25/50 and 26/59, among the suits going on in Ayodhya, he cannot, therefore, get suitable relief. Besides, as these suits were going on for a number of decades, it was, therefore, necessary to incorporate the events that took place during the intervening period, it was, therefore, necessary in the

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interest of his devotees and in order to remove hurdles in the way of construction of the temple, to file this suit. When I instituted this suit on July 1st, 1989, I submitted along with the plaint, an application under Section 80, to get a waiver from the requirement of giving prior notice to the Government and for getting myself appointed as a next friend by the court. It was considered by Honourable the Civil Judge and he permitted the suit to be registered. Thereafter on July 7th. 1989. I sent an application to the High Court that the High Court may transfer this civil suit of Bhagwan Shri Ram alongwith 4 other suits instituted earlier, before itself for trial and expeditious disposal. And after necessary pleading and after giving notice to all concerned, this application of mine was admitted on 10th July 89 after being presented alongwith the application of the Government of Uttar Pradesh presented to the Bench of the High Court. And on an application submitted by the Uttar Pradesh Government and on a directive given by the Court, this special full bench of 3 Judges was constituted and this suit is being pursued before this full bench. Sayyad Shahabuddin had demanded from the Central Government that a full bench should be constituted and I had also given my concurrence to the Home Minister for it and 6 Judges were appointed during the summer vacation of 1989 and were administered oath.

The negotiation which was being conducted by the then Home Minister with Anjum Qadar till 1988, failed because money was not provided to him forgoing to Iran, etc. Elections took place in 1989 and the Congress Government had lost it. Shri Vishwa Pratap Singh became the Prime Minister and a delegation went to meet him. And in January 1990, the issue of launching a movement for the construction of the temple gained momentum and a meeting

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of saints was held during the Magh festival under the auspices of The Vishwa Hindu Parishad. I was called by Shri V.P. Singh on telephone, so that their cooperation could be obtained in finding a solution of the problem. So, I went to him. Thereafter, an appeal was issued by Shri V.P. Singh that 4 months time may be given to him to find a solution in this matter. The matter was considered by the Committee constituted for the construction of the temple and it was decided that appeal of the Prime Minister should be honoured and no agitational programme should be conducted. Shri V.P. Singh had constituted a Committee and Shri Madhu Dandvate was perhaps one of the members of that Committee and a meeting was held in Rail Bhawan, which was also attended by the representatives of the Muslim side. I also attended that meeting. But the Committee constituted by Shri V.P. Singh did not make any special efforts and the matter remained in doldrums. On the other hand, efforts were made in the court to stop the work of Shila-pujan (worship of bricks), which was to be conducted on 30th September, 1989. This application was not accepted by the High Court and the writ petition filed in the High Court was also rejected on 30th September, 1989, shilas were worshipped throughout the country and in other countries too including China and USA, and in India according to the decision of The Vishwa Hindu Parishad about more than 6 crores of people, by taking a 'sankalp' of one and a quarter of a rupee, resolved to construct the temple. An amount of more than Rupees eight crores was collected which is deposited with Ram Janam Bhoomi Nyas. The amount at present is about Rs. I0 crores. (The witness is himself giving the statement for the last 30 minutes and his learned Advocate has not asked any question, this objection was raised by Shri Zaffaryab Jilani and Shri Mushtaq Ahmed, the learned Advocates of respondent No.4

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and 5. On this, Shri Vireshwar Dwivedi, the learned advocate of the plaintiff contended that the witness himself is the plaintiff of this suit and is himself giving statement in support of the plaint. Upon this, Shri Zaffaryab Jilani, the learned Advocate of respondent No.4 and Shri Mushtaq Ahmed Siddiqi contended that either the plaintiff will himself give a statement or his advocate will ask questions and the witness will give statement. Statement cannot be given both the ways.) (The witness, plaintiff No.3 stated that he was himself competent to give statement). At this stage, Volunteer: that he would himself give statement and he cannot be denied the legal assistance of his lawyer.

The deed of Ram Janam Bhoomi Nyas, mentioned above, is at enclosure No.4 of our plaint. After seeing it, the witness stated that it is an exact photocopy of the original 'patrak'. The original 'patrak' has been kept in the safe custody of the office of Ram Janam Bhoomi Nyas and after the commencement of evidence in due course in original suit No.5, which will start after the conclusion of evidence in suit No.4 and the conclusion of evidence in Original Suit No.1 and 3, it will be summoned and presented at the proper time. This photocopy has been prepared in my presence from the original 'patrak'. And I was myself the writer of this 'patrak' and it was signed by Jagad Guru Swami Ramanandacharya Shri Sivaramacharya who has expired since then. After the work of 'shila-pujan' was completed successfully, the worshipped 'shilas' were collected and deposited in Ayodhya and the 'shilas' brought from foreign countries have been kept in safe custody in the Delhi Office of Ram Janam Bhoomi Nyas. All these shilas will be used in the construction of the temple and the amount, which was collected through 'sankalp' at the time of 'shila-pujan' and has been kept with the Ram Janam

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Bhoomi Nyas, will be spent for the construction of the temple. I possess this information because after the constitution and registration of the Nyas I was also one of the trustees. The details of its constitution, objects and trustees have been given in clauses 15, 16 and 16a of the plaint of civil suit and the same are correct. Ram Janam Bhoomi Nyas is interested in the construction of the temple and in the worship, service etc. of the Lord, who is a plaintiff in the suit. The aims and objectives of the Nyas have been clearly stated in the trust deed (patrak) and I attest that all that is true and correct. (This was stated by the witness after seeing the plaint). Then after a programme of The Vishwa Hindu Parishad, came turn of the programme of laying the foundation, which was fixed to be performed during November 1989. Applications were filed against this programme and finally an application was filed on behalf of the Government of Uttar Pradesh seeking clarifications from the court about its order of 14th August 1989. The court gave an order on 7th November 1989 that plot numbers mentioned in the plaint of Sunni Wakf Board would all be treated as disputed property. Thereafter, the Government of Uttar Pradesh and the Central Government, through the Ministry of Home Affairs enquired whether the place, where the foundation laying ceremony was proposed to be performed, was disputed in the plaint of Sunni Wakf Board. Hon'ble Advocate General expressed his opinion that the plot where foundation stone would be laid was not disputed in the plaint of Sunni Wakf Board. At this, the Government of Uttar Pradesh granted permission to The Vishwa Hindu Parishad and Ram Janam Bhoomi Nyas for laying the foundation of the main gate of the temple and the ceremony of laying the foundation stone was performed successfully and peacefully on 9 and 10th November. But because of opposition of some of our Muslim brethren, the

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Government stopped further action of construction of temple at that place and The Vishwa Hindu Parishad and Shri Ram Janam Bhoomi Nyas did not take any further action for the construction of temple in compliance of the orders of the Government.

The negotiations, started in the presence of Hon'ble Shri Vishwa Nath Pratap Singh, did not bear any fruit and no significant progress was made in the suit, because on an objection raised by the Sunni Wakf Board, further trial of the suit filed by me was stopped with my consent. Thereon, Shri Ashok Singhal ji started giving such type of statements that the construction of temple was not dependent on the decision of the court. I had great faith in Shri V.P. Singh and it was continuing since long. Therefore, I wrote letters to The Vishwa Hindu Parishad, Ram Janam Bhoomi Nyas and resigned from all the posts. I wrote this letter to Shri Ashok Singhal and gave this letter to Shri R.D. Joshi, who was then the Director of Intelligence of the Central Government and was the senior-most officer of the Police Department and requested him to hand over this letter to Shri V.P. Singh during his daily meeting with him at night.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
17.6.2001

Typed by stenographer as dictated by me in the presence of advocates of both sides. In continuation to this Appear at 10.00 A.M. tomorrow, the 18.6.2001 for further examination in chief .

Sd/-
(Narendra Prasad)
Commissioner
17.6.2001

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Dated: 18.6.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal. in continuation of 17.6.2001)

Thereafter, yatra (pilgrimage) of Shri Advani ji started from Gujarat to Ayodhya and when he reached Bihar, his yatra was stopped by the Chief Minister of that State and because of certain political developments, that took place after that, support was withdrawn from the Government of Shri V.P. Singh and it became certain in October 1990 that the Government of Uttar Pradesh would not remain in power. Shri Mulayam Singh Yadav was then the Chief Minister of Uttar Pradesh. He around 15th October, the actual date I don't remember, wanted to get me arrested by sending police force. At about 1.00 or 2.00 A.M. during the night, police personnel started knocking the eastern outer door of my home and I was asked to open the door. I asked them what they wanted from me during the dead of night and requested them to come in the morning. I was sleeping upstairs. At this, some of them became violent and others started abusing. A couple of police personnel entered the courtyard after climbing the western wall of my courtyard. (At this point, Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, and Shri Zaffaryab Jilani, the learned Advocate of defendant No.4 objected that the above statement was outside of the pleading and was irrelevant and it would entail unnecessary cross-examination which would take a large number of days). The witness stated that its relevancy would appear soon. I am myself careful about it. Continuing his statement, the witness said that when an attempt was made to break open the door, then I rang to Director of Intelligence in Delhi and got registered a report about it to him and came downstairs and opened the front

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door. Upon opening the door, they stormed inside the room and inspite of my asking them to show me the warrants, two of them forcibly lifted me and put me in the car. My wife, my daughter and my grand-daughter, who had come from abroad, were startled. But the police, without giving any information, took me to Colonelganj police station. There, they had a telephonic conversation and then took me to Kennington police station and threw me there. I kept sitting there on the ground throughout the night. There was no arrangement of sleeping, nor was there any cloth to cover. There was no blanket there. A chair was lying there and I kept sitting on it. After about one or two hours, Dr. Krishna Bahadur, who was Professor of Chemistry in Allahabad University and who has since expired, was also brought there and he also kept lying there. There was no proper place in the police station for easing oneself out. The bathroom situated in the police station was extremely dirty and was stinking and we were unable to enter inside that. We kept lying there in this way throughout the night shivering without any food and water. My wife informed Shri V.K. S. Chaudhury about this incident and he filed a *habeas corpus* petition in the High Court to locate about my whereabouts. And then, probably through some press correspondents, he came to know that I was whisked away in this manner.

At about 4'O clock, Shri Swarup Saheb, who was a Magistrate there, came to the police station and he told me that instructions have been received from the Central Government to release me and if I sign a personal bond, then I would be released, otherwise I would be sent to Fatehpur prison according to the earlier orders in the ambassador car, which was standing outside. Fatehpur prison was an open air prison. In the meantime, Dr. R.K.

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Agarwal, who was Head of the Department and Professor of Cardiology Department, Medical College, Allahabad, reached there. And as I was his patient since 1977 and was under his treatment for heart ailment, he advised the Magistrate after examining me that I could not be taken to Fatehpur jail in any case and he got me admitted in Medical College Hospital under his custody as my condition had very much worsened because of strain and tension, which I had undergone throughout the night. I refused to fill up the personal bond, because I suspected that if I fill up the personal bond, the Government of Shri Mulayam Singh Yadav would publicise that I had got myself released by tendering an apology. I was taken to Medical College by Dr. R.K. Agarwal under the custody of the Magistrate and I was kept there in I.C.U. for a day and then I was shifted to a private ward nearby. During the hearing of writ petition for habeas corpus, a statement was given perhaps by a Daroga or some other police officer on behalf of the Government that we three, that is I, Dr. Krishan Bahadur and Dr. N.K.S.Gaur, who was Professor of Physics in Allahabad University and who has since retired, and presently is a Minister, had collected a crowd near Laxmi Talkies after the end of the second show and had been giving provocative speeches and myself and Dr. Krishna Bahadur were caught and attested by them on the spot, but Dr. N.K.S. Gaur had fled away. Cross-examination were given during the hearing of writ petition. In the meantime, I got an opportunity in the hospital to talk and give instructions to Shri Daya Shankar Mishra, advocate but I instructed him, according to the wishes of my wife, not to file any claim of damages against the Daroga Ji, because the amount of damages would have been very heavy and he was not in a position to pay that amount of the damage. Then, 12-14 days thereafter, the bench of the High Court found that my

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arrest was illegal and passed an order to release me. Daroga Ji came in the evening and he discharged me. All these developments took place by the end of October. During this period, Shri Vishwa Nath Pratap Singh was unseated or relinquished the office of Prime Ministership, I don't remember and he no longer remained the Prime Minister. I went to Delhi during the first week of November. My son was posted there. I went to meet Shri Vishwa Nath Pratap Singh Ji at his new residence, to which he had shifted after leaving the office of the Prime Minister. My grandson was very much annoyed with me for my going to see Vishwa Nath Pratap Singh Ji, because in his opinion, he was responsible for the suicide of a very large number of youngmen. Then I told Vishwa Nath Pratap Singh Ji, in the presence of all his colleagues, among whom I remember the name of Shri Sharad Yadav that my grandson had stopped talking to me and the reason given by him was that Shri V.P. Singh was responsible for the suicide of a large number of youngmen. Thereafter, I lost my reverence for Vishwa Nath Pratap Singh because of his Mandal Policy etc., though I still personally have regards for him and consider him a good person. (At this stage, Shri Zaffaryab Jilani, the learned Advocate of defendant No.4, objected that this whole statement was irrelevant and it should be struck off and Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, objected that the statement of today was politically motivated and the controversy of 'Mandal' and 'Kamandal' was being unnecessarily dragged before the court. The witness stated that answer to this would be given by him or his learned Advocate before the Honourable Court at the time of cross-examination).

Continuing the statement, the witness said that he had already disassociated from the offices of The Vishwa Hindu Parishad and as he had no particular interest in taking part

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in political issues, he had, therefore, been looking after the cases which were going on in the courts. And when I came to know that the Special Bench has dismissed the application submitted for rejection, under rule 11 of Civil Procedure Code, the plaint of Mahant Param Hans Ram Chandra Das and Mahant Shri Dharma Das and an appeal has been filed against it in the Supreme Court, then I took part in it, because I could appear in Supreme Court as an advocate and the Supreme Court passed such an order in that appeal that it would be appropriate for the Special Bench of the High Court to consider the point whether the suit No.4/89 is maintainable on the basis of time-limit. And when a review application was submitted on behalf of the plaintiffs of Sunni Wakf Board, the Supreme Court passed an order that it was appropriate in their opinion, but they had not given any direction to the High Court. Both the orders of the Court are available in the file, then said that it should be available in the file. Thereafter, an application was submitted in the Special Bench in Lucknow on behalf of Mahant Dharm Das that issues of maintainability and limitation might be settled as preliminary issues in suit No.4 (O.S. No 4/89). And the case was argued on their behalf by Shri V.K.S. Chaudhury. And as my suit, U.S .5/89, was standing, I could not therefore, appear in the court. And I was not a party in these suits. I was told that Shri V.K.S. Chaudhury, inter-alia, stated before the Special Bench that if the decision of the court was against them, then they would not appeal against it in the Supreme Court and if the decision was in their favour, then the original suit No.4/89 would be finally settled. (At this point, Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, objected that this statement is hearsay and is not admissible in evidence.). Continuing his statement, the witness said that in spite of this, the Special Bench held that it would not be

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proper to dispose off the case on preliminary point of issue, because in view of the circumstances; in which this case is going on and has been transferred to Special Bench for hearing, it is necessary, in their opinion, to take a decision in regard to all the issues on merit and if they do not do it, then an appeal would be filed against their decision, whatever that might be, in the Supreme Court and it would create hurdle in the final disposal of the case and cause delay. Mahant Dharm Das filed an appeal against this decision in the Supreme Court and I had settled it. Because of this, the facts came to my knowledge. Whenever that appeal was presented, the then Chief Justice RangaNath Mishraji used to put it off by saying that let the case regarding 'Mandal' be disposed of first, the 'Kamandal' would be taken thereafter. And the appeal was never taken up for hearing, inspite of it being listed.

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Here in Lucknow, Param Hans Ram Chandra Das, after getting fed up, prayed, by submitting an application, that he withdrew his case, because he was fighting this suit for the last forty years. Although, after the suit was transferred to High Court, he had hoped that the case would be disposed of expeditiously, but that did not materialise. He no longer had the stamina to fight the case and as such he withdrew the case. (At this point, Shri Ranjit Lal Verma, the learned Advocate of defendant No.3, objected that the anguish of an other person could not be expressed by the witness in his statement. Shri Zaffaryab Jilani, the learned Advocate of defendant No.4, objected that the statement regarding the contents of any document can be given only when the facts contained therein are relevant to the suit, not otherwise. As the facts mentioned in the application of Param Hans Ram Chandra Das regarding the withdrawal of suit are not relevant at any

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point to the disposal of the suit, the statement in regard to those facts is not admissible in the evidence. At this, the witness stated that the reply to these points would be given in Hon'ble High Court in due course.

Continuing his statement, the witness stated that it was learnt thereafter that issues and other applications connected with other 3 pending suits were being considered by the court and in the suit of Sunni Wakf Board, i.e. in the Other Original Suit No.4189, date has been fixed for oral evidence. When I came to know this, I gave an application to the Special Bench for recall of stay order granted in my suit, because some issues were common in original suit No.4/89 and U.S. No.5/89 and if the O.S. 4/89 was decided first, then I would have to give evidence in my O.S.5/89 after the completion of whole proceeding again, because the decision in O.S. No.4/89 would not be binding in the suit of Lord Ram from the point of view of law. After considering all these facts and hearing the cross-examination of plaintiffs and objections O.S. No.4/89, the Special Bench admitted my application and by recalling their order of stay in my O.S. No.5/89, took up that suit also for trial and held the first hearing of the case duly on 30th April 1992 and recorded as to which Advocate was present on behalf of different parties and against whom the suit was being proceeded ex-parte and issues were also framed. On a request of Shri Ranjit Lal Verma, Advocate of defendant No.3, my statement was recorded under order 10, rule 2 of Civil Procedure Code and issues were framed.

In the meantime, the Government of Uttar Pradesh acquired during October 1991, the land situated around the disputed structure; the area of land was 2.77 acres. The land within the inner premises of the disputed structure was

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not acquired, but land outside was acquired which meant that outer premises was acquired. The control and management of the inner area of the disputed structure was in the hands of the Receiver appointed by the High Court. A writ petition was filed against this acquisition in the High Court. After hearing those petitions, the Lucknow Bench of the High Court admitted those petitions for hearing and gave an interim order that while the Government of Uttar Pradesh can keep the acquired land under its possession and can act in accordance with the objectives of the acquisition, no permanent structure can be constructed there.

(At this point Shri Zaffaryab Jilani, the learned Advocate of the defendant No.4, objected that the above statement regarding acquisition is completely irrelevant and it has no relevance with any relevant fact of the case, it is, therefore, not admissible And this matter has been finally settled by the decision of the Special full Bench of 11.12.99.). Shri Ranjit Lal Verma, the learned Advocate of defendant No.3 objected that statement cannot be given in regard to the procedural business that took place in the High Court. The witness said that its reply would be given in Hon'ble High Court at the proper time. Continuing the statement, the witness said that this matter was raised in the High Court. And as far as his information goes, the Government of Uttar Pradesh took the acquired land under its possession under this order. Thereafter the Supreme Court, in its order of 15.11.1991, confirmed the interim order given by the Special Full Bench of the High Court and also transferred the writ petition, submitted to them to the Special Full Bench. The Special Full Bench devoted the whole time in hearing the writ petitions and hearing of the earlier pending suits, which included my pending suit also,

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remained suspended. And this hearing stood suspended, till the Special Full Bench did not pass its final order in regard to this acquisition. I had given an application on 15th July 1992, under my suit for injunction, so that the political activities being conducted in connection with the movement of 'kar sewa' for the construction of proposed temple could be strenghtened out, but the Special Bench postponed hearing of my application by passing a written order.

During the Prime Ministership of Shri Narsimba Rao, an Ayodhya Cell was constituted in 1992 and Secretary Naresh Chandra was appointed its head. Negotiations regularly kept on going. I cannot give details of those negotiations because I do not consider them relevant to the issues connected with my suit.

These negotiations were discontinued 3-4 days before 30 October 1992. Shri Sharad Pawar had come and he had given a statement on behalf of the Prime Minister that these negotiations may be stopped. And preparations for 'kar-sewa' planned by The Vishwa Hindu Parishad, which was proposed for December 6th, 1992, continued to be made. But I kept aloof from all these activities and I was not taking part in any meeting etc. I had earlier already tendered my resignation. I used to stay in my home and watch the proceedings of the suits. November 30, 1992 had been fixed for the hearing of the suits. I had also gone to Lucknow. It was expected that on that day decision on writ petitions regarding acquisition of land will be given by the Full Special Bench and trial of the suit will begin. After waiting for two to two and a half hours, the sitting of the Special Bench did not take place and another date was fixed for our suits. (At this point, Shri Zaffaryab Jilani, the learned advocate of defendant No.4, objected that to take

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statement of the witness in regard to the proceedings of the Special Bench pertaining to this suit was not only improper, but could also become scandalous for the court. Therefore, there should not be any such statement. The witness said that reply to this would be given in Hon'ble High Court at the appropriate time.

Continuing the statement, the witness said that he was at his home on 6th December 1992 and when he switched on the T.V. at noon then a dome of the disputed structure was shown falling and then the second dome was shown falling and by 4 or 5 P.M. the whole structure was demolished. When the whole structure fell down, I felt happy that the obstacle in the form of structure in the way of construction of temple and which we could not have removed for even fifty years by the execution of decree even if the suit had been decided in our favour, had disappeared by the grace of God. Thereafter, I did not go to Avodhya. On 7th January 1993, the Central Government promulgated an ordinance and made a Presidential reference. Then I came to know that all the proceedings in our civil suits had been abated. Then, on the date fixed for our suits, I gave an application opposing the abatement of the suits. In suit No.4/89 and 3/89, an objection was raised that this Ordinance was unconstitutional. Then it struck me that this point cannot ordinarily be raised in this suit and had these suits been pending in any subordinate court then this question would have to be transferred by the subordinate court to the High Court, but these suits were pending in the High Court, therefore, overlooking all the technicalities, I submitted that this question may be framed as a point of issue whether these suits stand abated or not and as the constitutionality of the ordinance was challenged, it was, therefore, necessary to issue a notice to

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the Attorney General. (At this point, the learned Advocate of the defendant No.4, Shri Zafarvab Jilani objected that any fact about the above statement regarding the Ordinance of 7th January 1993 and the court proceedings was not relevant to the suit because this matter had been finally decided by the judgement of the Supreme Court of dated 24th October 1994 and any statement regarding any application or writ petition submitted in connection with this matter or any observation made by the court or any proceeding connected with it was not admissible as an evidence.The witness stated that reply to it would be given in Hon'ble High Court at the time of cross-examination). Continuing the statement the witness said that the Special Bench issued notice to the Attorney General. Before any proceedings could have started in the Special Bench, a notice was received from the Supreme Court that we should present our case there. I presented my whole case before the Supreme Court within the stipulated time. Then in September 1993, the Supreme Court, by its order, transferred the writ petitions, which were pending with the Special Bench, before itself and also transferred this point of issue for consideration before itself, whether the suit stood abated or not. Since then, I have been regularly appearing in Supreme Court and as the learned advocate, Shri Zaffaryab Jilani has said, the Supreme Court announced its final decision on 24th October 1994. The Constitution Bench of the Supreme Court, in its majority judgement, had announced that the abatement of these civil suits was unconstitutional. The Ordinance, which had been converted by then as Act No.33 of 1993 and barring clause 4, which pertained to the abatement, all the other sections were valid within the interpretation given in their judgement. Then the Special Bench was reconstituted in Lucknow Bench and the date for hearing was probably fixed in

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January 1994 and the proceedings began. And since it was also directed by the Supreme Court that in the changed circumstances, the parties of the civil suit would have the right to amend their pleadings, therefore, applications on my behalf and on behalf of others also were submitted and according to the orders of the Special Bench of the Court, some of the amendments were admitted, while others were not. Points of issues were determined again and further proceedings began.

(At this stage, the witness said that he wanted to give further evidence by refreshing his memory after looking into the plaint. At this, the learned Advocate of defendant No.4, Shri Zafarvab Jilani and learned Advocate of defendant No.3, Shri Ranjit Lal Verma objected that the whole statement cannot be given by seeing plaint but if while giving statement he wanted to refresh his memory about any particular fact by seeing any documents, the witness could do so. Shri Ranjit Lal Verma also contended that plaint did not come within the definition of document.

At this stage, the witness started reading plaint of original suit No.5/89 and stated plaintiff No.1 and 2 was a juridical person. I am a Vaishnava and a Hindu and I have filed this suit in the capacity of next friend. And I am also plaintiff No.3, and I have no personal vested interest in the suit. I have filed this suit with an intent of service in respect of plaintiff No.1 and 2. Details of the disputed property have been given in annexure No.1, 2 and 3 enclosed with the plaint and the original copies thereof are available in the records of original suit No.1/89. These details of the disputed property are sufficient and well known throughout the world. (At this point, Shri Ranjit Lal Verma, the learned

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Advocate of defendant No.3, objected and said that the witness could not be the spokesman of the whole world).

Continuing his statement, the witness said that because of delay in the decision of the suits filed earlier, this suit O.S. No.5/89 has been filed. The devotees of plaintiff No.1 and 2 were very discontented and unhappy and they were also dissatisfied with the arrangements made for their worship, etc. (At this stage, Shri Zaffaryab Jilani, the learned Advocate of defendant No.4 and Shri Ranjit Lal Verma, learned Advocate of defendant No.3 objected that this entire statement was being given by reading the plaint, which was highly objectionable and was not maintainable in evidence).

Continuing his statement, the witness said that the plaint had been drafted by him and he was refreshing his memory by reading it and the original suit, which he had filed in the court, typed by him and because 12 years have elapsed since it was filed, it was, therefore, necessary to look into it for refreshing the memory.

Continuing the statement, the witness said especially the way, the Receiver was making arrangements, Innumerous devotees used to come and make offerings to the deity. Priests and other staff members used to usurp the offerings. The Receiver did not put any check on them and not a single paisa was deposited out of the offerings. The devotees of the plaintiffs wanted to have a new temple constructed in keeping with the glory of plaintiffs and the structure, standing there, to be removed. In this context, the devotees held a meeting and entrusted this task to Guru Ramanandacharya Swami Shivaramacharya of Kashi, who was head of the Ramanandi Sect. Most of the sadhus

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and bairagis of Ayodhya are his followers. And he, according to the above decision, through a registered deed, which was registered in Delhi and whose photocopy is enclosed as Annexure No.4 and whose original copy is kept in Delhi Office of Shri Ram Janam Bhoomi Nyas {At this point, Shri Ranjit Lal Verma and Shri Zaffaryab Jilani, learned Advocates of defendants No.3 and 4 respectively, objected that statement could not be given on the basis of photocopy (Annexure 4 of plaint). The witness said that it was part of my pleadings}, announced the setting up of Ram Janam Bhoomi Nyas and the said facts mentioned in paragraph 15, 16 and 16A of the plaint in regard thereto are true.

At this stage, the witness said that my further examination-in-Chief would be got conducted by my advocate, Shri Vireshwar Dwivedi. Thereafter, examination-in-Chief started. Plaintiff No.2 in this suit is Ram Janam Bhoomi. According to the faith and belief of Hindus, the place, where disputed structure stood, is a place where Maryada Purushottam Shri Ram Chandra Ji took birth as a son of king Dashratha and appeared as an incarnation of Lord Vishnu. Hindus revere this place and this tradition is continuing since lakhs and lakhs of years. According to the faith and belief of Hindu religion, the time of birth of Shri Ram Chandra Ji son of king Dashratha cannot be determined through arithmetic. He stated further that 9th day of the month of 'chaitra' is celebrated as Ram Navami. He appeared in Dwapar Yuga. On that day, festivals are organized in whole of the country and specially in Ayodhya. According to the faith of Hindu religion, worship, etc. is performed at that place. Footprints of Lord Ram have been built on that place for worships. There is also Sita Ji's kitchen and when the temple, which earlier existed there,

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was demolished and the disputed structure took its place, then the idol of Bhagwan Shri Ram Lalla was installed on Ram Chabootra and worship of Bhagwan Ram Lalla is being continuously done there. And devotees go there for having 'darshan' and doing worship. Lakhs of people go there. I have studied the history of this place and I have presented the material, which I have gone into while doing this study, in the suit and that material will be presented in the court as and when necessary. By my suit, I mean the suit No.5/1989 of Bhagwan Shri Ram Virajman etc. versus Shri Rajendra Singh and others. According to purest form of Hindu religion, Divine is formless and immutable but for practical purposes an image of Purushottam has been contemplated, image of 'Purushottam' and Prakriti' (nature) have been assumed. And this whole nature, living beings are manifestation of that divine. Then he said that translation of manifestation was 'abhivyakti' (expression).

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And the persons, who contemplate that divine, are of different levels. Some of them require an idol to contemplate him and by contemplating that idol, they reach to the divine, and the persons, who are at a higher level, reach to the divine without the help of any idol, through the process of Yoga. In this respect, the philosophy of 'advaitvad' (monism) was propounded by Shankracharya Ji, 'Adi Guru Shankracharya. And then under the philosophy of 'Vishishta Advaitvad' he established four seats (maths) and temples at four prominent places of India, i.e. at Badri Nath, Puri, Dwarika and Sringeri, where Lord is worshipped in the form of idol. He had meditated in Kedar Nath: There is no idol in the temple situated there, only a horse-back like hill is there and that is worshipped inside the temple. Similarly, there is a temple of Alop Shankari in Pravag (Allahabad), where there is no idol, only a symbol is worshipped there.

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In Varanasi also, there is a temple where only a symbol is worshipped. There is a temple in Gaya also, where worship is done, but no idol is installed there and according to our faith, an idol is not necessary for performing worship (puja), but majority of people install an idol for doing worship and an idol can be of eight metals or stone or of any other matter. Matter is not worshipped. The idol is consecrated by recitation of 'mantras' and for the purpose of reaching to the divine, the worship of that deity is done, whose idol it is. Accordingly, the followers of Vaishnava Sect in India worship Lord Krishna through his idols and the masses worship Lord Ram in the form of idols and try to reach to the spirit of divine. Among the devotees of Bhagwan Shri Ram, the Ramanand Sect occupies and has occupied a place of pre-eminence.

I have also made some studies regarding the construction of mosques.

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Question: Have you found in your studies that there are some mandatory requirements in the mosques?

Answer: Yes sir.

Question: Would you give oral and written evidence in this regard?

Answer: I have submitted as documentary evidence, the extract of the books, which I have studied, in the form of written evidence alongwith my suit No.5/189 and copies thereof were submitted at the time of evidence of the opposite parties. Original books were also filed and which are law books will also be submitted.

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Oral evidence is, that there were no minarets in the disputed structure, which were necessary for giving 'ajan' (prayer call), when there was no practice of loud-speakers. These minarets were invariably constructed in big (jama) mosques, so that by giving 'ajan', faithful people could be intimated that time has come for offering namaz and they should, therefore, gather there. And when after 'ajan', all persons collect and offer 'namaz' then it becomes a mosque. When faithful people collect for namaz, then ordinarily there is a provision of water tank in all mosques for 'vaju'.

I have visited the disputed place. I have also seen the disputed structure, which has since been demolished. I did not see any minaret or any arrangement of water for performing 'vaju' in that structure, because it did not exist there.

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First of all in 1932, when my father was posted in Faizabad as Inspector of School, Seventh Circle Faizabad, I went several times to Hanumangarhi and to the disputed structure also, with my mother, when she used to go to take bath in the Saryu river. She used to go to do worship at the birth place of Bhagwan Shri Ram. Thereafter in 1934, when my father was transferred, I came back from there. Thereafter in 1955, when I started legal practice, the landlord of Faizabad, Raja Mohan Manuva engaged me as his lawyer in almost all his cases and I got opportunity of frequently coming to Faizabad. I do not remember whether I ever went to the disputed place, because perhaps I did not have any spare time. Then I certainly went to the disputed place in 1984. During the period 1932 to 1934, whenever I went to the disputed place with my mother, I saw priests

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making people do worship of the idol of Bhagwan Shri Ram installed on Ram Chabootra and make people offer garlands of flowers, etc. on Sita Rasoi and on footprints and receive their Sankalp donations from them. I also remember that a picture of Bhagwan Shri Ram Lalla was also lying inside the disputed structure and priests used to take flower garlands from the people and offer them to Bhagwan from a distance. There were two pillars of touchstone at the gate of the disputed structure, which were used for its construction after demolishing the temple which earlier existed there. There were two similar pillars also inside the structure, which could be seen from a distance. But two locks were affixed on the gate of the inner premises of the disputed structure and because of them, the police did not allow anybody to enter inside and worship etc. of Bhagwan Shri Ram Lalla, who was Virajman inside, was done from outside the gate and non stop recitation and chanting of name of Lord was being continuously done in the outer premises. There was a store-room in it where Bairagis used to live. Another idol was installed on Ram Chabootra also and worship was done there also, and worship of Sita Rasoi and foot prints, etc. was also done. But neither during the period from 1932 to 1934, nor in 1984 or after that, I saw any Muslim inside the disputed structure, nor I saw or heard anybody offering namaz there.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
18.6.2001

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Typed by the stenographer, as dictated by me in the presence of advocates of both the parties.In continuation of this Appear for examination in chief at 10.00 O' clock in the morning on 19.6.2001.

Sd/-
(Narendra Prasad)
Commissioner
18.6.2001

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Dated: 19.6.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 18.6.2001)

According to Hindu religion, an idol is called 'Vigrah', till it is consecrated and it acquires divinity. Then it is called 'vigrah' of God. Vigrahas are both of movable and immovable kind. The vigrah of Bhagwan Shri Ram Lalla seated in a cradle and installed on Ram Chabootra in Ram Janam Bhoomi was a moveable vigrah. In accordance with the wishes of devotees, Param Hans Ram Chandra Das, Abhiram Das and others among whom were Laxman Qiladheesh, who has since expired and Abhiram Das has also expired, shifted this vigrah from Ram Chabootra and installed it under the middle dome of the disputed structure while observing all the prescribed rifuals, whatever was necessary was done. All these persons were Bairagis. I had gone to Varanasi to ascertain whether such an auspicious work can be performed at a time when sun is in Dakshinayan (southern direction). The scholars there told me that Bairagis could do this. I met there Indu Shekhar Pandey Jyotishacharya, who was a professor in Sampurna Nand Vishwavidyalaya. He gave me an article written by him and which has been filed by me. He had told me that it was an auspicious time and this work could be done at that time. In addition to him, there was a scholar of astrology who was a resident of Prayag and lived in Bahadur Ganj, Prayag. He has since expired. His surname was Dwivedi. He had given me a paper under his signature. After seeing paper No.107C/1/231 of Other Original Suit No.5/189, the witness said that this was the same paper which Indu Shekhar Pandey had given to him and which was written in his own handwriting. I certify his paper. He had an almanac and he had written this paper after consulting almanac.

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After seeing paper No.107C/1/232 of the same suit, the witness said that this was the paper, which was given to him by Pandit Hari Sharan Dwivedi, Jyotishacharva and Dharmacharya. This paper was written by Pandit Hari Sharan Dwivedi in his own hand, on his own letter head and he had signed this paper. I attest the veracity of this paper. The above-said vigrah was shifted in the divine hours of the morning on the above-mentioned date.

Whether it is a wakf or a mosque or any other property, Allah is the owner thereof. As far as I know on the basis of my studies, the person, who is proprietor of that property, does not donate it, but abandon it, i.e. relinquish his ownership. Such a person is called 'Wakif'. Before the 'wakif' of a mosque, two conditions have to be fulfilled. First he said temple then said in case of a mosque, 'wakif' should be an absolute proprietor of the property. Thereafter, when 'namaz' is performed 'in Jama' on Friday after 'ajan', then the 'wakf' is treated as complete.

At this place, a temple was built by Vikramaditya. I am saying this on the basis of my study. The temple built by Vikramaditya was again reconstructed or renovated by Gadhwal dynasty in about 1100 A.D. and lastly Meer Baki, who was a commander in the army of Babar, in 1528 tried to build a mosque there at the instance of some mendicants (faquirs). But the task of construction of mosque could not be completed. Even a minaret could not be built there. Hindu kings, masses and Bairagis struggled against anyone whosoever tried to build a mosque. During the regime of Muslims, battles were fought 75 or 76 times, then he said struggles took place. Last battle took place in 1855 when there was dominance of Hindus, but some Muslims made

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an attack and entered Hanumangarhi. Later on, Hindus made a counter-attack and expelled them and more than eighty Muslims died in that conflict and they were buried in a pit outside this structure and this place was called Ganj-e-Shahida. The relevant portions of the books, which I have studied in this connection, have been filed by me in my suit. After seeing paper No.107C/I to 107C/I/5, the witness said that these papers were the same relevant portions, which were filed by me after study. These were the photocopies of those relevant portions. (Shri Zaffaryab Jilani, learned Advocate of defendant No.4 and Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that in the absence of the original copy, this statement cannot be recorded). Then continuing the statement, the witness said that 107C-1/10 and 107C-1/11 are photocopies of page 739 and 740 of gazetteer of territories under East India Company written by Edward Canutin. (At this point, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that as the original was not present, therefore, statement cannot be given on the basis of photo copy).

Question: Whether the papers, filed with list No.107C-1/ to 107C-1/9, have been written by persons belonging to a particular community or by persons of different communities, such as Hindus, Muslims and foreigners?

Answer: Papers of serial No. I to 9 of the list have been written by Englishmen.

Besides, the rest of the papers filed with the list have been written by Muslims. Some of them have been written by Hindus and some by the foreigners. Among the papers filed with this list, there is book 107C- 1/154, which is an

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original copy. Apart from that, 107C-1/239 is original and 107C-1/240 is original. No.107C-1/246 is also original serial No.107C-1/248 to 250 are attested true copies. Paper No.107C-1 /244 and 107C-1/245 are carbon copies. Paper No.107C-1/230 is not a photocopy, but it is a typed copy. Similarly, paper no.107C-1/155 is a typed copy. Paper No.107C-1/76 is an article written by Professor Grover, which is in his own handwriting. List No.107C-1/1 to 107C-1/9 have been signed by me. Paper No.106C-1/1 is a listed paper, on which my signatures are affixed. Alongwith this, I have filed five papers. Paper No.116C/2A, filed with it, is an original newspaper cutting. Paper No.116C-1/2B is a photocopy of the same newspaper cutting and paper No.116C-1/3 to 116C-1/5 are photo copies. (Shri Zafaryab Jilani, learned Advocate of defendant No.4, and Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that as the original copies are not before us, it is, therefore, completely illegal to refer to these photo copies in the statement and statement should not be given about photo copies. Continuing his statement, the witness said that he had got these photocopies prepared from the original ones. All the papers filed in this list were photocopies. Papers No.115 C-I/11 to 115C-1/17 were photo copies of the original article written by him. Then Volunteer : that he had himself typed that paper. I have filed papers in this suit with list No.118C-1/A and 118C-1/B. After seeing paper No.118C-1/1 to paper No.118C-1/20, filed with this list, the witness stated that this is the attested copy, which he had obtained from the Supreme Court and it was an affidavit of Shri Arvind Verma in interlocutory application No.10/1992 in contempt petition No.97/92. Similarly, paper No.118C-1/21 to 118C-1/32 is a attested photo copy of affidavit of Shri Radhe Shyam Kaushik filed in Supreme Court in the above-mentioned interlocutory application in the said

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contempt petition. Shri Arvind Verma was Commissioner of Faizabad Division (Mandal) and was the first authorised person appointed under Ordinance No.8 of the year 1993, who was entrusted with the work of management under the said Ordinance and afterwards, Shri Radhey Shyam Kaushik became Commissioner and the authorised person. Besides, a video cassette has been filed, whose No. is 118C-1/33 and the number of other one is 118C-1/34. Both these video cassettes were shown in the presence of the parties of the suit in Lucknow Bench. Paper No.118C-1/35 to 118C-1/35 is a book. Paper No.118C-1/36 is a printed copy of October 92 issue of 'Hindu Vishwa'. Paper No.118C-1/37 is a photocopy of a letter sent by the National Archives of the Government of India to the Minister of State in the Ministry of Home Affairs. (Shri Zaffaryab Jilani, learned Advocate of defendant No.4 again objected that as the original paper is not before us, therefore, reference to photocopy can not be made in the statement). Continuing his statement; the witness, after seeing paper No.118C-1/38 to 118C-1/59, stated that this is a copy of the annexure of the above-mentioned letter. Then, after seeing Paper No.118C-1/60 to 118C-1/64, the witness stated that this is a photocopy of a published article written by Ajay Mitra Shastri, titled 'Ayodhya and God'. After seeing Paper No.118C-1/65 to paper No.118C-1/90, the witness stated that it was a photocopy of a note, which was given to me by Dr. Swarajya Prakash Gupta. After seeing Paper No.118C-1/91 to 118C-1/114, the witness said that this is a photocopy of a portion of the same article. Similarly, Paper No.118C-1/115 to 118C-1/144 were photo copies, which were given to me by Dr. S.P Gupta and which he got prepared from the original copies. Paper No.118C-1/145 is a photo copy of the front page of a book, titled 'Puratatva'. I have filed this book.

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I got information about Meer Baki from my studies. He was a Shia. I got information about Babar also. He was a Sunni.

A suit was filed in the Tribunal, which was the then Civil Judge, constituted under Section 5 of U.P. Muslim Waqf Act, 1936 by the Central Shia Board of Waqf, U.P. against the Sunni Central Board of Waqf questioning the notification issued in 1944 under Section 5 of the said Act, on the ground that Waqf i.e. so called Babri Masjid Waqf was not a Sunni Waqf but it was a Shia Waqf. Plaintiff of suit no.5/89 or any Hindu was not a party to that suit. No such legal notification was ever issued under the Waqf Act about the so-called Waqf that the disputed place was Waqf.

After seeing the original plaint of other original suit No.4/89, whose number in the Court of Hon'ble Civil Judge was 12/61, the witness stated that this is the original plaint of that suit. On the upper portion of the left side of its last page, date of 18.12.1961 is written. Under the signature of advocate, below the word 'plaintiffs', date of 16.12.1961 is written. This plaint contain verification clause on this page. The date of verification has been written as 6th December 1961 at Ayodhya. An amendment has been made on this page with red ink. Schedule 'A' is written at the top. At the end of Section 2 of this plaint, amendment has been made with red ink. The date of amendment is 3/1/62. There is a report of 'Munsarim' of the court on this suit which is of date 18.12.61. The order of the court has been written below this. The court had pointed out certain defects. These were written in their hand.

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(At this point, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that the above statement, which is about the plaint of suit No.4/89 is absolutely unnecessary and irrelevant and pertains to the records of the Court.)

During the talks of negotiations, which were in process during the time of Prime Minister Shri Chandra Shekhar, documentary proofs were demanded by the parties. Among the parties, there were representatives of The Vishwa Hindu Parishad on one side and representatives of Babri Masjid Action Committee on the other. The parties presented historical, archaeological, legal and also literary proofs. Later on, it was decided to set up 3 groups of experts to look into the documents, one for historical and archaeological, second for revenue records and third for legal. I, Justice D.B. Sehgal and Justice Guman Mal Lodha were among the members of the group of legal experts constituted on behalf of The Vishwa Hindu Parishad. The fourth one was Shri V.K.S. Chaudhury. I do not remember the name of the fifth member at this time. Among the members of the expert group of Babri Masjid Action Committee were Shri Zaffaryab Jilani, who is sitting in front of me, another was a lawyer from Sultanpur, who was presented probably in connection with survey and another one was Shri Siddiqui, who was a lawyer. In the expert group of historian and archaeologists, there were Professor R.S. Sharma, Dr. Athar Ali Saheb, Dr. D.N. Jha and Dr. Suraj Bhan and on behalf of The Vishwa Hindu Parishad, there were Shri V.P. Sinha, who has since expired, Dr. S.P. Gupta and Professor B.R. Grover, who has also expired recently. I do not remember the names of other persons at this moment. In connection with these negotiations, a meeting was held in Gujarat Bhawan in New

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Delhi. The meeting was attended by one Mohd. Azam Khan Saheb, who was convener of Babri Masjid Action Committee and was also a Minister in the Cabinet of Shri Mulayam Singh Yadav. He was also present in that meeting and it was decided in the meeting that experts of both parties be divided in 3 groups and they should look into the documents pertaining to their subject and submit their report and it was also decided to hold their meeting on the next day. The experts of The Vishwa Hindu Parishad kept on waiting for about two and a half to three hours, but none of the experts appointed by the Babri Masjid Action Committee turned up.

(At this point. Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that this statement regarding negotiations was completely outside the scope of the pleading and it was not connected with any point of issues.)

Continuing the statement, the witness stated that during the negotiations, Prof. R.S. Sharma said that the Central government should give one or two months' time to him and his colleagues to go to Ayodhya and make enquiries about the subject-matter, as they do not have any local information, and, therefore, they would be able to give their views if only Central Government provided them an opportunity to go to Ayodhya and obtain information about the subject-matter. No paper was filed during these negotiations. Papers had already been filed. But things did not move further during the time of Shri Chandra Shekhar and in the mean time, his Government fell. However, during this intervening period, the Home Ministry of the Central Government sent the documents, submitted by both parties, to National Archives for verification and the National Archives sent its report to the Home Ministry. After seeing

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paper No.118C-1/37 to 118C- 1/59, the witness said that this is the photocopy of the same letter and information. (At this point, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that the original copy was not before the court, therefore, statement could not be given on the basis of the copy.)

Chanting of name of God (Bhajan-kirtan) was not done in the outer courtyard of the disputed premises, but worship of another 'vigrah' (idol) installed by Shri Nirmohi Akhara in place of 'vigrah' of Bhagwan Shri Ram Lalla, shifted to Ram Chabootra, was done and worship of Sita Rasoi and footprints was done. There was a store room, where Bairagis used to live. But because of mutual dispute between priests and Dharma Das and his guru Abhiram Das, outer courtyard was attached and suit under 145 was launched. And after 1949, bhajan-kirtan etc. was done in the eastern side in front of the main gate of the outer premises. In this connection, Nirmohi Akhara had filed a suit against the priest or the priest had filed a suit against Nirmohi Akhara, which was going on in the Civil Court. In that suit, Mahant Ram Kewal Das, who was then the Mahant of Nirmohi Akhara, left the case in favour of the priest and an agreement was reached in that suit of 145 between the said priest and Dharma Das. The papers regarding this have been filed in suit No.3/89. I do not know who had filed it. Agreement was arrived at between the priest and Dharma Das in the suit of 145 and the priest relinquished all the rights in favour of Dharma Das.

During 1986, on 10th day of the month of Chaitra Shukla, that is on the day next to Ram Navami, a conference of saints was held in Ram Janam Bhoomi Complex in Ayodhya. This conference of saints was held under the auspices of The Vishwa Hindu Parishad. This

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conference was attended by saints, office-bearers of The Vishwa Hindu Parishad and persons associated with Ram Janam Bhoomi liberation movement. Among the prominent saints, who attended this conference, were Jagat Guru Ramanandacharya, Shri Swami Shivaramacharya, Jagat Guru Shankaracharva Shri Swami Shanta Nand Saraswati, Goraksha Peethadhiswar Mahant Avaidhya Nath, Mahant Ram Kewal Das, Mahant Dharma Das, Param Hans Ram Chandra Das, Mahant Nritya Gopal Das etc. Besides, among the persons, associated with The Vishwa Hindu Parishad, I myseff. Shri Ashok Singhal, Shri Shreesh Chandra Dikshit, Shri Omkar Bhave, Mandakini Dani, Acharya Girl Raj Kishore, other office bearers and other prominent persons attended the conference. Report of this conference has been given in the issue of 'Hindu Vishwa', which has been filed in the plaint, as referred to above. The significant event of the conference was, in which I was also a party, that Mahant Ram Kewal Das and Mahant Dharma Das surrendered all their rights in Shri Ram Janmabhurni in favour of Jagat guru Ramanandacharya, Shri Shivaramachar and announced that he may manage the affairs of Ram Janam Bhoomi according to the announcement he had made vide circular dated 18th December 1985 in regard to the Ram Janam Bhoomi Nyas. When this happened, I was directed by them to put it in writing. Then I, on the spot, recorded it on a stamp paper in my own hand and Mahant Ram Kewal Das and Mahant Dharma Das put their signatures on it in my presence and Mahant Avaidya Nath Ji, Jagat Guru Shankaracharya Swami Shanta Nand Saraswati, Shri Shreesh Chandra Dikshit, Mandakini Dani, Onkar Bhave and I signed over it as witnesses. Mahant Ram Kewal Das and Mahant Dharma Das touched the feet of Jagat Guru Ramanandacharya, Shri Swami Shivaramacharya and made this announcement after

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standing. As far as I, remember, the suit pending in Faizabad was filed in 39/82, because I was once called for evidence. My evidence could not be taken on that day. The paper No.119C-I/1 (Other Original Suit No.5189) which is before me and is a list of proofs, bears my signatures. I have filed only one document with it, whose No. is 119C-1/2 and is an original newspaper cutting. Paper No.119C-1/C is also a list of proofs and it bears my signatures. I had given an application with it, which is paper Nos.119C-1/A and 119C-1/B. The facts of that application were verified on oath and this was admitted on the order of the court. This order is written on the back of this application. I have filed ten papers with this list and it has been written in that list that what this paper is about. But that I mean the list of proofs No.119C-1/C. Photo Nos.119C-1/1, 119C—1/2, 119C—1/3, 119C—1/4, 119C—1/5, 119C—1/6, 119C—1/7, 119C-1/8, 119C-1/9, 119C-1/10 were filed with this list. These are photos of the pillars situated in the temple in the disputed structure. Paper No.120C-1/1 of this suit is a list of documents. It bears my signatures and it has been written in my own hand-writing. I have filed two original books with this list. One is 'Ayodhya' written by Hains Baker and the other is 'The History of Islam' by Thomas Pratrick Huges, and copies of some of its pages are also enclosed. The number of these two books are paper No.120C-1/2 and 120C-1/3 respectively. Paper No. 120C-I/4 and 120C-1/5 are list of papers of proof, which bear my signatures. I have filed 10 sets of papers with this list, which are extracts from the book written by the above-mentioned Hains Baker. These are photocopies of the relevant extracts. Paper No.121C-1/1 is also a list of proof and a paper has been filed with it, which is a photocopy of relevant extracts from the book 'Indian Architecture (Islamic period)', written by Percy Brown. As far as I remember, I

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had also filed the book. (At this stage, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that as the original was not there, therefore, reference could not be made on the basis of photocopy). Continuing the statement, the witness stated that the relevant extracts filed by him are on paper No.120C-1 /2 to 120C-1/9. After seeing the papers No.254C-1/1 and 254C-1/2 of this very suit No.5/89, the witness stated that this is a list of proof, which bears my signatures and which has been filed by me. Five sets of documents have been filed alongwith this, whose No. is 254C-1/3. It is an issue of December 1996 of a magazine 'Itihas Darpan' published by Bhartiya Itihas Sankalan Yojana Samiti, Delhi.

Paper No.254C-1/4 to 254C-1/8 were photo copies of incomplete text of rock inscription in Vishnu Hari Temple of Ayodhya and whose printed copy has been published on page 62 to 66 of the above magazine 'Itihas Darpan' and photocopy of short notes in English, which are printed on page 67-68. Paper No.255C-1/1 is also a list of proof, which has been written in my hand and bears my signatures. These five papers contain those questions which I put to plaintiff No.9 of other original suit No.4/89, Sayyed Aklakh Ahmed during the cross-examination. Those are papers No.255C-1/2, 255C-1/3, 255C-1/4, 255C-1/5 and 255C-1/6 to 255C-1/12.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
19.06.2001

Typed by Stenographer as dictated by me in the presence of the Advocates of the parties. In continuation for futher examination in chief Appear tomorrow the 20.06.2001 at 10.00 A.M...

Sd/-
Narendra Prasad)
Commissioner
19.06.2001

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Dated 20.06.2001

(Commencement of statement on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 19.06.2001)

By looking into the records and papers filed in other original suit No.4/89 and from the copies thereof, which were filed in other original suit No.1/89 and 2/89, it is learnt that Meer Baki, the builder of so called mosque at Janam Sthan, was a Shia and his descendants became 'mutavalli' (trustee) thereof and one or two persons among them who existed during 19th century and in early 20th century were entitled to the right of mutavalli. It has always been claimed that the so-called mosque is a Shia mosque and there was never a Sunni mutavalli in it. Then he Volunteer said: that actually there was never any mutavalli there. Those who were called mutavalli, refused from 'tauliat'. I have heard the name of Bukanan. East India Company, who ruled over some parts of India after 1757, had sent D. Bukanan from England to India approximately during 1790 to undertake survey of some particular places and submit a report. He submitted a report regarding the so-called mosque of Janam Sthan. When I came to know that he had submitted a report, then I obtained a certified copy of that report from Prof. B.R. Grover, who had obtained a certified copy thereof through The Vishwa Hindu Parishad's unit in United Kingdom. It was obtained from the British Museum where its original copy had been kept. And as it was written by hand in 19th century, so I read it and got it transcribed and typed and, as far as I remember, filed it in this court during the cross-examination of Shri Sushil Srivastava in suit No.4/89 alongwith my affidavit. After seeing paper No.189C-2/1 and 189C which were filed during cross-examination of P.W.15 in original suit No.4/89, the witness

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said that it was his affidavit. After seeing paper No.189C-2/3, the witness stated that it was the letter which was sent by United Kingdom Unit of The Vishwa Hindu Parishad to the Central Office of The Vishwa Hindu Parishad in India. After seeing paper No.189C-2/4, 189C-2/5, 189C-2/6 and 189C-2/7, the witness stated that this was the attested photocopy of the report of D. Bukanan, which was apparently written by him in his own hand and signed by him and which was obtained by the United Kingdom Unit of The Vishwa Hindu Parishad from the British Museum. After seeing paper No.189C-2/8 and 189C-2/9, the witness said that it was the enclosure of the same report which was about the so-called janmasthan. This is the photocopy of the entire printed report.

Question: Is there hand written text also at the end of paper No.189C-2/8?

Answer: The witness stated that he was not in a position to read it. Then he stated that he would not read the content of the document. (Then he Volunteer said: that it was copy of inscriptions in Persian inscribed on janmasthan mosque.

After seeing paper No.189C-2/10, 189C-2/11 and 189C-2/12, the witness stated that he had a transcribed copy of the above hand-written report of Shri Bukanan, which bore his (witness's) signatures and it has been written on it in my hand-writing that 'type written by me from original'. (Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that paper No.189C-2/3 to 189C-2/9 are photocopies, the originals of which had not been filed in the court, nor were they before the witness. Those papers, therefore, are not admissible in the evidence and statement could not be made on its basis. Similarly, paper

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No.189C-1/10 to 189C-2/12 were also not admissible on the same ground. At this stage, Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that the above documents, whose copies were reported to have been obtained from England, had not been verified by any representative of the Government of India and, therefore, they were not admissible in evidence.)

After 1932-34 and since 1984, I have visited Ayodhya twenty times or may be fifty times till the last year. I have gone inside the disputed structure, which is demolished now, after the opening of locks. According to my studies, the disputed structure cannot be a mosque. The first reason is that it is situated on the birth place of Bhagwan Shri Ram, where, before the construction of the disputed structure, existed a temple of Bhagwan Shri Ram and worship, etc. of Bhagwan Shri Ram has been going on since time immemorial and according to law, the owner of that place was Bhagwan Shri Ram, 'Virajman' there. The second reason is that according to 'Shariat' (Muslim religious law), before making a place 'waqf', it is necessary for its earlier owner to abandon it. When this structure was built, Bhagwan Shri Ram Virajman were its owner. Third reason is that Allah does not accept the waqf of that land which is occupied or taken into possession forcibly, and if 'namaz' is offered there, Allah does not accept it. And secondly, it is not proved by any record that namaz was read it in the capacity of owner of land after 'ajan'. Rather, from all the books and literature, whether written by Hindus or it is in Urdu, or written by Muslims or written by the rulers in English, it is evident that fights were continuously waged regarding this place and the Hindu community never allowed it to be used as a mosque. So much so that during his reign, Emperor Akbar came alongwith Todarmal and his

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queen Jodha Bai. Todarmal made revenue settlements there and on the insistence of Jodha Bai, Emperor Akbar gave free rights to Hindus and the followers of Ramanand sect, whose deity is Bhagwan Shri Ram and are also called Ramait, to install an idol on Ram Chabootra in the courtyard of the same building and gave free rights to offer worship, etc. and members of Hindu community have been regularly doing worship there. During the regime of Aurangzeb, it so happened that some Muslims tried to obstruct worship, but they did not succeed in their efforts. Then afterwards, when Mughal Empire started fragmenting, the Nawab of Avadh, who was called Nawab Wazir, became ruler of Ayodhya. He was Shias and they never put any obstruction in the worship done by the Hindus. And in the documents of survey conducted by Britishers in 1855, such as Cunningham and gazetteer, it has been mentioned that this place was a temple of birth place of Bhagwan Shri Ram and even in 1856, when British Government annexed Avadh under its rule, this place was in possession of Hindus and members of Muslim community could not enter inside it and 'namaz' was not held there. Thereafter, in 1857, first war of independence took place. Britishers called it sepoy mutiny and in Urdu, it was called 'gadar' (revolt). (At this stage, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, and Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that the above statement was not connected with any point of issue of the suit and was totally irrelevant and hearsay). The witness continued his statement.

Question: Is there any other reason, why the disputed structure cannot be treated as a mosque?

Answer: The reason is that during 1857, Hindus and Muslims fought against the Britishers side by

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side. And thereafter British empire was established and then they erected a wall of iron-bars and divided the courtyard. The disputed structure fell into inner premises and Ram Chabootra lied in the outer portion. Under the policy of divide and rule, the Britishers tried that Muslims offer namaz in the inner premises, but as there were places of worship of Hindus in the outer premises and way to mosque should be freely opened without any obstruction and Hindus, especially Bairagis of Ramanand Sect and Bairagis of Nirmohi Akhara who used to worship at Ram Chabootra, did not allow Muslims to enter inside. Therefore, namaz could never be performed in this place in spite of efforts made constantly. There is another reason that the Britishers gave. this place as 'nankar' as a rent-free land) to a landlord who was loyal to them and who had helped them during the mutiny, but they never admitted that it is a place of 'waqf', and he was bound to spend the income earned from 'nankar' on it. And the last reason is that they had refused from 'tauliat' also. Eventually, when 'zamindari' was abolished in UP, he got compensation in lieu of this rent-free land instead of getting annuity fixed. Had this place been a 'waqf for the mosque, then he would never have done so. Therefore, this was my conclusion that this place was never Waqf for the masjid. (At this stage, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that except last sentence, all remaining statements have been given on the basis of hearsay and, therefore, they are not admissible.

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Shri Ranjit Lal Verma, learned Advocate of defendant No.3, objected that zamindari of the disputed place has not been demolished, this statement is, therefore, irrelevant). Continuing his statement, the witness said that in Ordinance No.8 and Act No.33 of 1993, it has been described as 'inner' and 'outer' premises, but the actual position is that these are integral part of one and the same courtyard.

From 1984 till last year, when the disputed structure existed there, whenever I went there, I saw pictures of human figures, pitchers and gate keepers and other auspicious symbols inscribed on pillars of touchstone situated there. Such symbols are found only in temples. When this structure had not been demolished, there was a symbol of lotus built on its dome. In the suit of 145, which I have referred to earlier, an application for transfer was given in the Allahabad High Court by Shri Anisur Rahman, who was pleading at that time on behalf of Muslim community and was also perhaps a party to the suit. After seeing the original file of suit under 145 C.R.P., the witness said that it includes an affidavit of Anisur Rahman son of Maulvi Wazimiddin, Caste - Sayyed, Resident of Begampura, Ayodhya, Faizabad. The affidavit comprises of 3 leafs or 6 pages. This is the same copy of the affidavit which was sent by the High Court and through which the Hon'ble High Court had asked for the comments of the concerned Magistrate. All these three pages bear the seal of the High Court. (At this stage, Shri Zaffaryab Jilani, learned Advocate of defendant No.4, objected that the affidavit was neither original not was it an attested copy. It was, therefore, not admissible in evidence). All these three papers are part of the file of the court regarding suit under

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Section 145 of Criminal Procedure Code. According to my knowledge, Anisur Rehman has died long ago. In this suit under Section 145 of C.P.C., some Muslims had submitted statements on oath. I think there were 12, 13 persons.

During 1934, on the occasion of Bakarid, Bairagis got enraged because of cow-slaughter and killed three Muslims and hanged them outside the disputed place and caused much damage to its dome. After the riots of 1934, that place got desecrated and no Muslim went towards that place. Even if somebody wanted to go, he could not do so, because the Bairagis, who lived there, threw shoes and chappals on them.

After India got freedom and before December 23, 1949 and particularly when the Constitution of India was framed, the feeling generated that the birth place of Bhagwan Shri Ram should be liberated. As Gandhi Ji had desired that Ram Rajya should be established in the country, it was, therefore, necessary to liberate the Ram Janam Bhoomi and Shri Ram Manohar Lohia and other prominent leaders came to Ayodhya and made efforts that Muslims relinquish their claim. And Bairagis also took decision and during September and October dug the graves which were there on all sides and levelled the land and more than one thousand people did 'jap' (special recitation of mantras) and purified that land.

There was an inspector of Sunni Waqf Board in Faizabad at that time. Sunni Waqf Board had asked him to make enquires on the spot and send a report. He had submitted his first report on December 10, 1949 and the copy of the report was filed by Sunni Waqf Board in their suit. Besides this, he gave another report on 23rd

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December 1949. This report has been filed in suit No.1/89 and No.4/89. Original has been filed in one suit and an attested copy has been filed in the other one. There was another report, which he had addressed to the Secretary of the Waqf Board and wrote that the so called 'mutavalli' had died and in his place another 'mutavalli' should be appointed and for that there was a descendent of Meer Baki and who is a village head (numbardar). He should apply for appointment as 'mutavalli'. But according to my information he did not give any such application, as he had refused from 'tauliat'.

The Government of Uttar Pradesh had issued the notification for acquisition in October 1991. Hon'ble High Court had given an interim order on a writ that the Government of Uttar Pradesh can promote programme of tourism by taking possession of land but it cannot build any permanent structure there. After this order, the Government of Uttar Pradesh on 2nd November, 1991 took the land in its possession. Then after confirmation of that order by Supreme Court, the work of levelling of land was started from February-March 1992 in my presence. Work of levelling started at the same place. During levelling of land, some artifacts and some remains of walls and floor were found there. Those articles were kept in a building outside the palace of the ruler of Ayodhya, which would be still there. Even today specialists had also come there to see and examine those articles. A seminar of those experts was also held, who had duly checked those articles and had also prepared a report. I had also received a copy of that report. I had filed that report in my other original suit No.5/89. I was present in that seminar in the capacity of as an observer.

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At the time of demolition of the disputed structure in 1992, a number of articles were found. Those articles included artifacts and remains of the earlier constructed temple on that place. The special articles were placed in Ram Katha Kunj, though Uttar Pradesh was under central rule. Some articles are lying outside. An application was submitted to keep them in a systematic manner. In accordance with the orders of the court, they were first studied by the experts and then shifted and kept. Experts themselves wanted to study the documents, as it was difficult to read them properly from stampages. Properly means completely. On the orders of the Supreme Court, the employees of the Archaeological Survey of India had taken their stampages. On the orders of the Court, the Archaeological Department of the Uttar Pradesh State was directed to inspect all the articles lying on the disputed place, take photos thereof and submit a report. Some remains are still lying at the disputed place apart from Ram Katha Kunj and Raj Sadan (pieces of stones are lying).

I have seen the plaint of other original suit No.4/89. No Shia Muslim is a party thereof.

Hindus believe in four 'yugas', i.e. Satyug, Treta Yug, Dwapar Yug and Kali Yug, which is currently going on. In Treta Yug, Lord Vishnu took incarnation as Bhagwan Shri Ram. In Dwapar yug, Lord Vishnu was incarnated as Bhagwan Shri Krishna.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
20.06.2001

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Typed by Stenographer as dictated by me in the presence of the Advocates of the parties. Examination-in-chief of Shri Devaki Nandan Agarwal concluded.

Sd/-
(Narendra Prasad)
Commissioner
20.06.2001

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Dated 06.08.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 20.06.2001).

(Cross-examination by Shri Ranjit Lal Verma, advocate, on behalf of defendant No.3, Nirmohi Akhara),

XXX XXX XXX XXX

I stayed in Faizabad from 1932 to 1934. I stayed there because my father was posted there as Inspector of Schools, Seventh Circle, Faizabad. At that time, I studied in standard 7 and 8 in Faizabad. I was then about 11 years old. I stayed in Faizabad mostly in a big house built in the compound of Pirpur Kothi. For some days, I stayed in a small house near Government School. My parents were believers in Sanatan Hindu Dharma. Ayodhya was at a distance of about 4 miles from my residence. My parents also used to go to Ayodhya for having 'darshan' in the temples. I had started understanding all the things at that time. There was no place of worship (puja ghar) in my house. But my father used to do morning and evening prayers. In those days, festivals of Vedic Sanatan Dharma were celebrated in my home and fasts were undertaken. Worship of that deity was performed, whose festival fell. I cannot say whether an idol or picture was placed on the occasion of Janmashtami. Janmashtami is celebrated on the eighth day of the fortnight of the waning moon (Krishna paksha). Birth day of Lord Shankar is not celebrated. The day of marriage of Lord Shankar is celebrated in the form of festival named Shiv Ratri. I do not know as to why the birthday of Shankar Ji is not celebrated. I did not come to know of this even from my parents. Birth day of Bhagwan

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Ram is celebrated. Birth day of Bhagwan Ram falls on 9th day of 'shukia paksh' of month of Chaitra. Birth day of Bhagwan Ram is celebrated at 12 O' clock during the day. I cannot tell the number of days on which my mother used to undertake fast. She used to keep all the fasts. I have been an intellectual from the very beginning. It is correct that my family was under the influence of Sanatan Vedic Hindu Dharma, but after reading literature of Shri Arvind, I started believing in Arvind literature that is in Vaishnav Dharma. Then he said that the Uttar Pada speech specially influenced him. Influence of the ideology of Shri Arvind took effect on me after 1960. During the period from 1932 to 1960, Sanatan Dharma did not influence me, because I had no spare time from studying and thereafter from the practice of law. After 1932, I passed B.A. in 1940. Then after an interval of 12 years, I again took admission in the University in 1952 and passed the law examination in 1954. Between 1932 and 1940, I did not study any religious book. From 1932 to 1940, I did not hear any discourse, etc. of any saint, mahatama or guru. I did not listen any discourse of Ramcharitmanas or Bhagwat during this period. Ayodhya Kand of Ramcharitmanas, written by Tulsidas, was part of the syllabus of subject of Hindi in B.A. examination. Some verses of Kabir Das Ji and Surdas Ji were also included in the course. I cannot say whether I got some knowledge about Tulsidas Ji or Kabir Das Ji at that time. At that time, the character of Bhagwan Ram did not have any effect on me inspite of my studying Ayodhya Kand. What I know about Kabir Das Ji is only that he was a weaver and he was a disciple of Swami Ramanandacharya. His 'ulat bansis' (contradictory form of couplets) are very famous. I cannot define 'ulat bansis'. Surdas Ji was an exclusive devotee of Krishna. His name has been mentioned. Now, after the passage of 60 years, I cannot say whether the character of

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Krishna influenced me or not. This is correct that by that time, I had come to know that Shri Krishna was an incarnation of God. (Then he Volunteer : that Bhagwan Shri Ram was also an incarnation of God and he is worshipped). I came to know of these things by that time, but I cannot say whether I fully realised them. After the passage of 60 years, 'I am unable to say whether the character of incarnation of Bhagwan Shri Ram had influenced me or not. No trade and business was conducted in my family. During the period between 1940 to 1952, I did business of brick kiln and also worked as a contractor. I did this work till 1954 during my studies also. During the period from 1940 to 1954, when I was doing business, I had no time to take interest in religion. I never did idol worship. Then Volunteer : that his mother used to worship idols. My wife also used to do idol-worship. During my business, my financial year was from Dussehara to Dussehara and on the day of Dussehara, I used to do worship of my account-books and weighing scale etc. I was not doing worship of Lakshmiji on that day. I was not doing worship of even Ganesh Ji on that day. On the day of Diwali idols of Lakshmi and Ganesh was brought and I also used to worship them. This worship is being done traditionally and I was, therefore, following it. I was not doing it for the purpose of acquiring money. I am unable to answer this question whether I used to worship Lakshmi and Ganesh for acquiring money. After 1955 and since 1960 I came under the influence of Shri Arvind Ji. During 1960, my sister came into contact with Dr. Mira Srivastava who was an ardent devotee of Shri Arvind Ji and my wife also came into their contact and she was also influenced by Shri Arvind. As I was living, with them, I was influenced by the writings of Shri Arvind. My mother used to get 'kirtan' (chanting of name of God) performed in my home. That kirtan was

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connected with Bhagwan Shri Ram and Shri Krishna. Idols were not placed during kirtan. In the meantime, I read books written by Shri Arvind. I read "Essays on Gita", "Uttar Para Speech" of Shri Arvind. I also read radio broadcast of Shri Arvind given on 15th August 1947. I read those books after 1965. Meetings used to be held in my house regarding, the thoughts of Shri Arvind after 1965. After 1965 till 1971, meetings I were being held in my house, but it did not have any special effect on me. The thoughts of Sri Arvind do not constitute any separate religion, they a are part of Sanatan Dharma, i.e. Sanatan Vedic Dharma. The main philosophy of the thoughts of Shri Arvind is 'Integral Yoga', in which all the three yogas, i.e. gyan yoga, karma yoga and bhakti yoga propounded in Gita have been integrated. And the philosophy is, that man should surrender his ego and then he can receive divine grace. This has also been a main component of his philosophy that this world is not an illusion but an expression of divine. About 'Ishwar' he said that Bhagwan, Allah, God are all concept of non-being, i.e. concept of God without form and attributes and who is in the world in every form, which means that he exists in every living being, in every insect and in every thing. In other words, we can say that God exists in each and every particle of the Universe it is cause of it and also the end of it. It has no particular form and it has innumerable forms. I am unable to give definition of yoga, that is I cannot give it in a court, it is a matter for reading. I do not possess knowledge of Sanskrit language, I will, therefore, not be able to say that the word yoga has originated from the word 'Punj', which means 'to unite'. I cannot say whether union of body and soul is called yoga. I cannot say that in Vedic Sanatan Dharma, yoga is one of the philosophy (darshan) among the six philosophies. I am not in a position to say that 'Hiranya Garbha' is the basis of yoga, on which Sage

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Patanjali has written a commentary. I do not know that when bodily senses are controlled by jap, tap, rules and samadhi, then it is called yoga. It is correct to say that Lord Krishna gave sermon to Arjun in Gita about two yogas that is about Sankhya yoga and karma yoga. But alongwith this, he taught him Bhakti yoga also. It is wrong to say that Bhakti Yoga has not been explained in Gita. Philosophy of Shri Arvind is based on Gita. I do not have knowledge of Sanskrit, I will, therefore, not be able to tell as to what has been written in 13th shloka of 13th chapter of Gita. I cannot even tell about its translation that it has been written therein that I (the lord) exist in every particle. It is wrong to say that thoughts of Shri Arvind are based only on devotion (sadhana); rather 'sadhana is a path through which divine can be reached. The main ashram' of Shri Arvind is situated in Pondichery. I do not know if there is any ashram in Kerala or not. The name of his ashram situated in Pondichery is Shri Arvind Ashram. There is no such thing as Auroville Society. It is correct that a suit was fought between Shri Arvind Society and Auroville Trust. Supreme Court held in that suit that Shri Arvind is not a separate religion. It is wrong to say that Hon'ble Supreme Court had held that the thought of Shri Arvind constitute a separate system. Shri Maa was the closest disciple of Shri Arvind. Shri Mother was originally a French woman, but since 1920 she constantly remained with Shri Arvind. The Uttar Para speech of Shri Arvind is of the year 1910. I read this speech about 30 years ago. Shri Arvind Society was probably constituted in 1960.

It is not correct to say that Shri Arvind Society was established by Shri Arvind. Shri Arvind Society was set up in 1960. The registered office of this Society is in Bengal. During the year 1965-66, Shri Maa had established a centre

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of Shri Arvind Society in my house after seeing the photograph of my wife.

At that time, Preeti Adaval was Secretary and Shri Sumitra Nandan Pant was President of the above centre. In 1977-78, after the death of Shri Sumitra Nandan Pant, I was appointed as President of that Centre. The Centre of Shri Arvind Society, situated in my house, is not separately registered under the Societies Act. Shri Arvind Society is registered in Bengal. The Society has framed its by-laws. During the year 2000, I resigned from the office of the President of the Society on grounds of health and since then Shri Sanyal has been discharging the responsibilities of the President and all the files pertaining to the Centre are in his custody. I do not remember as to what are the aims of Shri Arvind Society. Even these days, meetings and prayers are held in the Centre situated in my house. Meetings are specially organised on special occasions. There is a library in the Centre. Apart from this, what are the objects of Society, I do not know. The expenditure incurred on running the Centre is met by the contributions made by the members. Besides, there is an account in the bank and interest earned on it, is also used to meet the expenditure. It is correct to say that Shri Maa is the founder — President of the Society and even after her demise, she is considered to be the President. Shri Arvind Ashram and Shri Arvind Society are two separate entities, i.e. institutions. When Gyan Peeth Puraskar was awarded to Shri Sumitra Nandan Pant, he deposited rupees seven thousand five hundred in the bank in the account of Allahabad Centre. That amount, together with the contributions made by the members, had increased to an amount of about twenty thousand rupees. Shri Maa never came to Allahabad. She never used to go outside

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Pondichery. Shri Maa had expired after 1972 after the centenary year of Shri Arvind. She might have expired during 1973. It is correct to say that the philosophy of Shri Arvind has been propounded in his book 'The Life Divine'. I came to know from, the teachings of the Holy Mother that Shri Arvind was an incarnation of Bhagwan Shri Krishna. I did not acquire this knowledge from any book. After the establishment of the Centre of Shri Arviiid Society in my home in 1968, my faith in the philosophy of Shri Arvind went on increasing. By 1974-75, I had complete faith in it. I still have faith in the philosophy of Shri Arvind. No expenditure is incurred for Ram Janam Bhoomi Nyas from my home or from the Centre established in my home. May be some amount would have been credited to the Ram Janam Bhoomi Nyas by Shri Arvind Sadhanalaya situated adjacent to Ram Janam Bhoomi. It is correct that before 1990, balance-sheet of the expenditure of Ram Janam Bhoomi Nyas used to be prepared. It was audited also. I resigned from the membership of the Board of Trustees in 1990.

As far as I think, there is no Centre of Arvind Society located at present in Ayodhya. It is correct to say that Shri Arvind Sadhanalaya is situated adjacent to Ram Janam Bhoomi Nyas in the south of Amava Mandir Kothi. Ayodhya Centre of Shri Arvind Sadhanalaya is run by Shri Arvind Ashram, Pondichery. I do not know who is the manager of Shri Arvind Sadhanalaya, Ayodhya. It is correct to say that the land of Shri Arvind Sadhanalaya, Ayodhya was donated by the owner of Amava Kothi. That land was first given to Arvind Ashram, Pondichery and thereafter the Mahatma of Arvind Ashram gave that land to Arvind Ashram. And later on, that land was converted into Sadhanalaya. It is absolutely wrong to say that Shri Arvind Society Centre,

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Allahabad gets its expenditure from Ram Janam Bhoomi Nyas. Shri Sumitra Nandan Pant had deposited some amount, out of the prize money which was awarded to him as Gyan Peeth Puraskar, in the account of Shri Arvind Society Centre in Allahabad. That account is operated both by the Secretary and the President of the Centre. It is operated by the signature of both the persons. It is correct to say that I was President of Allahabad Centre of Shri Arvind Society from December 18th, 1985 to April 30th, 1987. It is also correct to say that during that period, the bank account was operated jointly under my signatures and the signatures of the Secretary of the Centre. Accounts of the Centre of the Society were not prepared regularly.

(The advocate, who was cross-examining, drew the attention of the witness to paper No.182C-2/54 enclosed with affidavit objecting the miscellaneous application No.550/95 filed in other original suit No.5/89.) After seeing it, the witness said that it has been written therein that the expenditure of Shri Arvind Ashram is Rs.3533.50 and this has been written as preliminary expenditure. On the next page of the same affidavit, i.e. on paper No.182C-2/58, the expenditure of Shri Arvind Ashram has been shown as Rs 1990.65. This account of expenditure pertains to Shri Arvind Sadhanalaya, Ayodhya. For some time, the management of Shri Arvind Sadhanalaya was entrusted by the Trustees of Shri Arvind Ashram, Pondicherv to Shri Mahesh Narayan Singh of The Vishwa Hindu Parishad through me. I do not remember the exact date and year when it was entrusted, but my mediation was before the dates mentioned here. At that time, I was the Vice-President of the The Vishwa Hindu Parishad and was a trustee of the Ram Janam Bhoomi Nyas. Shri Mahesh Narayan was merely a worker of the Vishwa Hindu Parishad;

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he was not holding any office. It is correct to say that The Vishwa Hindu Parishad and Ram Janam Bhoomi Nyas are separate institutions. I cannot say as to under what authority amount for expenditure of Shri Arvind Sadhanalaya was given from Ram Janam Bhoomi Nyas. Answer to this question can be given by Shri Ashok Singhal who was at that time the General Secretary of the The Vishwa Hindu Parishad.

From 1934 to 1940, when I was studying for B.A., I did not adopt any mahatma or saint as my guru. My parents also did not adopt anyone as guru. At that time, i.e. during 1934 to 1940, we had nothing to do with any guru and there was, therefore, there was no question of having faith. In 1978, after listening the discourses of Brakmchari Vivek Chaitanya, disciple of Swami Chinmayanand Ji, I had accepted-him as my guru in my mind. My faith is not in any Mahant, Shankaracharya or saint, etc., but in principles.

I do not know which sect Swami Chinmayanand Ji belonged to, but he was a Vaishnav. I have not seen him doing worship of an idol, but I have heard his discourses. His philosophy was based on the principles of Gita and Ramcharitmanas. I have not heard him saying to worship idols, i.e. worship the idols of Ram and Krishna. Advaitvad was propounded by Adi Shankaracharya ji. I do not have that much knowledge of history and culture or Hindu Vedic culture to enable me to say whether or not any guru had preached advaitvad before Adi Shankracharya Ji. I have not studied Vedas, but I know that Vedas are the main basis of Hindu religion. I have not studied Puranas and Smritis. Then he said that he has read some portions of Manu Smriti. I have studied the chapters dealing with conduct and some other chapters also. It is not correct to say that

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the laws regarding religious endowments are based only on Manu Smriti, but are based on commentary and digest. They are enunciated by Mitakshar Vigvaneshwar. This is a commentary on Yajnavalka Smriti. I cannot say whether or not it is based on Manu Smriti. I did not keep fast during the period between 1940 and 1954 but I used to go to the temple of Hanuman Ji and at times used to undertake fast on the occasion of Janmasthami. When I went to have 'darshan' of Hanuman Ji, then I used to take flowers, garlands, sweets, etc. with me. I had faith in Hanuman Ji, but not in the priest. After 19th November 1977, I heard the discourse of Brahmchari Vivek Chaitanya, disciple of Swami Chinmayanand Ji around 1978 in Vijaynagaram Hall of Allahabad University. I was invited to inaugurate the function. Between 1940 and 1954 I used to worship only Hanuman Ji. From 1954 to 1977, I used to go along with my wife and daughter to offer dress (chola). As there is no temple of Bhagwan Ram in Allahabad as per my information, I, therefore, did not go there to perform worship. Even today, whenever I find an opportunity, I go to the temple of Hanuman Ji to do worship. Besides, I go to Shankar Viman Mandapam also. As there is no temple of Ram Ji, therefore, I did not worship him till 1983. Then he said that he used to recite the name of Ram without rosary. I got the inspiration of reciting the name of Ram from the 'kirtan' which was held in our home. Since then I have been doing this. Kirtan is held in our home regularly since 1950. I am unable to answer this question, whether I have been doing 'jap' of the name of Ram since 1950. I do not take 'mantra' from anybody, nor I accept anybody as my guru. Therefore, the question of anybody giving me 'Ram Mantra' does not arise. In 1983, I went to Mahila Sankirtan Bhawan, Allahabad to perform 'kalash-pujan' (worship of sacred pitcher). It is a Kirtan Bhawan and an idol is installed in it. At this moment,

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it is difficult to say as to whose idol is installed there, but it could be an idol of either Bhagwan Shri Ram or Bhagwan Shri Krishna. I often go to Sankirtan Bhawan. I had been going to Sankirtan Bhawan for the last 30-40 years but in 1983, I went there for 'kalsh pujan' at the instance of my mother. After that, I went there for several times. As my eye sight is not so sharp, I cannot, therefore, tell that the idol of which God is installed there. It is not correct to say that my eye-sight was weak, but as I was not interested in looking at the idol, I will, therefore, not be able to say that idol of which God is installed there. I do not worship the idol regularly, but it would be wrong to say that I do not believe in it. By regular worship, I mean daily worship or worship of Hanuman Ji regularly on Tuesday or Saturday. Sankirtan Bhawan is situated at a distance of one furlong, not at a distance of 25 steps. It is correct that it is called Mahila Sankirtan Bhawan. It is correct that the 'kalsh' for the worship of which I had gone there, was sent by the The Vishwa Hindu Parishad. This 'kalash-pujan' was done in November 1983. I got associated with the The Vishwa Hindu Parishad during the year 1984. I got associated with the The Vishwa Hindu Parishad through Hon'ble Justice Shiv Nath Katju. Then Volunteer : that the World Sanskrit Conference was held in 1979, which was held one day before the World Hindu Conference, organised by the Vishwa Hindu Parishad. Because of that too, I came into contact with the Vishwa Hindu Parishad. In 1979, descendant of Maharana Pratap was President of The Vishwa Hindu Parishad. I do not remember his name now. When I came into contact with Maharana Bhagwat Singh, I did not come to know of The Vishwa Hindu Parishad from him. Thereafter, when I came in contact with Hon'ble Justice Shiv Nath Katju, then I got full information about Vishwa Hindu Parishad. I think The Vishwa Hindu Parishad

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was constituted' in 1966. I knew the by-laws, constitution, etc. of Vishwa Hindu Parishad before I became its Vice-President. During 1985-86 whenever need arose of making amendments in the by-laws then legal advice was taken from me. At that time, Ashok Singhal was the Joint General Secretary of the Vishwa Hindu Parishad and Shri Jaswant Rai was its Office Secretary. These people used to take legal advice from me. I had no connection whatsoever with Ashok Singhalji before 1984. Ashok Singhalji or some other person did not come to me to take legal advice, rather such questions were always asked in the meetings and whenever any such type of question was asked then I used to give legal advice after study. I used to attend these meetings as a member of Board of Trustees. At present, I do not remember whether I used to take papers or not with me for giving my opinion. I cannot say at the moment as to what is the object of the The Vishwa Hindu Parishad. Then he said that he could not tell by memory. The aim of constitution the Vishwa Hindu Parishad is to organize and unify the Hindus of the world — not on the basis of caste, but on the basis of Hindu religion defined as Vedic religion. Followers of Jain religion, Buddhist Sikhs, Bairagis, Kabir Panthi, Gosains can join The Vishwa Hindu Parishad, but Muslims and Christians cannot. I do not know the number of branches of The Vishwa Hindu Parishad during the period between 1966 and 1980. I do not know the reason why The Vishwa Hindu Parishad needed to organize kalash-pujan. The yatra connected with kalsh-pujan was named as 'Ekatmata Yatra'. I cannot tell as who started this yatra. I do not remember (then said I did not see) who took the kalash to each and every corner of the country during this yatra, but there would have been its workers and general masses as well. I cannot say whether the propaganda and publicity of this kalash yatra was confined to only ten

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provinces of North India or not, but I know that sea water from Rameshwaram was brought in kalash. I do not have much information about it. My mother instructed me that kalash has reached and asked me to go there and worship it, so I went there. I do not remember the details whether or not I offered water and money in connection with worship. I even do not remember, whether I took any 'sankalp' or not. It is correct that on page 3 of my statement, which was taken from me on I 6 June 2000 at my home, I had told that I had myself gone there and worshipped there and did sankalp pujan'. During sankalp', people do worship and give donations. But I will not be able to tell now as to what 'sankalp' I had taken. At present, I do not remember what donations did I make. I do not remember whether or not The Vishwa Hindu Parishad had earned crores of rupees on this 'kalash yatra'. I do not even remember that this 'sankalp' was taken to resurrect the Ram Janam Bhoomi Temple. The resolve to construct Ram Janam Bhoomi Temple was taken on September 30th 1979 at the time of worship of 'shilas'. But I do not remember whether or not the resolve to liberate Ram Janam Bhoomi temple was taken. It is correct that Ram Janam Bhoomi Liberation movement was launched by The Vishwa Hindu Parishad. As far as I think, this was raised in 1984 by Shri Dau Dayal Khanna in the office of the then Prime Minister, Smt. Indira Gandhi. This I cannot say whether or not Ekatmata yatra' had been started by then i.e. before 1984. It is correct to say that Ram Janam Bhoomi Movement was connected with Ayodhya. I am an intellectual from the very beginning. I cannot say in which field I am an intellectual, but I live on the basis of intellect. My intellect is not decreasing but increasing with age. I did not try to find out in the meeting organised by The Vishwa Hindu Parishad in 1984 as to what action had been taken from 1966 to 1984 ie. Upto the

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demolition of structure. I did not ask Shri Shiv Nath Katju as to what action had been taken by The Vishwa Hindu Parishad for the liberation of the disputed structure. It is correct that written Sankalp (resolve) forms were got filled up in the meeting and I had also filled one. I had read the Sankalp (resolve) form at that time and after reading the Sankalp (resolve) form, it did not occur in mind as what had been done by the Vishwa Hindu Parishad during the period from 1966 to 1983.

I did not have any contact with the Vishwa Hindu Parishad between 1966 and 1977. I do not know whether it had any branch in Allahabad. I never visited Ayodhya from 1934 till 1955, but during the period from 1955 to 1977, I had been going to Faizabad but I do not remember whether I ever went to Ayodhya. Then he said that he remembered that he had once gone to Ayodhya; then I was standing Advocate. Either I went during 1977 to 1983, I do not remember. But once when I was going from Lucknow to Gorakhpur, then on the way I had stopped at Ayodhya and took bath in Saryu river. This visit took place between 1977 and 1983 but I do not remember the exact date. During that visit, I took bath in Saryu, and perhaps went to Hanumangarhi but did not go to Ram Janam Bhoomi. By that time, I had started practice of Law and I had come to know about it from Shri Onkar Nath Mehrotra son of Chaudhury Kedar Nath, who practiced in Allahabad. I know that Chaudhury Kedar Nath was a pleader in this case. I cannot say when I came to know about this suit after 1955, whether in 1956 or in 1957. It is correct that I had come to know about this litigation much before when I halted at Ayodhya while going to Gorakhpur in the capacity of a Judge. I also knew that this dispute was between Hindus and Muslims. At that time, I had not been going to have

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'darshan' of Ram Janam Bhoomi. I cannot tell the reason why I was not going there. It is wrong to say that devotion to Bhagwan Ram had arisen in my mind after my retirement as a judge. I have only given this statement that 'dharmacharyas' had come in he second The Vishwa Hindu Sammelan, which was held in Prayag. I cannot say as to what should be the qualities of dharmacharyas'. It is correct that all Shankracharyas are Sanyasi. Mahant of Gorakh Naiid temple of Gorakhpur belongs to Nath Sect. The deity of Nath Sect is Lord Shankar. Shri Ram. Shri Krishna and Shankar Ji are deities of Sanyasis also. It is correct that Sanyasis are not called Vaishnavas, but they are known as followers of Shaiva Sect. Prayag Sammelan was attended by Sanyasis of Nath Sect, Vaishnavas and Dalai Lama and also by Bairagis. Bairagi Vishweshteertha was present in that conference. He is follower of Madhavacharva and have faith in dualism (dwaitvad). I do not know that Madhavacharya was founder of Shudha advaitvad (pure monism). I cannot say now whether followers of Vishishtadvaitvad were present or not in that conference, but some one must have been present there. The founder of Vishishtadvaitvad Sect was Adi Guru Ramanandacharya. The ashrams, mathas and temples in Ayodhya are connected with this Sect. Members of Rashtriya Swayam Sewak Sangh would also have been present in that conference. As far as I think, Bala Saheb Deoras was present there. A magazine is also published on behalf on The Vishwa Hindu Parishad. Its name was Hindu Vishwa. Its publication has since discontinued and another one is being published. Later on, it was published from Allahabad. I do not remember as to where it used to be printed earlier. Shri Dau Dayal Khanna was a resident of Muradabad. I do not know whether Ram Janam Bhoomi Mukti Yajna Samiti was constituted during Prayag Conference. I think that

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Samiti would have been constituted after 1983. The President of this Samiti is Mahant Shri Avaidya Nath ji of Gorakhpur temple.

Verified the statement after hearing
Sd/- Devaki Nandan Agarwal
06.08.2001

Typed by Stenographer as dictated by me in the open court. In continuation of this Appear on 08.08.2001 for further cross-examination .

Sd/-
Narendra Prasad
Commissioner
6.8.2001

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Dated : 08.08.2001

(Commencement of statement, on oath of P.W.-2, Shri Devaki Nandan Agarwal, in continuation of 06.08.2001)

I do not know that a meeting was held for the constitution of Ram Janam Bhoomi Mukti Yajna Samiti and whether or not I had attended it. Among the members of Ram Janam Bhoomi Mukti Yajna Samiti include Param Hans Ram Chandra Das of Bairagi Rama Nand Sect, Mahant Nritya Gopal Das and others. I do not remember the names of other persons at this time. After 1949 when the idol was shifted from Ram Chabootra to the place below the middle dome, a committee was constituted under the chairmanship of Param Hans Ram Chandra Das. This committee was constituted for the liberation of Ram Janam Bhoomi. Papers related thereto are filed in the suit. Then he said that not in this suit but in one of the 5 suits filed in this matter. I cannot say what was the name of that committee whether or not its name was Shri Ram Janam Bhoomi Sewa Samiti. I think that body had become defunct 15 years ago. I do not know whether all the members of Ram Janam Bhoomi Mukti Samiti belonged to Ramanand Bairagi Sect or not. Shri Gopal Singh Visharad must have been a member of this Samiti, as he was the mover of this case in 1950. I do not know whether or not Shri Gopal Singh Visharad used to receive money from Birlas to fight this suit. I do not know that the only job of this committee was to celebrate the function of appearance of Bhagwan Shri Ram, which falls on 23rd December. (He Volunteer : that function of appearance is not celebrated on 23rd December, 1949 but on 3rd day of the month of Paush Shukla, which corresponds to the above date). Shri Mahant Nritya Gopal Das might have definitely been Chairman of

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this committee, but I do not have any personal information about it. I have seen Mahant Nritya Gopal Das and Param Hans Ram Chandra Das reading and writing.

(At this stage. the Advocate, who was cross the witness, drew the attention of the witness to paper No.850C flied with other original suit No.4/89). After seeing this, the witness said that against the name of Mahant Nritya Gopal Das, there appear signatures, which could be his signatures. After seeing paper No.851C, the witness said that there are signatures at serial No.3. against the name of Param Hans Ram Chandra Das Ji and as it has become faint, I am, therefore, unable to read it. The name of Mahant Nritya Gopal Das Ji appears at serial No.1 of this paper. There are signatures against his name.

I do not know that Param Hans Ram Chandra Das had no interest in this suit till 20th August, 1978. This is the same Mahant Ram Chandra Das, who was a plaintiff in other original suit No.2/89, and is a party in this O.S.5/89. I have no information whether or not there was a committee between Ram Janam Bhoomi Yajna Samiti and Shri Ram Janam Bhoomi Samiti. The word 'Nyas' is called 'Trust' in English. Trusts are of two kinds. One is private trust and the other is public trust. Public Trusts are also of two kinds. One is religious trust and the other is charitable trust. But religious trust is treated as charitable trust. Definition of a trust has been given in Religious Endowment Act of Hindu Law. The person, who constitutes a trust, is called author of the trust.

Question: If any author, as you have mentioned, constitute a trust about Hindu 'Devottar' property, will he become owner of that property?

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Answer: Answer to this question can be given only by the Advocate.

Question: If any deity is 'virajman' in any such property, can the author constitute a trust of such property?

Answer: It is a hypothetical question and its answer can also be given by the Advocate only.

The deed of Ram Janam Bhoomi Nyas Trust was drafted by me. Jagat Guru Ramanandacharva, Swami Shivaramacharya and Ashok Singhal had told me that they wanted to announce such a trust and asked me to prepare a draft thereof. Then I prepared a draft thereof.

(At this stage, the Advocate, cross-examining him drew his attention to line two of paper No.3/35-A/1 of other original suit No.5/89. After seeing that, the witness said that it has been in the 3 line that "this deed of announcement, executed on Wednesday in Ayodhya, is witness of the Trust and of appointment of Trustees of the temple of Bhagwan Shri Ram, Virajman at Ram Janam Bhoomi Sthal." By that I meant the disputed place. It is correct that boundary of the disputed place has not been given in that deed and neither any number thereof has been indicated (Then he Volunteer : that it is well-known the world over). By that I mean that the disputed place is well-known all over the world. This deed was executed on 18 December 1985. I had prepared this deed as a lawyer, taking the directions given to me as an Advocate. I had prepared this deed as a lawyer without charging any fees. At that time, I was not in the profession of law.

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Shri Ashok Singhal and Swami Ramanandacharya did not come to me. Whenever a meeting was held in Ayodhya, then I was asked to prepare such a deed because of my legal knowledge. Much of information had come to my knowledge before December 18, 1985. (Then he Volunteer : that most of the information came to him in 1984 from you, i.e. Shri Ranjit Lal Verma). Shri Verma used to give him papers and from them, I got information. I did not give any special importance to oral information. I do not take him as my guru because of this information. I did not examine these papers before December 18th , 1985, because the papers were in High Court in Lucknow.

Question: The expression 'Trust of temple of Bhagwan Shri Ram' occurs in the upper 3rd and 4th line of the Trust deed. Did you treat it as the temple of Bhagwan Shri Ram at that time?

Answer: It cannot be concluded from the above that I treat this place as a temple. Rather I do not treat this place as a temple.

Bhagwan Shri Ram was 'virajman' below the middle dome of the building. The place, where Ram Bhagwan was 'virajman' was a temple, but remained disputed from the beginning Technically, I accepted that place as a temple, where Shri Ram was virajman under the middle dome of the three domes of the disputed building, but as it was a disputed place, there was, therefore, a programme of constructing a new temple in its place. This trust was constituted to construct a new temple by removing the disputed structure, which was technically a temple. By temple, I mean a place of worship, i.e. a building where worship is done. There are instances in India, where there

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are temples but there is no idol in them, such as Kedar Nath temple and Vishnu Pad temple in Gaya. In our Hindu architecture, the form of the construction of a Hindu temple is prescribed and is of different kinds. That building is a temple, where Bhagwan is 'virajman'. (At this point, the Advocate, cross-examining him, drew the attention of the witness to page 465 of paper No.258C-1/3 filed in other original suit No.5/89). After seeing this, the witness said that as he did not have full command over Avadhi language, therefore until he gets a chance to see the commentary of this couplet (doha), he would not be able to tell its correct meaning. On reading the first line of this 'doha', it appears that the meaning of temple (mandir) is home, but on reading the next line, it appears that 'mandir' might mean borne as well as a temple, which is meant for worship. I have filed this book. I have once read the whole book. The meaning of this 'doha' could be, that when Hanuman Ji went in search of Sitaji and searched Sitaji in every building the name 'mandir' might have been given to all the buildings. But I cannot say this with authority. It is correct that the place, where idol of any deity or Bhagwan is installed, is called a 'mandir', but ordinarily a building is required for it. I cannot say that if idol exist in the disputed structures, would it be a temple or not, because I have not found any proof whether an idol existed continuously in the disputed place after 1528. Shri Ram Ji was 'virajrnan' inside the disputed place much before 5th January 1950, I cannot say Ramanandacharya Swami Shivaramacharya was Mahant of which place, but his place was in Kashi. Mahant Nritya Gopal Das and Param Hans Ram Chandra Das were also trustees of Shri Ram Janam Bhoomi Nyas. This Nays is connected with The Vishwa Hindu Parishad. It is wrong to say that main work of running this Nyas is done by The Vishwa Hindu Parishad. The head office of this Nyas is

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situated in Sankat Mochan Ashram, Ram Krishan Puram, Sector-6, New Delhi. The head office of The Vishwa Hindu Parisahd is also situated in this building. I would not be able to tell as to who is the owner of this building.

When I became Vice-President of The Vishwa Hindu Parishad, I did not try to know as to who is the owner of the Sankat Mochan Ashram. (At this point, the Advocate, cross-examining the witness, drew the attention of the witness to para 3 of paper No.3A-1/38 of other original suit No.5/89). After seeing it, the witness said that it has been mentioned in it that Shri Ashok Singhal would be Manager and Shri Vishnu Hari Dalmia would be treasurer, and it is correct. It is also correct that Shri Shivaramacharya would be the Head and Dharmakarta of the Nyas. It is also correct what has been written below it in para-4, that the first seven persons, including the Head, would be appointed by The Vishwa Hindu Parisahd. But it has also been written above it that whenever a vacancy arises, a suitable person of the same kind will be appointed, i.e. will be nominated. That is, "First seven persons, including the Head, will be appointed by the Board of Guides (Marg Darshak Mandal) of the Vishwa Hindu Parishad from amongst the saints and this will also be the responsibility of this Board that any vacant place will be filled by the Board by appointing a prominent Acharya of Ramanand Sect and the vacancies of the last three i.e. of treasurer, manager and of an other person will be filled by the Central Executive of The Vishwa Hindu Parishad from amongst the prominent Hindu citizens." It is wrong to conclude from the above that all the ten trustees will be appointed by The Vishwa Hindu Parishad, but it means that appointments would be made by the Board of Guides of The Vishwa Hindu Parishad, keeping in mind the requirements written in the deed. It is correct that it has

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been in paragraph 5 of the deed that apart from above ten trustees, four saints will be appointed by the marg darshak mandal. It is also correct that it has been written in para 5 of the trust deed that the Central Executive of The Vishwa Hindu Parishad would appoint ten trustees of Shri Ram Janam Bhoomi Nyas from among the prominent Hindu citizens. I was one among those ten till August 30, 1990. When I was nominated, then Shri Shreesh Chandra Dixit, retired Director General of Police and others were appointed besides me. At present. I do not remember the name of others. Their names have been given in the plaint. At the moment, I do not even remember how long I remained as a trustee. It is correct that shila pujan programme was held in 1985 during the tenure of my trusteeship. It is correct to say that under the programme of shila-pujan about 6 crore people took 'sankalp' of Rs. One and a quarter of a rupee and contributed more than Rs. 8 crores for the construction of the temple. I do not know whether any programme was organised or not for collecting the money. I do not know whether or not a programme of 'Amrit Mahotsava' of Shri Ashok Singhal was organised.

(At this point, the Advocate cross-examining the witness drew the attention of the witness to para 6 of page No.3/40-A-I of other original suit No.5/89). After reading that, the witness said that whatever has written in it is correct. As it is necessary to have some property to declare a trust, therefore, a trust was formed by a contribution of Rs.Five thousand. I do not know whether this amount was contributed in Delhi or at any other place, but the trust was registered in Delhi and it was executed also in Delhi. Under the Hindu Law Endowment, math is also a juristic person; but I do not know if it is a corporate body or not. A trust is not a corporate body, but an association of persons. The

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concept of religious trust has come from English Law and the concept of 'math' has come from ancient Hindu Law. It is correct that there is a difference between the concepts of religious trust and math. Mathas are of two kinds. One is Hakmi and the second is Panchayati. I cannot properly say whether or not there are other kinds of mathas.

Question: Is the system of panchayati math based on democratic pattern or not?

Answer: Democratic pattern is a new pattern Panchayati mathas are governed according to their own customs and practices.

In my suit, I have made Param Hans Mahant Ram Chandra Das of Digambar Akhara, Ayodhya as defendant No.2. Digambar Akhara is a place, where he lives and he is known as its Mahant. (At this stage, the learned Advocate of cross-examining the witness drew the attention of the witness to para-16 of page-11 of the plaint). After seeing sub-para 5, the witness said that it is correct that Param Hans Mahant Ram Chandra Das Ji was acting head and Dharma-Karta of Digambar Akhara of Ayodhya. I cannot tell from whom I received the paper for reading, or whether I got it from Param Hans Mahant Ram Chandra Das Ji. Before filing this suit, I had met Param Hans Mahant Ram Chandra Das ii and we used to meet regularly. I never stayed at his place. Before filing of suit, I used to meet Param Hans Mahant Ram Chandra Das Ji at Ayodhya. He came to my home only once, but I do not remember when did he come. Sometime I used to stay in the dharmashala of Manas Bhawan in Ayodhya and at other times at the home of Shri Rajeshwar Singh Vakil of Faizabad.

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Before filing the suit, I did not examine the original file of the suit under Section 145, but I received papers connected with it from Shri Verma Saheb. At this time, I do not remember which were those papers and what was their number. But I do remember that there was an affidavit of one Shri Anisur-Rehman, and copies of 13 affidavits, which were filed, copy of the preliminary order and a copy of proceedings of attachment, a copy of the report filed by Shri Priva Dutt Ram Ji regarding worship and the copy of the order of the Magistrate closing the proceedings in 1953. In addition, there was a copy of the order of the High Court passed on the transfer application of Shri Anisur Rehman. Now, I do not remember whether those were provisional or confirmed copies of the said documents. I had believed that the papers, which I received from you, were authentic. Apart from the above-mentioned papers, I received the plaints of all the four suits. I received also the copy of the report of Shiv Shankar Lal filed in the suit of Shri Gopal Singh Visharad. It is correct that I checked the papers which I received and then verified from the court. Then he said that he got them verified through Shri Mahendra Nath Srivastava, who is at present D.G.C. and then filed them alongwith the suit at the time of filing the suit. Some papers were filed later on. Shri Mahendra Nath Srivastava was appointed as a Advocate on behalf of Mahant Ram Kewal Das and I obtained information of all these things through him. I do not know whether or not Shri Mahendra Nath Srivastava was a Advocate of Param Hans Mahant Ram Chandra Das Ji.

I saw the file of suit under Section 145, in this High Court after filing the suit.

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Question: The papers you received from me, were connected with the suit of 145. Did you find them correct after seeing the file of suit of 145 in this court?

Answer: I returned the papers to you, which I received from you before filing the suit. I think I had returned these papers in 1985.

Those papers would have remained with me for about one to two months. I have seen the original file of 145. I have heard the name of Abhiram Das. I do not know him. I know Shri Dharma Dasji. He describes himself as a disciple of Abhiram Das. I do not know whether or not he is a genuine disciple of Shri Krishna Das. I came to know Shri Dharma Das Ji much later after I received papers from you. I came to know him in 1985. I went to Ram Janam Bhoomi temple that is the structure situated on Ram Janam Bhoomi and in which idol of deity was installed, in 1985: I had gone there in 1984 also, but had not gone inside. I first went to the so-called Ram Janam Bhoomi temple in May 1984. Then Dharma Das, Param Hans Mahant Ram Chandra Das were not with me. No Bairagi Mahatma went there with me on that site. I had darshan of the idol from outside the grills. As I could not assess the height of the idol from a distance, I would, therefore, not be able to tell as to what was its height. I will also not be able to tell the numbers of the idols, whether they were one, two or three or more than three in number. I will not be able to tell which deity was that idol of. I had darshan of idol installed on the Ram Chabootra in the outer portion, and of chhathi sthal and of foot-prints, kitchen, etc. In Ram

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Chabootra temple, there was a temple-like wooden structure. I was told that Bhagwan Ram Lalla was 'virajman' there. I do not remember whether I got 'charnamrit'. I am not that kind of a devotee who goes to have 'darshan' with a mind full of devotion. Rather I had gone there to ascertain as to what was the dispute all about. I do not know whether Tulsi Das Ji has described four kinds of devotees in Ramcharitmanas and the fourth kind of devotees are called inquisitive (jigyasu) devotees. I do not know whether I fall in that category. I do not remember whether I took flowers and fruits etc. with me when I went there to have 'darshan'. In those days, there were no shops of flower garlands, 'prasad' etc., en route to the disputed place. It is correct that when I entered inside, all the idols were visible on the Ram Chabootra. There was no obstruction in viewing. I think there would have been idols of Sitaji and Laxman alongwith the idol of Ram Chandra Ji. There was a cave-like basement in front of the Chabootra. I think it was not on the right or the left side. I came to know from the file that the inner courtyard was attached during 1949. When I went there in 1985, then Ram Chabootra was situated on the eastern side of the inner courtyard and 'kirtan' was held there. I do not remember whether there was a tin-shed where kirtan was held. There was a chhathi pujan shtal in the north of inner courtyard. There was staircase in the south of inner courtyard. There was no path in the west of inner courtyard, it was completely blocked. It was correct that if 'parikrama' had to be done, then it had to be done from outside of both outer and inner courtyards together. When I filed the suit, I did not know at that time as to when the idol of Ram Lalla,

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installed on the Ram Chabootra, was shifted to below the dome inside. That is, whether the same idol was shifted. I came to know of this after 1989 when issues were being framed, because I obtained information and gave my statement on that basis vide order No.10 of Rule 2 of C.P.C. I got this information about the above mentioned fact from Param Hans Mahant Ram Chandra Das. He told me that Abhiram Das was also with him. Besides, when I went to Ayodhya with Justice Gopi Nath Ji, then Laxman Kiladheesh also confirmed this. Then he Volunteer : that this was the same Abhiram Das, whom Dharam Das regarded as his guru he has since expired. Dharam Das Ji had a will from which we came to know that Abhiram Das Ji has expired. We had this information before the stay of our suit. Then he said that information regarding the death of Abhiram Ram Das Ji came to their knowledge in 1986, i.e. before the filing of the suit. I have never met Abhiram Das Ji. I met Kiladheesh Sitaram Sharan in 1990. Justice Gopi Nath had gone to meet him and I also accompanied him. I cannot tell in which month of the year of 1990, we met him. When we talked to Sitaram Sharan, he told that he was also present at the time of shifting of the idol. I had read in the newspapers that a Ramalaya Trust was established. I have no knowledge whether Swami Sitaram Sharan Ji Maharaj, Laxman Kiladheesh was a trustee in Ramalaya trust. This trust was formed during the tenure of Shri Narsimha Rao. I have no personal knowledge that Ramalaya trust was got formed by P.V. Narsimha Rao, but this was formed during his tenure. I had no interest in obtaining information regarding Ramalaya trust. Then he Volunteer : that in his opinion Ramalaya Trust was a

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still-born. I had met Shri Buta Singh during 1988 and 1989. I had not met with Shri Bir Bahadur, the Chief Minister, in connection with shila-nyas (laying of foundation stone). Then he Volunteer : that he was then not Chief Minister. I had a meeting with Bir Bahadur Singh on 17th December 1985 in the Circuit House. Hon'ble Shri Shiv Nath Katju went to meet Shri Bir Bahadur Singh with a delegation. I had also gone to meet him. Delegation had gone to meet him to request that the two locks fixed on the inner courtyard may be removed and the obstruction coming in the way of darshan and worship may be removed. Thereafter, in January 1986, a public meeting was held in Jhandewala Park, Lucknow. It is correct that Param Hans Mahant Ram Chandra Das Ji and Mahant Avaidya Nath Ji had announced to launch an agitation, but Param Hans Mahant Ram Chandra Das had also announced that he would immolate himself, if locks were not opened. After studying F.A.F.O.17/77, I had advised that by submitting an application a prayer can also be made to the court for getting the lock opened. It is wrong to say that I had advised that there was no need to launch an agitation. During 1985-86, I was not an office-bearer of the Vishwa Hindu Parishad, I was only an ordinary trustee which comes under the category of membership. There was no order of any authority or court to lock the doors, but the police had forcibly put the locks without any authority. I cannot say who was the police officer who had directed to put locks.

I knew that the charge of Ram Janam Bhoomi was with the Receiver. The order of the appointment of Receiver was given under the final orders of the High Court. Then he

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said that in the beginning, the appointment of Shri K.K. Ram as Receiver was made by the orders of City Magistrate and the High Court had continued it through interim orders during the appeal. I had read the interim order of the High Court. I do not remember that the High Court had passed this order that appointment of Receiver made by the criminal court would continue. I do not know whether Shri K.K. Ram, Receiver of Ram Janam Bhoomi used to submit the accounts of Ram Janam Bhoomi in the court of the City Magistrate. But according to my information, he never submitted any accounts. I know Shri Umesh Chandra Pandey who is a client of my lawyer, Shri Vireshwar Dwivedi. As far as I know, Munsif of Faizabad did not pass any order on the application of Shri Umesh Chandra Pandey for opening the locks. This was told to me by my lawyer, Shri Vireshwar Dwivedi that the Munsif had refused to pass any order on the application of Shri U mesh Chandra Pandey. I did not ask my lawyer as to why the Munsif Saheb refused to pass any order. Shri Vireshwar Dwivedi had told me about it at the time of opening of locks. As far as I think, this was told to me one or two months after the locks were opened.

That the District Judge had recorded the statements of the then District Collector and Police Superintendent came to my knowledge after I read the judgement of the District Judge. Without looking into the judgement, I cannot tell whether the appeal was filed in the court of the District Judge on January 29th, 1986 and the judgement was given on 1st February. The witness, after seeing paper No.A3/45 of the writ petition, said that it has been written in it at the very beginning that the appeal has been filed against the judgement of 28.1.1986. As the events had taken another twist, I had, therefore, not given any personal advice to

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Shri Param Hans not to take any action. When I went to have 'darshan', I did not feel that politicization of Ram Janam Bhoomi-Babri Masjid dispute and litigations related with it has started anew. I do not know that after this event, riots took place at various places and people were killed and property worth crores of rupees was damaged. Then he Volunteer: said that after this event, temples were destroyed in India and in Pakistan. It is correct to say that all the castes including Hindus, Muslims. Sikhs, Christians, etc. fought against the Britishers in the struggle for freedom for India. I do not have any knowledge about Bahadur Shah Zafar. I do not even know whether he participated in the war of independence of India. I do not know whether in 1556 any war was fought over the dispute of Ram Janam Bhoomi Masjid. I know the retired Chief Justice of Guwahati High Court, Shri Guman Mal Lodha. I do not remember whether Shri Guman Mal Lodha appeared in the court as my lawyer. Then he said that he appeared once or twice. I have not heard about the book titled "How long Shri Ram will be insulted in Ayodhya" written by Shri Guman Mal Lodha and published by The Vishwa Hindu Parishad I did not study all the books about Ram Janam Bhoomi and Babri Masjid before filing any suit, but I had filed my suit after obtaining information from some books. It is correct to say that I had filed my suit on July 1st, 1989 in the court of Civil Judge of Faizabad. It is correct to say that I knew at that time that the case of transfer of pending suits filed earlier in respect of Ram Janam Bhoomi had been pending in the High Court. At this time, I cannot say from which source I got this information. I had also given an application in this court on 7th July 1989 for the transfer of my suit. I had knowledge that 10th July 1989 was fixed for hearing of the application filed by the Government. I do not remember whether Shri Guman Mal Lodha was present in this court in

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the capacity of my lawyer. But it is correct that I was present in the court on the above date. A bench of two judges was hearing those applications on that day. I do not know whether one of the Judges of that Bench, Shri Umesh Chandra Srivastava had said that why did you people not settle this matter among yourselves.

Shri Pararn Hans Mahant Ram Chandra Das and Mahant Dharma Das Ji had engaged Senior Advocate, Shri V.K.S. Chaudhary for pleading through me. By pleading, I mean engaged for cross-examination. It is correct that Shri V.K.S. Chaudhary. Senior Advocate had cross-examined the case on behalf of these two persons, at advice of Puttu Lal Mishra, advocate.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

08.08.2001

Typed by Stenographer as dictated by me in the open court. In continuation of this Appear on 09.08.2001 for further cross-examination .

Sd/-

8.8.2001

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Dated : 09.08.2001

(Commencement of statement, on oath, of P.W.-2, Shri Devaki Nandan Agarwal, in continuation of 16.6.2001)

Shri Babu Ram Gupta, advocate was my lawyer in the beginning in suit No.5/89 filed by me, but later on, power of attorney was withdrawn from him. Shri V.K.S. Chaudhary is a senior advocate and consultations have been going on with him regularly. In addition to this suit, Shri V.K.S. Chaudhary has been my lawyer in the writ filed by me. After my arrest, Shri V.K.S. Chaudhary and Shri Daya Shankar Mishra, advocate, had filed a habeas corpus writ in Allahabad High Court on behalf of my wife. Shri V.K.S. Chaudhary has argued in suit No.4 as a senior lawyer on behalf of Shri Dharma Das Ji. A special leave petition was filed in the Supreme Court in connection with these suits, in which I acted as a lawyer on behalf of Shri Dharma Das Ji. This special leave petition was against an order in suit No.4. Most of the material and applications in this suit have been typed and filed by me. There is a road in the north, Ram Deewar in the east, in the south and in the west of the disputed suit property in my suit No.5. The suit property shown in the suit, fully belongs to Ram Janam Bhoomi Sthan.

It is correct that each and every particle of the disputed place is sacred and it is worshipped through different symbols. Symbols include Sita Koop, Feet, Sita Rasoi, Ram Chabootra etc. Devotees worship their deity Shri Ram by worshipping these symbols. The whole place is venerable according to me. A Survey Commission on behalf of this court went there. I was present during the time of survey. I do not remember for how many days survey was

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done and whether I was present or not on the spot. I do not remember whether my signatures were taken on the survey proceedings. I did not come to know during the survey as to which is the list-wise number of the disputed place.

(At this point, the learned Advocate drew the attention of the witness to page No.40A-1/1 of O.S.No.4/89). After seeing that, the witness said that this counter-statement, which was filed on behalf of Dharma Das ji, was typed by me. I had come to give evidence on behalf of Dharma Das Ji in suit No.39/82/ pending in the court of Second Civil Judge, Faizabad. On that day, I did not give my evidence, because the suit was not presented on that day. That day might be 16th August 1990, but I do not remember the date. I do not remember who had taken me to give evidence or who had told me that evidence was being given in the suit. I did not receive any summons from the court for giving evidence.

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I was a witness in a deed of conciliation and I had gone to stand as a witness in regard to that deed of conciliation. This conciliation or agreement had taken place between Mahant Ram Kewal Das and Mahant Ram Das Ji. I do not remember whether I had gone to sign the deed of agreement. Then the witness said that he did not remember the matter regarding which he had gone to give evidence. He Volunteer : that he remembers that he had gone to give evidence in respect of an agreement arrived at in a public meeting. I do not remember whether Shri V.K.S. Chaudhary, advocate, accompanied him on that day. At present, I even do not remember as to who were the parties of suit No.39/82. My evidence could not be taken on that day, because no sitting of the court was held on that day. I do not remember that the opposite party, i.e. Nirmohi Akhara

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has filed an application in the court that the witness was examining the file sitting in the court. I even do not remember this that the court had recorded my presence on that application. I do not even remember whether the suit was fixed for evidence on that day. It is wrong to say that I am giving a false statement. Rather the fact is that the evidence I am giving is absolutely true. In this suit, I had appointed Shri Triloki Nath Pandey, who is present in the court as a special attorney on behalf of Bhagwan Shri Ram Lalla. This special attorney is not registered. I think that Shri Triloki Nath Pandey is not the attorney of Mahant Pararn Hans Ram Chandra Das. He might be his follower.

(At this point, the learned Advocate drew the attention of the witness to paper no.183C-2/3 of original suit No.5/89) After seeing that, the witness said that this affidavit was filed by Shri Triloki Nath Pandey, in his capacity of pleader of Shri Ram Janam Bhoomi Nyas C/o Shri Ashok Singhal I do not make any payment to Shri Triloki Nath Pandey. I do not know that before I filed the suit, when I was in The Vishwa Hindu Parishad or in the Nyas, whether any amount thereof was spent on it or not. (At this point, the learned Advocate, cross-examining the witness, drew the attention of the witness to paper No.182C-2/54 to 61 filed in original suit No.5/89). After seeing them, the witness said that the legal expenditure shown in it, might have been incurred, but he did not know on which items it was spent. The learned Advocate read paper No.182C-2/56 and showed it to the witness. After reading and seeing it, the witness said that he did not know Shri Ragav Sharan, whose name has been mentioned on this page. The fact mentioned on this page is correct, because I have read this legal paper. This suit was in respect of Ram Chabootra. The outer courtyard was attached under the dispute of 145. I do not remember

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the date and year of attachment. In this regard, I have in my possession an attested copy thereof and because of that I have knowledge thereof. I do not remember when I had gone through it. Shri K.K. Ram Verma was Receiver in this suit. Then Volunteer : that after agreement was arrived at in regard to case of 145, all the proceedings were closed. I do not remember as to who were parties of suit of 145.

This agreement was arrived at first between Shri Ram Kewal Das and Siya Raghav Sharan and thereafter between Siya Raghav Sharan and Shri Dharma Das. Without looking into the papers, I cannot say whether or not this suit was fought among Shri Dharma Das, Nirmohi Akhara and Shri Siya Raghav Sharan. I do not have any information that Shri Siya Raghav Das had moved a case of dacoity against Shri Dharma Das. Nirmohi Akhara had filed a suit No.39/82 in a civil court against Shri Dharma Das in connection with this suit. I do not know that Shri Siya Raghav Sharan was a priest of Nirmohi Akhara. I do not even know that Shri K.K. Ram Verma, who was Receiver in the criminal court, was also appointed Receiver in this suit. It is true that Shri Siva Raghav Sharan Das had filed petition of C.R.P.C. under 482 in Lucknow High Court and the High Court had closed the proceedings of Section 145 of Criminal Procedure Code on the basis of that petition. Then he said that he did not exactly remember whether this petition was filed by Siya Raghav Sharan Das or by anybody else. I have not seen the file relating to the suit of 145, I cannot, therefore, say whether it included any order for the release of property. (The learned Advocate cross-examining the witness drew the attention of the witness to the book titled "Ram Janam Bhoomi — A Historical and Legal Perspective" which was marked as paper No.C-1-290/1 to 20. After seeing it, the witness said that this book has been written by him. This

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book was written by me when I went to see Prime Minister Shri V.P. Singh in 1990. This book, authored by me, was published by The Vishwa Hindu Parishad. This book was not priced. It was published for publicity. The legal expense shown in the accounts of Ram Janam Bhoomi Nyas, does not pertain to this book. At the time of writing of this book, I had already retired from the High Court. I have given my name in the book as Justice Devaki Nandan. There is no practice of writing retd. Then he said that when a Judge holds the office, he is referred to as Hon' Mr. Justice and after he is retired only the word Justice is prefixed before his name. Even the word Mr. is not prefixed before his name.

Shri Dharma Das had written a registered paper in 1986, but I do not remember whether it was in favour of the Nyas or for what purpose.

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(At this point, the learned Advocate cross-examining the witness drew the attention of the witness to paper No.182C-2/43 of original suit No.5/89). After seeing it, the witness said that this paper had been drafted by him. After reading the paper, the witness said that this resolution was in respect of outer courtyard, Ram Chabootra, etc. and about the whole premises which is called outer courtyard premises, in addition to auditorium (katha mandap). I cannot tell what is the number of this katha mandap. I cannot even describe its boundary. The number of the outer courtyard has also not been written in this paper.

The boundary and number of the outer courtyard had not been given in the resolution on paper. The source of title has not been given in this deed because there was no necessity of that. I do not know whether the outer courtyard

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was attached at the time of writing the deed of resolution. In the said deed of resolution, only katha mandap was donated. Inner and outer courtyard was donated for the construction of temple. This donation was made to Shri Ram Janam Bhoomi Nyas. At that time, the Head and Dharma karta of the Nvas was Jagat Guru Shri Ramanandacharya, Swami Shivramacharva Ji Maharaj. It is absolutely wrong to say that Jagat Guru Rarnanandacharva Swami Shivramacharya was annoyed with the personnel of The Vishwa Hindu Parishad and Ram Janam Bhoomi Nyas that because financial impurity had creeped in them and he left. (At this point, the Advocate, cross-examining the witness, drew the attention of the witness to paper No.201C-2/6 of original suit No.5/89). After seeing that, the witness said that the statement given it can never be the statement of Jagat Guru Ramanandacharya Shri Shivramacharya. Jan Morcha is a communist newspaper and it prints whatever it wanted. I do not know whether its denial was published or not. If a suit is filed on behalf of a deity under C.P.C., there is no clear provision for an appointment on behalf of the next friend. But according to a ruling of the Allahabad High Court, it is necessary for the next friend to give an application for appointment. The day when this suit was filed, there was no need to cite this ruling on that day. (At this point, the Advocate,, cross-examining the witness, drew the attention of the witness to paper No.1 26C-2/42 of other original suit No.5/89). After seeing that, the witness said that this was correct that the press-note was on the pad of The Vishwa Hindu Parishad and it bore the date of May 20th, 1989. It bears my signatures. This press-note was issued by me in my capacity as vice-president of the Vishwa Hindu Parishad. It is correct that in this Pressnote, I have referred myself as Justice Devaki Nandan, vice president. It is also correct

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that after one month and 11 days of issuing of this press-note, I had myself gone to the court of Civil Judge to file this suit. I do not remember whether there was a strike on that day and I had filed my suit in the Chamber of the Civil Judge. Then he said that I had filed my suit with the Civil Judge, who was in his chamber. It is wrong to say that I had overwhelmed the Civil Judge by showing myself as a Justice. Then he Volunteer : that the fact was that he already knew him. It is correct that the Civil Judge gave me permission under Section 80(2) and directed the suit to be registered and our application under Section 32(5) was allowed the same day, subject to the objection. I have seen my parents listening to the story (katha) of Satya Narayan many a times and I have also heard that katha. It is correct that seats of cow-dung are prepared before listening to the katha of Satya Naravan Bhagwan. I do not remember that Ganesh and Laxmi are invoked for their auspicious presence. Form and image is not required for installing a deity; rather invocation is required, but it is not necessary in every circumstances. It is correct that idol of Durgaji is installed during Durga puja, but I have not seen the process of installation with my own eyes. It is wrong to say that when an idol is removed from a place, where it was installed, then it is necessary to immerse it in a river. I do not know that after I heard the 'katha' the cow-dung seats in which Ganesh and Laxmi were installed, were immersed in the river or not by the Pandit Ji. Ordinarily it is necessary that the person who is going to install an idol, should be the owner of the land where idol is to be installed. It is correct that after consecration of the idol, the God of that idol gets seated (virajman) in that idol. It is wrong to say that after consecration of an idol, the person who is consecrating the idol would surrender his property to that deity, but the fact is that the act of surrendering is a part of the process of

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consecration and it takes place simultaneously. It is wrong to say that without the completion of the process of consecration by 'mantras', the act of surrendering cannot be performed, but as I have said these things are done simultaneously. I have not read Puranas, I cannot, therefore, tell that in which Puran, the process of consecration (Pran pratishtha) has been given. It is correct that after consecration, all acts in the service of Bhagwan are performed, such as that deity is given a bath and arti is performed, food is offered and he is put to sleep. In my statement, which I have given under order 10 of Rule 2, 1 have told about the ceremonies; they took the idol of Ram Lalla chanting and reciting his name and performed his worship, etc. there. They had told me this much, I would, therefore, not be able to tell that anything else was done or not. As they had told, thousands of people had gathered there and were doing bhajan-kirtan. When the idol of Ram Lalla was shifted, then the persons of Nirmohi Akhara placed another idol on Ram Chabootra. The above mentioned these things were not told to us by Param Hans Ram Chandra Das but I had seen it myself, when I went there in 1984. From 1949 to 1984, the idol of Ram Lalla was constantly there on Ram Chabootra and huge offerings were made there. These things were told to me by my client, Babu Raja Mohan Manuva and Prakash Chandra Jaiswal of Faizabad. At present, I will not be able to tell whether I heard about these things from anybody else also. About 20-25 years have passed since the passing away of Prakash Chandra Jaiswal. I met him last about 20-25 years ago. Worship of idols which existed earlier on Ram Chabootra and of the idol installed after 1949 was got done only by the people of Nirmohi Akhara till a quarrel arose with Dharma Das ji. (At this point, the Advocate cross-examining the witness, drew the attention of the witness to

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paper No.201C-2/8 of other original suit No.5/89.) After seeing that, the witness said that it is the photo copy of that paper which he had filed in reply in Hon'ble Supreme Court. Whatever has been written in its para 10, is correct. By the word 'past' mentioned in para 10 of this paper, I mean the period before September 23rd, 1949 when the idol was installed outside on Ram Chabootra. I cannot say since when that idol was there, whether it was before Manu Smriti, i.e. beyond living memory. I have seen the stone of Shaligram. I do not remember whether I have seen the rock of Shaligram in the Katha of Satya Naravan Ji. Many of our colleagues worship it, I have, therefore, seen it. The devotees of Shaligram take it along wherever they go. I do not know whether Shaligram is consecrated or not. But I have heard that it is self-begotten Bhagwan. I do not know that Shaligram are in form of 'shankh' and 'chakra' and the image of every deity can be contemplated in it. I do not even know that the consecration of movable idol has to be done according to marks of form found in the Shaligram. (At this point, the learned Advocate cross- examining the witness drew his attention to paper No.107C/23 I of other original suit No.5/89). After seeing that, the witness said that it is correct that this paper does not bear both the date or signatures. Then he Volunteer : that Shri Indu Shekhar Ji Pandey had given me this paper by writing it on his own pad and in his own hand-writing. The reason of it not bearing his signatures is this, that in those old days there was no practice of affixing signatures. So he only gave this paper by writing on letter pad in his own hand. The date of shifting has been mentioned in it. It is wrong to say that the date written in it is the date of preparing the horoscope of some client. I have said in my statement that there was a Jyotishacharya (astrologer) of Bahadurganj Prayag, by the surname of Dwivedi, who had given a paper written under

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his signatures. I have filed that paper in this suit, which is marked as paper No.107C/232. He had signed over it, because he belongs among the present generation He died about 2-4 years ago but I would not be able to tell the exact date. I received this paper in 1990. I had gone to him to enquire whether the idol was shifted at a auspicious moment (muhurta) or not. The details of muhurta, which was derived, have been given in this paper. I had obtained paper number in 1990. The number of the other paper is 107C-1/232. I do not remember which of the two was received first. I do not have any personal knowledge that when attachment was made, an inventory of two idols of Ram Lalla, six Shaligrams and one idol of Hanuman Ji was prepared. I even do not know that the Receiver had received it.

Question: Today after seeing the file, you came to know that Babu Priya Dutt Ram received in 1950 an inventory of two Ram Lallas, 6 Shaligrams and one Hanuman Ji?

Answer: I do not have personal knowledge of what has been written in the file.

He Volunteer : that on opening of locks in 1986, 1 went inside and then I saw Bhagwan Ram Lalla Virajman in a cradle. A picture of Bhagwan Shri Ram Lalla was kept above that and I did not see there the idols mentioned above. I cannot say whether that was the same picture which I saw inside the disputed place in 1934. It is correct that a similar reply to suit had been filed by Mahant Ram Chandra Das and Gopal Singh Visharad in O.S. No.4/89. Without looking into the records, 1 would not be able to tell whether Pindi Das Goswami was Advocate of both the

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persons. The learned Advocate cross-examining him, drew the attention of the witness towards paper No.461/A1 to paper No.461/8A of reply of Abhiram Das filed in other original suit No.4/89. After seeing them, the witness stated that he did not recognize the signatures of Abhiram Das Ji. I do not remember whether I had read this reply. After reading para 25 of this written statement, the witness stated that whatever has been written in it is correct. At this point, tile learned Advocate of cross-examiner drew attention of the witness to paper No.199C-2/48 of other original suit No.4/89. After seeing that, the witness stated that the thing written in para 53, page 41 is correct. It is correct that it has been written in it that Nirmohi Akhara is a religious institution, the character of which is of a math (It is correct that math is a juristic person. It is a panchayati math. Mention of all the seven akharas situated in Ayodhya has been made in para 52 of this paper. It is correct that barring the premises of inner courtyard, the total area of outer courtyard and the land adjacent to it which was acquired by the Government of U.P., is 2.77 acres. It is also correct that when it was acquired, Shri V.K.S. Chaudhary was the Advocate General. The notification is of 7th October 1999. The purpose of this acquisition was "development of tourism at Ayodhya". It is also correct that "providing amenities to pilgrims" was also written in that notification. It is correct that this notification of dated 7.10.91 had been challenged by Nirmohi Akhara and a writ petition was filed by them. It is correct that I had not challenged that notification, but I am unable to say as to why I did not challenge it. I am also unable to tell whether this non-challenging of notification had injured my faith. It is correct that all the ancient religious places have their mythological importance. It is correct that it is reflected from my suit that from the very beginning my aim was to get

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the structure demolished and construct a new temple. It is correct that after demolition, the Central Government acquired the whole of the disputed place. In 1993, when the Central Government acquired the whole disputed place, whether or not it hurt my faith, I would not be able to tell, because it is a matter of my personal faith. It is totally wrong to say that I was not interested in protecting the Ram Janam Bhoomi, in which I had faith. It is correct that after acquisition I had filed an application under the ordinance that the suit stood abated. I do not remember whether I had given separate application in each suit or not. It would be in the records. I do not remember that in suit No.3/89, the whole ordinance was challenged, but I do remember that abatement was challenged. After the Ordinance, it was an issue before the Special Bench whether all the suits have abated or not and the Supreme Court had transferred this issue before it for hearing. It is correct that the Central Government had invited both the parties to resolve this matter. One party among them was Babri Masjid Coordination Committee and All India Babri Masjid Action Committee and the other party was the Vishwa Hindu Parishad. Babri Masjid Action Committee was formed in the first week of February 1986. I did not go to participate in the negotiations conducted by the Central Government on behalf of The Vishwa Hindu Parishad in the beginning but later on went on their behalf. For the first time, I went for talks when Rajiv Gandhi was the Prime Minister. Seven or eight persons used to accompany us. Among them were Param Hans Mahant Ram Chandra Das, Mahant Avaidya Nath, Shri Shreesh Chandra Dixit, etc. At present, I do not remember the names of other persons. Then he said that Ashok Singhal was also among them. When Shri Chandra Shekhar was the Prime Minister then negotiations were started again in December 1990 and three Committees

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were constituted in January 1991. At that time, I was a member of the Legal Committee. When I used to go in the meeting, our ticket was purchased by the Vishwa Hindu Parishad. Rest of the expenses were met by me. It is wrong to say that the whole expenses were met by the Central Government from the very beginning. And when Shri Narsimha Rao became the Prime Minister and meetings were held, then the whole expense was met by the Central government, i.e. T.A. and D.A. was paid. Most of the time, I used to stay at my son's place and perhaps once I stayed in Uttar Pradesh Bhawan. It is correct that The Vishwa Hindu Parishad was a party in the negotiations, but it is not a party to any suit. When the Central Government invited both parties for negotiations, then I did not feel that it was a political drama. I had faith in the intention of the Prime Minister. I had in my earlier statement referred to the stamp paper on which I had written. I do not remember from where the stamp paper had come and who had brought that stamp paper, but it must have been brought by some worker. That stamp paper bears my signatures. I did not consider it necessary to file it in this suit. But it has been filed by some party in suit No.3/89. I do not remember whether this stamp paper bears the signatures of Mahant Ram Kewal Das of Nirmohi Akhara. I did not write Nirmohi Akhara C/o Mahant Sarvarakar Ram Kewal Das. I cannot tell the value of the stamp paper. It was not registered. It is a record of the resolution. I have read all the gazetteers which I have filed and as they are treated as correct, therefore, I also treat them as correct. Cunnighum was an archaeologist. Disputed place is a najul land and is under the zamindari of the Government. It was a zamindari of the Government till it was acquired. No annuity has been fixed of this land.

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I have not seen Vishnu Pad situated in Gaya, nor have I gone there. I do not know its history. In Kedar Nath, there is an image of the back of an ox. I have seen it. I have read that the five Pandavas had passed their period of anonymity (Agyat vas) there. I do not remember that Lord Shankar had come there to test the strength of Bhim in the form of Nandi and left his back, because Bhim had caught the tail. I do not know that head of Shankar Ji is situated in Pashupati Nathji. It is utterly wrong to say that I have filed this suit to earn cheap popularity and to remain in limelight in association with the Vishwa Hindu Parishad. It is also wrong that I have got protection from my sympathizers.

(Cross-examination by Shri R.L. Verma, Advocate, on behalf of defendant No.3, Nirmohi Akhara, concluded).

(Cross-examination by Shri Abdul Mannan, advocate, on behalf of defendant No.6 Shri Mahmud Ahrned)

xxx xxx xxx xxx

I have not heard any such thing that Babri Masjid must have been built in 1915.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
09.08.2001

Typed by the Stenographer as dictated by me in the open court.In continuation of this Appear tomorrow on 10.08.2001 for further cross- examination .

Sd/-
9.8.2001

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Dated: 10.08.2001

(Commencement of statement, on oath, of P.W.-2, Shri Devaki Nandan Agarwal, in continuation of 09.08.2001)

This mosque i.e. Babri Masjid was built by Meer Baki. But his efforts to construct the mosque could not succeed. It is correct that Meer Baki was commander of Babar. It is correct that Meer Baki built this mosque to appease Babar. Babar did not go to Ayodhya, but he went beyond Ayodhya across Saryu river. Babar did not even see this mosque. It is absolutely wrong to say that since the construction of this mosque, it has been constantly been used for worship by the Muslims. It is also wrong to say that till the time the S.O. Ayodhya got the idol placed from outside to inside of the mosque, this was being used for worship (ibadat). It is wrong to say that this idol was got placed inside the mosque during the night of December 23rd, 1949, rather the fact is that the idol was shifted from outer Ram Chabootra to the place below the middle dome in the early morning, i.e. about 4.00 A.M. on 23rd December 1949. It is correct that the S.O. Ayodhya had registered a report at about seven A.M. in the morning. What has been written in the report can be read therefrom. This report is in the records.

(At this point, the learned Advocate, cross-examining the witness drew his attention to the paper No.236A of original suit No.4/89 which is marked as exhibit No.51). After reading it, the witness said that it has been written in it "that Abhaya Ram Das, Ram Sakal Das, Sudarshan Das and other 50- 60 persons, whose names are unknown, have desacraded the mosque by causing disturbance, entering the mosque and installing an idol". I do not know whether

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any action was taken or not against the persons whose names were mentioned in the report. I even do not know whether those persons lived in Faizabad or not. I stayed in Faizabad from 1932 to 1934. At that time, I was 11 to 13 years old. I did not read about the incident that took place on 23rd December 1949. At that time, I was in Allahabad. Namaz was not performed in this mosque after that incident. Then he suo moto said that it was not performed even earlier to that incident. It was Friday on December 23, 1949, when this incident took place. I have no knowledge that on that day when Muslims went there to perform namaz of Friday, they were told by the City Magistrate to go back. I was appointed as a Judge of the High Court on 17th November 1977. October 3rd, 1983 was my last working day. I was a Senior Advocate, before I was appointed as a Judge. I know that secularism is the basic concept of our constitution. Then he Volunteer : that the basic concept of Hindu religion also is equal treatment and harmony with all religions. It was not a place of others, therefore, the question of my feeling good or bad does not arise. It is wrong to say that the mosque built in the time of Babar was being constantly used as a mosque for Muslims. The inner courtyard of the disputed place was attached on December 29. 1949. It is wrong to say that the outer courtyard had also been attached. It is wrong to say that after attachment, dispute was constantly going on; rather after the appointment of the Receiver on 5th January 1950, he has regularly been arranging worship there. At that time, only one civil suit was filed on 15th January 1950. Thereafter a second suit was filed between October to December 50; the third suit was filed in 1959 and the fourth was filed in December 18, 1961. All these suits were being pursued till 1966. Thereafter i.e. after 1966, the plaintiffs of suit of 1961, which was the leading case, used to get their dates

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extended and the suit was prolonging and no progress was made. These suits went on prolonging till 1970, when Shri Priya Dutt Ram — the Receiver, passed away. After the death of the Receiver, Shri Priya Dutt Ram, all parties applied to the Civil Court for the appointment of a new Receiver by the Civil Court. After that, a new Receiver was appointed in the suit and an appeal was filed against that order and the case was remanded and another Receiver was appointed. An appeal was again filed against it in Allahabad High Court and a point was raised during that appeal whether the Lucknow Bench or the High Court of Allahabad has a right to hear the appeal. Then in 1986-87 the full Bench decided that this suit i.e. appeal would be heard by the Lucknow Bench. By the time, the decision was announced in the appeal, I had retired.

During my tenure as a Judge, I had nothing to do with this suit, nor had I any interest in the case. Even after my retirement as a Judge, there was no question for me to feel good or bad because I thought that this land did not belong to the other religion. When on 7th October 1984, I had taken 'sankalp', I had come to know that this mosque had been built by demolishing a temple and, therefore, it cannot be a mosque according to 'Shariat' (Muslim religious law). Meer Baki had built a mosque by demolishing a temple and it was not even fully completed. I, therefore, thought that even according to 'Shariat', it cannot be a mosque, as it was against 'Shariat'. By 1984, I had come to believe that it cannot be a mosque and, therefore, we had taken a resolve that by removing it we would liberate that land. I had taken this 'sankalpa' (resolution) in a meeting held on embankment opposite temple of Mahavir Ji in Allahabad. The meeting was presided over by Hon'ble Shri Shiva Nath Katju. He had also taken this resolve. After 1984, a number

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of rath yatras were taken out and it was said that Bhagwan was imprisoned behind the bars and he should be liberated. Hon'ble Katju Saheb and I myself have full faith in the constitution of India and have knowledge about it. In this regard, we did not submit any application in the High Court for liberating it.

Rath Yatra was in progress during 1984, but on October 31, Hon'ble Smt. Indira Gandhiji was assassinated and passed away. Rath Yatra was then stopped.

Rath Yatra was again started about one year after that. The aim of Rath Yatra was the same that the bars should be removed behind which the Lord was imprisoned.

At that time, all the four suits had scattered because of appeals. If one was lying with the Munsif, the other one was with the Civil Judge. Nothing happened thereafter and I myself did not file any suit. It is correct that I filed a case on behalf of the deities on 1st July 1989 and the notice thereof was given to all the defendants. It is also correct that order was given to link all the suits together including the suit on behalf of the deities. Therefore, an application was moved on your behalf under Section 10 of C that this suit should be stayed. The suit was stayed on the basis of that, as I had also agreed to it. After the passage of about two years, I gave an application under Section 151 for restarting the suit, which was accepted and my suit was being heard alongwith all these suits. In the meantime, Param Hans Ram Chandra Das Ji withdrew the suit which had been filed by him. There is no lacunae in my suit. (At this point, the learned Advocate, cross-examining him, drew the attention of the witness to the paper No.236A-I (exhibit No.5 1) of original suit No.4/89). After seeing that, the witness said that this report was filed by Shri Ram Dev, sub-inspector, in-charge of Police Station, Ayodhya. I do not know whether the persons, against whom this report

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was filed, were Hindus or not, but Abhiram Das was a Bairagi. Bairagi means a Ram Bhakta, who is called Ramait. These were the people, who had shifted the idol of Ram Chandra Ji from outside to inside. When I said that Ram Chandra Ji was imprisoned behind bars, it meant that there was a wall of bars in the inner premises and it was locked.

Common people used to have 'darshan' from outside the bars, but 8-10 persons used to go inside for worship, etc. People outside, who used to have 'darshan' through bars, felt that the idol was imprisoned behind the bars. I know the meaning of secularism. I do not know that the meaning of word secularism is different in England from that in India. Hon. the Supreme Court has, in many cases defined secularism. Without looking into those cases, I cannot tell as to what definition has been given therein. In England in 18th century, secularism meant a person who believed in God. I do not know this. Definition of secularism has not been given in the Constitution of India, but the word secular has been used in its Preamble. I cannot say that the meaning of secular in India is that a person who believes in different religions and follows the tenets of all those religions. In India, so far Hindus are concerned, they are all secular. Hindus, Vaishnavas, Jains, Buddhists, Sikhs are all included in Hindus. Then he said that except Muslims, Christians and those who believe in zorarstism, all are Hindus. In Islam all are not secular, but some of them are not secular. All those Muslims who are common citizens of Hindustan and are living peacefully in India are not secular. There are some Muslim leaders and other persons who are secular. I cannot pin-point anybody. Similarly, I cannot pin-point whether Muslim League of Kerala is secular or not. The Muslims, who live in India, are all citizen and nationals of India. Then said that infiltrators, who have come from outside, are not nationals.

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After 1st February 1986 and after opening of locks at the disputed place, Babri Masjid Action Committee was formed. They also threatened to launch an agitation. They also threatened to boycott Independence Day and organize a march towards Ayodhya. They did not march to Ayodhya and it was withdrawn. It is wrong to say that my whole statement is false or untrue.

(Cross-examination on behalf of defendant No.4, Sunni Central Board of Waqf, UP., by Shri Zaffaryab Jilani, Advocate)

xxx xxx xxx xxx

I had started preparation 3-4 months before I had filed suit No.236/89 (original suit No.5/89). Shri Lal Narain Sinha, former Attorney General and at that time Constitutional Adviser of Shri Rajiv Gandhi, helped in preparing the draft of the suit and in a way he settled the draft. I met Shri Buta Singh in May 89. I met him after I had filed this suit. I did not have a meeting with Prince Anjum Qadar and Shri Buta Singh before I had filed this suit. I had a discussion with Shri Buta Singh regarding what I have written in para 33-34 of my plaint. I myself or my colleagues did not give anything in writing pertaining to this suit. In 1989, Shri Shreesh Chandra Dixit, Shri Ashok Singhal and Shri Dalmia, etc. gave a document to Shri Buta Singh.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
10.08.2001

Typed by the stenographer, as dictated by me in the open court.In continuation of this Appear on 10.09.2001 for further cross-examination .

Sd/-
Narendra Prasad
Commissioner
10.8.2001

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Dated: 12.09.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 10.08.2001)

I do not know whether the document given to Shri Buta Singh in November 1989 by Shri Shreesh Chandra Dixit, Shri Ashok Singhal and Shri Dalmia, etc. was given in the presence of Shri Narain Dutt Tewari, Chief Minister of Uttar Pradesh, or not because I was not present at that time. I do not remember what was written in that document. At that time, a press note was released in regard to that document. It is correct to say that the said press-note was released by the Central Government.

I had prepared the draft of the plaint of my suit myself after having consultation with Shri Lal Narain Sinha. Before having consultations and preparing the draft, I had gone through the pleadings of the other four suits. I had obtained the copies of the pleadings. I had also looked into the documents of all the four suits. The present numbers of those suits are, other original suit No.11/89, 2/89, 3/89 and 4/89. I had examined the pleadings and documents of the above suits in April/ May 1989. When I consulted Shri Lal Narain Sinha, then my plaint i.e. the suit No.5/89 had not been prepared. I consulted this also in April/ May 1989. As far as I remember, I had prepared the draft of my plaint in May 89 or in the early June 1989. After preparing the draft, I got it approved and settled by Shri Lal Narain Sinha. After it was settled, I myself typed the plaint and filed it on July 1, 1989. I had myself gone to Faizabad to file it. I do not properly remember whether I had engaged any lawyer at the time of filing of the suit. Then said that as far as I think, I had not engaged any lawyer. After seeing the plaint

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No.5/89, the witness said that a space is left after the word 'at' after verification clause but I had signed it in Faizabad. After seeing the plaint, he said that I had not engaged any lawyer at the time of filing of suit.

The learned Advocate, cross-examining the witness, drew his attention towards paragraph-2 of plaint of other original suit No.5/89. After seeing it, the witness stated that the two site-plans and the report of the Commissioner referred to in the plaint are marked as Annexure No.1, 2 and 3 and are parts of my plaint. And I treat those maps and whatever has been in the report of the Commissioner as correct. After seeing Annexure 1, he said that Ram Janam Bhoomi or Ram Janam Sthan has nowhere been written in it and temple has also not been written anywhere. After seeing Annexure 2, he said that in it also, nowhere has been written Ram Janma Bhumi or Ram Janma Sthal. Both the maps are of the disputed building and of the places around it as was the situation prevailing in 1950. I had referred to Shri Gopal Singh Visharad in para 3, but I do not know him at all, but I have heard that he passed away in 1985. I have also heard that he used to practice law, but he was not regular. I have come to know from the documents that the name of the son of Shri Gopal Singh Visharad is Shri Rajendra Singh, who is a plaintiff in suit No.1/89 and is defendant No.1 in my suit. All the 5 Muslim defendants, referred to in paragraph 3 of my plaint, have passed away. I do not have any knowledge about their successors. In para 5 of my plaint, I have mentioned the name of Param Hans Ram Chandra Das. He is the same person, who is O.P.W.-1 in my suit. I have seen the plaint of the suit, filed by Param Hans Ram Chanira Das. In para 6 of my plaint, I have referred to suit No.26/59. It was filed on behalf of Nirmohi Akhara. The last sentence written in

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para 6 of my plaint means that as no cause of action remains against the successors of Haji Feku, Mohd. Fayak and Mohd. Achhan Mian, they have, therefore, not been substituted by Nirmohi Akhara. After seeing record of suit No, O.O.S. 3/89, the witness said that after the death of Haji Feku, his successors Haji Mehboob and Haji Abdul Ahad were appointed as his successors. But I did not make both the successors as a party in my suits, because I did not think it as necessary. I have not made my suit a representative suit. It is clear that the relief sought by me in my plaint has not been sought against the persons, who have been defendants in my Suit. At this point, the witness, after seeing para 37 pertaining relief, stated that I have not sought any relief against Haji Mehboob and Haji Abdul Ahad, who are defendant in suit No.3/89. In my plaint, defendant No.4, 5, 6, 22, 23, 24, 25, 26, 27 have been made as Muslim party and from out of them the names of defendant No.23, 24, 25 and 27 have been cancelled. I have not made Ziauddin s/o Shahabuddin, Farookh Ahmad s/o Zahud Ahmad and Maulana Mahafuzur Rehman s/o Vakiluddin as party.

The learned Advocate, cross-examining the witness, drew the attention of the witness to the plaint of other original suit No.4/89. After seeing that, the witness said that it is correct to say that in plaint No.4/89, the above-mentioned three persons, i.e. Ziauddin, Maulana Mahafuzur Rehman, Farookh Ahmad are defendant No.6/1, 8/1 and 10/1. I have not made all the three above persons as party in my suit and neither have I claimed any relief against them, because I have filed my suit against the plaintiffs of other original suit No.1, 2, 3, 4/89 and have claimed relief against them. Another reason for not making Ziauddin, Farookh Ahmad and Mahafuzur Rehman as parties in my

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plaint is that the original suit No.4/89, filed by Sunni Central Board of Waqf, U.P., has been accepted by the court as a representative suit and on the basis of that, successors of some of the deceased defendants have been made parties in the suit after the expiry of limitation period. When these successors were made parties, then my suit No.5/89 was under stay, and I, was therefore not coming in the court. Because of that, I did not make the above successors as parties in my suit. It is not correct to say that since 4 my suit and three other suits are being proceeded with together. It is correct to say that hearing of all the five suits is being done jointly since the year 1989. One of the suits among them has since been withdrawn. I had attended the court on December 9, 10, 18 of 1991 in connection with the pleading of my suit and the other three suits were also being proceeded there. Then he sou Moto said that he was neither a party nor could I attend in any of the above three suits as a Advocate or in any other capacity. Now I do not remember that on what basis had I written in para 8 of my plaint that the suit No.12/61 which was filed in the court of the Civil Judge of Faizabad, was filed as a representative suit. I knew at the time of filing my suit that the above suit had been filed as a representative suit, but I do not remember at present as to how I got this information. I have written in para 8 of my plaint that defendant No.10 to 19 were made parties in suit No.12/61 in the court of Civil Judge of Faizabad on their own prayer, I had written this after reading the order sheet of the above suit. I had written in para 9 of my plaint about consolidation of suit No.2 and 25/50 and then of other four suits after reading the order sheets of the above suits. The reference to prohibitory order dated 16.1.50 and 19.1.50 made in para 10 of my plaint, had been made by me after seeing the office copies available with the lawyers. I think that I have not seen the

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attested copies of both the above orders. Similarly, the reference to order dated 3.3.51 and 20.4.55 in para 10 of my plaint was made after seeing office copies available with the lawyers. I had not seen attested copies of even those orders.

By constructing a mesh wall around the disputed building, the Ram Chabootra situated in the courtyard was separated. By the disputed building, I mean the building with three domes. Ram Chabootra was situated in the same courtyard at a distance of about 20-25 feet in the east. It is correct to say that Ram Chabootra was situated outside the wall of iron bars of the disputed building, but was within the outer wall. I was told by Param Hans Ram Chandra Das that in the early morning of 23.12.49 idols were shifted from Ram Chabootra to inside the disputed building and below the dome. I do not know how many idols were removed from Ram Chabootra and placed inside. I never had any information about the number of idols. Then he Volunteer : that according to information available with him, the idol of Bhagwan Shri Ram Lalla, which was in the cradle, was shifted from Ram Chabootra and installed below the main dome. I do not know that police had encircled the disputed building since early morning of 23.12.49 and no one was allowed to enter inside. Then he Volunteer : that after posting of police, priests used to go inside. It is wrong to say that during the period from 23.12.49 to 29.12.49, when attachment was made, nobody could go inside for worship or 'darshan'. I am giving this statement on the basis of records that visitors used to go inside the temple from 23.12.49 to 29.12.49. In this connection, I had seen the order of City Magistrate regarding attachment. In addition to that, it had been mentioned in the statements given during the hearing of other suits which were being

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prosecuted in the court and in the order sheet and in other documents that during the period from 23rd December to 29th December 1949, visitors used to go there for worship and 'darshan'. (At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.238C-1 (exhibit No. A-I) filed in other original suit No.4/89). After seeing it, the witness said that it has not been written in it that visitors used to go to the disputed place for having 'darshan'. Then Volunteer : that it has also not been written in this order that visitors did not go inside. At this point, the learned Advocate, cross-examining him drew the attention of the witness to the other original suit No.2/89. After seeing it, the witness said that it has also not been written even in this, that during the period between 23rd December 1949 to 29th December 1949, visitors used to go inside the disputed place for having darshan. Then he Volunteer : that it has also been written in this plaint that when the plaintiff went to the disputed place on 14th January 1950, then he was stopped from going inside. After seeing the plaint of original suit No.1/89, the witness said that it has nowhere written in it that from 23rd December to 29th December 1949, visitors used to go inside the disputed building. Then Volunteer : that it has not been specifically written anywhere. But after going through all the records, I concluded that between 23rd and 29th December 1949, visitors used to go for having darshan. It has been written in para three of original suit No.1/89 that when the plaintiff went to the disputed premises, then he was stopped outside from entering inside. I do not know whether it has been written correctly or not. The same thing has been written in para 2 of suit No.2/89 in similar words and I do not know whether it is correct or not. It is correct to say that it has been written in the order dated 29th December 1949 that the disputed building has

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been attached with effect from the date of the order and it has been written in this order that the disputed building has been given under the charge of the Receiver Priya Dutt Ram and he has been appointed as a Receiver. Even after the order of attachment, visitors used to go inside the disputed building It is correct to state that the Receiver had prepared a scheme of management and submitted it to the District Magistrate and a suggestion was given in it as to how the arrangements for offering of food (bhog) should be made and suggestions relating to expenditure thereon were also given. At this point, the learned Advocate, cross-examining the witness, drew the attention of the witness to page 2 of paper No.31-57 of file of 145 C.R.P.C. of other original suit No.4/89. After seeing it, the witness said that it has been written in it that — "The entry of the portion in dispute (sick) area will also be regulated as before. The pujaris, my local representative and other persons employed by me should be allowed free access."

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I do not know whether the suggestion of the above Receiver was implemented or not. Then Volunteer : that it has also been written in the same report of the Receiver that:

"On the income side we have the cash offerings only. The income from offerings commencing from 23rd December 1949 upto 5th January 1950, i.e. during the period before the charge was Rs.233/4/16. But the average monthly income will be Rs.300/- or thereabout only. The maintenance, therefore, becomes much too costly."

It is correct to say that before 23 December, 1949 these idols were kept outside on the Chabootra and offerings were also made. Then sou motu said that idols

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were on the Ram Chabootra. In most of the documents I have seen in this connection, it has been referred to as Ram Chabootra. I do not remember whether in the suits which was filed about this Chabootra in 1885, it was referred to as Ram Chabootra or not. It is correct that till 22nd December 1949, these idols were not inside the disputed building. Then Volunteer : that I cannot say about other idols. I cannot answer this question that there were no idols inside the disputed building. Then sou-motu said that it might be that there were no idols inside and it might also be that there were idols inside the disputed building till December 22nd, 1949. The offerings, that were made on these idols, were collected by the priests of Nirmohi Akhara. It is wrong to say that the income earned during the period 23.12.49 to 5.1.50 as shown in the scheme submitted by the Receiver of the court in paper No.31-37, is the income received from the offerings made from outside the wall of the iron-bars. Then Volunteer : that it is wrong to say that this was income from the offerings made by the visitors by going inside. At this point, the learned Advocate, cross-examining him, drew the attention of the witness to the exhibit A-25 filed in other original suit No.1/89. After seeing it, the witness said that it was correct that in this map, the Chabootra has been referred to as a disputed one and has not been referred to as Ram Chabootra.

The learned Advocate, cross-examining him, drew the attention of the witness to para 11 of plaint of other original suit No.5/89. After seeing it, the witness said that from the words 'in the meanwhile'. I meant that Priya Ram Dutt was making arrangements for taking care, worshipping and service of idols since 5.1.50, which were placed in the disputed building on 23.12.49. I cannot say as to who was making arrangements for the service and worship of these

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idols from 23rd December 1949 to 4th January 1950. The reference made about service, worship etc. and about Jagat Guru Ramanandacharya, Swami Shivararnacharya of Kashi in para 15 of the same plaint is about these very idols, management of which was being made by the Receiver. Receiver was not involved in the decision, which has been referred to in para 15. The public opinion which has been referred to in this para 15, has been described in the deed of 18.12.1985 which is at annexure 4 of the plaint. The deed at annexure 4 was drafted by me. The mention of this public opinion has been made in 2 paragraph of page 1 of that deed. The year of Samvat referred to in para 2, i.e. Annexure-4, means year 1984 of English calendar and the month could have been October or November. This meeting was held in Lucknow, but I do not know the place where it was held. This meeting was organised by Shri Dau Dayal Khanna, Mahant Avaidya Nath, etc., who were members of Dharma Sthan Mukti Yajna Samiti. Then said that Param Hans Ram Chandra Das, Mahant Nritya Gopal Das were included in them. I do not have detailed information about it, whether any invitation letter was issued for holding this meeting or whether any poster was published or any advertisement was issued in newspaper or any news was published in newspapers. I even do not know who were invited to attend the meeting. I do not know how many people were invited. I do not even know how many people attended the meeting. But from the discussion held, it appeared that thousands of people had attended it. I had read about the discussion from the record of proceedings and I was told about it by Shri Onkar Bhave and also by other persons. These things were told to me when I was preparing the trust deed. I had verified, on the basis of my information, the things which have been stated in para 15 of this plaint. I got this information by going through the

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records of proceedings. I treat the knowledge based on records as my own knowledge. In my opinion, there is no difference between personal knowledge and own knowledge. I have not filed the record of proceedings of that meeting in this suit and neither is it available with me. It is correct that the record of proceedings was not in my possession even at the time of preparing of the suit. As far as I remember, this record of proceedings was written by hand. Records of proceedings must have been signed, but at the moment I will not be able to tell as to whose signatures were there on the records. It is correct that the trust made by the trust deed dated 18.12.85 also did not ever performed any service and worship, etc. of the idols installed at the disputed place. I functioned as a trustee till 1990 under the above trust deed dated 18.12.85 and thereafter 1 resigned on 30.08.90.

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By the word barrier, which occurs in the ninth line of para 12 of my plaint, I mean the wall of bars at the disputed place. It has been stated in para 12 of my plaint that the service and worship of plaintiff deities was regularly being performed but 'darshan' was done from outside the wall of bars; by that I meant the 'darshan' which was being done after 1970, and which is a period after the death of Babu Priya Dutt Ram. I have no personal knowledge whether till 1970 'darshan' was taken by going inside or from outside. Whatever have I stated about 'darshan' after 1970, is based on my belief. It is correct that I have no personal knowledge about it. It is also correct that I have no personal knowledge about 'darshan' till 1984. I have personal knowledge of 'darshan' after 1984. It is correct that whatever has been stated about worship and 'darshan' etc. in my plaint is based on my personal knowledge after 1984. It is also correct that I had no personal knowledge of

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the things before 1984. Similarly, the word custom used in para 12 of my plaint is not related to religion; rather its meaning is tradition.

Whatever has been written in para 15 of my plaint about service and worship, etc. is in respect of worship, services etc. to be done after the reconstruction of the temple by the trust. By the word nav-nirman, which occurs in this para, is meant the construction of a new temple at this place. At present, the Head and Dharma-karta of this trust is Param Hans Ram Chandra Das while earlier it was Swami Shivaramacharya of Kashi. It is correct that it has been stated in para 17 of the plaint that Shri Ram Janam Bhoomi Nyas is directly interested in service, worship, etc. but it is about service and worship, etc. to be done after the reconstruction of the temple. It is correct that I have filed this suit because of all the things which have been stated earlier in my plaint before para 18. Then the witness stated that some reasons have also been stated in para 18 also.

It has been stated in para 23 of my plaint that there was an old temple at Ram Janam Bhoomi in Ayodhya during the times of Maharaja Vikramaditya. it was about this very disputed place. it is correct that it has been stated in para 23 of this plaint that Meer Baki demolished the same temple of Vikramaditya. Then the witness said that the temple, which was demolished by Meer Baki, was not a temple of the period of Vikramaditya, but a temple of later period. He Volunteer : that the rulers of Gaharwal dynasty renovated that temple during 11th or 12th century. I came to know of this about 8-10 years ago that the temple during the times of Vikramaditya was renovated during 11th or 12th century. I came to know of this between 1991 and 1993, on being told by archaeologists and chiefly by Dr. S.P. Gupta

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among them. He told me about it orally also and I have also gone through the articles and papers written by him, which have been filed in this suit. Among the books of history, which I have mentioned in para 23 of my plaint, one is the book written by Dr. Radhe Shyam Shukla. It has been marked as paper No.107C/1/154 and has been filed by me. Similarly, another book has been written by Shri Avadh Vasi Sita Ram Ji and its name is 'Ayodhya ka Itihas' and is marked as paper No.107C-1/122, and has been filed by me. At the moment, I cannot tell that which of the books, mentioned in para 23 of my plaint as books of history, were read by me and on the basis of which I have written the statement made in para 23. At present, I will not be able to tell as to which were the public records about whom mention has been made in the first line of para 23 of my plaint. By public records, I mean the gazetteers, settlement records, orders passed under the proceedings of the courts and, in addition to these, other things, and articles published by Britishers which fall within the definition of public documents and within the definition of Evidence Act. At the moment, I do not even remember as to the proceedings of which court, it has been stated that there was a temple in the period of Vikramaditya on the disputed place. I do not even remember as to in which settlement record, it has been stated that there was a temple at the disputed place in the period of Vikramaditya. I do not even remember in which public document the above things have been stated. The settlement of Ayodhya, which I have mentioned about, is in respect of the first settlement and that settlement was made between 1860 to 1870. It is correct that in the sixth line from below in para 23 of my plaint. I have referred to the gazetteer of 1928 and the reference made in the first line of para 23 to the public records is also about the Gazetteer; i.e. the gazetteer of

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1928 and other gazetteers are also the basis of that. The quotation in fourth line from below in para 23 of page 17 has been taken from the gazetteer of 1928 and I believe in it, Reading the last five lines of para 23 of the plaint, the witness said that whatever has been written therein is correct.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

12.09.2001

Typed by Stenographer as dictated by me in the open court.In continuation to this Appear on 13.09.2001 for further cross-examination .

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Sd/-

Narendra Prsad

Commissioner

12.09.2001

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Dated: 19.11.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 12.09.2001).

There have been many kings by the name of Vikramaditya. I cannot tell the names and periods of all of them. I do not have personal knowledge about king Vikramaditya whom I have mentioned in third line of para 23 at page 17 of my plaint. I do not exactly know the period of rule of king Vikramaditya, whom I have referred to. Historians can tell about it. But as far as I know, he either ruled in fourth or seventh century. As I do not possess any profound knowledge of history, I cannot, therefore, say whether this Vikramaditya had any relation with Emperor Chandra Gupta. Vikramaditya, after whose name Vikrami Samvat was started, has no connection with Vikrarnaditya referred to by me in para 23 of my plaint. Vikramaditya, whose name has been mentioned by me in para 23 of my plaint, is the same king who has been referred to in the book filed by me, which has been marked as paper No.107C-1/154. This book has been written by Shri Radhe Shyam Shukla. Description of that king Vikramaditya has been given in page No.4 to 9 of this book, whose name has been referred to by me in para 23 of my plaint. According to the description given in the book, the name of this king was Skand Gupta, who had been given the title of Vikramaditya and as I have stated earlier, a number of kings had adopted the title of Vikramaditya.

Question: Whether the name of king Vikramaditya, who you have mentioned in line 3 of para 23 of your plaint, was Chandra Gupta Second and Skand Gupta?

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Answer: As written in the book, I consider Skand Gupta as king Vikramaditya whose name I have referred to in para 23 of my plaint.

I cannot say Skand Gupta was the ruler of which State. Neither can I give the name of the capital of the kingdom. This king Skand Gupta ruled from 455 A.D. to 467 A.D. as written in this book filed by me. I cannot say on the basis of my memory or on the basis of books that Skand Gupta was Vikramaditya of which number, whether he was earlier Vikramaditya or later one. King Vikramaditya after whose name calendar was started, is known as the king of Ujjayini. I cannot say in what connection that king Vikramaditya had with 57 B.C, i.e. the year of commencement of Vikrami Samvat. I do not have any information whether or not any king by the name of Vikramaditya was there before Lord Christ. It is wrong to say that Vikram Samvat might not be connected with any king by the name of Vikramaditya. I have filed extracts of a book published by Archaeological Survey of India marked as paper No.107C-1 and on the basis thereof I have written in para 23 of my plaint that the pillars and stones used in Babri Mosque were of the same temple which was demolished by Meer Baki. After seeing the above mentioned paper No.107C-1/33, the witness said that no such pillars have been mentioned on which there were engraved figures of Hindu Gods and Goddesses. But in the report 'Historical sketch of Faizabad with the Old Capital Ayodhya and Faizabad 1870' marked as paper No.107C-17 to 24 and written by Shri P. Carnagie, Officiating Commissioner and Settlement Officer, Faizabad, use of such pillars and stones has been described, on which were engraved the figures of Hindu Gods and Goddesses and photos of such pillars and stones have also been given in that report. On page 17 of the book written by

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Shri Radhe Shyam Shukla and marked as paper No.107C-154, description of consecration by blood has been given and on second page sacrifice of Mehtab Singh has been described, but it has not specially been mentioned as to how many battles in all were fought on this disputed place. As for as I remember, several battles were fought after 7-8 time-intervals.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

19.11.2001

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Sd/-

Narendra Prasad

Commissioner

19.11.2001

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Dated: 20.11.2001

(Commencement of statement, on oath, of P.W2, Shri Devaki Nandan Agarwal, in continuation of 19.11.2001).

The battles, referred by me in para 23 of my plaint, were 77 in number. The first five battles among the above 77 battles were fought during the regime of Babar. At present, I do not remember between whom these battles were fought. I even do not know the years during which these battles were fought and between whom they were fought. Then he said that he knew whatever was written in the book. It has been written in the book, titled 'Shri Ram Janam Bhoomi Ka Itihas' (Sachitra Pramanik Itihas) and written by Shri Radhe Shyam Shukia. Among those five battles, the first one was fought from June 3, 1528 to June 9, 1528. This battle was fought between Pt. Devi Din Pandey and Meer Baki. This battle was fought between the armies of both and they both took part in it. Before this battle, a battle was fought by Raja Mehtab Singh against the army of Babar.

Question: When did the battle of Raja Mehtab Singh, which you have referred to above, start and end?

Answer: That battle continued till year 1528, but I cannot say when did it start even after going through the book, because it has not been written in the book as to when did this battle start.

Mehtab Singh was ruler of Bhiti State. Bhiti State was situated in the eastern-southern direction at a distance of about 40 kilometers from Ayodhya. The third battle started on June 23rd, 1528 and continued for ten days. This battle

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was fought between Rana Ran Vijay Singh and the army of Babar. Rana Ran Vijay Singh was the ruler of Hansvar State which was situated in the eastern region of Faizabad. The fourth battle in this connection was fought between Rani Jai Raj Kumari and the army of Babar. Rani Jai Raj Kurnari was wife of Rana Ran Vijay Singh, and this battle was fought after the death of Ran Vijay Singh in the battle with Babar. Rani Jai Raj Kumari mostly kept on fighting guerilla war and this war continued till the reign of Humayun. During this battle Rani Jai Raj Kumari defeated the royal army and took possession of Janam Bhoomi. Later on, reinforcement of royal army reached and Rani Jai Raj Kumari killed while fighting with the royal army. This royal flect came during the reign of Humayun. The fifth battle took place between Balarmacharyaji and the royal army of Humayun. It has not been written in the book as to when this battle took place, I will, therefore, not be able to tell even after going through the book as to when the battle was fought, but it has been written in the book that it took place during the reign of Humayun. It has also been written in the book that 4 among the 77 battles took place during the reign of Babar and ten were fought during the reign of Humayun. I have, in my above statement, given details of four battles that took place during the reign of Babar and about one battle that was fought during the reign of Humayun. Apart from these five battles, information about any other battle has not been given in this book and my information is based on this book. I do not know about any other battle and about the parties between which it was fought and when it was fought. Apart from the above, 15 battles /wars, 20 battles took place during the reign of Akbar, 30 battles during the period of Aurangzeb, five during the regime of Nawab Saadat All, three during the period of Nasiruddin Haider, two during the period of Wazid

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Ali Shah and two battles took place during the regime of Britishers and as such total of 77 battles were fought. Details of parties between whom these battles were fought and when they were fought have not been given and as such I will not be able to give these details. Then he said that of the twenty battles fought during the reign of Akbar, details have not been given in that book, neither have I got details thereof. Then he sou motu said that Swami Balaramacharya obtained a right from Akbar of building a Chabootra in the courtyard of the temple and a three feet high temple made of screen of 'khas' was built on that Chabootra. Raja Todar Mal and Birbal had a hand in the grant of permission for it. I have not read any book other than the book written by Shri Radhe Shyam Shukla, I would, therefore, not be able to tell whether or not the details of the twenty battles fought during the reign of Akbar can be found in other books. As far as I remember, no mention has been made in any gazetteer about granting of permission of building a Chabootra during the reign of Akbar. During the reign of Aurangzeb, a battle took place between the army of Aurangzeb and Baba Vaishnav Das and his pincer-wielding disciples near Urvashi Kund. They attacked the army of Janbaz Khan, a commander of Aurangzeb and routed them. Urvashi Kund is situated between Ayodhya and Faizabad. I cannot exactly say as to how far away from the disputed place did this battle take place. I think the distance would have been less than five kilometers and more than two kilometers. At the time of that battle, that structure which was demolished on 6th December 1992, existed and that building/ structure was in possession of Hindus. This battle took place during the reign of Aurangzeb and at that time Hindus used to do worship, etc. in that structure i.e. building.

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Question: Did Hindus worship in that building i.e. structure as a Ram Janam Bhoomi temple or any other normal temple at the time of battle with Janbaz Khan?

Answer: Recognizing the courtyard of the structure as a place of worship, worship was done of Bhagwan Shri Ram Lalla virajman at the Chabootra and of the foot-prints of Bhagwan Shri Ram, which are called 'charan' and of Sita Rasoi, etc. It is correct that the building with three domes, which was demolished in 1992, did exist during the regime of Aurangzeb i.e. at the time of above battle. I think that at that time there was no idol below the building with domes. Worship was done inside i.e. it was done below the dome also, but I would not be able to tell as to whose worship was done. I think 'namaz' was not offered at that time. I think that from the times of Babar till the reign of Aurangzeb, namaz was never offered there. Janbaz Khan had come on the order of Aurangzeb to prevent Hindus from celebrating any religious festival in the mosque. According to the book of Shri Radhe Shyam Shukla, that structure was known as mosque/ building, as has been mentioned on page 22 and 23 of his book.

Janbaz Khan was opposed upto Urvashi Kund and he was driven away from there and he cculd not reach to the mosque. The second battle during the reign of Aurangzeb was fought between a large army under the command of S. Hasan Ali and Vaishnav Das and Sikh Guru Gobind Singh. This battle was fought in Rudoli Sayadat Ganj and Jalpa.

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Sayadat Ganj is a western end of Faizabad and Jalpa is situated near the present milk dairy of Ayodhya. This battle was fought before 1664 A.D. and in this battle, royal army was completely routed and Sayyad Hasan Ali Khan was killed. Army was sent by Aurangzeb for this battle for the purpose of preventing Hindus from celebrating any festival in the mosque. But this army could not reach upto the mosque. I would not be able to tell about the distance between Jalpa and the mosque i.e. the disputed place. After this battle, Aurangzeb himself came to Ayodhya with royal army and made an attack on Janam Bhoomi. It has not been mentioned in this book as to who led the fight on behalf of Hindus. But it has been written in the book that Aurangzeb dug the Chabootra and the priests took the idols with them and went away. Even after 1664, 'namaz' was not performed there, because sadhus did not allow namaz to be performed and used to pick up fights. Among the thirty battles fought durmg the reign of Aurangzeb, details of three of them have been given in this book and nothing has been written about the rest of them, nor do I know anything in this connection. After the year 1722, a battle was fought between the Raja of Amethi, Raja Gurudutt Singh and Saaadat Ali Khan, which was over the entitlement of 'subedari'; this battle is included in the five battles. Among the five battles that took place during the rule of Nawab Saaadat Ali Khan, one battle was fought between Gurudutt Singh and Sayadat Ali Khan and battles were fought constantly thereafter. Raja Raj Kumar Singh of Pipra had been fighting with Raja Saaadat Ali Khan. The battle was also over Janam Bhoomi. This battle continued for two-three years and later on Saaadat Ali Khan got tired and granted Hindus the right of doing worship. After 1664 worship at disputed place had stopped because of some obstruction, but it again started about two-four years after

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1722. I cannot say whether the battle, which took place in the reign of Saaadat Ali Khan, continued for two-three years or 10-15 years. Then he said that he could not tell it orally. Then said that it had been given in the book of Radhe Shyam Shukla. I cannot tell orally as after how many days the baffle between Sayadat Au Khan and Nasiruddin Haidar broke out. I cannot give the details of the battle, which was fought during the reign of Nasiruddin Haider, i.e. between whom it was fought and when it was fought. I cannot tell this orally. I can tell this after seeing the book of Radhe Shyam Shukla. I cannot tell this orally. The witness said that as he was not feeling well at that time, he was, therefore, unable to read the book. He could answer this question later after studying the book.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

20.11.2001

Typed by Stenographer as dictated by me in open court. In continuation of this appear on 21.11.2001 for further cross-examination.

Sd/-

Narendra Prasad

Commissioner

20.11.2001

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Dated :21.11.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 20.11.2001).

Statement of the witness, given by him on 18th June 2001 was read to him from line 3 from above on page 39 to line one of page 40. After listening it, the witness said that it was correct except that at one place word Dwapar Yuga had been written, it should have been Treta Yuga. In my above statement, I had said lakhs of years ago. It was period of Treta Yuga which was lakhs of years ago. I would not be able to say exactly whether or not it was 9 lakh years ago. The tradition to which I had referred to in my above statement, is the tradition of people having faith in Vaishnav Dharma and as I have heard from my parents and priests. The tradition is that Bhagwan Shri Ram had appeared at the disputed place and that is why people have faith in that place. It is a revered place. This belief is lakhs of years old that Bhagwan Shri Ram had appeared there lakhs of years ago. Then he said that he could not say whether or not this tradition was lakhs of years old but the belief in the tradition of appearance of Bhagwan had been going on from generation to generation. It is correct that I cannot say that how many years old this tradition is, whether it is one thousand years or two thousand years old or ten thousand years old. It is wrong to say that this tradition is less than one thousand years old. According to me, this tradition is more than two thousand years old. According to me this tradition would have been in existence before the Valmiki Ramayan. Valmiki Ramayan was written more than two thousand five hundred years ago. Some additions have been made in Valmiki Ramayan till 2nd century A.D. I cannot say whether there has been any

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mention in Valmiki Ramayan of the place of appearance of Bhagwan Ram, because I have not studied Valmiki Ramayan so minutely. The other book about the life-story of Bhagwan Ram, which is considered next in importance to Valmiki Ramayan, is Ramcharitmanas, authored by Tulsi Das. Besides Rarncharitmanas, there is another book written in Tamil language in South India, which is authentic. In addition, there is another Ramayan written in Hindi by Shri Radhe Shyam. The Ramayan by Shri Radhev Shyam was probably written in the twentieth century. There are many other Ramayans in addition to the above Ramayan. I do not remember their names at present. Mention has been made of appearance of Bhagwan Ram in Ramcharitmanas by Tulsidas, but it has not been written, at which specific place did he appear. It has been written that he used to play in the courtyard of king Dashrath. But it has not been written as to in which street or mohalla was that courtyard situated.

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I have heard the name of Ajay Mitra Shastri. He is a well known historian and epigraphist.

(At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.118C-1/60-64 filed in other original suit No.5/89). After seeing it, the witness said that he was not an expert in that subject, he could not, therefore, state whether he agreed or disagreed with what had been written in that. It has been written in it that the period of Bhagwan Ram was earlier than that of Lord Krishna. It is a fact known world over and I have faith in it. At this point, the learned Advocate, cross- examining him, drew the attention of the witness to the word 'irrespective' occurring in line 8 to the word 'Ramayan' occurring in 12th line of para I of paper No.118C-I/60, filed

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by him. After reading it, the witness said that he agreed with what had been written there.

It is correct that there is mention of episode of Ramayan in Mahabharat and I agree with it. Mahabharat was written by Maharishi Ved Vvas about 5-6 thousand years ago from today. After reading the first three lines (the two epics — gradual process) of para 2 of this paper, the witness said what had been written was correct and he agreed with that. It is correct that the faith in the appearance of Bhagwan Ram is in the appearance in the form of a human being and he was born as a son of King Dashrath and Queen Kaushalya, but we devotees call it appearance. After reading from third line to the end of this paper (According to — God Vishnu), the witness said that he agreed with it and he had given his statement on the basis thereof. After reading the line 8 of para 3 and of page 2 from 'for it conclusively' to 'quite popular' of line 13, the witness said he was in agreement with whatever has been written there. After reading paragraph 8 (As such much earlier), the witness said that he agreed with that. I agree with this opinion of Ajay Shastri that it is proved that Ayodhya was inhabited in eight hundred B.C., and I accept it.

Question: Whether according to Ajay Mitra Shastri, Ayodhya Mahatmya was included in Skand Puran in third century B.C?

Answer: The date of Vrindavan Manuscript of Ayodhya Mahatmya of Skand Puran has been fixed as third century B.C. by Ajay Mitra Shastri. I cannot say as to when was the chapter of Ayodhya Mahatmya was included in Skand Puran.

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At this point, the learned Advocate, cross-examining him drew the attention of the witness to tenth line from above to thirteenth line (then there are — thirteenth century A.D.) of column 2 of paper No.118C-1/63, which is an article written by Ajay Mitra Shastri. After reading it, the witness said that whatever was written there, would be correct and he agreed with that.

It is wrong to say that in this article, Shri Ajay Mitra Shastri has expressed his opinion that belief in the description of Shri Ram Chandra Ji, as given in Ramayan, was prevalent in 1300 A.D. Rather in my opinion, according to his article this was prevalent in before 400 B.C.

Question: Whether according to the way you have understood the article of Ajay Mitra Shastri, this can be said that it was prevalent in 400 B.C. and can I understand that any circumstances this belief cannot be more than 3000 years old?

Answer: According to me, this belief is more than 3000 years old. As I am not an expert, I cannot, therefore, express my agreement or disagreement with his opinion, and neither can I say anything.

The foot-prints and Sita Rasoi, which existed at the disputed place, were not from the times of Shri Ram Chandra Ji, but were from the time when the first temple was built there. I have not read these things anywhere, but this is our faith. The foot-prints which existed at the disputed place were actually not the foot-prints of Ram Chandra Ji, but were only symbol thereof, which were built afterwards by someone, but I cannot say when and by

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whom were they built. They are there since the time when this place would have been built. I have not read about these things anywhere, rather this is our belief. The foot-prints which existed at the disputed place, were not actually the foot-prints of Bhagwan Shri Ram Chandra Ji, but were only symbols thereof and which would have been built by someone later on. But when and by whom were they built, I have not read about it anywhere and neither have I any information about it. I would not be able to say whether those foot-prints were built somewhere else and taken from there and installed at the disputed place. I will also not be able to tell as to when those foot-prints were built and when were they placed at the disputed place. There was a rolling pin, a fire place and a board (belan, chulha and chakala) in Sita Rasoi that existed at the disputed place. It is correct that those three articles were also symbolic. Those were not from the times of Ram Chandra Ji, but those were kept there as symbols of worship. I think these three articles were placed at the disputed place of structure, which is called by you as Babri Mosque, during the times of Akbar or thereafter. I cannot say whether these three articles were built there or built somewhere else and brought from there and then placed at the disputed place. It is our faith that Sita Rasoi and foot prints and Ram Janam Bhoomi are revered places and worship is done of Shri Ram Chandra Ji through these symbols. There is no idol of Sita Ji at the disputed place and neither was her worship done there. There was an idol of Bhagwan Ram on the Chabootra at the disputed place which was later placed under the dome inside the disputed place. As far as I know, there is no idol of Sita Ji there. I do not know whether there was any idol of Laxman Ji there or not. I do not know whether or not worship of Sita Ji as a Goddess is done anywhere else. Through the medium of these articles, i.e. Sita Rasoi and

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foot-prints, worship not of Ram Chandra Ji, but of the place of his appearance is done for the purpose of reaching him. I cannot personally pin point the place of birth, but according to belief and faith, it was the palace of King Dashrath. I have not read anywhere nor heard about the length and breadth of the palace of King Dashrath. I have not seen palace of any Maharaj, I cannot, therefore, tell what could be the length and width of a palace. I do not remember the name of the present Raja of Ayodhya. May be Vimalendra Mohan Mishra is Raja of Ayodhya at present, but I do not remember it. May be his ancestors would have been rulers of Ayodhya before independence. One of his palace is situated near Kotwali in Ayodhya. It would be more than one hundred years old. Then he Volunteer : that they were appointed king during the period of Britishers and they were not at all connected with King Dashrath. There is a museum in that palace and I have seen it. This museum is situated in a room in the courtyard of the palace. I do not remember at present, whether while going inside the compound, I saw any particular building of that palace. The length of that museum was more than the room (Chief Justice Lucknow Bench, Court) in which our statement is being made, but width was less. I had seen the disputed building. According to my estimate, the palace of Ayodhya, in whose compound I visited the mueseum, was bigger than the disputed place. The compound of that palace is also bigger than the compound (inner and outer courtyard) of the disputed structure.

The tradition of calling the place, beneath the middle, as 'garbh grah' has started on the basis of the belief that there was a 'garbh grah' at that place of that temple which was demolished and at whose place, the disputed structure was built. My belief is based on hearsay, I have not read

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about it anywhere. I have no information as to what was the size or length and breadth of the temple which was demolished and where the disputed structure was constructed. I do not know how many rooms were there in the temple or what was the size of the 'garbh grah' and I have not read about it anywhere. I have not even heard about it (He Volunteer : that I have only heard that it was a grand temple). The Janam Sthan temple, situated in the north of the disputed place, was part of the first settlement No.163 of the disputed place. But this plot was divided in two parts because of construction of road by Britishers before the second settlement and plot number of the disputed place became plot No.159-160 and another plot number was allotted to Janam Sthan, which I do not remember at present. Because that Janam Sthan temple is situated in the north of the disputed place and existed in the same courtyard, therefore, some devotees started worshipping there and some devotees used to worship at the disputed place. Disputed place is mainly considered as the birth place of Ram Chandra Ji but as is the practice of priests (pandas), they started making people worship that Janam Sthan which was situated in the north of the disputed place. This worship at the Janam Sthan temple which is situated in the north of the disputed place, would have started after the year 1870 and before 1890. The building of Janam Sthan temple of the north was also built after 1870. The name of the temple in the north of road is called Sita Rasoi temple and is also known by that name.

Whenever I go from that place i.e., for the 20 years I have heard its name as Sita Rasoi. I have never gone inside that temple, so I will not be able to tell whose idol is in the temple and who is worshipped there. I have not seen any stone named Janamsthan near the Sita Rasoi or fixed in front of it. In my knowledge, Sita Rasoi temple was not

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known as Janamsthan temple twenty years ago. I have also not heard that even today Sita Rasoi was known by the name Janamsthan temple. I do not have any knowledge that Sita Rasoi which is located on the disputed site is known as Kaushalya Rasoi for the last 15-20 years. The Sita Rasoi on the disputed site is always known by the name Sita Rasoi. I do not remember whether any photography of the disputed place was done in my presence. This I definitely remember that photography of the disputed place was done in 1990.

(At this point the learned councel drew the attention of the witness to the photo No. 39 of black and white album prepared by U.P. Archaeological Department). The witness on seeing it said that Kaushalya Rasoi was written there and it is the same kitchen which is known as Sita Rasoi at the disputed place.

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(At this point, the learned Advocate, cross-examining the witness, drew his attention to the photo Nos.71-72 of coloured photo album prepared by the Archaeological Department of U.P.). After seeing them, the witness said that this was the same kitchen which was known as Sita Rasoi. As far as I remember, the last time when I went to the disputed building was in January 1990, when the Commissioner visited there last time. I do not remember whether at that time, I had darshan of Sita Rasoi. I cannot say when I had last time taken darshan of Sita Rasoi at the disputed place and in which year. But I remember that I visited Sita Rasoi twice in the year 1986 and once in 1988. I did not have darshan of Sita Rasoi after 1988. As far as I remember, when I had darshan of Sita Rasoi at the disputed place in 1986 and 1988, then I did not saw the words 'Kaushalya Rasoi' written over there. I did not even

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see Sita Rasoi written over there. Whenever I visited Sita Rasoi in 1986 and 1988. I do not remember that I saw any curtain hanging there as is visible in the above photo No.39 and in coloured photographs No.71 and 72. In the photos, referred to above, fire place, rolling pin and chakala are visible at that very place where I have seen them lying.

I do not think that I had 'darshan' of Sita Rasoi when I had visited the disputed place for the first time in 1932-34. I do not even remember whether Sita Rasoi was built in the same form as is shown above mentioned photo Nos.39 and 71 and 72. As the three article lying in Sita Rasoi, i.e. Chulha, belan and Chakala are made of marble, it does not, therefore, appear that they were made during the time of Akbar. I cannot say whether all the three articles were made within the last 100 years or not. It is wrong to say that all the above three articles, which are visible in the above mentioned photographs, would have placed there after the attachment of the disputed building in 1949. Marble stones fixed on the Chabootra, which are visible in black and white photo No.39, were fixed afterwards because date has been inscribed on it. I cannot even guess as to when those stones were affixed. it can be found by reading. I cannot say whether those stone were affixed after 1949, because alphabets and numbers, written on them, being very small, I am unable to read them. Photo No.70 of the coloured album is also of Sita Rasoi. The foot-prints and Chakala, Chulha and belan made there, are not of that old temple which was demolished, as stated on page 39 of my statement. On page 39 of my statement, mention has been made of installation of idol of Bhagwan Ram Lalla and of worship thereof; that idol was also not of the old temple, but it was installed during the times of Akbar. This information of mine is based on my study of different books.

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One of the book among them is written by Shri Radhe Shyam Shukla and has been filed in this suit. Then there is a writing in Akbar-nama; Akbar had gone there and Todar Mal had done revenue settlement there. I do not remember the names of other books at the moment. I think that alongwith Akbar, Maharani Jodha Bai would have gone in the disputed building, because she always used to go with Akbar but I have not read about it anywhere. The idol of Bhagwan Ram Lalla, referred to on page 39 of my statement, was a movable idol. I cannot say whether only the idol of Bhagwan Ram Lalla was installed on the Chabootra or whether the idols of Laxman, Sita and Hanuman were also installed alongwith the idol of Ram Lalla. I do not know that in 1949 before attachment, when the idol of Ram Lalla was installed in the disputed building, whether or not any other idol became available at the time of attachment, i.e. whether any other idol was placed inside the disputed building. On page 39 of my statement, it was stated that original copies of certain papers and material would be placed before the court, as and when necessary. Those papers would be placed before the court. Some of such documents are in my possession, some are available in the library and some of them are available in the library of the Secretariat. They will be filed after my statement, when statements of other witnesses of my suit would be given. (At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.107C-1/243 filed in other original suit No.5/89). After seeing that, the witness said that the original copy of this document was handed over to the then Home Minister, Sardar Butta Singh in January 1989. As far as I remember, original paper was not handed over to Shri Buta Singh in my presence. According to my information, this paper was given to Shri Prasad. Joint Secretary in the Ministry of Home Affairs. I

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was told about this by Prince Anjum Qadar. He gave it to the Home Ministry and I had concluded that it was given to Mr. Prasad. As Shri Anjum Qadar was representative of Shia community and he had given me a copy of the original paper in connection with talks which were being held at that time between Shri Buta Singh, Shri Anjum Qadar and Shri Ashok Singhal. These negotiations for reconciliation had started in the year 1987. I had also attended a number of meetings connected with these negotiations. One of these meetings was held in Ashoka Hotel and the other was held in the office of Shri Buta Singh. As far as I remember, Shri Ashok Singhal, who was General Secretary of the Vishwa Hindu Parishad, had also attended the meeting, which was held in the office of Shri Buta Singh. After the discussion held in that meeting, Shri Anjum Qadar had gone to Pakistan and he gave his original paper there and the Pakistani scholar had written his opinion on the same paper and returned it back and the same original letter was given to Shri Prasad, Joint Secretary in the Ministry of Home Affairs of the Government of India. Shri Anjum Qadar has told that the text of 'Fatwa' written on the back side of the original letter, was written by Maulana Sayyad Mahammed Naqi. In accordance with the negotiations held with Shri Buta Singh, Shri Anjum Qadar wanted to go to Iran and Egypt, but he could not go, because money was not provided to him. I do not know how much money did he want. He had also given a list of some persons; I do not know, who were included in the list. I do not even know as to how much money was given to Shri Anjum Qadar for going to Pakistan. It is correct that paper No.107C-1/243 was available with me, when I filed O.O.S.No.5/89. I did not refer to this paper in my plaint because it is not the basis of my suit. Attention of the witness was drawn to paper No.107C-1/249 and after seeing it, the witness stated that

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this letter is relevant to this suit. It is wrong to say that it has no connection with my suit or the negotiations. As far as I think, paper No.107C-1/249 was written by Sayyad Shahabuddin to Anjum Qadar Saheb. The letter was given to me by Anjum Qadar Saheb. I was told my Anjum Qadar Saheb that this letter was written by Sayyad Shahabuddin in his own hand-writing. I have no personal knowledge of his hand-writing. I do not recognize his hand-writing.

(At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.118C-1/35 filed in other original suit No.5/89). After seeing it, the witness stated that this book had been published by Shri K.S. Lal, Chairman of Historian Forum. As per my information, Shri K.S. Lal is a renowned historian. As far as I know, Historian forum is not an associate institution of The Vishwa Hindu Parishad. But it is sympathetic to The Vishwa Hindu Parishad. I do not know when this organization was formed. This institution was established in 84-85. I do not know in which way the 8 persons like Shri Yugg Dutt Sharma, etc., whose names have been given on the title page of the book, are connected with this institution. It is correct to say that Prof. B.R. Grover, Dr. S.P. Gupta and Prof. Devendra Aggrawal have often participated in the negotiations regarding the disputed premises on behalf of The Vishwa Hindu Parishad. All those three persons are associated with Ram Janam Bhoomi Liberation Movement since 84-85. 1 do not know whether the rest of the persons, whose names have been given on pp.118/33 of this book, are associated or not with Ram Janam Bhoomi Liberation Movement. During this litigation, after 1996, I had once seen Sudha Mallayya Sahiba in Ram Katha Kunj built near the disputed place. I remember that I never saw her before in 1991-92. As far as I remember, I had gone to the disputed place

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during 1991-92 once or twice. As far as I remember, I did not go to the disputed place after the acquisition of the outer portion of the disputed place in 1991. I have no personal knowledge of whatever has been written in the book marked as paper No.118C-1/35. I had gone through the book before I filed it. I think that everything written in the book is correct. Whatever has been written on page 13 of this book about Meer Baki (which was read) is correct. I agree with this statement, written under the heading 'British rule (Angrezi Raj)' on page 16 of the book, that after the establishment of British Rule in Avadh in 1856, a long phase of hearing of such disputes in the courts started. I agree with all the things written on this page under the heading 'New Evidence'.

Photocopy of paper No.1 18C-1137 filed by me and which was written on behalf of Director General, National Archives to Shri Kishore Kunal, O.S.D., Minister of State in the Ministry of Home Affairs, was given to me by historian Prof. B.R. Grover. Paper No.118C-1/38 to 118C- 1/59 were also enclosed with the above paper and they were also given to me by Prof. Grover. It is correct to say that these papers do not bear signatures of anyone. And neither any stamp of any Department is affixed on it. I do not know which officer prepared those papers. So far I have not made any demand to the Ministry of Home Affairs for the original documents. I will ask for the above documents when the turn for my side to give evidence will come. Report No.1 18C-1/114 has been prepared by two historians and one archaeologist, namely Professor B.R. Grover, Prof. Devendra Swarup Agarwal and Dr. S.P. Gupta. In this report, part-2 has come first and part-I comes next. This document is a copy prepared by cyclostyling process, which was given to me by Dr. S.P. Gupta. It is correct to say that these documents do not bear signature of any

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person. It is also correct to say that it has nowhere been written in these documents that this document was prepared by the above three persons jointly. It is also correct that date of preparation of document has not been given in it. Then he Volunteer : that in a photograph, marked as paper No.118C-1/114, the date has been given as June, 1992.

Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

21.11.2001

Typed by the Stenographer as dictated by me in open court. In continuation to this Appear on 22.11.2001 for further cross-examination.

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Sd/-

Devaki Nandan Agarwal

21.11.2001

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Dated :22.11.2001

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 21.11.2001).

(Learned Advocate, cross-examining the witness, drew his attention to paper No.107C-1/154 of other original suit No.5/89 filed by him). After seeing that, the witness stated that things written in my plaint are based on other books in addition to this book. Almost all the books and material, apart from the book written by Shri Radhey Shvam Shukia, on which the things mentioned in my statement are based, have been filed in the court. I have read the above-mentioned book authored by Shri Radhey Shyam Ji Shukia. By and large, I have made the things written in the book of 'Shri Shukla as the basis of my plaint. At the moment, I will not be able to tell whether I disagree with certain things written in the book, because I have not read this book recently. I do not know whether or not Shri Radhey Shyam Shukla was a teacher in any University. According to my information, Shri Radhey Shyam Shukla is still alive and I have included his name in the list of my witnesses. In 1992, when I included his name in the list of my witness, then he was a co-editor of 'Amar Ujala' newspaper in Meerut. I purchased this book in Ayodhya in 1988-89 in 10 rupees. Then said that he purchased a number of copies. I have not read any other book written by Shri Radhe Shyam Shukla, neither do I know whether he has written any other book. He would be about 60 years old at present.

Under the heading 'discovery of Ayodhya by Emperor Vikramaditya' in para 2 on page 2 of this paper No.107C-1/154, it has been written that according to folk-lores of Ayodhya, it is continuously believed since centuries that

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Vikramaditya had re-discovered the deserted Ayodhya. It is correct. In the last line of page 1 and the first line of page 2 of this paper, it has been stated that according to the belief of people, Ayodhya was deserted and resettled many times. Then he said that this is not a popular belief but this is a tradition according to me. It would not be proper to call it a myth. That Ram Janam Bhoomi temple was constructed thrice, is not a myth, but is a tradition.

The statement given by me in regard to the disputed land from para 2 on page 62 to first nine lines of page 63 of my above statement is based on this thing, that I have not read in any record that namaz was performed there with the permission of the owner of the land. Then he said that namaz was not performed in 'jamayat' (group). On page 22 of this book, i.e. paper No.107C-I/154, it has been written under the heading 'puja bhi ajan', that since the time of Akbar both Hindus and Muslims started coming and Muslims often used to offer namaz on Friday; this must be definitely correct. Then he Volunteer : that namaz was not read with the permission of the owner of the land. Shri Ram was the owner of the land. On this very page of this book, it has been written under the heading 'peace and goodwill (Shanti Aur Sadbhav)' that till the time of Shahjahan (1627-1658 A.D.) an atmosphere of goodwill and peace prevailed. During this period of about 69-70 years, no struggle about the Janam Bhoomi appears to have taken place. Hindus used to come to this place with reverence and offer worship here and the Muslims used to come every Friday to offer namaz. This must be definitely true. Under the heading 'Aurangzeb ka kaal' on this very page of this page, it has been written that no struggle appears to have taken place. Hindus used to come with reverence here and perform worship and Muslims used to come on every Friday to offer

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namaz. This must have been definitely true. Under the heading 'Aurangzeb ke kaal mein phir sangharsh chhira' on this very page of this book, it has been written that Indians (Hindus) are tolerant by nature. They were satisfied with having got a small Chabootra (Platform). They considered that their own Bhagwan Ram was virajman in a mosque too and they were not irritated by the namaz offered by the Muslims; this is absolutely correct and I agree with it and I do not have any objection to it. I agree with what has been written under the heading 'Nawabi Raj on page 24 and 25 of this book. It has been rightly stated that peace prevailed during the rule of Nawabs. Bhagwan Shri Ram was 'virajman' on the Chabootra outside the disputed structure and Hindus, considering that Bhagwan Shri Ram was virajman inside the disputed building, used to worship the place, but on Fridays, Muslims also used to offer namaz there. Hindus did not object to namaz being offered by the Muslims, as there was rule of Muslims. In 1858, the Britishers divided the disputed building in two parts; one was outer courtyard and the other became the inner courtyard. Ram Chabootra was situated on the outer courtyard and there was disputed building with three domes in the inner courtyard. Britishers had permitted Muslims to offer namaz and Hindus were not allowed to enter inside. But as the way passed from the eastern side through the outer courtyard, Hindus did not allow Muslims to go inside and often quarrels used to take place. They sometimes used to throw stones and chappals on persons who came there for offering namaz. Mostly because of fear of the Bairagis, Muslims were not coming to offer namaz. Under the heading 'British Shasan Kaal (British Rule)' on page 28 of the same book, it has been written that after the first war of independence in 1857, Avadh came under British Rule, although there was no dispute about Janam Bhoomi during

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this period. Muslims used to offer namaz on every Friday. I agree with this. But Avadh had come under the British rule not in 1857 but in 1856. Whatever has been written under the heading 'Intervention by Queen Victoria' on page 29 of the same book, is correct. It is correct that during the British rule, that is after Avadh came under British rule, dispute took place between Hindus and Muslims about Babri Masjid only twice; first in 1912 and second in 1934. Then he said that litigation continued in courts. A suit was filed in 1885 for permission to construct a temple on this Chabootra and it was tried. The copies of the judgements given in that suit have been filed, i.e. the copies of judgements given by the sub-Judge, District Judge and Judicial Commissioner have been filed. The suit was filed by a Mahant. I do not know he was Mahant of which place, but he called himself Mahant of Janam Sthan. I stayed in Faizabad till June 1934 and then came to Allahabad. The riot of 1934 must have taken place in the month of March. I was at that time in Faizabad. It is correct that this riot broke out on the occasion of Bakrid on account of cow-slaughter. This incident of cow- slaughter had taken place in village Shahjahanpur situated at a distance of 2-4 kilometers from Ayodhya. In retaliation, Bairagis broke the dome of the disputed structure and killed three Muslims and hung their heads and slaughtered a pig and placed it in the compound of the disputed structure. After this riot, the Deputy Commissioner of Faizabad had imposed a punitive fine on the Hindu population of Ayodhya and as has been written in this book marked as paper No.107C-1/154 and with that amount got the mosques repaired and dome constructed. It has also been written that this work was done by a contractor. According to my information, Muslims never went there after 1934 to offer namaz there because they thought that the mosque had been desecrated and

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Bairagis would beat them. It has been written on page 31 of this book that after the riots, offering of namaz in the mosque had almost discontinued and rarely any person went there to offer namaz; may be this is correct, because Radhey Shyam Shukla has written it in his book and he might be having information about it. All the things written under the heading 'pratham jagaran' on page 34 of this book, are correct. It is correct that in October 1949 or one or two months earlier than that, a movement had begun to take back the so-called mosque from the possession of Muslims. It is correct that Shri Gopal Singh Visharad and Mahant Param Hans Ram Chandra Das were the prominent leaders. Then he Volunteer : that in addition to them, Baba Abhiram Das and main leader Ram Manohar Lohia were also taking prominent part. It is correct that during this movement, most of the graves near about so- called Babri Mosque i.e. in the Ram Kot area were dug. The witness said on his own accord that at that time, i.e. after the digging of graves, a 'jap' was performed in Ramkot and the whole area was purified. On the night of 22nd /23rd December 1949, the idol of Bhagwan Shri Ram, which was 'virajman' on the outer Chabootra, was shifted from there to the place below the middle dome. The time 'midnight' written on page 40 of book of Radhe Shyam is not correct. Shifting was done in 'Brahm Muhurta' in the small hours of 23rd December.

Question: Whether or not the same idol of Shri Ram Chandra Ji, which was installed on outer Chabootra, was shifted to the place under the middle dome during the mid-night of 22nd /23rd December 1949?

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Answer: It will not be correct to call it simply an idol. It was rather a deified idol. We, therefore, call it 'vigraha'. This work of shifting was performed by Param Hans Ram Chandra Das, Abhiram Das, Laxman kiladheesh and several other persons. In line 5 under the heading 'Shri Ram Vigraha' on page 40 of this book, it has been written that vigraha of Bhagwan Shri Ram appeared, but it means that when the vigraha of Bhagwan Shri Ram got installed there, then he appeared there for all the devotees.

Question: Under the heading 'Shri Ram Vigraha' on page 40 of the book, written by Shri Radhe Shvam Shukla, it has been written that suddenly in the middle portion of the mosque, a light illuminated and bells started ringing. Did it happened naturally or was it done by any human being or it was illuminated?

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Answer: According to my understanding, this work would not have been done by any human being, but it was perceived by a human being. The name of this human being has been given in this book later ahead. I cannot say whether this was perceived i.e. experienced by a single person or by several persons. The miracle, said to have taken place, as mentioned in para 2 of page 40 of the book of Shri Radhey Shyam Shukla, was experienced by the above-mentioned saints.

Then he said that the above saints performed the task of shifting the idol of Ram Lalla and experienced the miracle. I have no information about

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the thing written on page 41 of the above book that the police, immediately after reaching there, closed the door of the mosque and locked it. Then he said on his own accord that in the F.I.R., marked as exhibit 51, it has been written that against the locking of doors, thousands of people collected in the temple and kept on doing worship. Then he said that thousands of people remained in the compound of the temple; they wanted to go inside, but, according to F.I.R., could not enter inside. Nothing has been written in the F.I.R. about putting the locks. I, therefore, say that what has been written about putting the locks in the book of Shri Radhe Shyam Shukla, is incorrect. It is correct, as has been written on page 42 of the book of Radhey Shyam Shukla, that police filed the charge-sheet on January 1, 1950. I can guess that this charge-sheet would have been filed against these persons, against whom on 23rd December,1949 F.I.R. (exhibit 51) was registered. It has been written wrong in the book that the Deputy Commissioner attached the mosque in 1950 and appointed a Receiver for looking after it and managing it, rather the correct thing is that the mosque was attached on December 29th, 1949 and Shri Priya Dutt Ram was appointed Receiver and Shri Priya Dutt Ram submitted a scheme of management to the City Magistrate on January 5th , 1950 which was approved by the then Deputy Commissioner and the Receiver took charge on January 5th , 1950. I do not know that this was opposed by the Congress leader of that time and he had demanded for the removal of the idol from the mosque. This is correct that Akshya Brahmachari had started a hunger strike unto death in the office of U.P. Congress Committee, as has been written on page 44 under the heading 'Anshan' for

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removal of Shri Ram vigraha'. Other things written under the above heading 'Shri Ram Vigraha hatane ke liye anshan', are correct. I do not know whether the writing about removal of Shri Ram vigraha is correct or not. The he Volunteer : , that he withdrew the hunger strike ie. discontinued midway. I have filed the book written by Shri Sita Ram, the title of which is Avodhya ka Itihas', and its extract is from document No.107C-1/122 to 107C-1/131. I have filed the complete book.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
22.11.2001

Typed by Stenographer as dictated by me in the open court. In continuation to this Appear on 10.12.2001 for further cross-examination.

Sd/-
Narendra Prasad
Commissioner
22.11.2001

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Dated : 06.02.2002

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 22.11.2001).

Details of the battle with Nasiruddin Haider, mentioned on page 156 of my statement, can be given by me tomorrow after reading the book of Shri Radhe Shyam Shukla. I do not remember the period of rule of Nasiruddin Haider. At present, I cannot tell whether Saaadat Ali Khan and Nasiruddin Haider were contemporary or ruled one after the other. Saaadat Ali Khan and Nasiruddin were probably ruler of Avadh, but I cannot say this with certainty. I do not remember whether Faizabad or Lucknow was the capital of Avadh during the reign of Saaadat Ali Khan or Nasiruddin Haider. It would be correct to say that earlier the capital of Avadh was Faizabad and then later on, Lucknow became its capital. As far as I remember, the fight between Hindus and Muslims in 1855-56 about the Babri Mosque took place on the disputed place. A Muslim by the name of Amir Ali Khan had made that attack and Amir Ali Khan did not follow the orders of even Nawab of Avadh, who called himself King, and a battle took place during which about 80-100 persons were killed. It is correct to say that in a battle, Amir Ali and his companions were one side and Nawab of Avadh and army of Britishers were on the other side. This battle was fought near Rudauli between Barabanki and Faizabad. I am not recollecting whether or not this was a battle between Hindus and Muslims. Then he said on his own accord that description thereof has been given in the book written by Fisher, a copy of which has been filed by me. I cannot say in detail whether that battle was connected with a mosque situated in Hanumangarhi. It is wrong to say that the battle which took place near

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Rudauli between Amir Ali and his companions and the army of Nawab and Britishers was not connected with Babri Mosque. The basis of the battles, which I have referred to on page 151 to 156 of my statement is mainly the book of Shri Radhe Shvam Shukla (Paper No.107C-I/154). In addition to the book of Shri Radhe Shyam Shukla, I have read many booklets and pamphlets. Apart from that, I have not read any other book of history. Information regarding these battles has not been given in any book of history and as far as I know, no such book of history has been written.

I cannot guess as to how many people used to come to the disputed place for worship etc. every month after the installation of idols in 1950. I cannot tell approximately how many people used to come for worship at the disputed place after attachment. I cannot even tell whether their number was one hundred to two hundred or one lakh. Thereafter, he said that thousand of visitors used to come every month for worship and 'darshan'. Visitors used to come in above number and they used to make some offerings. These offerings were in the form of flowers, fruits, sweets and cash. From the year 1950 to 1954, the number of visitors was quite large and then after 1954, the enthusiasm diminished and the number of visitors also decreased. It is correct to say that the enthusiasm which got diminished in 1954, again increased in 1983 and the feeling ignited in the minds of the people that Bhagwan was imprisoned behind bars and the enthusiasm of the people rose again and they became enlightened. It is correct to say that enthusiasm got boost as a result of yatra which came from Sitamarhi to Ayodhya in the month of September, 1983 or 1984. It is correct to say that the organisers of that rath yatra had spread this feeling during the same yatra that Bhagwan was imprisoned behind bars. it is correct to

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say that a tableau (rath) was taken alongwith the yatra, in which Bhagwan was shown imprisoned behind bars. I had retired from the office of Judge in 1983 before this yatra had commenced. I had not taken part in this yatra. The day when I myself and my colleagues had taken resolve (sankaip) on 7.10.84 on the bank of Triveni, the rath yatra had also reached Ayodhya on that very day, and persons, participating in the yatra, had also taken sankaip. I cannot tell the name of any person who had taken sankalp at the bank of Saryu in Ayodhya. I cannot even tell as to how many persons would have taken sankaip. Approximately hundreds of people would have taken sankaip. On 7.10.84 at the time of taking sankalp, this feeling arose in my mind that since the mosque was built after demolishing the temple, it would, therefore, be proper to construct a temple. I had always known this fact that this mosque had been built after demolishing the temple. During the period from 1932 to 34, when I was studying there and I used to go to the disputed place alongwith my mother, then I came to know that the mosque has been built after demolition of temple. At that time, I was studying in standard seven or eight I got this knowledge on being told by the priests and after observing that it was a deserted place and the form of structure was neither of a mosque nor of a temple. I did not get this knowledge by studying any book. During the period between 1932 to 1934, I had visited the disputed place. After the riot in 1934 on the day of occasion of Bakrid, I did not go to the disputed place and in the month of June went to Allahabad alongwith the members of my family.

During 1932 to 1934 pandas (priests) used to do 'pujapa' at the disputed building. No regular worship was done by ringing and beating bells. This 'pujapa' was got done at foot-prints, Ram Chabootra and Sita Rasoi. I got

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this information from other people that mosque had been built at the disputed site by demolishing the temple and not by seeing the building. Curiosity had arisen on observing the pillars, made of touchstone, and other things built in the building, which I do not remember because of age, that this building would have been a temple once. Then he Volunteer : that a 'parikrama' had been built around the building and from that it appeared that it would have been a temple. During 1932 to 1934, I went to the place with dome and there was no restriction at that time on going over there. Mostly, I had gone to the disputed place before 10 in the morning and between 10 to 12 O' Clock on the days of holidays. As far as I remember, I never went to the disputed place after 1.00 P.M. I was studying in 7th or 8th class at that time and I was also taught Urdu as a second language, which was second form i.e. it was taught in second form. I could read and write Urdu. I did not see stone, with an inscription in Persian on it, fixed on the gate outside the middle dome. I did not see any writing in Urdu on the western gate of the disputed building. I have gone to Jama Masjid of Delhi. I have also seen Moti Masjid. I cannot say whether it is situated in Agra or in Delhi. I have not seen any place in any mosque, on which stands the Imam and gives 'khataba' of namaz of 'Juma' (Friday). I had seen three-four steps adjacent to the western wall below the middle dome in the disputed building after 1983. When I saw them, then idols were placed on those very steps. I know steps built in a mosque for giving 'khataba' are called member. At this point, photo No.154/13, which is filed in other original suit No.1/89, was shown to the witness. After seeing it, the witness said the place with member is visible in this photo. The position visible in this photo was exactly similar in 1983. But during 1932 to 1934, such steps did not exist there; the place was not vacant,

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there were one or two steps which were smaller. At this point, photo No.154/5, which is filed in other original suit No.1/89, was shown to the witness. After seeing it, the witness said that in the form visible in the photo, wall is similar to what it was, but I do not remember whether there was a door or not. I do not even remember whether or not the door visible in the photo was there in 1932-34. I think it was not there.

Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
06.02.2002

Typed by Stenographer as dictated by me in the open court. In continuation to this Appear on 07.02.2002 for further cross-examination .

Sd/-
Narendra Prasad
Commissioner
6.2.2002

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Dated 07.02.2002

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 06.02.2002).

1 had referred on page 156 of my statement about battle that took place during the times of Nasiruddin Haider, but I will not be able to tell at present even after looking into the book of Radhey Shyam Shukla as to where the details of this battle have been given in this book. It could be that there is no mention of this battle in this book. I do not agree with everything that has been written in this book to be correct, as I have said earlier in my statement. (At this point, the learned Advocateor, cross-examining the witness, drew his attention to the written chapter titled 'Mutual struggle (Apasi sangharsh) on page 50-51 of the book of Shri Radhe Shyam Shukla (paper No.107C-1/154). After seeing it, the witness stated that it was correct in his 'Imkan'. I cannot give definition of 'Imkan'. By 'Imkan', I mean, I imagine it to be correct.

After reading the first paragraph 'Geographical Position' on page 69 of this book, the witness said that whatever has been written in it is correct. Whatever has been written in the first four lines of second paragraph 'Ayodhya's geographical position--- basis not found' of this very page is correct according to information then available.

I do not know whether Bhushundi Ramayan, and 'Teerth Prakash' written by Mitra Mishra are religious books of Hindus or not. I have not heard the names of these two books earlier. Even after reading the book writtenby Shri Radhey Shyam Shukia (Paper No.107C-1/154). I do not know about these books, i.e. Bhushundi Ramayan and

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Teerth Prakash written by Mitra Mishra. At present, I will not be able to orally answer that from which other books, apart from the book of Shri Radhey Shyam Shukla. I got information about the history of Ram Janam Bhoomi, but I have filed the photocopies of the relevant portion of all these books in the court. I acquired a great deal of information about the situation and history of Ayodhya from the book of Hayenes Baker. I also got information about the situation of Ayodhya from Ayodhya Mahatmya of Skand Puran. But in regard to these matters, I do not consider the book of Shri Radhey Shyam Shukla much reliable. This book perhaps does not contain all the details. After reading ten lines from 'AYODHYA MAHATMYA MEI..... KARIB NAU SAU METER PAR HAI' on page No. 70 of the book of Shri Radhe Shyam Shukla, the witness said that the description given in it was correct according to his information. The shloka (verse) given in footnote-1 on page 70 of this book is a shloka of Ayodhya Mahatmya of Skand Puran. Sita Pak Sthan and Sita Rasoi Mandir is one and the same thing and it is situated in the north of the road lying in the northern side of the disputed building and whatever is built there is new construction, i.e. construction after 1880. It is correct that this place is known as Janam Sthan Mandir, I have not seen Janam Sthan temple from inside. I will, therefore, not be able to say that there is a particular place inside the temple which is called Sita Pak Sthan. There was no Sita Pak Sthan or Rasoi there, but pandas, by telling people that Sita Ji used to cook food there, made people worship there and collected money by fleecing them. The distance between Janam Bhoomi Chabootra and the southern wall of Janam Sthan Temple would be about 30-40 feet. I would not be able to tell as to what is the length of 'dhanush' i.e. how many feet long is 'dhanush' which was used in olden days for taking measurement. It is correct

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that in Skand Puran, measurement has been given in terms of 'dhanush'. In the book of Hayenes Baker, the length of 'dhanush' has been given in meters or feet. I do not remember at present as to what length of a 'dhanush' has been given in that book. But I think that the length of dhanush given there would certainly be correct. The length and breadth of Sita Rasoi Sthan at the disputed place would have been 15-20 X 20-25 feet. I think that there is no mention in Skand Puran of Sita Rasoi at the disputed place. I would not be able to tell whether or not there is mention of this Sita Rasoi in any other book.

At this point, the learned Advocate, cross-examining the witness, drew his attention to paper No.107C-1/75 filed in other original suit No.5/89. After reading it, the witness said that it was an extract from "Ayodhya Mahatmya, Skand Puran, Vaishnav Khand, edited by Shri Khem Raj Shreshti (1910)'. I cannot understand it by reading it because it is in Sanskrit and I do not know much of Sanskrit. According to my knowledge, it has not been translated into Hindi. In this paper, there is mention of a place by the name of Vighneshwar, but I do not know where it is situated. There is also a reference to the ashram of Lomush Muni in it, but I do not know where it is located. Lomush was a seer, but I do not know about him. There is an ashram by the name of Vashishta Kund in Ayodhya, which I know of. This ashram is situated at a distance of two kilometer in the east of the disputed place. I do not know of any place by the name of Matta Gajendra. There certainly is a place by the name of Kaikayi Bhawan in Ayodhya, but I would not be able to indicate where it is. Sumitra Bhawan is at present situated in south-west of the disputed place at a distance of about 200-300 feet. At present, there does not exist any building by this name and building of a temple has started. Sita

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Koop is situated in south-east of the disputed place at a distance of about 100 feet. At this point, the attention of the witness was drawn towards line ten-eleven "VARTAMAN VASHISHTA KUND..... CHAR SAU PACHAS METER PAR HAI" on page 70 of the book of Shri Radhe Shyam Shukla and after reading it, the witness said that this Vashishta Kund is a different one from the Vashishta Kund referred by me in my statement. But mainly, the Vashishta Kund described in this book is more famous. That there no longer exists any ancient temple at Sumitra Bhawan, as has been written on page 71 of this book, is correct. I would not be able to tell as to who built the Janam Sthan temple, situated in the north of the disputed place. I have not heard the name of Sant Dev Murari, a resident of Prayag and disciple of Ram Das. It has been stated in the book written by Hayenes Baker paper No. 107C-1/149 that the length of one hundred 'dhanush' is equal to 182 meters; in my opinion, it is correct. On page 81-82-83 of the book written by Dr Radhe Shyam Shukla, two folk- tales have been given in respect of Vikramaditya; being a reasonable person I do not accept them, but a large section of Hindus believes in it and accepts it on the basis of mythological beliefs. In my suit, I have reflected the faith of devotees in the disputed place, as next friend of deities, i.e. I have expressed the faith of the devotees, I have no personal faith. There is no question of my faith. The faith of devotees that Ram Janam Bhoomi is situated at the disputed place, is a public knowledge and known world-wide. This faith of the devotees has been continuing since time immemorial. The mention thereof would certainly be in some religious book, but it is not in my knowledge. But there is no such mention in any book of history. This belief is not only since 1850 but many centuries before. It is correct that on the basis of this belief, devotees of Ram consider the Chabootra, which was

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17X21 in length and breadth and was situated in the outer courtyard of the disputed place as venerable and in addition consider the whole disputed place as worthy of worship. Then he said on his own accord that they consider not only the Chabootra but the whole complex as venerable and Chabootra is only a part thereof. It is wrong to say that during the 19th century, this faith was confined only upto the Chabootra. It is also wrong to say that before the 19 century there was no such faith among the devotees of Ram about this place or Chabootra. It is correct that I have stated in my statement that this Chabootra was constructed during the reign of Akbar. The basis of my statement is a tradition which has been described in the book of Shri Radhe Shyam, which has been filed in the Court. I have also stated in my statement, that worship on that Chabootra was traditionally got done by the people of Nirmohi Akhara of Ram Ghat, Ayodhya. It was Nirmohi Akhara in 19 century. I had seen a report written by an English author, who was a Settlement Commissioner. It has been mentioned therein. I do not know whether Mahant Raghubar Das, who had filed the suit of 1885, was the Mahant of Nirmohi Akhara. The number of that suit was 61/1885, Mahant Raghubar Das versus Secretary of State. This suit was decided on 24th December 1885. This suit was filed by Mahant Raghubar Das to build a pucca temple in place of the temple, which was kaccha. At this point, the learned Advocate, cross-examining the witness, drew his attention to exhibit No.A-22 of OS. No.1/89. After seeing it, the witness said that it could be that this map might have been filed by Raghubar Dayal with plaint. It is correct that the western part of the portion of Chabootra has been shown in this map as a mosque. It is wrong to say that in 1885, it was not believed that Ram Janam Bhoomi was in the inner portion of the

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mosque. He said that the faith was in the whole complex and the so-called mosque was also within it.

Question: Mahant Raghubar Das had described the disputed place as a mosque and not as Ram Janam Bhoomi in the map filed by him in 1885. What could be the reason thereof?

Answer: The reason was that near about in 1858, about a British Government had divided the whole complex and built a wall of bars in the middle and accepted the western part with domes as a mosque and prohibited Hindus from entering in it and allowed Muslims to offer 'namaz' there and accepted is as a mosque. Because of these reasons, Raghubar Das might have shown the portion situated in the west of the Chabootra as a mosque.

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At this point, the learned Advocate, cross-examining the witness, drew his attention to exhibit No.1/25, filed in O.S. No.1/89 and after seeing it, the witness said that this was a copy of the map drawn by the Amin, which was filed in suit No.61/1885. Apart from Dr. Radhe Shyam Shukla, I had seen it in the revenue records. This place has been described as Janam Sthan and the disputed mosque has been described as Janam Sthan mosque. I had seen it in the revenue records of 1870. This settlement was completed in 1870 and in the records of that settlement, this plot was entered as plot no 'abadi'. It could be that in the revenue settlement, which was completed in 1870, this place was not shown as Janam Sthan, but was shown as Janam Sthan mosque. Besides, I have read the book titled 'Ayodhya ka Itihas' (paper No.107C-1/122) written by shri

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Avadhvasi Bhup alias Sita Ram. In this book also I have read about, this place being described as Ram Janam Bhoomi. In addition to the above things, I have read it in the settlement report. I have seen in the gazetteer also. At the moment, I would not be able to tell whether apart from the above books, I have read in any other book or not that Ram Janam Bhoomi is situated at this place.

Babar was not a religious fanatic. He had envious towards Hindu temples. I cannot say whether he bore ill-will towards the Hindu religion. Then he said on his own that he had no knowledge of Hindu religion. I agree with "ANYATHA WAH HINDU DHARM ..... RAKHANE VALA NAHI THA" written in 6th and 7th line of footnote on page 16 of the book written by Dr. Radhe Shyam Shukla. It is correct that Babar had come to India to establish an empire and not to start jehad. It would also be correct that Babar had given exemption in respect of 500 bighas of land to Acharya Shri Swami Shatrughna Das Ji of Danta Dhawan Kund. I do not know where that place of 500 bighas is situated, or whether or not is it in Ayodhya. Again said that this place is there but where it is, I do not know. It is correct that Babar had gone to meet and have darshan of Shatrughna Das Siddha Yogi. It is correct that Babar had come to Ayodhya across the other bank of Saryu and stayed there. Then he said across Ayodhya i.e. across Saryu. I cannot say whether that portion was considered part of Ayodhya. That portion now lies in the Gonda District. It is correct to say that Babar was an invader, not a tyrant (AATTAI) That means a person who is cruel. I cannot say with certainty as when Hanumangarhi was established. I agree with 'SHUJAUDAULA..... SE SAHYOG KIYA THA' written in line 10 to 15 of para 2 on page 25 of the book, titled "Ram Janam Bhoomi' (paper No.107C-I/1 54), written

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by Dr. Radhe Shyam ShukLa. I also agree with 'ISI KAAL MEI.....KHUDAWA DIYA THA' written in line 15, 16 and 17 on the above-mentioned page. It is wrong to say that before the Mughal period, it was not a general practice to built minaret in the mosques. It is wrong to say that in many mosques built before Mughal period, there was no minaret. I do not have any information of the mosque of Kachhochha Sharif, which has no minaret. I cannot say whether there is any other mosque in Ayodhya, apart from the disputed mosque, where there is no minaret. I do not agree with 'YADYAPI MINARO KA NA HONA ..... NA MINARE HAI NA KUEY' written in line 4, 5 and 6 on page 72 of book 'Shri Ram Janam Bhoomi' of Dr. Radhe Shyam ShukLa. I had read this in the book 'Hindu and Muslim Religious Endowments' by Ganapati Ayyar that it is necessary for a mosque to have a minaret. I have referred to this in my plaint also. I have not filed the above-said book of Ganapati Ayyar in this suit. In addition to this, full details of a mosque have also been given in the dictionary of Islam and it has been stated in it that it is necessary to have minarets. I have filed a copy of 'Dictionary of Islam'. In addition to this, I have filed a copy of a book on Muslim architecture, in which information has been given especially about Jaunpur architecture. At present, I would not be able to say whether source has been indicated or not. I have not read in any book that arrangements for 'vazu' should necessarily be made in a mosque. Then Volunteer : that it is necessary to make arrangement for 'vazu' in a mosque and these are made. It is not technically correct that there should be a particular shape or size of mosque or it is necessary that there should be minarets or arrangement for 'vazu' and it is correct accordingly to 'shariyat'.

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It has been stated in my statement and in my plaint also that there was earlier a temple with 84 pillars at the disputed place and 14 pillars out of those 84 pillars were affixed in the disputed structure, i.e. in Babri Mosque. I have not read it in any book but it is based on tradition. Tradition means 'prampara'. It is wrong to say that this tradition is imagination, I agree with 'KI PARAMPARA SE BATAYA JATA HAI..... 84 SANKHYA HI KALPANIK HO' written in two lines of last para on 73 of the book 'Ram Janam Bhoomi' of Dr. Radhe Shvam Shukla. It is correct to say that when the disputed building was built, those 14 pillars were fixed there anew. Then he said that it was also possible that pillars might have been fixed by reversing them. I agree with 'YEH POORVA MANDIR..... LAGVAYA GAYA THA' written in line 9, 10 and 11 from above, on page 72 of the book of Dr. Radhe Shyam Shukla. Whatever I have said about the temple built by Vikramaditya in my suit, is based on tradition and later on, after study, it came to be known that this Vikramaditya was not the Vikramaditya of Vikrami Samvat; rather he belonged to 7th century A.D. and the same reconstructed temple was demolished and was again reconstructed by in the 12th century. And this temple was demolished during the times of Babar and the disputed structure was built there. I have come to know from rock inscriptions after the demolition of the disputed structure stampages thereof have been filed in this suit. It is correct that there was no reference in any document or book before December 6th, 1992, that this temple was built in 12th century. According to my information, there is no other evidence available that this temple was built in 12th century. I have filed the stampage of that inscription in this court. I am unable to decipher it. Only an epigraphist can read it. There is mention of this rock inscription in appendix 'A' of the book, titled 'Ayodhya

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ka Itihas' and archaeological paper No.289C-1 written by Dr. S.P. Gupta, and which I have read. He has not mentioned in his book as to how many pillars or rooms were there in the temple. As far as I know, no evidence is available in my book or anywhere else about that so-called temple which is said to have been built in the 12th century by Gahadwal rulers.

I think that rock inscription was found at the disputed place on 7 December 1992. This inscription was found by the officials of the Government of India. I do not know that the officer, who found that inscription, belonged to which department or whether he submitted any report. I do not even know as to whom this inscription was handed over by the above officer. The information of discovery of the rock inscription first came to the knowledge of Dr. S.P. Gupta and Dr. Sudha Mallayya in December 1992. I think they got this information when they went there after December 6, 1992. Shri S.P. Gupta and Dr. Sudha Mallayya themselves told me about it and they had also published such a paper.

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Verified the statement after hearing
Sd/-
Devaki Nandan Agarwal
07.02.2002

Typed by Stenographer as dictated by me in the open court. In continuation of this Appear tomorrow, on 08.02.2002 for further cross examination .

Sd/-
Narendra Prasad
Commissioner
7.2.2002

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Dated: 08.02.2002

(Commencement of statement, on oath, of P.W.2, Shri Devaki Nandan Agarwal, in continuation of 07.02.2002).

Wall of the disputed structure was not built of bricks, but was built of pieces of stones and gravel mixed in lime and it was plastered from outside with lime. This was the case with the wall around the building also. When I saw the disputed building in 1932-34, floor was old and built of lime. The wall of the disputed site would certainly have been two to two and a half feet wide. The thickness (length) from east to west of the wall was approximately two and a half to three feet. It is correct that the thickness of the wall of the door of the rear dome would have been approximately 6 feet; this wall was divided in two parts. One part was towards the dome and the other was part of the wall. It is correct that the wall was built of small pieces of broken stones. At this point, the learned Advocate, cross-examining the witness, drew his attention towards 'existing building is certainly a mosque from the point of view of architecture' written in the first line of first paragraph on page 2 and 'MASJID KI DIWAR KI CHUNVAI..... MALBA BHAR DIYA GAYA HAI' written in the fourth line from below of the same page of the book of Dr. Rabhey Shyam Shukla (Paper No.107C- 1/154) filed in other original suit No.5/89. After reading it, the witness said that he was in agreement with this view. I have not at all read Akbarnama although some of its extracts have been filed by me with my suit. I have no information about it, whether or not Akbar accompanied by Jodhabai visited Ayodhya or whether he went there alone or not. I had stated on page 166 of my statement that according to Akbarnama, Akbar had gone there; I have said it on the basis of tradition.

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Then he said that he had filed extracts of Ain-e-Akbari and not of Akbarnama, which is marked as paper No.107C-I/76 and is in the hand-writing of Prof. B.R. Grover. I had not tallied it with the original book of Ain-e-Akbari. It is correct that what I had stated in line 3 from below on page 133 of my statement that 'I did not have any talk with Prince Anjum Qadar and Buta Singh, before I filed my case' is correct. I did not had any talk with them about the filing of this suit and about the papers filed in the suit, before I filed my suit. I got the copy of letter of Prince Anjum Qadar, marked as paper No.107C-1/24 dated 31.12.88 in January or February, 1989. I got this copy from the office of Sardar Buta Singh. Prince Anjum Qadar had filed this letter in the Ministry of Home Affairs by that time. It is correct that I did not think it proper to refer to the 'Fatwa', written on that letter, in the plaint of my suit and that is why I did not refer to that 'fatwa' in my suit. As Prince Anjum Qadar was at that time President of Shia Conference and he used to refer him as representative of Shia community, I,, therefore, accepted him as representative of Shia community for the purpose of this suit. I do not know who was the representative of the Shia community at the time when I filed my case: At this point, the learned Advocate drew the attention of the witness to paper No.1 18C-1/36 filed in other original suit No.5/89. After seeing it, the witness said that he did not know much about Dr. R. Nath, he only knew that he lived in England and was some authority on architecture. I have included his name in the list of my witnesses. He was earlier a Reader in the Department of History and Culture in the University of Rajasthan, Jaipur. On being reminded by the learned Advocate, he remembered that he was also a Research fellow of Homi Bhabha Council. He has written a book 'History of Mughal Architecture'. A copy of the book titled 'History of Mughal

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Architecture, Vol.1', written by Shri R. Nath and published by Humanities Press Incorporated, was shown to the witness and after seeing that, the witness answered that this was a book written by the same R. Nath, one of whose article, marked as paper No.118C-1/36 had been filed by him. It is correct that Shri R. Nath has dedicated this book to Babar.

It is correct that I had given this type of statement in the court that it was necessary for a mosque to have a minaret. Seven line of para 2 of page 6 of this book, marked as paper No.197-2/1-8 were read to the witness that 'it is surprising making'. The witness after reading the lines, said that he agreed fully with that. The photo of Quila-e-kohana mosque, marked as paper No.197C-2/4, was shown. There was no minaret in this photo. After seeing paper No.197C-2/5, the witness said that there was no minaret in this photo. After seeing paper No.197C/4, the witness said that Quila-e-Kohana was shown in the first picture, it was photo of Qibla Wall thereof. There was no minaret in this photo. After seeing paper No.197C- 2/7, the witness said that there was no minaret in the photo of so-called Nili Masjid Avadh Khas Delhi shown in it. Similarly in paper No.197C-2/8, there was no minaret in the photo of mosque of Isa Khan, so called mosque in Delhi shown in it.

The Vikramaditya referred by me in my yesterday's statement was the last Vikramaditya and he lived in the year 700 A.D. Then Volunteer : that the temple was built in 700 A.D. at the disputed place. The name of the above Vikramaditya was Skand Gupta and not Chandragupta, though some people call him Chandra Gupta. But according to established sources, his name was Skand Gupta. And then during twelfth century, the rulers of Gahadwal dynasty

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built a grand temple there. At this point, the learned Advocate, cross-examining the witness, drew his attention to the first paragraph of chapter 10 of the book 'Ayodhya ka Itihas' written by Shri Avadhvasi alias Sita Ram, marked as paper No.107C-1/122. After seeing that, the witness said that it was correct. I do not agree with 'this Vikramaditya..... Can be Chandragupta of Gupta dynasty' written in line 1 of para 2 of the same page. Regarding the writing of para 3 on page 133 of the same book, the witness said that as he did not know anything about it, he could not give any answer. After reading 'JIS TILEY PAR ..... YAGYA VEDI KEHATE HAI' written in line 2 of page 134 of the same book, the witness said that he would not be able to tell whether the mound, on which the disputed mosque was situated, was called 'Yajna Vedi'. After reading 'ESVI 1877 ..... JIRNODHAR KE SMAY KIYA THA', written in line 3 of the same page, the witness said that it was correct. It is correct that capital Ayodhya was resurrected by Chandragupta Vikramaditya. It is correct that Skangupta had not resurrected the Ayodhya capital.

I do not know whether Chandragupta had ruled in Ayodhya for 80 years, but if it was written in this book, then I would not dispute it. It is possible that it might be correct. It is correct that this Vikramaditya had got constructed 360 temples in Ayodhya. There could be some exaggeration in it. As is the habit of people, they exaggerate things. One thousand is described as ten thousand. The attention of the witness was drawn to 'PRASIDHA HAI ..... VARTAMAN HAI' written in the last three lines of the first paragraph on page 134 of this book. After reading it, the witness said that he did not agree with the above statement. After reading 'HARSHVARDHAN .....KE AADHIN RAHI' written in the first two lines of para 3 of chapter-11 on page 138 of

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the same book, the witness said that it was correct. In the same book at page 140-141, it is written "Parihar in the 8th century----left bones to decay" is also correct. It is correct that rule of Gahadwal dynasty had started in Ayodhya during eleventh century itself and Raja Jai Chand was perhaps its last ruler. After reading 'AYODHYA MEI EK KHURD (CHOTA) MAKKA BHI HAI' written in the last two lines of the chapter 12 on page 143 of the same book (paper No.107C- 1/122), the witness said that he had also heard the same thing. After two pages of first chapter of this book (107C-1/122), a map of Ayodhya has been given, in which Masjid Janam Sthan has been shown. It is correct that the same disputed place has been shown there. This book is the original copy of the book titled 'Ayodhya ka Itihas' written by Shri Avadvasi alias Sita Ram and marked as paper No.197C- 1/1 22. it was published in 1932. I do not know who was Shri Avadhvasi alias Sita Ram i.e. what was his profession. I do not even know whether he was a historian or a professor in any University. The book filed by me and marked as paper no.118C-1/35, was published perhaps during 1994- 96. Among the persons, whose names have been mentioned on the title page of the book are, Shri S.P. Gupta, B.R. Grover, Devendra Swamp Agarwal and they used to participate in the negotiations which were held relating to the disputed structure. These negotiations were held during the Prime Ministership of Shri Chandra Shekhar Ji and Shri Narsimha Rao Ji. The Vishwa Hindu Parishad had nominated these three persons in the above negotiations as experts. During the time of Chandra Shekhar Ji, I had also participated in these negotiations at the later stage and also kept on participating during the time of Narsimha Rao. Then said that The Vishwa Hindu Parishad had nominated him as a legal expert for those negotiations. The paper No.107C-

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1/37 to 59 have been filed by me in this suit These papers were given to me by Prof. Grover. This paper was given to me by Shri Grover in 1995-96. These papers pertained to the papers submitted by us and Babri Masjid Action Committee during the negotiations held during the time of Shri Chandra Shekhar Ji. These papers were filed during the negotiations. It is correct that the report of National Archives of India had come during these negotiations. The negotiations ended in 1991. I came to know of this i.e. the paper No.118C-1/37 to 59 in 1995-96. Shri Triloki Nath is a special attorney of the plaintiff No.1 and 2 of this suit. He is a special attorney of Bhagwan Shri Ram Viraj man at Ram Janam Bhoomi, who is also called Ram Lalla. I have nominated him as attorney. He is my attorney as their next friend. I am plaintiff No.3 in this suit and he is not our special attorney. At this point, attention of the witness was drawn to the affidavit dated 18th January 2002 filed by his attorney with C.M. application No.2(0)/2002. After seeing it, the witness said that the word plaintiffs written in it was wrong. Shri Triloki Nath is general attorney of plaintiffs No.1 and 2. Shri Triloki Nath did not attend the negotiations, which were held during the times of Shri Chandra Shekhar and Narsimha Rao. At this point, attention of the witness was drawn to the affidavit dated 18.1.2002 and C.M. application No.2 (0)/2002. After reading para 4 of that affidavit, the witness said that what had been written in para 4, was told to Shri Triloki Nath Pandey by him in December 2001 when he (witness) was ailing. Similarly, what has been written in the first sentence of para 5, was told to Triloki Nath Pandey by him at that time. Through this application, I have prayed this court to summon the paper given in paper No.118C-1/37 to 59.

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If there is any temple, then Hindus will never demolish it. Then Volunteer : that if need arises to reconstruct a grand temple at its place and it is necessary to demolish it partially or fully then in that situation, it can be done. If the temple is in good condition and if still the Shivayat wants and his financial position is good, then he can demolish the temple and built at its place a grand temple. A Hindu can throw pork in a temple, if he bears enmity with Muslims. According to my view, a religious Hindu, who believes in religion, would not throw pork in a temple. Then said that he should not do so. Similarly, a religious Hindu will not break the dome of his temple. At this point, attention of the witness was drawn towards line 9, 8 and 7 from below on page 175 of his statement. After reading it, the witness said that Bairagis called the disputed structure a mosque and not a temple and wanted to remove it.

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Verified the statement after hearing

Sd/-

Devaki Nandan Agarwal

08.02.2002

Typed by Stenographer as dictated by me in the open court.In continuation of this Appear on 25.02.2002 for further cross-examination.

Sd/-

Narendra Prasad

Commissioner

8.2.2002

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