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**IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD LUCKNOW BENCH : LUCKNOW**

OTHER ORIGINAL SUIT NO. 4 OF 1989
REGD SUIT NO. 12/1961

THE SUNNI CENTRAL BOARD OF WAQF
U. P. & OTHERSPETITIONERS

VERSUS

GOPAL SINGH VISHARAD AND
OTHERSDEFENDANTS

**STATEMENT OF PW 10
MOHAMAD IDRIS**

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Statement of PW 10

Mohammad Idris (name), S/o Haji Mohammad Salim aged 52 years, resident of Mehrawal, District Basti, occupation – teacher made the following sworn statement:

I am Faziledarse Nizamiyan and Faziledarse Aaliya. I have studied in many Madarsas. I got the degree of Faziledarse Nizamiyan from Jamia Hamdeeya Rizvia Madanpura Banaras, whereas I got the degree of Faziledarse Aaliya from Arabic and Persian Board, Allahabad. Aalim precedes Fazil and I obtained the certificate of Aalim from both these places. I had completed my education in 1962 and thereafter ,I started teaching. I teach in Meharwal only and the name of my Madarsa is Darululoom Ahlesunnatfaizul Islam. I have been teaching there since 1963 and the subjects I teach are: Fikah (prudence), Hadis (Details of works of Mohammad Sahibs) commentary etc. Presently, I am the principal. I have read and taught also noble Quran and its commentary. I have read and taught Hadis also.

The notable commentaries of holy Quran which I have gone through are: Tafseer Jalalain, Madarenquttanjeel, Tafseer Vaiajavi, Tafseerate Ahmesia, Tafseere Kabir, Tafseere Kashaaf etc.

I have also gone through the main collections of Hadis namely Bukhari Sharif, Muslim Sharif, Tirmizi Sharif, Abudaud, Ibnemaza etc.

Prominent books of Fikah are namely Hidayah, Sharai vakaya, Murku Muniyatulmusalli, Fatwa Hindia, Fathulkadir, Durramukhtar, Raddulmuhtar etc. Fatwahindia and Fatwaalamgiri are two different names for the same book. There is no edict about the manner of construction of a mosque in noble Quran. In other words, one who wants to construct a mosque, can do it freely and as per the design of his choice. Existence of a tomb or minaret in a mosque is not mandatory. Rather is a command in Hadis that no minaret should be built in the mosque. It is also not necessary that there should be a well and arrangement for vazu (ritual of ablution of hands, face, arms, and feet in that order performed by Muslims before prayer) in the mosque. It has been preferred in noble Hadis that one should go to mosque after performing vazu at his house. Such a person meet virtues on every step, all his faults are forgiven. One who constructs a mosque may be a Shia or one belonging to the other group, but the mosque built by him would not belong to his sect only, rather it would be a general mosque.

There could be a situation when the Imam of some mosque is a Sunni and the majority of the persons performing prayers is also that of Sunnis, but in such a case the trustee (Mutvalli) of the mosque could be a Shia Muslim. If a mosque is constructed at a place surrounded by graveyard, even then it will not be termed as unlawful.

In case temples of Hindus are located on the approach road to the mosque, there is neither any prohibition nor anything wrong in reaching the mosque. One can offer prayers (namaz) at such a place and the mosque is constructed at a site, which might be a pious place for non-Muslim people, it will not have any adverse effect on the status and purity of the mosque. In case, the mosque is built at a site where there had been a temple earlier and vacant land thereafter, such a mosque will also be lawful. If the structure of the mosque gets demolished or falls down or martyred even then it will have no impact on the importance and status of the land of the mosque because it is itself a mosque. Prayers (namaz) can be offered at such a piece of land. That land cannot be used for any other purpose. In case figures or idols of any human beings are built on the walls and pillars of the mosque, the namaz offered amidst a few such situations would be disgraced, i.e. its auspiciousness will be slightly reduced but namaz itself would remain valid and in some situations it does not disgraced and its auspiciousness intact. In case the picture is right in front of the place of worship, the namaz would be rendered disgraceful. In case, the picture is right in front, but devotee performing namaz is neither aware nor has a feeling of the same, there would be no adverse impact on namaz. In case, the idol is too small to be attentively looked at, there would be no effect on the namaz. In case, some idols are lying there in same portion of the mosque even then the namaz will be valid but all kinds of efforts should have been made to turn the idols out. Despite all this, the mosque will remain as such with no effect on its status. Even if the idol remains there, the entire area would be called a mosque, movement of any article would not make any effect on the nobility of the mosque. In case, persons following other religion have started worshipping in anti-Muslim manner in any portion of the mosque or they

frequently visit the place for having a 'darshan', it would not have any impact on the purity of the mosque which would continue to remain a mosque.

According to the Islamic religion, graveyard cannot be shifted from one place to the other. The grave built at any place cannot be shifted from there. A mosque also cannot be shifted from its site. Even if the remains of the graveyard get vanished, the graveyard will remain as such. If the remains of the graveyard get vanished and the graves are dug, even then it would remain a graveyard.

I have gone through the history of the Mughal Empire in India. I have found no mention in the history to the effect that Babar had built any mosque in Ayodhya after demolishing some temple. During the days of Babar, no mosque was built even anywhere else in India by demolishing some temple.

I have not come across any such mention in History whether such things had happened even during the days of Aurangzeb. Many a ulemas had jointly written the book Fatwai Alamgiri.

(Cross-examination by Shri Ranjeet Lal Verma, advocate on behalf of Nirmohi Akhara).

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On the arrival of Mugal in India when their army started interacting and meeting freely with common people, a new language came into being, which was called Urdu. It is wrong to say that this mixed language came into being during the period of Bahadurshah Zafar, in fact the language had been there very much before him. Many

words of languages like Arabic, Persian, Turkish, Sanskrit, Pali, Oriya and many other languages have got assimilated in Urdu. Urdu had not flourished much in the days of Babar. Urdu script is the script of Persian.

I have been an old resident of district Basti since generations. I had received my elementary education in my town Mehndawal and it is the same Madarsa where I am the Principal today. At first, I had started learning Urdu which I studied upto class fifth. There after, I studied Persian and not Hindi. I was around nine years old when I finished fifth class. I had to go to a another Madarsa for studying Persian. The Madarsa is located in another village Basteela which is also a part of District Basti. I studied Arabic and Persian – both the languages at this Madarsa for four years. No certificate was awarded by the Madarsa for study upto that level in those days. My education has continued in an uninterrupted manner without any break. Maulana Aizaz Ahmed Khan was my teacher besides two more teachers. I was their student. No student from my village studied in that Madarsa. Boys from Siddhartha Nagar were there with me but no one from Ayodhya Faizabad was with me.

Thereafter, I went to Mubarakpur, District Azamgarh for further studies. I would have been around thirteen years of age when I completed my education at Basteela village. I had studied only Arabic at Mubarakpur, District Azamgarh, whereas I had completed my course of Persian at Basteela. The full name of Mubarakpur School was – Darul Ulum Ahle Sunnat Madarsa Asrafia Misbahululum. I had studied at this school for two years and no certificate was given to me by the school. I had left the school of Mubarakpur in 1960. Mubarakpur is located in the Sadar Tehsil of Azamgarh. This is not that Mubarakpur which is

adjacent to Tehsil Tanda of Faizabad. There was a large number of staff at Mubarakpur School. Maulana Aziz Sahib Moradabadi was the Principal. As per our system of conferment of certificate, a certificate is awarded only after one has become a Fazil. No certificate is awarded on becoming Aalim (He said himself that certificate of Alim is also awarded by the Board and that he is in possession of such a certificate). The name of Board is Arabic and Persian Board, Cantt, Allahabad. For passing out the Alim course, one has to study for six years after finishing class fifth. I had cleared my Aalim course from the Mubarakpur Madarsa itself. There was no hostel in Mubarakpur Madarsa during our days.

For pursuing the Fazil course, I had gone to Banaras. I would have been around 15 years of age when I went to Banaras. One has to pursue the Fazil course for two years. I had got the certificate of being an Aalim from Allahabad Cantt Board and from nowhere else. At Banaras, I used to live in the hostel of the Madarsa. The number of students in this Madarsa was in hundreds and not in thousands. Hostel was occupied by outside students whose number was around 175 which included boys from Faizabad also. There was only one such boy whose name was Saiyad Fahim Ashraf and he lived in the adjacent room of mine. He is no more now. After Madarsa, Fahim Sahib had joined army and thus, he pursued a different way of life, there was no contact with him and now he has passed away also. He could not complete his Fazil course of study. He did not belong to Faizabad proper, but was a resident of village Kachhochha of the district. The 'Dargah' of Kachhochha is famous and I have visited it also. However, I could not go there when I was pursuing my Fazil course at Banaras. I had completed my course of Fazil within two years only, I did not fail. The subjects covered under the

Fazil course are many and the course is not confined to the study of one language only. No language was taught to us as an optional subject at the madarsa of Banaras whereas there were many optional subjects under the Fazil course for which I got the certificate from Allahabad. There was no option paper of any language even there. I had studied History also at Banaras which included history of Mughals, history of their emperors as well as their successors too. Maulana Qazi Shamsuddin used to teach us history. I had studied History books in Persian, language, a few in Urdu and some in Arabic but I am not conversant with Hindi. The name of the Arabic book was Taarikh-ul-Khulfa written by Maulana Jalaluddin Suati and the second book was Rizalusindhwal Hindu written by Qazi Athar Mubarakpuri – I had studied both these books. The former book authored by Maulana Jalaluddin Sahib covered the period starting from Hijri i.e. from the first year of Hijri to 600 years of Hijri era whereas the other book written by Qazi Athar Mubarakpuri covered the entire history of India till date, i.e. a period till 20-25 years ago.

The name of the book which I studied in Persian is Tarikhe Farishta written by Kasim Saheb. I have read no other book on history in Persian language. This book covers the period prior to the arrival of Mughals.

I have read a number of books written in Urdu language – I have gone through Babarnama. I have also read the book entitled 'Aurangzeb Hinduon Ki Nazar Mein' written by Nazir Akbarabadi and 'Hindustan par Musalmanon ka Hazarsala Daure Hakoomat' authored by Mufti Shaukat Ali Fahmi.

The books mentioned above and which I have read have been written by Muslim authors. Besides the above, I

have not read any book on history written by any foreign writer or translation of any such book in Urdu or Persian language or any book written by some eminent Indian historian.

After completing my education at the Madarsa of Banaras, I did not go anywhere else to pursue my studies.

I had taken over as Principal in 1976. There had been a gap of around 14 years from my completing the education at Banaras and the year 1976 – I had left Banaras in 1962. I was awarded a certificate from Banaras. The School, where I am a Principal functions under a Committee. The Madarsa gets aid from the Government, salaries are borne by the Government while the examinations are conducted by Arabic and Persian Board, Allahabad. I was appointed in this school initially for class Aliya. I teach language and History too.

Whenever I go to Lucknow ,Faizabad Ayodhya fall on my way.

Statement read over and verified

Sd/-

28.02.1997

Typed by the stenographer in the open court on dictation by me. Present yourself on 03.03.1997 for further examination in this case.

Sd/-

Commissioner

28.2.97

(Cross-examination in continuation of 28.02.1997)

Statement on oath by P.W. 10 Mohammad Idris S/o Haji Mohammad Salim in continuation of his today's statement of 28.02.1997.

There are many Madarsas in town Mehndawal. One is the Madarsa where I had studied, the others are: Madin Natul Ulum, Makhtazul Ulum and some more schools. These Madarsa are smaller than the one, where I had studied. There are a number of mosques in Mehndawal. This is wrong to say that it is a small town. There would be at least 8-10 mosques in this town. I may not be able to tell as to which amongst them is the oldest mosque, I have seen all these mosques. Minarets are not there in all of the mosques, there are some which have minarets and there are some which do not have. At this point of time, I believe there are three mosques without any minarets but they have roof. One of the mosques has a dome, the other two do not have. Friday prayers are not offered in any of these three mosques. The other mosques having minarets have domes also. Friday prayers are held only in two of such mosques, one of which is known as Jama Masjid, whereas the other one is popular as the mosque of Uttar Patti Mohalla. There is a well in Jama Masjid which is not in use, but hand pumps have been installed in the mosques. The well was adjacent to the place of doing 'vazu'. There was no boundary wall on three sides of the mosque. The Madarsa and the mosque had a common boundary wall and during those days, this well was located at the point, where boundaries of both met. The well is only at a few steps from the place of offering 'Namaz'. The mosque has two big and two small minarets. Minarets are added to the mosque to enhance its beauty otherwise they do not have any other purpose. Some dispute is going on

about the appointment of a trustee (Mutvalli) of this Jama Masjid. Presently, the office of Imam is held by Maulana Mohammad Mohisin.

There is a well in the mosque of Uttar Patti Mohalla but it is outside the periphery of the mosque – only few steps away from the periphery.

Islam is an Arabic word which in a specific context stands for 'Masdar' which if translated, means to follow the path of obedience. God is one and is omnipotent, noble Quran is a gift given by him, the entire world is his creation, Hazrat Mohammad is his prophet, one should follow the noble path – all these teachings are taught in Islam and one who have do faith in Islam and is its follower will be called a Muslim. This is wrong to say that a Muslim is by birth only. If any Hindu or a Christian follows the tenets of Islam, he can convert his religion. Noble Quran is the name of that noble – scripture which was handed over to the prophet on behalf of God. Noble Quran was handed over to the prophet at various occasions during a period of 23 years. It has a total number 114 chapters comprising 6666 verses. I would not be able to tell the number of verses wherein guidelines are provided to sort out legal issues.

(He himself stated of his own that Mulla Ahmad Jeevan has written a commentary of the verseas elaborating edicts, i.e. 'Ehkam' which is known as Tafseerate Ahmadiya. This gentleman was the tutor of Aurangzeb. However, I may not be able to tell the number of verses contained in the above booklet). The duties of a human being have been laid down in the noble Quran repeatedly. A number of activities are prohibited, i.e. wherein there are directions not to indulge in certain activities. The grand Adam who descended on the creation of the universe for the first time, had landed

with Islam. However, it has not been settled so far as to on which point of the world had he landed.

Hazrat Mohammad Sahib was born in an Arab country. The propagation of Islam was undertaken by Mohammad Sahib. Muslims were there even prior to him because only the first human being of the world had brought Islam with him.

Mohammad Sahib had emigrated from Mecca to Medina. In Mecca, he fought against idol –worshippers and those who believed in more than one God. Idol worshipping was prevalent those days at many places in Arabian countries. He had of course returned to Mecca from Medina later on, but he did not settle there and rather returned back to Medina. He virtually did not wage a war in Mecca. He did fight and conquered some areas also but his intention was not to capture any area or country but only to preach oneness of God. It is correct that it was his direction that one who wages a war against you, fight against him in the name of Allah but one who does not fight, do not forcibly occupy his land, his country, place of worship or body. During the days of Hazrat Sahib religion of Islam prevailed in almost the entire Arab but had not extended to Iran and other countries.

At the time when I became the Principal of my school, there was no country in the world where Mohammedans were not found in less or large numbers. Even countries like America, Canada and Australia had some population of Muslims. When I took over as Principal, Arabic was spoken in Saudi Arabia and also in Urdan which is called as Jordan in English, Egypt, Siam (Syria) Amen and also a few other countries. Barring Egypt, all other countries mentioned by me above are a part of Asia. I may not be able to tell the

number of Arabic speaking people in the world in the year 1990. I cannot say whether Pakistan is the only country in the world where Urdu is the national language and the language of daily use. I cannot say whether the number of persons using Urdu and Arabic as the language of daily use is small. I am aware that English and Hindi are included in many languages of the world. However, I do not have an idea about the proportion of English, Urdu or Arabic speaking people in the world, therefore, I also cannot conjecture whether the number of English speaking people is greater than Urdu or Arabic speaking people in world. Census is not my job and as such I cannot say that 143 crores of people are Hindi speaking and 40crores are Urdu or Arabic speaking in the world.

I cannot say whether the majority of the writers of the History of India were English people or that majority of History books have been written by English authors. Possibly, Hindi writers would have also earned a name as authors of Indian History but I have no business with it.

It is correct that Mughal rulers and others too who were Muslims, maintained their Historians to write down History and at times, they wrote History themselves also. Many a historians got their salaries from these rulers and there were yet others in whose case the question of taking any salary did not arise at all like Humayunnama written by Begum Gulbadan. Besides, Kasim Farishta was yet another historian who did not take any salary from anyone. I have read the History of Farishta from which it is inferred that Farishta used to write history without any honorarium because there is no mention of receiving any honorarium. Begum Gulbadan belonged to the royal family who, instead of taking any remuneration herself could have given it to others.

It was after a long time after Hazrat Sahib that Shia and Sunni groups were formed. The first Khalifa to follow Hazrat Sahib was Hazrate Abubkar Siddiqi who was followed by Hazrat Umar Farooq and then by Hazrat Usman Gani. Hazrat Sahib had not nominated any Khalifa or successor during his lifetime. It is incorrect to say that he had nominated Hazrat Ali as the first Khalifa. A few Shia people also believe that Hazrat Ali was not the first Khalifa. A few Shias regard him as the first Khalifa while others do not. The formers hold that Hazrat ali should have been the first Khalifa after prophet Hazrat, Khalifat, i.e. succession is not inherited in Islam. Since Shia and Sunni groups were formed after a long time after the death of Prophet Hazrat Sahib, therefore, no such question arose after the death that Shias or persons calling themselves as Shias should assert that as per inheritance, Ali Sahib should have been the first Khalifa. This is incorrect to say that the so called Shia people had raised this issue after his death. Relation-wise Hazrate Abubkar was father-in-law of Mohammad Sahib. After the death of Hazrat Sahib, a meeting was held at Shakifa Bani Shaيدا where it was decided that Hazrat Abubkar should be designated as the first Khalifa. There was some difference of opinion, but it could not be termed as a dispute. Amongst Muslims, the title of Khalifa reflects the succession of Hazrat Sahib and as such, it represents his succession religiously and materialistically – both ways. This is incorrect to say that Sunnis hold that the title of Khalifa is only materialistic and for purpose of governance which should be decided through election. In fact, no groups like Shias or Sunnis existed during those days and as such this type of question did not arise.

This is correct to say that Hazrat Abubkar Sahib was the father of Begum Aisha wife of Hazrat Mohammad. Hazrat Umar Sahib had the same relationship with Hazrat Mohammad which Hazrat Abubkar Sahib had with Hazrat Mohammad. Hazrat Usman was the son-in-law of Mohammad Sahib. The two daughters of Hazrat Mohammad Sahib had been married to Hazrat Usman Sahib – after the death of first daughter the second daughter was also married to the same Usman Sahib. At this point of time, I do not remember the names of the two daughters who were married to Hazrat Usman.

Opinions vary with regard to the identity of the first disciple who had accepted the message of Hazrat Mohammad Sahib at his behest. Majority believe that amongst the older generation, the title goes to Abubkar Sahib and to Hazrat Sadija amongst women and to Hazrat Ali amongst children. While making disciples, it was kept in mind that age-wise they should be mature enough to understand things. Abubkar Sahib took over as a Khalifa sometime during the 13th Hijri. Hazrat Usman Sahib got his martyrdom at the hands of some wicked people. I may not be able to tell the Hijri year in which he got martyrdom. I believe it would have been 14th or 15th Hijri. Thereafter there was some difference of opinion on Hazrat Ali taking over as a reason being that there were other claimants to this title. Hazrate Amire Mabiya was the one who put his claim against him and a war was waged on this issue. This is, however, incorrect to say that Hazrat Ali Sahib got martyrdom even when the war was continuing.

The war had taken place in the 32nd or 33rd Hijri year. Hazrat Ali was martyred in a mosque in Koofa city. It would have been the 42nd or 43rd Hijri year. During the period of 10 years. i.e. from 32nd or 33rd Hijri year to 42nd or 43rd

Hijri year both of them enjoyed the title of Khalifa, Ali Sahib was the Khalifa for a part whereas the other part was under Amir Mabiya where he held the office of Amir. I am now aware whether Amire Mabiya had the support of Begum Aisha of Prophet Mohammad Sahib because Hazrte Amir Mabiya was not a full-fledged Khalifa and that is why I would prefer to call him Amir Mabiya instead of Khalifa. He has not been included in the list of real Khalifas and as such he could be called an Amir or be given any other-appropriate designation. However, Yazeed Sahib is not regarded as an Amir.

The group of real Khalifas comprise four – the word means the real Khalifa. Hazrat Ali Sahib is one amongst these four Khalifas and that is why he is regarded as real.

Badra was the name of a place and the war of Badra, which took place sometime in 6th or 7th Hijri year was well known. This war was in between the followers of Prophet Sahib and Kabila Quresh. Hazrat Ali Sahib had participated in this war, which was won by the followers of Prophet Sahib. However, this is incorrect to say that the war was won because of Ali Sahib rather I would say, this was the result of collective sentiments of agitation and guidance of the prophet.

Those days the valour of Hazrat Ali Sahib was very famous. This is incorrect to say that during those days wars were fought for Hazrat prophet Sahib, rather the reality is that they were fought for Islam. However, it is correct to say that the command was in the hands of Hazrat Sahib. (He stated himself that mostly the wars were fought in defence of God). I do not remember if Hazrat Ali had won any war fighting alone on the orders of prophet Sahib after the war of Badra.

All the Shias do not believe that Hazrat Ali was the first, the dearest and most competent Khalifa of prophet Sahib. All the Shias are not like that who may regard the remaining three Khalifas namely Hazrat Abubkar Sahib, Hazrat Usman Sahib and Hazrat Umar Sahib as Khalifas. It was during the lifetime of the prophet that the Islamic religion had enjoyed a dominant position in almost the entire Arabic region. This is incorrect to give credit of this situation to Hazrat Ali Sahib. Imame Hasan, the elder son and Imame Hussain, the younger son of Hazrat Ali were his successors. This is incorrect to say that no Khalifa had been appointed after the martyrdom of Hazrat Ali and that only Imams remained thereafter (He added himself that the office of Khalifa continued for many centuries even after him). This is correct that Hazrat Hasan and Hazrat Hussain Sahib were called Imams. This is incorrect to say that after Hazrat Ali Sahib and Sunnis had their respective Khalifas. After Ali Sahib Imame Hasan was regarded as Khalifa for a period of six months, but it is again incorrect to say that thereafter he sold off his empire and title to Amire Mabiya by taking money from him.

After Hazrate Mabiya, Yazid took over. The saying goes that someone had mixed poison in the water given to Hasan Sahib as a result of which he slowly met his death. Imame Hussain, the younger brother of Imame Hasan became the claimant of the office of Khalifa. He went to Mecca from Medina and then to Kufa and waged a war against Yazid.

72-73 people has lost their lives in the war of Karbala. Wife of Imam Hussain Sahib and their children did not die during this war. Not the younger children, but the younger son had of course sacrificed his life, his wife and sister had

been arrested. However, it is incorrect to say that serious differences had emerged amongst Shias and Sunnis because of this war. Yazid was not regarded a Khalifa because of this incident. Moharram was observed earlier also and earlier also it was auspicious. The incident had taken place on the 10th day of Moharram and since then it is being observed with all the more vigour. This will be incorrect to say that on account of this incident only, Shias observe Moharram. My contention is that Shias and Sunnis both the groups observe Moharram.

There is no basic difference in the system of namaz amongst Shias and Sunnis. There is, however, some difference with regard to movements of the human limbs while offering namaz.

There is some difference in their actions. There is difference in the manner of prostration and also in the manner of folding the hands. There is a difference amongst the two groups with regard to the manner of performing 'vazu' but no difference in the manner of ablution of hands. There is also no difference with regard to number of times a Shia and Sunni would perform ablution of his hands. Four activities are a must in the case of 'vazu' by Sunni people and they are: (1) washing the entire face; (2) washing both the hands including elbows; (3) to wet at least one-fourth of the head, i.e. passing the wet hands over it; and (4) washing both the feet upto the level of ankles. In case of Shias, the first three activities are common, but in respect of the fourth one, they feel that wetting the head is sufficient. Performing all these activities once is essential and if repeated three times, it becomes Sunni system, but head is done once only. Barring washing of feet and wetting the head, there is no other difference in the manner of 'vazu' by Sunnis and

Shias. While washing hands , it is not necessary that water should be poured from fingers towards the elbows. It could be done any way, the real purpose being washing of hands. If anyone amongst Sunnis comes from outside, he performs 'vazu' and must wash his feet. If some Sunni comes from his house to a mosque for offering namaz and if his house is located at a distance of 5-6 kilometers from the mosque and if he, after performing 'vazu' goes to the mosque by some vehicle, he need not perform 'vazu' again in the mosque.

If one goes to the mosque after performing 'vazu' at his house and if his 'vazu' is not desecrated then he need not perform 'vazu' again irrespective of the distance of the place of offering namaz. If a country is at a distance from another country, even then performing of vazu is not necessary.

As per the edict of Prophet Sahib, it is not necessary to perform 'vazu' five times, but performing 'vazu' for the five namaz has been preferred.

This is correct that group namaz is conducted by Imam. The way Imam would do Sajda (Prostrate), the remaining devotees would follow him. Anyone can hold the office of a Imam in a mosque whether he is a Shia or Sunni. Shias can offer namaz under the Imamship of Sunni Imam and vice-versa.

Question: What is Hadis?

Answer: The collection of the promises and actions of prophet Sahib and whatever was done in his presence which he did not forbid, is known as Hadis. Similarly, the collection of promises,

actions and speeches of Sahaba is known as Hadis. The promises, actions and speeches of Tavaiee are also termed as Hadis by some people.

Hadis was not written in its present form during the lifetime of prophet Hazrat Sahib nor it has been written subsequently. Sunnat means a method. Whatever methods have been propagated by prophet Sahib, they are all Sunnat. The doings of Hazrat Sahib are termed as 'Faiili' Sunnat, whereas his uttering are termed as 'Kauli' Sunnat. Whatever others did before Hazrat Sahib and which he did not forbid is termed as 'Takriri' Sunnat. If there is a question for which no answer is available in noble Quran and Hadis, the same could be searched in Izmai-ummat and kayase Muzathid. Izma is something on which the knowledgeable people of Dine-Islam arrived at a consensus in the post-prophet period. The decision arrived at after a consensus is not confined to a particular period, it is applicable forever.

There is very elite group of knowledgeable persons of Muslim religion which is called 'Muzathid'. They enquire into the problems in the light of Quran and Hadis and their findings are contained in Qayas-I-Mujtahid. This is incorrect to say that whatever appears right to someone by his heart is right. This is correct that the thoughts of Mustihid are beyond the barriers of time. Both Izma and Qayas find a mention in Fikah (the books related to Islamic religion).

The foundation of the Islamic ways of life is based on these four documents, i.e. noble Quran, Hadis, Izma and Qayas and this is called Shariat (the law of Islam). Shariat is an Arabic term which stands for the collection of Islamic

laws. This is correct to say that Shariat means the way which should be followed. Fikah is also an Arabic word which stands for prudence. Many books have been written on 'Fikah'. Fatwa Alamgiri was not got written by Aurangzeb through his Qazi, rather it was written collectively by great intellectuals of that time. This is incorrect to say that Fikah is an outcome of human prudence rather I believe that Fikah comprises the way of life that has been found appropriate in the light of noble Quran and Hadis. It is again incorrect to say that Fikah is an outcome of human effort and desire or that someone has written something of his proper-improper, permissible and forbidden (Halal and Haram) in Fikah. There is a mention of duty, (Farz) forbidden, (Haram) prohibitions, (Mandub) contemptible (Makruh) and proper duties (Jayaz); Offering namaz, observing 'Roza', payment of taxes on goods and going for Haj has been given in FARZ. Forbidden (Haram) include to charge interest, to oppress, to steal and many other activities. Any building constructed forcibly on someone's land would not be a mosque and therefore there would be no question of it being lawfull or unlawfull. Demolishing the place of worship of someone is forbidden in Islam and therefore, the question of constructing a mosque after demolishing it, does not arise. If the owners of debris of any dismantled temple sell it out, there is no ban on purchasing it and then constructing a mosque thereon. Acquiring the debris forcibly and then constructing the mosque is a different thing. When the commentary of the verses of noble Quran is prepared then besides the meaning of the verse the edict of Hazrat Mohammad Sahib in the circumstances prevailing at that time when the verse had emerged is also given along with the important discussions of the people of that time. If someone writes a commentary of some verse from his own point of view, Hazrat Sahib has strongly disapproved of

such an action on his part and such a commentary is called 'Tafsir Birraye'. It is correct that commentary is mainly based on the verses of noble Quran and Hadis. Noble Quran contains a precept for construction of a mosque.

A mosque is built at a neat and pious site. Mosque is a place where land has been donated for worshipping Allah. Donating the land is something which the landlord alone can do and it is left to people to construct or not to construct a mosque thereon. There is a mention of the design and form of a mosque. The famous book of Hadis is Mishkat Sharif. In one Hadis people have been allowed the freedom of constructing the mosque even without a minaret or a 'Mundi' whereas people have been advised to follow simplicity in another Hadis. The book entitled Mishkat Sharif is in Arabic language and a number of people have translated it into Urdu.

Minaret is also an Arabic word. Dome is an Urdu word but I am not aware of its Arabic synonym. A dome is also not necessary for a mosque. When there is no mention of the design and form of a mosque in noble Quran, the question of constructing or not constructing minaret as per its directions does not arise. There is no edict for the construction of a minaret in any book. Similarly, there is no edict in any book for constructing or not constructing a dome. There is no mention even in Hadis that only a wall is sufficient for a mosque. I have already given the statement that a mosque can be built even without a building.

Statement read over and verified

Sd/-

03.03.1997

Typed by the stenographer in the open court on dictation by me. Present yourself on 04.03.1997 for further examination in this case.

Sd/-

Commissioner

3.3.97

(Cross-examination in continuation of 03.03.1997)

Statement on oath by P.W. 10 Mohammad Idris, S/o Haji Mohammad Salim in continuation of his today's statement of 03.03.1997.

There is nothing wrong to close the mosque and put a lock thereon for safety but in no circumstances, it can be closed at the time of offering namaz. It is a must to have a Trustee (Mutavalli) for each mosque and only a Muslim can become a Mutavalli. A Mutavalli has no religious duties to perform, he has to oversee the arrangement. The office of Imam is a religious office. He is in-charge of conducting namaz and is not responsible for all the religious duties. This is incorrect to say that he should only be a follower of Sunni group. This is also incorrect to say that according to Shias, Imam will discharge all the religious duties and will be overall in-charge. An Imam in a mosque is appointed by the Mutavalli. However, it is not necessary that the Imam should have full knowledge about the structure of the mosque. An Imam has to stay in a mosque as long as anyone offering namaz stays but there is no ban on him if he overstays for purpose of safety of the mosque. In some mosque Moazzins (who call for prayers) are virtually there in position whereas in some other mosque any 'namazi' can perform the duty of calling for prayers. Moazzins are also appointed by Mutavallis. Moazzin is not expected to implement any personal order of the Imam. All the orders are from Khuda Rasool.

Cleaning the mosque, laying of carpets and making arrangement of water for 'vazu' are not included in the duties of Moazzins, their duty is only to call for prayers. Whether it is an Imam or a Moazzin or any other functionary who is likely to remain there for a long time will automatically gain knowledge of the building raised there, its design, its roof and decoration of its walls. If an Imam is aware of the existence of photos or idols of some animals – birds, idols of human beings or photos of any woman in standing or slanting posture in any building, he will try to remove all of them before offering namaz, but in case he does not or cannot do all this even then namaz would be performed there. I have already given my views about the purity and auspiciousness of such a namaz which would be disgraceful in certain circumstances and not disgraceful in certain other conditions. If the Imam does not try to remove such photos and idols, it is an offence on his part.

If a partition is made in the middle of the building in the form of a window wall so that both the portions are visible across despite the existence of a partition, namaz can be offered. Even when idol worshipping is going on in one portion, namaz can be offered in the other portion of the building, but in such a situation, it will be duty of Imam to get the idols removed from there.

I do not know much about Hindu religion and as such cannot say whether the teachings contained in Vedas, Puranas, Smriti and other scriptures are similar to the teaching of Shariat.

Five namazs are to be offered daily and their names are: (1) Fazra; (2) Johar; (3) Asra; (4) Magrib; (5) Isha. The

Fazra namaz is offered about one hour 20 minutes prior to the sunrise, whereas Johar namaz can be offered from just after the noon to the time the shadow of anything turns double of the original. The Asra namaz can be offered from then onwards till the sunset. The time of Magrib namaz starts after the sunset and continues for about 1 hour 22 minutes where after the time of Isha namaz starts which goes till the auspicious morning. Some variations may take place due to the seasons. The time of the first namaz is over just with the sunrise. The 'rakats' of every namaz are fixed. In Fazra, there are two rakats of Sunnat followed by two rakats of Fazra whereas in Johar, the first four rakats are of Sunnat followed by four rakats of Farz, then two rakats of Sunnat again two rakats of Nafl. In Asra, first four rakats of Sunnat Gair-muakad (optional) followed by four rakats of Farz. In Magrib, the first three rakats are of Farz followed by two rakats of Sunnat which are optional and then two rakats of non-optional followed by two rakats of Nafl. In Isha, first four rakats are of Sunnat followed by two rakats of Farz, then two rakats of Sunnat followed by two rakats of Nafl and then two rakats of Vitra followed by two rakats of Nafl.

It normally takes around 10 to 25 minutes to offer these namazs, but it then depends on the individual offering namaz whether he recites extra verses in which case he will obviously put in more time. I am not aware whether Arati is held five times in a day in the Hindu Mathas temples because I have no knowledge on the subject and as such cannot comment on whether the timings of their Arati are similar to those of our namaz. When I have no knowledge about Arati, how could I say whether Arati takes more or less time than namaz? I also cannot say anything about the manner in which their Arati is held.

If on the one side of the lattice wall idol worshipping, Arati, Shankhghadiyal are going on and even if all that is visible and Ramdhun is audible, namaz could be offered on the other side. This is another matter that those offering namaz will try to obstruct that voice also. If someone going to offer namaz comes across a very big idol on some wall or if his eye falls on such an idol, he can still go to offer namaz.

I have seen mosque in my town Mehndawal and also those in Basti, Faizabad and many other cities.

I have visited the mosque of Burhanpur located in Maharashtra. Black slabs are embedded on the Jama Masjid there. The ceiling is covered with black slabs. However, as far as I remember, the pillars of the mosque are not covered with black slabs and no image is found on them. All the slabs fitted in the ceilings are plain. I have gone to offer namaz in a few mosques of Faizabad where I did not find use of black slabs. I have offered namaz in Tatshah mosque and another mosque located near the station of roadways in Faizabad. I do not know if the mosque carries any name or not. I am not aware whether there is any mosque of Shias at the chowk near the Tatshah mosque. It has been very long since I offered namaz at the Tatshah mosque.

The case in connection of which I have come here to depose is related with Babri mosque. I am aware that Shias and Sunnis have their separate Waqf Boards respectively and obviously the property under Waqf would also be different. However, if some mosque is identified with any Shia or Sunni, it will have no effect on the status of the mosque, it will not be restricted to any particular

group. Islamic religion had reached India in the first century of Hijri. Various methods were used for the propagation of Islam. Initially a few Muslims came to Kerala as traders and constructed their mosque also in Kerala. The land for construction of the mosque was purchased by these people .

It is historical fact that Mahmood Ghaznavi and Mohammad Ghauri had also invaded India and there were a number of purposes behind such invasions which included robbing of goods also. Had Babar come to India with the purpose of usurping, he would have gone back with the looting but he remained here which meant that he had come to settle here. I may not be able to tell the meaning of the word Babar. In Arabic, the word would also be written as Babar. There is no translation of the name. This is incorrect to say that the Arabic word 'Babar' would be pronounced as Babra. Since the mosque is being right from the beginning as Babri Masjid in newspapers, processions and conferences. I doubt if there would be anyone who would not be aware of its name. As far as I know and based on my study of books and whatever I have heard, this mosque was built by Mir Baqui. Since there has been a mention of this mosque in newspapers, I can say that it was built in the year 1528 and my view is based on the study of a few books on History. So far as my knowledge goes the mosque was constructed in the year 1526 and 1528. It will be incorrect to say that he had not won any war in 1526. he had won a number of wars even before 1526. he had won wars on the land of India also.

So far as my knowledge goes, there has neither been any historian with the name of Mirza Jan nor he has written any book on history. I have not read any book entitled

Hadike Shahida and since I cannot answer the question whether it has been mentioned in this book that it was on the orders of the imperor, a mosque had been built by demolishing the temple.

I have heard about Aine-Akbari written by Abul Fazal. I have read a part of book. I am not in a position to recollect at this point of time, whether there has been any mention about the disputed mosque or not (He stated of his own that on the basis of whatever he has studied, it has not been mentioned anywhere that a mosque could be built by demolishing a place of worship).

I have read Babarnama and there is no mention of the disputed property in it (He added of his own that there was no mention in it indicating that Babar has visited Faizabad).

I believe that no book entitled 'Tarikhe-Avadh' had been written by the historian named Alma Mahmood. I have some knowledge about Sujaudaula who was the nawab of Avadh. Sujaudaula had probably fought the Buxar battle which he had lost. However, there is no mention that the Bairagis had captured Hanumangarhi and Janmasthan. I have never visited the disputed building. I have not read in any history book that Ayodhya is regarded as a pilgrimage of Hindus and that there is a belief that Lord Rama was born here. Ayodhya is a religious city for both Hindus and Muslims. Ayodhya is located on the bank of river called Saryu or Ghaghra. It is correct to say that temples are in abundance in Ayodhya.

During the days when Sujaudaula was the nawab of Avadh, Ahmadshah Abdali attacked India. I am not aware whether the Marathas has waged a war against Ahmadshah Abdali at the behest of Sujaudaula. I am not aware whether

the Marathas had taken three sites from Sujaudaula in return for fighting which included the disputed building also (He stated of his own that no nawab has a right to hand over the possession of such places of worship irrespective of the religion to which they belong).

A mosque can be built in a graveyard also provided that no grave falls in the land on which the mosque is being raised. We have such a mosque on our Mehndawal itself which is built in the middle of the graveyard. Some people engage employees for the safety and maintenance of graveyard who are designated as Takiyedar. It is not necessary that there is a Takiyedar for every graveyard.

Khankah is a place where some great religious figure sits, prays, practices and provides religious orientation to its disciples. It is not necessary that the great figure should be well read, emphasis is on that he should be a sincere gentleman, guiding his disciples to lead a noble life based on his own study of books and keeping in view the faith and religion, lead an honest life himself and advise them also to emulate him. Explain to them the tenets of faith and religion and mould his own conduct in the same framework. Since I have neither seen any temple of Hindu nor had a chance to visit such a temple, I do not know anything about them and also cannot answer the question whether Khankah and the temples of Hindu are institutions of the same type. There is no special design of the structure of a Khankah. It is not necessary to have a Dargah for a Khankah. There are 'Sajjada Nasin' in Dargah. 'Sajjada Nasin' is a combination of two words – 'Sajjada' and 'Nasin', which means one who sits. 'Sajjad' means who prays a lot and 'Sajjada' means a place to sit. Sajjad and Sajjada are two different words. Sajjad does not mean a sheet or a dari. I have told about the

nobleness of Khankah in detail. Dargah is a place where some noble soul is buried. It is not necessary to have a Darvesh (Muslim religious mendicant) in a Dargah. There are no graves in a Khankah, the graves surrounding the Khankah take the form of a Dargah.

I have seen the samadhi of Hindus. I am not aware if any Hindu ascetics-saints enter a state of samadhi or their samadhis are built. If a dead body is not buried and outwardly it is given a shape of a grave, it will be fake and fraudulent which is not acceptable in any law or faith, religion. There is no such mention in any history that fake graves have been built in Ayodhya or that the number of such fake graves has been kept one less than that of Mecca. In my statement where I have mentioned about construction of a mosque in place of a temple, my simple contention is that if after the demolition of the temple there is no dispute about the ownership of the land and the landlord donated the land of his own, a mosque can be constructed on such a land. My statement is not in my own volition but is according to Shariat and also keeping in view what has been stated in religious books. The fact is contained in important books of Shariat like Fatwe Alamgiri. I have not brought the book with me today. The above fact is contained in its chapter entitled 'Babul Masajid'.

Similarly, it is also written in Shariat that if photos or idols of living beings are built on the walls or pillars of the mosque the offering of namaz under certain circumstances would be disgraceful. This is written in 'Hidaya' of Fikah, which I have not brought with me today. If asked for I can bring it. This is indicated in first chapter of Hidaya. I have stated that namaz will be valid even if some idols are kept in some portions of a mosque. I had stated a few more sentences along with the above statement of mine. This is

also contained in the above-cited book 'Hidaya' again in chapter No. 1. This thing can be found in all the eminent books of Fikah namely Alamgiri, Fatawa Qazi Khan, Durre Mukhtar, Raddul Mohtar etc. If no namaz is offered in any mosque for years together even for hundred or thousand years, it makes no difference and the entity of the mosque would remain intact. If such a mosque had been in possession of Hindus and even if they had worshipped there for hundreds of years, still it would remain a mosque. (He stated of his own that many a idols had been kept around Khanac-kaba but it made no difference in its status of mosque).

I am not aware whether there is any Alamgiri mosque or not in Ayodhya in the name of Aurangzeb.

I am an old resident of district Basti which was not a district earlier. It has been made a new district by carving out from district Gorakhpur. This is incorrect to say that earlier it was known as Shreevasthi district or Shreevasthi city. No Tehsil named Amoda is located in district Basti. I have not heard of place like Domania Fort in Basti district. I am not aware whether the village in which the Domania Fort is located is now a days called by the name of Domania Buzurg village. So far as my knowledge goes, the capital of Avadh has been Faizabad and not Ayodhya. I have not read in any history book that there had been a ruler with the name of king Ugrasen in the area engulfing Domains fort some 400-450 years ago.

I have also not read anywhere that Hindu king Jagat Singh was the ruler of Ayodhya during those days. Since I am not aware of the above cited Dome fort and its ruler, it is not possible for me to say whether that king being infatuated towards some Pandey girl and had arrested her

or her parents. I have not read in any history book that the above girl had agreed to marry the king on the condition that she be allowed to worship Lord Rama at the so-called Janmabhumi. I am not aware whether there is any such mention in any history book that the above mentioned girl had come at this place to worship or that on learning of this fact king Jagat Singh of Ayodhya could not tolerate it and had attacked and completely destroyed the above cited Domain fort.

I have not heard of Dr. Harivansh Rai Bachhan and I also do not know whether his son Amithabh Bachhan has been popular in the film industry. I also do not know whether he has written any book of poems by the name of 'Madhushala'. I am not aware whether the above Dr. Harivandh Rai Bachhan had written any book sometime around 1934 wherein he had narrated the entire story relating to that girl and had made a mention of that fort. I cannot say whether Dr. Hrivansh Rai Bachhan belonged to the Amoda village or that he had written the said book after doing research in the village.

I have heard of Sant Kabirdas. I cannot tell the name of the ruler or emperor in whose regime Kabirdas had emerged. I cannot say whether Khilji dynasty ruled in India or not at that time. I do not know whether the name of the Guru of Kabirdas was Swami Ramanand or not. I also do not know whether Swami Ramanand was a saint of Vairagi community or not. I have not read in any history book that Ramanand Vairagi had formed his own army. I do not believe that the movement of 1857 was a mutiny, rather I take it to be the country's first struggle of freedom. I have not read in any history book that the army of Vairagis had helped the army of King Akbar or had been at the disposal of Nawab Sujaudaula or had been a part of the army of his

father Nawab Safdarjung, I have read that Raja Birbal and Raja Todermal were amongst the nine jewels of Akbar.

I have not read any where that both these persons had come to Ayodhya to sort out this dispute. However, this is incorrect to say that worshipping by Hindus has been continuously going on in this building since their times.

This is incorrect to say that Humayunnama written by Begum Gulabadan is confined only to the tales of his harem or the lives of the women living therein. The last incident of this book describes the death of Babar. This is correct to say that there is a mention of the incident of blinding Mirza Qamran in this book but this will be incorrect to say that this is the concluding portion of the book.

I can name the months as per Islamic calendar which are :(1) Month of Moharram (2) Safar (3) Rabiul Avval (4) Rabiul Akhir (5) Jamadi,ul Avval (6) Jamadiul Sani (7) Razab (8) Shaban (9) Ramzan (10) Shavval (11) Zeeqada (12) Zil Hijja.

This is incorrect to say that the month of Shavval precedes Ramzan. I had heard about the placement of an idol in the disputed building. I had come to know of it through newspapers, journals and also heard of it from people. I can name the month of the incident by English calendar and not by Hijri calendar. We people call someone Hafiz who has learnt the entire noble Quran by heart and can orally recite it also. If one is really Hafiz, he could surely do it and if he cannot recite the entire Quran, his claim of being a Hafiz is not tenable.

This is incorrect to say that I don't have a thorough knowledge of Islamic laws or traditions. This is also

incorrect to say that I am simply uttering whatever has been tutored to me by the representatives of Sunni Waqf Board. It is also incorrect to say that I have made any false statement.

(Cross-examination by shri R.L.Verma advocate on behalf of Nirmohi Akhara concluded)

Cross-examination by Shri Ved Prakash, Advocated on behalf of Shri Dharam Dass.

Question: Religion means truth, justice, renouncement, sacrifice etc.?

Answer: All these sentiments are also found in religion.

Religion also implies worshipping of God. There is a personality to represent religion who is called prophet. Whenever there is a mention of that religion, name of prophet would surely emerge. This is correct to say that such stalwarts were born in different parts of the world at different times who showed the correct path to improve the position of the degenerated society. The great stalwarts must have seen the atmosphere around the place of their birth, but their actions were as ordained by God.

Mohammad Hazrat Sahib was born in Mecca and had declared himself to be a prophet in Mecca only at the age of forty. This is correct to say that he had proclaimed that one who believed in oneness of God and one book, i.e. noble Quran will be known as a Muslim. This is also correct that there had been none to become a Muhammeden after repeating the Kalma (Muslim confession of faith) prior to him. The word Khuda is not an Arabic word, it is Allah which is Arabic word. This is incorrect to say that the word Allah was not in vogue before the proclamation by the prophet. At the time when Hazoor Sahib was born in Mecca, very few people were literate. People were divided in small tribes fighting with each other.

They used to worship idols and recited the name of Allah too. At the time when Hazoor Sahib was born, there were orchards of date-palms in Arab. Mohammad Sahib has been condemning idol-worshipping right from the beginning. His views about idol-worshipping before and after his proclamation as prophet had been the same. Hazoor Sahib had been bestowed divine knowledge of noble Quran not at one place but at many places. Hazoor Sahib had not got worldly education. The noble Quran has been given the form of a book by other scribes. The noble Quran is not written by Hazoor Sahib himself. He has all along raised voice against idol-worshipping. This is correct to say that he has asked the Muslim that all of them should also raise their voice against idol - worshipping (He stated of his own that he has not permitted Muslims to forcibly intervene into the matters of other religion)

Even after his proclamation as the prophet, idol-worshipping was there in Mecca during his lifetime but after the capture of Mecca, nobody was indulging in idol-worshipping there. Mecca had been captured during his lifetime. When Hazoor Sahib condemned idol-worshipping in Mecca, initially the idol-worshippers put up a stiff opposition against his order. Because of this opposition or ordained by God , he was forced to leave Mecca temporarily.

After leaving Mecca, Hazoor Sahib proceeded to Mecca where he had a great number of followers who ultimately become Mujahids (vigorous warriors) in the wars. They could be termed as an Army also. They had a programme, a determination to eradicate idol-worshipping. They had also made proclamation in this regard. However, it is incorrect to say that they had also taken a decision to wage a war for the fulfillment of this objective (He stated of his own that he wanted to eradicate idol-worshipping by

propagating his own views). By capturing of Mecca, my contention is that when Hazoor Sahib returned to Mecca during the 8th Hijri year, the idol-worshipping and those who had put an opposition against him placed their arms in the feet of Hazoor Sahib, idols were removed from Khanal-Kaba and it was cleaned and those people then became followers of Hazoor Sahib. Offering of namaz was started. Namaz had started at Khanal-Kaba even without any application of force. There was neither a royal Nizam nor any ruler in Mecca. Prior to him, there were small tribes having their own chieftains who used to take care of the city. Verses are there in noble Quran against idol-worshipping. It is correct to say that Hazoor Sahib had issued directions against idol-worshipping. After capture of Mecca, Hazoor Sahib returned to Medina. When Hazoor Sahib emigrated to Medina for the first time, there were some idol-worshippers and also some Jews. The manner of worshipping of Jews is very much different from that of Muhammadens. There were tribes in Medina also during that time having their chieftains as well. These people did not rule like kings. They had their own Nizams. The Jews had surely put opposition against Hazoor Sahib but there had not been any war. There had been no war even with the idol-worshippers living there. He had surely fought a few wars either to thwart any attack on him or to curb any riots and the number of such small and vigorous wars could be more than 100.

Statement read over and verified

Sd/-

04.03.1997

Typed by the stenographer in the open court on dictation by me. Present yourself on 05.03.1997 for further examination in this continuation.

Sd/-

Commissioner

4.3.1997

(Cross-examination in continuation of 04.03.1997)

Statement on oath by P.W. 10 Mohammad Idris S/o Haji Mohammad Salim in continuation of his today's of 04.03.1997.

These wars continued till around 8th Hijri year and by that time almost the entire Arab had turned Muhammadan. Most of the people had turned Muhammadan even without putting a fight. Persons who had not turned Muhammadan even after these wars and propagation of Islam, they were termed as non-Muslims. Hazoor Sahib has used many words for such persons who have never repeated Kalma and did not place confidence like 'Mushrik' (an idol-worshipper) who are also called 'kafirs'. There are a number of verses in noble Quran explaining the ways to deal with kafirs. There is a mention of many types of behaviors under specific circumstances. I can tell only after having a look of verses No. 190, 191, 193, 194 of Suraya, Siparas of part 1 of noble Quran whether any directions to deal with kafirs are contained there or not. Without going through these verses, I cannot answer the question whether there is any such direction that "kill, murder one who does not place confidence in you". If noble Quran is brought here, I can tell that no such thing written therein. It is not written anywhere in noble Quran that God may be worshipped and kafirs may be killed.

Noble Quran descended at different times during a period of 23 years and it was placed in the same order by the scribes, i.e. writing of Quran continued all along and so continued the wars of Hazoor Sahib also. Almost the entire Arab country had turned Muslim and the number of followers of other religions was not worth mentioning even. There is no verse in noble Quran which directs to honour

the followers of other religions. Of course, there are verses urging to behave with them properly. I am not a Hafiz so that I could repeat or recite the related verse but this is incorrect to say that there is no such verse in noble Quran.

Before coming to India, Babar was not a ruler of any country, but he had established his empire at many places adjacent to Tashkant. Babar was a supporter and follower of Islam. If force means physical force, then it can be stated that Islam was not propagated whether orally or in written form, force was definitely used for the propagation of Islam. It is incorrect to say that Islam had propagated through wars, it was through religious convincing (He stated of his own that it had propagated because of truth).

It is incorrect to say that when Islam could not be spread by way of propagation, wars were waged to convert people into Islam.

Question: Were the places wherever idols were kept in Mecca during the stay of Hazoor Sahib and where non-Muslim worshipped was idols, regarded as pious or not?

Answer: Such places were regarded as pious and prophet Sahib offered namaz also there.

Hazoor did not very much approve the placement of idols and that is why when he got the strength to remove them, he made that place free of idols. Placing of idols in mosque is never cherished in Islam anywhere in the world and that is why Hazoor Sahib got the idols removed as and when got the strength to do it. Mosque existed even before

the proclamation made by Hazoor Sahib as a prophet. It is incorrect to say that those mosques were not in accordance with Islam. This is incorrect to say that before Hazoor Sahib proclaimed himself as a prophet, Islam did not exist in the world at all.

I do not have a complete knowledge of History, but I believe that Babar had come to India sometime around 1525 and had come with his army with the intention of capturing India. He had come to rule India. He has not mentioned anywhere that he had come to spread Islam.

The name of history book which I have read regarding Babar is 'Solahvin Sadi ka Memarai Saltant Zahiruddin Babar' written by an English Historian named R.L.S. The book has been translated by Rifat Belgrami. I cannot tell precisely about the exact time of its publication. But was published from Delhi and as far as I remember, some semi-Government organization had brought it out. I have brought this book to Lucknow, but it is not with me at the moment otherwise I would have shown it. That is why I am not in a position to mention the exact name of the publisher. I have gone through the Urdu translation. I may not be able to tell the name of the University where Belgrami worked as a Professor or what was his profession.

The other book which I have read about Babar is 'Tarikh-ai-Farishta' written by Qasim Sahib. I have seen one of its translations brought out from Devband, but I have gone through its original edition in Persian. The Persian edition was also written by Qasim Sahib. The translation has been done by someone else and not by the author himself. I may not be able to name the publisher of the book. However, so far as I remember, the publisher of the book is from India and not a foreigner. Babar has been

portrayed in this book like a human being and not like an angel. One who is a human being cannot become a prophet and one who is a prophet cannot be a human being. Both noble ignoble traits of the personality of Babar have been highlighted in this book. As far as I remember, the a Persian edition has been printed at the Munshi Naval Kishore's Press in Lucknow whereas its translation brought out from Devband has been by some Muslim writer. Qasim Sahib has been renowned Judge, but in those days, there were no University where he could become a professor. This book is hundreds of years old but I cannot tell the precise date of its publication.

I am not aware of the Chief of army of Babar, but I have of course, definitely heard the name of Mir Baqui, who was a great man of that time, i.e. 1525-26. he was an army officer and that is how he is known also. He was a Muslim and obviously he was against idol-worshipping. It is an endeavor of every Muslim to see that Islam spreads as per its tenets. I have not read much about him except the above observation.

It is not in noble Quran but in Hadis, that no strict ban has been mentioned for constructing minarets and domes on the mosque but they have not been specifically favoured also. It is correct that there are minarets as well as domes in major mosque of India. I have seen domes over which bowl like small structures or ends tapering towards front are made of clay or cement or any other metal and there are other tombs, which are quite plain. I have not seen the Teela Wali Mosque in Lucknow. I have seen Jama Masjid of Delhi. I went to Delhi, offered Namaz in Jama Masjid and came back. I did not have a comprehensive view of the building and did not see whether moon is built on the extreme ends of its dome or not .

I cannot tell in definite terms as to since when the tradition of constructing domes or minarets on mosques in India has been continuing,. It is not within the rights of any Muslim to call or regard any building as a mosque and refuse to do so in respect of any building, as per his whims. I cannot tell which idols are worshipped by Hindus, it is a question which can be replied by some Hindu only. It is correct that amongst Hindus, there are idol-worshippers of formless (God).

Hearth, chakla, belna, ghudsa or footprints are the things which a Muslim does not worship and as such the question of making such things in a mosque does not arise. I am not aware whether any Muslim had got any temples constructed in India. There may be some such instances. When I am not aware whether any Muslim had got any Hindu temple constructed, how could I tell whether such Muslims had constructed the Hindu temples and handed over their possession to Hindus. If some Muslim gets a mosque constructed, he would not keep the idol of Thakur Ji in the mosque. It is, however, incorrect to say that if such things are kept there, then it would or could not be a mosque. This is also incorrect to say that wherever such things are kept, no Muslim has a right to say that the mosque was built by Muhammadens.

Book entitled 'Tafseer Jalalain is written jointly by two writers namely Mualana Jalauddin Sayuti and the second one is Maulana Jalauddin Mahalli – Sayuti and Mahalli are the names of the places. Both the places are near Samarkand and both these writers are natives of these places. The book has been written in Arabic language. I cannot tell whether Hindi or English translations of the book are available in India. My statement to the effect that this book has been published in India is based on the fact that

the book is a part of course which is taught. Of course, the course is taught in those Madarsas where teaching of Islamic religion is taught.

The name of the other book is 'Madarekuttanjeel'. I am not in a position to recollect the name of its author. The author is a Muhammadan, but I can not tell in definite terms whether he is an Indian or a foreigner or belongs to some Islamic country. The book is being regularly brought out, but cannot tell when was it published for the first time. I also cannot tell whether this book was published in India or in some Islamic country.

The book entitled 'Tafseer Bajabi' is also written in Arabic, but I cannot tell as to when and where it was brought out for the first time. The name of the author of the book is Allama Baijabi. 'Tafseerate Ahmadiya' is also written in Arabic language and the name of the author is Mulla Ahmed Jivan. I am aware that it was published in India, but I cannot tell as to when was it published for the first time and whether it was printed in some Islamic country or elsewhere. The name of the author of the book 'Tafseere Kabir' is Fakhruddin Razi and the book is written in Arabic. I cannot tell whether the book was published for the first time in India or in some Islamic country or elsewhere.

'Tafseere Kassab' is written in Arabic language, but I do not remember the name of its author. It has been published in India and also in foreign countries, but I cannot tell whether it was published for the first time in India or in some foreign country.

All the books mentioned by me above were got written by supporters of Islam, but it is incorrect to say that the books were published by Muslim community. Naval Kishore

were printers and publishers also and most of the above books have been printed by him. He is no more in this world now to tell whether he had printed these books as a commercial venture or as an academic or religious pursuit – at least I cannot answer such a question.

The writer of the book 'Bukhari Sharif' is Mohammad Ismail. The book was written in 2nd Hijri year and by that time, noble Quran had been given a complete shape. This book is again in Arabic language. The book entitled Muslim Sharif is in Arabic language written by Imame Muslim. The book was written sometime after 'Bukhari Sharif'. 'Tirmizi Sharif' is also written in Arabic language and the name of its author is Imam Abu Isa. The book 'Abudaud Sharif' is again in Arabic language written by Abudaud. The book was written sometime after both the above cited books. The book entitled 'Ibnemaja Sharif' is also in Arabic language in authors own name. The book was written sooner or later during the same period.

This is correct to say that authors of all these books were natives of Islamic countries.

The book 'Hidaya of Fikah is written in Arabic language, but it has been translated in many languages. The name of its author is Burhanuddin Abul Hasan Ali. The book entitled 'Sareu Kaya' is also in Arabic language, but I do not remember the name of its author. The book 'Muniyatulmusalli' is in Arabic language, but I do not remember the name of its author. The book 'Fatawa Hindiya' is in Arabic language which has been prepared collectively by many ulemas. The book 'Fatahulqadir' is also in Arabic language, but I do not remember the name of the its author. There is yet another book 'Durre Mukhtar' which is in Arabic language written by an Ullama whose

name is not striking me now. The book 'Raddul Muhtar' is also in Arabic language but I do not remember the name of its author.

This is incorrect to say that authors of all these books were living in Islamic Countries. It is, however, correct to say that all these authors were supporters of Islam (were Muslims).

This is incorrect to say that amongst the above writers, there was none who was native of India. Fatawa Hindiya Alamgiri had been written collectively by many ulemas under the leadership of Maulana Nizamuddin Sahib who was a resident of India.

I am not aware of the details whether any book about Islam religion had been written in India before Fatawa Hindaya. All the Ulemas responsible for writing this book were residents of India and no one belonged to Arab country. At the time when this book was written, Aurangzeb was the ruler of India. The need to write this book was felt so that people could read it and after reading act accordingly.

I have seen the lotus flower. I am not aware that lotus is recognized as the national flower. It is correct to say that moon is important in Islam. Importance of moon is not decorative but to ascertain the festivals according to Muslim calendar. It is open for one raising a dome on a mosque whether to make the symbol of the moon thereon or not. I am not aware whether lotus flower is important for Hindus and whether they regard it as pious and offer it to deities.

For us the lotus flower or any other flower has its own purity and no other special importance is attached to it.

Hazrat Mohammad Sahib had got the mosque constructed. When he came to Medina from Mecca, he got a mosque constructed their which is famous as Masjid Kaba. Later on, he got another big mosque built in Medina city which is even today famous as Nabvi masjid. Walls were built for these mosque and petals and branches of palm tree were made in the ceiling. Question of making a dome there did not arise because the ceilings were covered with petals and branches bringing out the photograph of both these mosques, but the photographs are of the existing structures and not of the mosque built originally. For us, Masjid Kaba is very auspicious and important mosque. I have not undertaken any comprehensive research, but I believe that the mosque is still present in its original place. This is incorrect to say that this mosque might not be existing now. This is also incorrect to say that my statement about its existence is backed by any religious or emotional state of mind or that I do not have a personal knowledge of it .

Masjid Nabvi has turned into a very magnificent building. Though I have not gone there, yet as seen from its photographs it appears that there are no domes but one minaret is definitely there.

This is incorrect to say that the minaret was constructed with a view that the Muslims constructing the mosque in future must get a minaret constructed. This is again incorrect to say that minarets are raised so that the strangers coming from abroad could find out the location of the mosque from a distance . My contention is that it was a design of construction because persons were free to give

any shape-design to their mosque as per their choice and there was nothing wrong if a few got high minarets raised according to their liking and for beautifying the mosque.

(At this point, the learned advocate drew the attention of witness to photographs contained in document No. 154/4, 154/8, 154/9, 154/10 in OO S 1/1989 relating to case Gopal Singh Visharad versus Zahoor Ahmed, on which he said). I have seen photo No. 154/4 and there are no petals of lotus on the upper portion of the dome, but it appears that some cut mark had been made in lime or cement. I cannot tell what is represented by the cut mark. Those who get the building constructed get the decorative work done as per their choice. I have also seen photograph no.154/8 and there are no lotus petals in it also. In it also something has been cut to beautify the building. In photograph No. 154/9, beauty has been enhanced by cutting something. No lotus flower or its petals are visible. Photo No. 154/10 also reflects a similar situation and hence my answer is also the same.

This is incorrect to say that petals of lotus are built in all these photographs. It is also incorrect to say that I am deliberately concealing the facts. This is also incorrect to say that since such things are not made in the mosque, so I am concealing the facts.

(Cross-examination by Shri Ved Prakash, Advocate on behalf of Shri Dharam Das concluded).

(Cross-examination by Shri Veereshwar Dwivedi, Advocate on behalf of Umesh Chandra Pandey).

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Noble Quran descended on Hazoor repeatedly. This entire process is called descending of 'Vahi' (descending of divine message) in Arabic. 'Akhriyt' stands for something descending on subsequently which is connected with doomsday and all the circumstances related thereto. There are 114 surats in and 6666 verses in noble Quran. I am stating it not on the basis of my Qayas (thinking). The actual meaning of 'Qayas' is 'to think'. Followers of the faith of Islam are not called bookish. Noble Quran is a pious book. Many a Nabis (Prophets) had been there prior to Mohammed Hazrat Sahib. As regards their number, three types of sayings are found. As such whenever there is a mention of their number, we say it should be either 1,24,000 or near about. Out of the above such 313 or 314 Nabis has also come who is called Rasul. Nabi Hazrat Isa had preceded Mohammad Sahib who is called Jesus, the Messiah by the English people. It is correct that the book descended on him is called 'Injil'. I cannot tell sequence of Rasuls who preceded Hazrat Isa, but I can surely name many of them and also the names of books that had descended. Such as Hajrat Musa-al-Hissislam, on whom divinc book descended. Similarly, the divine book Zabur had descended on Hazrate Daud-al-hi Salam. These four are great heavenly books. No books descended on other Rasuls. This is correct to say that I am stating all this based on my thinking. No book had descended on any Rasul prior to it that is to say that no heavenly book had descended. This is incorrect to say that I do not have any understanding or knowledge of the subject. (He stated of his own that Shaheefas had descended on earlier Rasuls). Shaheefa means smaller books, it is an Arabic word. There have been many Nabis on whom God did not bestow any small or big book and there were a few on whom the smaller books descended and which are called Shaheefa.

Noble Quran had descended on Mohammad hazrat Sahib in Arab, whereas 'Injil' had descended on Hazrate Isa in Palestine. Torait had descended on Hazrat Musa in Egypt whereas Zabur had descended on Hazrt Daud in Jerusalem. That is how different divine books descended on behalf of Allah on different Rasuls at different times at different places in the world on the basis of which they propagated the faith of Islam. That is how Hazrat Isa propagated and spread Islam. They also explained the way of worshipping God (Allah). There have been slight variations in the manner of worshipping of Allah during the times of different Nabis. These variations and differences were relating to the number of Rakat some related to Arkan (element) also and few related to the verses of the books descended on them. Arkan is also an Arabic word which means parts or elements of something.

There is a mention of burning of fire in the hell but we do not find any mention to say that fire has been regarded as the symbol of hell. This is correct that the basic difference in Christianity and faith of Islam is that in Christianity, Isa has been regarded as the son of God, whereas we regard him as the Nabi (a prophet) of Allah like Hazrat Mohammad Sahib. I am certainly a Muslim. It is incorrect to say that we meddle with Christianity or intervene in their faith. This is correct that Christianity regard Isa as the son of God whereas we regard him as a Rasul.

I have been teaching noble Quran for slightly more than 35 years. It had taken me around two years to read the commentary of noble Quran. When I had first read noble Quran it took me one year time.

I have been in touch with noble Quran for the last 38 years and my being in touch implies studying and teaching of Quran. The first 'wahi' of noble Quran had descended on Hazoor, when he was 40 years of age. The first 'wahi' in Urdu means to 'study in the name of Allah' and Allah stands for God. This wahi had descended on Hazoor through a prophet. The matter started with the prophet urging 'Iqra' (i.e. study), and Hazoor responded by saying 'Ma Ana Bekarein' (that is I will not study), but when the prophet added to it the remaining portion of the verse and said, "Iqra Beisme Rab Bekal Taji Halaf" (i.e. study in the name of that provider who has created everyone) Hazoor started studying. Thereafter Hazoor returned to his house and since the descent had been for the first time and its impact was there upon him, he requested his wife Hazrat Khudaija, "Jam Mailuni, Jam Mailuni" (i.e. cover me with bed sheet or something else). Thereafter Hazoor told Hazrat Khudaija about the descent of prophet on which she said that it was the grace of God.

Statement read and verified

Sd/-

05.03.1997

Typed by the Stenographer in the open court on dictation by me. Present yourself on 06.03.1997 for further examination in this case.

Sd/-

Commission

5.3.1997

(Cross-examination in continuation of dated 05.03.1997)

Statement on oath of P.W. 10 Mohammad Idris S/o Haji Mohammad Salim in continuation of his statement of today the 05.03.1997).

Whatever I have stated about the design of mosque is not based merely on hearsay, but is based on my study of books. I have not heard it but have read it in books. It is written in all the important books of Fikah that a mosque can be built even in a graveyard. As far as I remember, this thing is laid down in 'Hidaya' too which is written by Burahanuddin Abul Hasan a native of Tashkent. The author has indicated in this very book that namaz can be offered even at places where idols are kept. It is also mentioned in the same book that namaz can be offered even where non-Muslims worship and perform 'Puja Path'. The book was written in 5th century of Hijri calendar. 'Hidaya' is an Arabic word which means guidance. The status and level of the writer of this book was not that of a Khalifa. Verses of noble Quran have also been written in this book. Portion have been picked up from Hadis Sharif. Similarly, after writing Izma and Qayas, efforts have been made to offer a commentary of all and make the people understand.

Shariat is again a word of Arabic language which means a 'particular manner'. This particular manner which possesses the strictness of law.

I am not aware whether the then Indian Government had enacted any Shariat Act in India in 1937. This is correct that in 1937, the British ruled over India. It is not correct to say that the law of Shariat in India is different from the law of Shariat prevailing in other countries. Besides Fatawa-ai-Alamgiri, names of the other Indian

writers whose books I have read are Maulana Ahmed Raza who was a native of Bareilly town, Maulana Mushtafa Raza Khan who was again from Bareilly. Besides the above, I have read books of many other writers.

As I have stated earlier, construction of a minaret on the mosque is prohibited, but the prohibition is not very strict, rather it is mild in nature which implies that construction of a minaret has not been favoured much. I have read it in Hadis Sharif. This saying finds a mention in the well known book 'Baihaki'. In this connection, there is saying of Hazoor prophet Sahib in Hadis Sharif. Kauli Hadis and Kauli Sunnat are one and the same things and the subject of minarets falls in this category. This also comes in the category of Faili Sunnat because such a fail (action) had been done by Hazoor also. This will also come under Takriri Sunnat because other people had done it in presence of Hazoor and he had not forbidden.

If someone leaves his family and goes out for some days for propagating Muslim religion, it will not be called emigration. However, if he leaves his family permanently for this purpose, it will be termed as emigration whether he settles at some other place or not. It is correct that in the 13th year of Hazoor's proclamation as a prophet, some people had left Mecca and gone to Medina under his instructions. This is also correct that after a few days Hazoor himself also left Mecca and went to Medina. It is correct to say that he got a mosque built at Kuba on his way to Medina Sharif. Medina Sharif is three miles away from Kuba. He had participated in the construction of this mosque but it will be incorrect to say that it was the first mosque in the world. The first mosque of the world is Khan-ai-Kaba. Hazoor had not visited Habsha before leaving Mecca for going to Medina some of his supporters

had gone there. This is correct to say that Sange Asvad (the pious stone fitted in the wall at Kaba which is kissed by Muhammadens going for Haj) was taken out for constructing the new building and the same was again kept there. In this activity Hazoor not only participated rather he lead it. It is the desire and effort of those going to do Haj to kiss Sange Asvad, but everyone cannot reach there and as such many people kiss it by wavering hands from a distance.

Question: Does every Muslim take this manner of kissing as a part of his faith ?

Answer: Every Muslim believes in following the path of prophet and, therefore, following the path of prophet every Muslim kisses the Sange Asvad with faith after reaching Mecca.

The activity of kissing falls under the 'kaul-fail' and 'takrir'. 'Amal' and 'fail' is one and the same thing and that way, it is Sunnat and is binding like a law on every Muslim. In Urdu language, Sange Asvad would be called black stone.

When the noble Quran started descending on Hazoor, he was residing in Mecca and it kept on descending on him at different occasions at Mecca for 12-13 years. There is difference of opinion about the first person to place confidence in Muslim religion, but later on, a consensus was reached according to which amongst the older generation, the first man had been Abubkar, the first woman had been Hazoor Khudaija and amongst children, it was Hazrat Ali. There is yet another view that the first person should be Hazrat Khudaija because Hazoor had narrated the first Bahi to her only.

Hazoor had to wage many a wars. With regard to wars in which he himself had participated, it is said that their number was 19 whereas as per another opinion, the number of such wars had been 17. The basic reason behind the wars was that Hazoor spread the Muslim religion whereas other opposed it. Hazoor had himself participated in the wars war of Badra, war of Uhad, war of Khandak, war of Khayber, war of Mecca (victory of Mecca), war of Hunain and war of Tabuk. The first two wars were fought against Kabil-ai-Qureshi some people were supporting Qureshis. Not only after reaching Medina Sharif, even earlier to that Hazoor was working towards keeping his supporters at one place, they may be mobilized, looked after and an independent Taluka be formed and rule of Allah be established on people. The purpose of Hazoor was to establish the rule of Allah.

He had fought the war of Khandak in his self defence for which he had dug trenches all around Medina Sharif. He had fought the war of Khyber for attacking the conspirators and in this connection, he had to lay Siege for 20 days and ultimately, he won the war. Khyber is neither close to Mecca Sharif nor to Medina Sharif (he himself stated that as compared to Mecca Sharif, it was closer to Medina Sharif).

Question: In the war of Mecca, Hazoor had invaded but his enemies and Abu Sufian surrendered and as such Hazoor was victorious even without fighting a war?

Answer: Hazoor had taken a group of Sahaba to Mecca with the intention of doing Haj and there was no war on that occasion, the people of Mecca conceded their defeat and prophet entered

Mecca along with his Sahaba without any opposition. Here he declared a general amnesty for his enemies and offered namaz at Khan-ai-Kaba and performed all rituals.

During those days, Abu Sufiyan was the Chieftain of the tribe at Mecca. Hazoor had entered into an agreement with Abu Sufiyan a year earlier under which it had been decided that Hazoor could go there after one year and that is why he went to Mecca. It is incorrect to say that Abu Sufiyan had violated the agreement or had refused to abide by certain conditions and that is what had provoked Hazoor to invade there. This is incorrect to say that there had been an agreement which had a validity of 10 years, the agreement was executed at Khudaihabia in the 6th Hijri year according to which Hazoor would return that year and would come to Kaba every year for three days in future and that there would be no obstruction then. However, it was not laid down in that agreement that Abu Sufiyan had agreed that he would vacate Mecca for three days. This is incorrect to say that Abu Sufiyan had violated this agreement and that is why Hazoor was forced to invade. This is incorrect to say that in addition to propagating the Muslim religion, Hazoor also went on expanding his empire. It is a different thing that with the propagation of Muslim religion, the number of his followers continued to increase resulting in an automatic expansion of his rule. This is correct that later on, his territorial empire also expanded.

Ansar means helping hand, one who extends help. Muhajir stands for one who emigrates to some place. Madina Sharif where Ansars lived also became a part of the empire of Hazoor because they had placed confidence in Hazoor and were his obedient.

Prior to the declaration of Hazoor as a prophet, he used to offer namaz and as the saying goes, a few other people also offered namaz. These people offered the namaz of the Millate Ibrahim. The process of offering namaz explained by Hazoor is slightly beyond the process of Millate Ibrahim. There was a difference of words also besides the process of offering namaz. It was in between the 11th or 12th Hijri year when Hazoor explained the complete process of offering namaz.

Mecca Sharif fell in which direction to Medina geographically is something which I may not be able to tell. Similarly, Baitul Mukaddas (Kaba) fell in which direction to Medina Sharif is also something which I cannot tell because I am not conversant with geography. I have read the history of Islamic religion and also about Baitul Mukaddas. I have also read that earlier people used to offer namaz facing Baitul Mukaddas.

Question: Is it not a fact that in 2nd Hijri year, Hazoor instead of offering namaz facing Baitul Mukaddas offered it facing just in the opposite direction and ordered his supporters also to do the same?

Answer: It is a fact that Kibla (west direction face to offer namaz) was changed. Earlier, prophet offered namaz facing Baitul Mukaddas and subsequently, on directives of God, he started offering namaz facing Khan-ai-Kaba. I cannot tell geographically as to how much of the direction of Baitul Mukaddas was violated in changing the direction.

I am aware of Hazrat Belal. Hazoor had for the first time granted him the favour of calling for prayers at Nabvi

mosque and similarly, opportunity of calling for prayer was also granted to him at Khan-ai-Kaba for the first time. Earlier, he was a slave, a Habshi (an Ethiopian), i.e. a native of Habsha. Every Rasul was called Hazrat. I have heard about Belal mosque. It is incorrect to say that presently there is a police post at the site where Belal mosque used to be there. This is also incorrect to say that the house in which Hazoor lived had been converted into a Motor Garage. Pakistan is not a Muslim country, and Islamic law is not enforced there. I am not aware that an army camp ground has been set up after removing five graveyards in Pakistan. This is incorrect to say that the changes have been made after obtaining a verdict from Ulemas. (He stated of himself that no learned man or Ulema can ever give such a verdict). This is incorrect to say that I have made any false statement in this regard or that my assertion that a graveyard cannot be shifted or that even after the vanishing of the remains of the graveyard, the entity of the graveyard will be infact is untrue. This is also incorrect to say that my assertion that a mosque cannot be shifted from one place to the other is untrue.

I have received my education at Mehndawal, Bastila, Mubarakpur District Ajamgarh and Banaras. I was not educated in Allahabad, but I got a certificate from that Board. I had studied Urdu for the first five years and then I studied Persian and Arabic. I had put in eight years in studying Persian and Arabic. I had received the certificate of Alim from Allahabad. The duration of the Alim course has been six years right from the beginning. The duration of five years of studying Urdu is deducted out of the total duration of Alim course. The name of the degree which I received from Banaras is Fazile Darse Nizamiya. Darse means lesson and the word Nizamiya is associated with Maulana Nizamuddin Sahib who had evolved this Nisab

(course) and that is why its name is associated. My subjects of study in the course were: (1) Tafsir (commentary) (2) Hadis (3) Fikah (religious books) (4) Tarikh (History) (5) Arabic Adab (Grammar) (6) Mantik (logic) (7) Philosophy.

Except Arabic grammar, logic and philosophy all the other subjects fall under the religion. History covered under the normal history as well as religious history. The period of history started from the time of prophet and cover till date. All the history books included in the course were written by Muslim authors. I have read the history of Khilzi dynasty, Mughal dynasty, Lodhi and Suri dynasty and also the history of post independent India. I have read the history of Gupta or Gaharwar dynasty of India cursorily and, therefore do not have a deep knowledge of it. The only thing I know is that it is a very old history, much before the Mughal dynasty. This is incorrect to say that I am speaking anything false about it. I have gone through the history of Avadh and can shed some light about the nawabs of Avadh dynasty. I cannot tell muchy about them. Their rule had ended in 1850, 60 or 57. As far as I remember, they ruled over Avadh for about 125 years. They met their real end with the abolition of Zamindari in Uttar Pradesh which happened sometime in 1850. After the English people had entered, the power of Nawabs of Avadh had diluted and their downfall had started. Their downfall had started but the English people could not wipe them off completely, their talukdari continued of course in a subdued form during the period of the English also. I am not aware as to how and under which law the talukdari was left with them even during the British rule. The administrators of Avadh were called Nawab. The English had seized power from the nawab of Avadh. I cannot tell in detail whether the English had seized their authority, land, property and

what else. I am not aware whether there is any acquired land in district Basti. I am not aware whether there is any acquired land in district Faizabad. I cannot tell whether the English people had seized authority from the nawabs of Avadh before 1857 or afterwards and, therefore, cannot tell whether after the nawabs of Avadh, their authority went to company Bahadur or direct to the English empire. I do have knowledge that the English people ruled over Avadh for sometimes through company Bahadur and later on started to rule directly in the name of British Empire. I have heard the term 'Qaisar-ai-Hind' which was used for the British Emperor..

I have some agriculture land in village, settlement of which had been done once around 20-25 years, ago. It was not done by the Department of Revenue, but by the Department of Consolidation. There had been a settlement earlier also which I have come to know through the documents, but the settlement has nothing to do with me. That settlement had been done around 100 years ago and on calculation, it turns out to be the period of British rule. There has been a mention of the division of this 'Mauja' in the papers and it is only through those papers that I came to know that settlement to any entry in the documents which could indicate that the Government land had been kept on one side and the public land had been kept on the other side.

Rampur is a district and obviously a city also. However, I am not aware any Muslim Reforms Society has been formed there or not. I have heard of Maktaba Al-Hasnat of Rampur and I have also heard that they have published a good number of books on Muslim religion, but I do not know the details of the books brought out by them

and hence cannot tell whether they have published noble Quran also or not.

There are differences in between Bareilvi School, Bareilly and Devband School. The differences are based on some Furai (non-fundamental) aspects and also with regard to a few sentences of some Maulanas. Furai stands for non-fundamental. One such aspect is that Bareilvi School gives preference to go to grave, offer 'chadar' and flowers, and recite Fatiha (Prayers for the dead) whereas Devband School people disapprove it and term it as wrong. I accept Devband School as well as Bareilvi School and all other Schools. However, it is incorrect to say that I am swayed away with the circumstances (He stated himself that he wants to keep himself aloof from such disputes). There is no severity in my actions. If opportunity arises, I go and read Fatiha at the grave but I do not prepare myself for reading Fatiha and sometimes, no such preparation is needed. I have been to Bareilvi but had no occasion to visit Devband.

The school where I am working as a Principal now a days is not concerned with Bareilvi or Devband School, but with Muslims. Religious education is imparted in the school. This is never brought to the information of the students that Bareilvi School goes to graves and reads Fatiha whereas Devband people disapprove it. Fatiha is not a part of the course of teaching, but the students pick it up themselves during the course of their education. I also picked up reading Fatiha without undergoing any lessons on the subject. I am not aware whether any Madarsa in District Basti is a supporter of Devband School or not. 'Sani' means yet another.

I have visited the Dargah of Kachhochha in district Faizabad. Kachhochha is the name of the village. There is the Dargah of Mokhdoom (religious Head) Ashraf Jehangir Simnani. His grave is there. I had been there 5-7 years ago. I had not offered a chadar but had read Fatiha did not light incense stick. Simnan was a place in Iran. I am not aware whether the place exists today or not. There was also a place known as Jilan in Iran. This is correct to say that natives of Simnan were called as Simnani whereas natives of Jilan were called Jilani. This is correct that there is a grave of Makhdoom Sani Sahib in Kachhochha. There also I had read Fatiha but did not offer a chadar. His real name was Sayyad Sahn Tufail Ahmed Ashrafi. He was a resident of Baskhari village. He also claims of having genealogical relations with Simnan of Iran.

Religious head Ashraf Sahib was a Pir (a Spiritual guide) and was a follower of his Pir. This is incorrect to say that I am telling a lie or that Makhdoom Ashraf was not a Pir but a king (He said of himself that there is no confrontation in between a Pir and a king). This is incorrect to say that when he came to India, he was a king but it is correct that he was a small king in Iran. When he came out from there, he turned an ascetic and he had started from Iran as an ascetic.

Statement read over and verified

Sd/-

06.03.1997

Typed by the Stenographer in the open court on dictation by me. Present yourself on 08.04.1997 for further examination in this case.

Sd/-

Commissioner

6.3.1997

Dated 09.04.1997 (In continuation of 06.03.1997)

Statement on oath by P.W. 10 Mohammad Idris S/o Haji Mohammed Salim in continuation of his statement of today the 6th March 1997:-

Fikah is itself a subject which contains issues of religion. Hidayah too is a book of Fikah written by Maulana Burhanudin Abul Hasan. Religious matters are contained in Hidayah. If one wishes, he can call it law of religion. It has a connection with noble Quran. The word Hidayah literally means guidance. It was written in the 6th century of Hijri in Arabic language. It was originally written in Arabic language. I have gone through the original book. The process of offering namaz is contained in this book. This is incorrect to say that I am making any false statement at the moment. The process of offering namaz is contained in Hidayah (chapter 1). It contains all the details like how to resolve, when would the hands be locked and how would they be unlocked and how to prostrate etc. Noble Quran is the basis of Hidayah and so is Hadis Sharif. Ijmai Ummat is also its foundation. It is also mentioned in noble Quran how to offer namaz, I remember the concerned verse which reads like 'kam lillahe kaneteen' – I do not remember the number of Sura and Verse. It is incorrect to say that it is mentioned in the Quran-e-Sharif that when Namaz should be offered but it has no mention about the way Namaz should be offered. The way of offering namaz is mentioned in Hadis also but I may not be able to tell the name of the concerned chapter.

Nothing is mentioned about the design of mosque in noble Quran and similarly, there is no such mention in Hidayah. It is of course mentioned that namaz should be offered facing Kibla. Hadis was available in the life time of

prophet. On the order of God, Hazoor instructed that the direction of mosque should be changed towards Kaba. Islam was there even in the time of Hazrat Daud. His action and piece of advice were also in accordance with Islam. Since I am not aware whether the followers of Hazrate Daud i.e. only Hazrat Daud are available in the world, I cannot say whether they were called Jews. Jews believe that Hazrate Ujair who was the prophet of Allah was the son of Allah and recognize Hazrate Moosa and do not regard our prophet as a Rasul of Allah. This is correct that those who did not believe in oneness of God or those who were irreligious or idol-worshipping were termed as Kafirs by Hazoor prophet Sahib. However, it is not correct to say that Hazoor had asked for bringing around such persons to place confidence and kill them if they don't agree. He had also not directed that properties or womenfolk of such persons should be forcibly usurped or be captured. I can tell the meaning of any verse by just looking at its subject but since such a thing is not mentioned anywhere in noble Quran, there is no relevance of quoting Sura No. 8, verses from 57 to 60.

A saying is contained in 'Baihaki Sharif' a book of Hadis which reads as 'Abnu Masajidam Jumma' i.e. construct the mosque in a simple form i.e. without a minaret. The name of the relevant chapter is 'Babul Masjid'. There is no mention in this book about the availability or otherwise of water for 'vazu'. I have not read anywhere in any book where it is mentioned that there should or should not be a provision of a well or some other source of water. But I have read that it is better to depart after vaju at home. This is something which I have read in Hadis and not in noble Quran. The relevant chapter is 'Bayane Salat'.

I had obtained religious education in eight years. I has started the education when I was 9-10 years of age and the education was complete when I was 17 years of age. I teach my students subjects of noble Quran, Hadis and Fikah also. Though the language remains Arabic, meaning is explained in Urdu. Urdu translations of noble Quran and Hadis are available in our School. I cannot say whether Urdu translation of Hidaya is available in our library or not. Education of Darse Aliya and Darse Nizamiya is imparted in our School. Recognition of Government is available for Munshi and Maulvi in Darse Aliya and under Darse Nizamiya, education is provided upto Fazil level. There is no need to obtain recognition of any Government, University, Board or Institute for conferring the degree of Fazil. This is what I am talking of Fazil of Darse Nizamiya. The degree is issued by our Madarsa itself. It is a comprehensive course of 8 years' duration.

By religious education, I mean education of Islam.

Question: By Islam, you are referring to the faith propagated by Hazoor prophet and you provided education for its further spread and explain the faith only to those who placed their confidence in it ?

Answer : The law of life and the way of the worshipping and whatever education has been given to Muslim by the prophet – all that is known as Islam.

This is correct to say that everything depends on faith, faith is the real basis. We have a freedom to put questions like as to why and how faith is reposed. I am confronted with questions as to which are the sayings for such quest, what is the reason behind them and I myself try

to seek answers to such questions. A very great writer of India Maulana Shah Wali Ullah Mohaddis Dehlvi has written a book entitled 'Hujatul Lahil Balega' wherein he placed religious queries and provided answers to them. He has ratified and confirmed whatever Islamic sayings and beliefs are there.

I have not heard the name of the said Anwar Sheikh. I have heard the name of Salman Rushdi. There are many such questions raised against the belief and he put them in the category of Kafies where as there are many such questions which can be raised. This is incorrect to say that whomsoever has raised a questions against faith has been termed as Kafir. I am not aware whether any laws for Muhammadens have been evolved in our country by the British rulers or modern rulers.

We do have Waqf properties in District Basti, but I cannot say anything about the number of such properties. I do not have any estimate of them. The mosque which I have stated to be existing in Mehdawal town are inevitably a part of Waqf because each mosque is a Waqf in itself. Haji Mohan was the Waqif of the mosque in Mohalla Uttar Patti. Haji Mohan was a Sunni. Waqifa of the mosque located in Mohalla Barah Gaddi was musmat Moti who again was a Sunni. There is no Shias in Mehdawal and therefore, they do not have any Waqf there. I am not in a position to identify any mosque whose Waqif had been a Shia.

I have been to Faizabad and have also seen chowk Ghantaghar there. I have seen a number of Mosque there, but I do not recollect if there is any mosque there by the name of the Hasan Raja. I have studied history but I do not know whether Mir Baqui was a Shia or a Sunni. I have

offered namaz at Tata Shah mosque located at he chowk in Faizabad, but I do not know whether its Waqif or Mutvalli was a Shia or not. I had gone on pilgrimage to Kichhochha Sharif Dargah in District Faizabad and had offered namaz of Johar in the mosque built at the top of Dargah Sharif. I did not stay in that village during the night. Persons going on a pilgrimage to this place would be drinking water there, but I did not take any water. I am not aware if they called it a Aabe-Taalab or neer.

I cannot tell the name of Waquif, Mutvalli or Imam of the mosque in which I had offered namaz. The mosque belonged to Sunnis. I do know about the mosque of Sunnis, but I have no knowledge of the mosque of Shias (he stated of himself) 'The number of mosques in India is so large that it is not possible for anyone to identify whether a particular mosque belongs to Shias or not. In view of this, I cannot tell anything about any mosque of Shias. This is incorrect to say that I am deliberately concealing certain facts.

I am aware that the Central Government and the state Government have made laws about Waqfs. To my knowledge, there are three Waqf Boards in Uttar Pradesh (1) Sunni Waqf Board (2) Shia Waqf Board (3) Husainabad Waqf Board. It is evident that matter relating to Sunni Waqfs, their maintenance or court cases are looked after by Sunni Waqf Board. Likewise Shia Waqf Board looks after similar matters relating to Shia Waqfs. Husaniabad Waqf Board looks after its own Waqfs. I do have knowledge about laws and procedure of religion, but I do not like to be praised for it. It is not correct to say that I am not an expert of the laws of religion. This is not correct to say that my religion does not depend on believing or that there is no

scope for any type of commentary. In fact, my religion is based on faith.

Hazoor has stated in respect of some Kafirs that their enemy is Khuda, but this is not for general application.

The history which I read during my course covered the period starting from the life of Hazoor prophet Sahib to 1950, In this connection, I had read the Urdu book entitled 'Mukhtsar Tarikh Hind'. The name of the non-Muslim author of the other book which I have read was R.L.F.S. Wellmaith which was translated by Dr. Rifat Bilgrami Sahib. I have not read original book, I have gone through only its translation done by Bilgrami Sahib. I am not aware whether Bilgrami Sahib was associated with any University or not. Similarly, I also do not know whether the original author Wellmaith was associated with any University or not. The book contains details about only Babar and his times, and nothing before or later to that.

The name of the book covering the period upto 600 Hijri which I had read was 'Tarikhul Khulfa'. Khulfa means a group of Khalifas. The book contains details of all the Khalifas who were associated with the Islamic religion.

The name of yet another book which I read was 'Tarikha Farishta'. The period covered in this book starts with the arrival of Muslims in India and goes even after Babar, but at present I am not able to recollect where does it end. There has been a cursory mention of some Muslim rulers prior to Babar. There has been a cursory mention of rulers even before the arrival of Muslims. The book has been written by Kasim Sahib who had no link with any University because during the period when this book was written, there used be no Universities. He was not a

Principal in any Madarsa. I do not know whether he was associated with any school, but it is evident that he was well read. There is a mention of both Muslim and non-Muslim rulers, but he has not regarded these rulers as 'Farishta'. Tarikhe Farishta, the name of the book does not appear to be irrelevant to me. Pen-name of Kasim Sahib was Farishta. I cannot tell as to in which year or Hijri, the Muslim rulers came to India for the first time. I have remembered only such details as are necessary and nothing beyond it. I do not remember the complete period covered in this book.

I had read another book named 'Musalmanon ka Hazaar Sala Daure Hakoomat'. I remember that the book has stated as "Hindustan men.....". the book was written by Mufti Shaukat Ali, who was not associated with any University, I have read it no doubt, but I am not able to recollect as to when did the period of one thousand years described in this book start and when did it end.

Out of the books I have mentioned above, we teach only Mukhtsar Tarikh Hind and Tarikhe Khulfa to our students, the remaining books are not taught to them. It is incorrect to say that I have simply crammed the names of certain books, I have not read any such book and without any valid reason I am making a false statement only to prove myself a learned man.

Tafseer (commentary) means explaining something in detail by going deep into it. Tafseer is a religious activity which is undertaken by Mufassar (Religious authority). Tafseer is mostly related with noble Quran. In fact, it is related only with noble Quran and those who have read and understood noble Quran diligently, they only explain it in detail and are known as Mufassar.

Mufassarins have explained the verses as per their mental whims, keeping in view the sayings. Obviously, there could be some variations in their commentaries and it is true that there have been such variations. I am not known to anyone who belongs to this category and who has written wrong commentary at the instance of someone by accepting remuneration and salary for the same. This is also not correct to say that commentary is written against a salary and remuneration. Commentaries are written without accepting any salary and remuneration. Tafseer Ahmadiya has been written by Mulla Ahmed Jivan. This is incorrect to say that he was an employee of the empire of Aurangzeb. This book is known by this name also or that he had given this name in flattery of Aurangzeb. I am not aware of any book by the name of Tafseer Alamgiri.

Besides Tafseerate Ahmadiya, I have also read Tafseer Jalalain. There is no confrontation between these two commentaries. It is true that there are some variation in between them, but that is not a fundamental variation. Use of words in Tafseerate Ahmadiya has not been as eloquent as in Tafseer Jalalain and the reason was that the author of the latter book was of Arabic origin whereas writer of Tafseer Ahmadiya was of Indian origin. It is my experience and I have noticed also one who is alien to the language would be better in getting the reading and writing the language from outsiders.

Fatwaye Alamgiri is written in Arabic language, its author was of Indian origin. No one can decide about the book wherein chaste or inferior language has been used. My statement is based on my thinking and experience. There is no mention of the design of mosque in Fatwaye Alamgiri, it only contains the processes of offering namaz

and performing vazu. I have not read anything written in the book related to the arrangement for performing vazu in the mosque. There is no chapter on the subject in the book.

I am aware of Hazrat Belal. I know him and also conversant with his name. He alone had called for prayers for the first time in Nabvi mosque and there was no minaret on the mosque during that time. I have heard the name of Al-uj-Har University located in Egypt. However, it is incorrect to say that religious directions given by them are of utmost importance for Sunnis all over the world or that their views are given the greatest respect. Fatwas (Edicts) issued by various institutions in various camps inhabited by various people are regarded important in religious matters. Edict issued in religious matters is applicable on everyone in the world, it is not confined to any particular religion. If any fatwa is issued in some religious matter by Al-uj-Har University, all the Muslims all over the world would abide by it provided it fully fits in the norms of an edict. The norms of a fatwa are decided by one who issues it. no statements are made about past events in the fatwa, edicts are issued only for future action. Fatwas are issued as per directions contained in noble Quran. While issuing Fatwa, Hadis sharif and Izmai Ummata are also kept in mind. Directions of Allah abound in the entire noble Quran which have been expressed in the words of Hazoor. Nowhere it is mentioned in noble Quran that hands and legs of someone should be chopped off from their side only because of their opposition to God and Rasul or that such persons should be hanged. In fact such statements have been issued by those who had teased Rasul very much and had massacred innocent Muslims. Those who place confidence in Rasul and believe him are called Momin (orthodox Muslims) and those who do not do, are called

non-momin. There is no mention in noble Quran that those who are momin and whose parents are non-momin should not regard them as their parents. This is incorrect to say that there is a mention somewhere in noble Quran that those who are non-Muslims should be oppressed to the extent that they surrender. Islam means preparedness for obedience, complete surrender. This is the real, i.e. literal translation of the word Islam. It is the actual translation. Hazoor did not work only for expanding his empire, it expanded itself. Their empire kept on expanding after the extensive wars. This is not correct to say that Hazoor had justified the use of force for propagating religion besides expanding his territorial kingdom.

There was no war in Madina. Qureshi people had come there to wage a war alongwith people of their tribe, but they themselves laid down the arms and returned. This is called war of 'Khandak' because trenches were dug for fighting and protecting the city. Some sporadic deaths had occurred, but there was no full-fledged war. Since a lashkar (army) had come trenches were dug to thwart it. they laid down the arms and returned, yet it would be termed a war. These wars had taken place in between Momin and non-Momin and the wars had taken place outside Medina. The war was fought at many places and stretched till Hunain beyond Mecca. Hazoor went on capturing these territories, his empire was established and the resident of the territories starting expressing confidence in his faith. Empire of Hazoor expanded in all these territories. Some of the Jews and Qureshis who had come to fight against him died and the remaining showed their confidence in him. A few Jews left their country. In this way, religious and Islamic kingdom of Huzoor had established from Medina till Hunain. Hazoor had established his Government over these territories.

Hazoor had directed, "If someone attacks you, retort against him to protect yourself, put a fight, don't surrender". With regard to propagation of faith, Hazoor directed "Spread the faith by way of persuasion, but do not use force, do not, oppress or victimize anyone." A few people had come to India also to spread the faith of Islam (He said of himself that they were Safeyaye Karam) which included Makhmood Ehduddin, Ashraf Jehangir Sinnani, Sultanul Hind Garibnawaz Ajmeri also. We call Garibnawaz by the name of Sultane Hind. He was not Sultane Hind at that time only, he continues to be even today. He had come from a place known as Sanjar, but I cannot tell in which country Sanjar is located now but it was a part of Iran when he had come. Sinnan was also a part of Iran. He spread Islam and also Sufi Sect which is also a part of Islam. This is incorrect to hold that Islam and Sufism are two different Schools of thought. It cannot be stated in definite terms whether Kabir had confidence in religion of Islam or not. I cannot say with full confidence, but he was probably a Sufi. There is a mention in books that Garibnawaz and Sannai Sahib were told in their country rather they had received a divine message, i.e. a direction on behalf of prophet Sahib that they should go to India and spread their religion with love and affection. Basharat means an order given in dream on behalf of prophet.

I do not remember if it is written in that book that it was also indicated in the order given in the dream (Bashrat) that people of India are loving and that they should go to India with a message of love, Indians will also reciprocate and invite them loving them lovingly. This is not mentioned anywhere that it was indicated in Basharat, "People of India are very quarrelsome, they will fight with you, so you also retaliate, give them a thrashing and spread the faith of Islam. I have not come across any one

saying , of course a few people have told me that Hazoor had stated during his lifetime that he was feeling a cool breeze from the west. I have heard of a cool breeze but not of any fragrance.”

Changez Khan had never come to India. Mahmood Ghaznavi, Mohammad Ghauri and Babar had come to India. Babar was in fact invited in India whereas I have not heard that Mahmood Ghaznavi and Mohammad Ghauri were invited likewise, possibly they would have been invited or would have come of their own. Taimur Lang had come to India but I have not read anywhere that he had been invited or that he has come of his own.

I have not read about Taimur Lang in detail in history and as such I cannot tell as to how he behaved with momin and non-momin. Mohammad Ghauri treated non-momins in India in his own style. He adopted the way of triumph that was prevalent those days which meant murdering others, oppressing and looting them and compel them to agree with your thinking..

Mahmood Ghaznavi treated the non-momins in very decent way to the extent that he enthroned a Hindu king at a territory captured by him. He has a great faith on Indians. He had formed a special unit of army of Indian soldiers under the overall command of Bhediroy. I have read about Mahmood Ghaznavi in great detail and also about his wars. I have not read much about Mohammad Ghori. I am aware of Somnath temple, Mahmood Ghaznavi had attacked this temple of Hindus.

The real purpose of Mahmood Ghaznavi, Mohammad Ghauri and Taimur Lang was not to spread the religion but to established their rule by way of looting, usurping. This is another thing that they themselves had confidence in religion. That is why Somnath temple was neither looted nor demolished for this reason .

Mohammad Zahiruddin Babar had started from Fargana and had come to India. Fargana is a part of Chinese Turkistan. I have read the history of Babar in detail. Starting from Fargana, Babar has established his empire first in Kabul then in Lahore and ultimately he came to India.

Babar did not demolished any mosque in India. He did not demolished any temple also. He was a follower of religion of Islam. It is a fact that when he was about to be defeated in a war, he had taken a vow not to drink in future. I have of course not read anywhere that he had taken a vow that if he won, he would offer namaz and observe Roze (fasting during the month of Ramzan). (He stated of himself that he already observed Roza and offered namaz). He already followed the path of Islam. Wine is prohibited in Islam. Babar had visited Agra and Avadh provinces. I cannot say in definite terms whether he had fought a war against the Muslim rulers of Jaunpur, of course he had fought a few wars here. I have read history in detail but do not remember much of details. He did not go to Allahabad for fighting at all. I do not know whether he had ever gone to Allahabad and if with what purpose. Babar did not visit our District Basti. I cannot tell about the number of mosque built by Babar in India. I also do not know how many temples he got built.

Statement read over and verified

Sd/-
09.04.1997

Typed by the stenographer in the open court on dictation by me. Present yourself on 10.04.1997 for further examination in continuation of this.

Sd/-
Commissioner
09.04.1997

29.04.1997 (in continuation of 09.04.1997)

Statement on oath of P.W.10 Mohammad Idris S/o Haji Mohammad Salim in continuation of 09.04.1997 his statement of today, the 29.04.1997.

Generally Hadis and Sunnat are regarded as one and the same thing. This is another matter that some people think that these are different things. Hadis is Kauli, Faili and Takriri and so is Sunnat also. The interpretation of the verses of noble Quran is called Tafseer (commentary) whereas the interpretation of noble Hadis is called Sharah (a Sub-commentary). It is mentioned in Hadis that no minaret should be built on mosque but such a restriction is not very strict. The name of the author of the book on Hadis that I have read is Janab Imam Baihaki. Hidayah is a book in itself written by Burhanuddin Abubkar Ibne Ali Marginani. The name of the book is Hidayah and not Hidayah Philpharu (He stated himself that Philapharau had been added with Hidayah due to its ineterpretation). A number of Sharah (Sub-commentaries) have been written for Hidayah, but I do not remember the name of even any other Sharah. Imam Abu Yusuf Sahib had written many books of Muslim Fikah. Laws relating to Muslims have been consolidated in Hidayah and people have been following the same path. There is no such law therein which is confined to only one country, i.e. it is not that different laws are applicable in respect of one issue in different countries. It is correct that there is law in Hidayah which states that witnesses of two women should be treated as equal to the witness of one man. This law would be applicable in such places where law of Shariat is in practice. In case there is some dispute in between a Hindu and Muslim, the law of Shariat only would apply. There had been clashes between Muslims and non-Muslims during the days of prophet and they were

settled likewise. However, I do not remember whether such a fact is mentioned in any book or not. In India, even today the law is applicable in respect of such persons who desire to get their disputes sorted out through Ulema and Muftis. I cannot say whether there is a mention in Hidaya or not that in the case of a clash in between a Muslim and a non-Muslim, law of Shariat would apply. This is mentioned in Bukhari Sharif. I have read Bukhari Sharif. The book which I have read has been published from Delhi, but I cannot tell the year of its publication. The book was written by Imam Mohammad Bukhari.

Tirmizi Sharif is a book of Hadis written by Imam Abu Isa Tirmizi. I have read this book.

In both these books, there is no mention of not having a minaret and dome on a mosque. It has also not been mentioned in these books that a mosque could be built in a graveyard, i.e. nothing has been written as such. I have also read Jame Sagir, Jame Kabeer, Jiadat, Navadir and also Mansoot to some extent. I do not remember if there is a mention in these books that there should be no minaret, dome on the mosque and that a mosque could be built in a graveyard also. I have never heard of the book entitled Jame Saheeh. There is no book by this name to my knowledge. I had not heard of this book even during the period of my obtaining the two degrees. I have read the book entitled Jame Sahilil Bukhari which is recognized as a book on Islamic law all over the world. There is no such mention even in this book that there should be no minaret or dome on a mosque or that the mosque could be built on a graveyard also. Laws of the same Hidaya applied on Muslims during the British rule and the same laws apply on Muslims even today.

I have read the laws of inheritance relating to Sunni people, but not the laws of inheritance concerning Shias and hence cannot say any thing about it. The education I

got did not include laws of inheritance relating to Shias. Only laws of inheritance applicable in case of Sunnis were taught and that is why I have got knowledge of them only. No Shia student was there in any of the Madarsa or institutions where I received education. I cannot say whether Shias abstained from those institutions or those institution had imposed any restrictions on Shias.

There is no Shia student even in the Madarsa where I hold the post of senior-most Principal. Obviously, we do not provide education relating to Shias to our students and confine our teaching only to laws of Sunnis. However, it will be incorrect to say that we abstain from teaching them laws of Shias. This will be incorrect to say that we impart sectarian education in our Madarsa.

I have it in the book entitled 'Durre Mukhtar' that a Shia Muslim can be a Mutvalli of Sunni Waqf, can be its Waquif also and similarly, Sunni Muslim can be a Waquifas well as a Mutvalli of Shia Waqf. The book falls in the category of Fikah. The book is written by Maulana Haskafi Sahib. This book has also got the status of law. The Maulana belonged to Egypt. The book was written sometime in 8th or 9th century. The law is applicable even today in the entire Egypt, India. Bangladesh and Pakistan. The law has been applicable in every Muslim habitation irrespective of the country in which it falls. The law was applicable during the days of British empire and is applicable even today. It is correct to say that I am indulging in giving a false statement right from the beginning.

It is incorrect to say that I have not read any book at all out of the books I have mentioned above or which I have mentioned in my statement. This is also incorrect to say that I have made any false statement.

This is also incorrect to say that I have not read any authentic book on history. This is again incorrect to say that I have read books of a few sectarians only.

(Cross-examination by Shri Vireshwar Dwivedi Advocate on behalf of Shri Umesh Chandra Pandey concluded.)

(Cross-examination by Shri Madan Mohan Pandey Advocate on behalf of Shri Param Hans Ram Chandra Das).

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Good, polite and strict way of dealing with kafirs has also been mentioned in noble Quran but this is incorrect to say that there has been a mention that in case, parents do not follow Islamic religion, they should be dealt with strictly. Generally there is no such mention therein that kafirs should not be dealt with mercifully. There is a mention of prophet Ibrahim in noble Quran. He has issued directions against idol-worshipping, but it is incorrect to say that order have been issued for iconoclasm.

I have had no occasion to offer namaz under a Shia Imam. Generally, Shia mosque has a Shia Imam and similarly Sunni Mosque has a Sunni Imam (He stated himself that a mosque is neither a Shia nor a Sunni mosque, it is as per the expression of faith in words of one who constructs the mosque). Generally, Shia people offer namaz in Shia mosque and Sunnis offer namaz in Sunnis mosque. I have never offered namaz in a Shia mosque. I do not know the details of all the mosque and therefore, cannot say whether I have ever had an opportunity to see or hear of a Shia Mosque with a Sunni Imam and that of a Sunni Mosque with a Shia Imam.

In case, the land is vacant and people desire to build a mosque, they can do so even in a graveyard. Offering namaz in such a mosque will also be proper. No mosque can be shifted from one place to the other under any circumstances and this is something written in all the books of Fikah.

It is correct that accepting remuneration for reciting noble Quran is prohibited. A Hafiz cannot take any money for reciting noble Quran is prohibited. However, if any remuneration becomes due for the time spent on reciting noble Quran and in connection of which restriction is there, he can take remuneration for that. There is no such ruling in noble Quran but it is a direction by Ulemas. A Hafiz can negotiate and receive remuneration from his audience or anyone else for reciting noble Quran based on the time spent thereon calculated in hours and days.

Barring Babri mosque of Ayodhya, I do not possess such details of any other mosque as I could describe in the court. With regard to those mosque, I simply know of their being there nothing beyond it. I acquired knowledge about Babri mosque because an incident relating to the mosque had taken place which is known to everyone in country. The incident comprised opening of the lock, placing the idol and then demolition. I acquired knowledge after the lock was opened and went through the relevant history also. Opening of lock and the incident of 6th December 1992 have been like a personal blow to me. I have not come here to depose because of that anguish, but have presented myself to give expression to the factual position.

I have used a word Alamgiri in my statement which is in fact a name of a book. The book is related to Aurangzeb. There is no mention of mosque of Ayodhya in

that book. In so far as my knowledge goes, there is no alamgiri mosque in Ayodhya. Bahadur Shah Zafar was not the son of Aurangzeb, he was born many a generations later. I cannot tell whose son was Bahadur Shah Zafar, I am not able to recollect. Aurangzeb had many sons, but I may not be able to tell their names. At the moment I cannot tell even one name. I have not come across any history of Ayodhya associated with Aurangzeb.

I have not read the book entitled 'Shahifa Chihaal Nasin', written by the daughter of Bahadur Shah Zafar, Shahifa stands for small booklet. There is no word like 'chihaal' possibly it would be 'chihaal' which means forty. The word 'nasin' would possibly be 'nasihat', i.e. a good advice, I have not heard the name of any Mirza Jan in the context of Ayodhya. I have not heard of 'Hadika-E-Shada' alleged to have been written by him. I have read the history of Babri mosque especially after the incident of opening of lock. The lock had been opened in 1986, I have knowledge about the earlier period also. I have complete knowledge starting from the construction of the Babri mosque upto its demolition.

I understand that there had been no clash between Hindus and Muslims in Ayodhya in 1855. During that period, the Britishers were engaged in invading different places, but there had been no clash between Hindus and Muslims. This is not to my knowledge, nor I have read anywhere that there had been a clash in between Hindus and Muslims with regard to Ram Janma Bhumi during those days. I have not read in any history book that Babar had ever come to Ayodhya. He had surely gone to Bihar via Avadh province, but I cannot tell about the part in specific terms through which he had traversed. It is not to my knowledge whether he had stayed at any place in Avadh province. As regards

Mir Baqui, he virtually to Ayodhya, had lived here permanently, but I may not be able to tell the period from and upto which he lived here. I have read in books that the land on which this mosque was raised was lying as a vacant land. I have never gone to Babri mosque. I had no occasion to go there. My knowledge about Babri mosque was derived mainly through the books mentioned by me above and also learnt and read about it from newspapers and journals. In case, it is proved that this mosque was built by acquiring the land illegally, then it could not be a mosque, offering of namaz there would be meaningless. This is altogether wrong to say that I am making a false statement. This is also incorrect to say that there was earlier a temple at this place or the mosque was built after demolishing the temple.

(Cross-examination by Shri Madan Mohan Pandey, Advocate on behalf of Shri Param Hans Ram Chandra Dass concluded).

(Cross-examination by Shri H. S. Jain, Advocate on behalf of Hindu Mahasabha and Shri Ramesh Chandra Tripathi.....Shri Jain adopted the cross-examination done by Shri Veereshwar Dwivedi prior to Shri Pandey and thus concluded his cross-examination).

(Cross-examination by Shri P. L. Mishra on behalf of Gopal Singh Visharad S/o Shri Rajendra Singh.... Shri Mishra adopted the cross-examination done by Shri Veereshwar Dwivedi, Advocate prior to Shri Pandey and thus concluded his cross-examination).

(Cross- examination by Shri Devki Nandan Aggarwal in O. S. No. 5/89 on behalf of plaintiffs).

Whatever statement I have given is based on my personal knowledge which is mainly related to incidents. I have given my statement as an expert, it is another thing

that I have some personal knowledge of certain incidents. I have narrated the incident of demolition of the mosque on my personal knowledge. I was not present at the site when the mosque was demolished, I was not a witness to this incident. There was no mention of this incident in my examination-in-Chief. The facts which I have narrated through the knowledge acquired from books should be taken as based on my personal knowledge. I have been bringing books to the court for many days, but I did not bring them today. In the court I have stated the opinion i.e. schools of thought which have been written by great Uleamas in their books and which I have read also. Ulemas have not written in any book to make minarets and domes on the mosques, rather it is mentioned in Baihaki Sharif that there should be no minarets and domes on the mosque and that is why I hold that the mosque is also built even without a minaret and dome. I have already stated that I am not in possession of the books today, obviously this book is also not there. It is written in Arabic language, it is not manually written book, rather it is a printed book. Imam Baihaki was the author of the book. He was Imame Hadis, Imame Fikah. He was an Imam sometime in 3rd or 4th century of Hijri in Arab. The book has been published in a number of countries. It is incorrect to say that the book has not been published in India. However, I cannot tell the year of its publication. I had seen this book in the library of Mubarakpur Madarsa. It is correct to say that I have never brought this book to the court. I also cannot tell whether English or Urdu translation of this book is available anywhere.

I do not know English. I have not heard the name of the book entitled 'The law relating to Hindu and Muhammeden'. Since I have not heard even the name of the book how can I say whether the name of the author of this book was Shri P. R. Ganpati Aiyar or that its foreword

has been written by Hon'ble Justice Abdul Rahim Sahib, i.e. Mr. Justice Abdul Rahim Sahib. I cannot say what is written in this book. One who has seen and observed all the mosque of the world, only he can answer that after 50 years of Hizrat, no Jama Masjid has been built so far which does not have minarets. However, it is incorrect to say that I have not seen any Jama Masjid without a minaret.

It is not mandatory to tell all the details in the specific statement. Courts only could answer this question as to which books of Hidaya are approved or which books are recognized. I have not heard so far about the writer named Hemalton about whom it is alleged that he had presented a book to Warren Hastings and the book was a translation of Hidaya. To my knowledge, there has not been any Urdu translation of Hidaya.

Laws of Shariat are enforced on Waqf from the times of Mohammad Sahib. In India, the law of Shariat is applicable on Waqf not only from 1937 but from the time when Muslims had come to India for the first time. The British empire had started in Avadh sometime during 1850 to 1860. I am not aware as to which books are relied upon by the court in knowing about Shariat, particularly relating to Waqf. Even today, I am not aware of the books to which the court rely. I have had no contact with any court regarding any case relating to Waqf. I am not aware whether any case has been filed in the Civil Court in 1989 on behalf of Bhagwan Shri Ram Virajman also known as Bhagwan Shri Ram Lala. I am also not aware whether the said case has been transferred from the lower court to High Court or not and which issues have been raised in the case or about which issues the case has been instituted or who is the man who has instituted this case.

I had come to court to depose off on behalf of the Waqf Board. I was not aware in advance of the questions that would be asked from me. However, I have replied the

question asked from me in the court to the best of my knowledge. The advocates has not briefed me at all about the case and however also what could they tell me about religious matters. Only Hasim Ansari had told me about this case. He had told me that my statement would be in connection with Babri mosque. I think that Hashim Saheb does not know as much as I with regard to the issues like whether domes and minarates are essential in a mosque or not and arrangement of performing 'vazu' is necessary or not. Possibly, he might be aware also, but I have replied to the question, as per my knowledge.

The advocate did not tell me anything. He had not told me that my statement would be about the design of construction of the mosque. I have been meeting the advocates quite often. We wished each other, we had tea, beatles etc. but there had been no discussion about the case.

It is incorrect to say that Messrs Abdul Mannan, Jilani Sahib or Mushtaq Siddiqui had told me in 1990 or 1991 to give evidence in this case or render any particular type of evidence. I cannot tell as to when my name was included in the list of witness – was it in the beginning or in the middle or in the end. My consent had been obtained before including my name in the list of witness.

The suggestion that Messrs Mannan Sahib, Jilani Sahib or Mushtaq Sahib had prepared me in the name of Islamic religion to give evidence or that my consent was obtained by way of any similar reference or deception is totally false and baseless.

I have heard the name of Prince Anjum Kadra. He is a famous person and so, I know him but I do not know whether he is the President of Shia Political Conference or not. I am not aware whether he has submitted any of his statements in English in writing in this court. There is a possibility that he might have referred to Fatwa Alamgiri in

his statement given in English or their would have been some reference with regard to the dignity of a mosque constructed on the land acquired forcibly. This does not include the pieces of land captured by the victors and rulers. This is correct that there is a mention in Fatwa alamgiri that a mosque cannot be built on land acquired forcibly.

For the construction of a mosque, someone who is the rightful and complete owner of the land has to relinquish it on his own will only then a Mosque can be constructed. He will Waqf the land and Waqf is something of ones' own volition. Waqf is complete only when the rightful owner donate the land of his own will for the construction of a mosque or for some other noble cause. This is incorrect to say that Waqf would be complete only when the mosque would have been constructed and call for prayers would be made with the permission of the owner Ajan will be offered or that the collective namaz would have been offered only with his consent. This is again incorrect to say that Waqf would have been complete after all these activities are over.

Statement read over and verified

Sd/-
Mohamad Idris
29.04.1997

Typed by the Stenographer in the open court on dictation by me. Present yourself on 30.04.1997 for further examination in continuation of this 30.04.1997 (in continuation of 29.04.1997)

Sd/-
Commissioner
29.4.1997

Statement on oath of P.W.10 Mohammad Idris S/o Haji Mohammad Salim continued today the 30.04.1997 in continuation of 29.04.1997.

The simple way of donating (Waqf) the land for a mosque is that the owner makes an endowment and relinquishes the land. It is not necessary for him to declare such an endowment in the presence of anyone nor it is necessary to do it in writing. When the land has been donated, its possession cannot be given to anyone else. The Waquif (one who donated) relinquishes his possession and the land becomes the property of All mighty. It will be looked after by its managers. The arrangement is looked after by Waquif or others under his direction. If the land has been donated for the mosque, the Muslim people offer prayers there. There is no such restriction on the Waqif that he will not declare his Waqf, he himself informs people about it and thus people start coming. Mosque is built to offer the community namaz there and also individuals are permitted to offer namaz. A call for prayers is essential for community Namaz. If any Waquif does not declare the Waqf I did not intimate any one regarding waqf, did not appoint any manager even then he cannot withdraw the land once donated. As per Sharah, he has no right to transfer this land and if he does it then his fail will be unlawful. If someone at his own decided that he has donated a particular land, Waqf would be complete. It is incorrect to say that Waqf is not complete without handing over actual possession of the land. This is also incorrect to say that Waqf for a piece of land donated for a mosque will not be complete until a call is made for namaz and namaz is offered there.

Until loudspeaker were invented or invented but not used in mosques Ajan used to , call for namaz by standing

at a particular point in mosque known as 'Mezna'. This is incorrect to say that call for namaz was made by standing on the minaret.

I have seen the Red Fort in Delhi, but have not seen Moti Masjid. I cannot tell where by this name the mosque is located i.e. if the mosque in Red fort, I cannot tell the place of its location. I do not know if it is built of marble. I have seen the Jama Masjid in Delhi. I have not entered into Red Fort.

This is correct to say that Hindus and Muslims had fought the first struggle for freedom of India in 1857 collectively. It is, however incorrect to say that there had been an agreement at that time between Hindu and Muslims that the disputed building will be handed over to Hindus.

I am not aware of an incident in which a leader of Hindus and a leader of Muslims were publicly hanged at the said Kuber Teela near the concerned place or by hanging them on a tamarind tree. This is incorrect to say that both Hindus and Muslims used to go to the disputed concerned building and worshipped in their respective ways before 1855 (he stated of his own that only Muslims used to go there for worshipping). He added, "I have read in a book about only Muslims worshipping there, but I cannot tell the name of the book. I have not read in any book that there had been any war amongst Hindus and Muslims with regard to the disputed site sometime around 1855 in which 80-85 Muslims had lost their lives or that all of them had been buried unblock under one grave or that the place is known by the name of Ganje Shaheeda. I have also not read anywhere that as a result of the war, Hindus got a rightful possession of that place. I have not read anything about

the martyrdom of Amir Ali, I cannot say whether he was a Maulvi or not.

I am not aware if after 1857 when the British rule had firmly set in India, they had divided the concerned building in two portions by constructing a wall with the help of many iron bars. I cannot say whether the said wall was built in the form of window-bars. I cannot say whether the English people had issued any orders to the effect that the inner portion of the lattice wall would be used by Muslims for worshipping and the outer portion would be used by Hindus for performing their 'Pooja Paath'.

I have read some portion of Ain-ai-Akbari (At this point witness was shown the writing in Persian which was a part of document paper No. 1047C/76 at page No. 78 relating to suit No. 5/89). He stated, "I have examined the document shown to me and its handwriting matches with Ain-ai-Akbari but without looking at the original book, I cannot say whether the passage is correct or not. I do not have Ain-ai-Akbari, thus the question of bringing the book does not arise.

(Attention of witness was drawn to document No. 107C/79 of the same file) on which he stated, "I have examined the documents. There are two circles on the document and the name of the book 'Hadike Shohda' written in the inner circle. A semi-circle is also made on the front page of the book on which 'year 1314 Hijri' words are written. 'Nakisul Akhir' words are indicated in the red circle on the right hand top of the same page and these words mean complete." On the next page, there is a reference of the book 'chahelan Say' written by the daughter of Bahadur Shah Alamgiri.

(Attention of the witness was drawn to document paper No. 107C/79 of File No. 5/1989) on which he said. "Words 'Babri Masjid' are written on this paper. The name of the publishers i.e. the name of the institution is 'Darul Masanniphin Shibly Academy, Ajamgarh'. On the right hand side, the words 'Marif Press, Ajamgarh' are printed. The name of the author is not very clear. The next two pages are written in Urdu and something is written in English on the margin of one of the pages which I cannot read. The words, "copy of application of Mohammad Asgar scribe – Memokzin in the seventh line (The writing in English in the margin of this page carries the date 3rd November 1858).

The heading of the photocopy on page No. 82 of this very document reads as 'Amir Ali Shaheed' and Markae Hanumangarhi Moaliph Sheikh Mohammad Ajmat Ali Kakori. The name of compiler is Dr. Jaki Kakori one who collects material on same subject is called Moallif and one who compiles it, is known as Murattib. I have never gone through any such book and in my view, this is not a famous book. The name of the book whose front portion has been exhibited on page No. 88 of this very document No. 107C is 'Jiae Akhtar'. I have had no occasion to go through even this book and obviously, I had no opportunity to go through its contents. I have not come across any such book. Though I have not seen both these book, but apparently, they appear to be different books. I have also not seen the book entitled 'Tarikhe Avadh Takhlis part II' exhibited on page No. 107C/92 of the file.

I have not gone through any book written exclusively about the history of Avadh. There is no mention of the disputed building in the book written on the history of Zahiruddin Mohammad Babar which has been translated in

Urdu by Bilgrami Sahib, whose real author is L. L. F. Rusblow William which I have brought with me today (The witness produced the book in the court. The court glanced through the book and found that the name of the author was not exhibited clearly, the book was shown to other parties also). There is no mention of history of Avadh in this book, the victory of Babar over Avadh has only been mentioned. All this area fell under the rule of Ibrahim Lodhi which he had vanquished in the battle of Panipat. It was not in 9th Hijri century but in the 10th Hijri century that Babar came to this side and found that the Sharki Sultans of Jaunpur were in occupation of this area partially. No Hindu king ruled on Ayodhya in the Hijri year 935. the battle of Panipat was fought between Babar and Ibrahim in the year 932 Hijri. It is a fact that Babar did not fight a specific war to capture Ayodhya. The rule of Sharki Jaunpur had been over after Babar came. They ruled in between the year 932 and year 937 Hijri. They had small fights but I can not give actual year regarding it. There is a mention of this fact in the book of Dr. Bilgrami.

I have brought today with me the book entitled 'Tarikh Farishta' which is the history of India, but there is no mention of the history of Ayodhya in that book.

I had read the book 'Tafsir Jalalain' as a part of the course of my study in my student life. That is not a history, rather a commentary of noble Quran.

Bukhari Sharif is the name of a book and this is also a commentary on the book which I have brought with me today. It contains no instructions with regard to the design of the construction of a mosque. Of course, there are details about Waqfs, there is a complete chapter on it. The Waquif should be the rightful owner of anything which is to be donated and the Waqf should be with one's complete

volition. Waqf is complete whether it is done by making a commitment verbally or by heart. Barring this, there is no other way at all for doing Waqf and hence, there is no need for writing in fructuous details. First Mutvalli will be Waquif and later on, he could pass on this responsibility to someone else. There is no such mention that if the Waquif is Sunnis, the Waqf would be regarded as Sunni Waqf and similarly, if the Waqif is Shia, the Waqf would be regarded as Shia Waqf. Since Shias and Sunnis are different communities, so there are separate Waqf Boards for the both. Shias would be managing their Waqf in their own manner, about which I do not have any knowledge. On observing any Waqf, I cannot tell whether it is a Shia Waqf or a Sunni Waqf. This is incorrect to say that if the Waqif is Shia, his Waqf would be regarded as Shia Waqf and if the Waqf is Sunni, his Waqf would be termed as Sunni Waqf. I have not read any history book that there had been a platform in the outer portion of the disputed building. I do not have such a information even to my personal knowledge. I am not aware whether Hindus had been worshipping idols by placing them on the platform. I am not aware whether there had been footprints of God or a Sita Rasoi at some place in the outer portion of the building.

I am aware of the fact that the grave of Babar is in Kabul. He had died in the modern India, but he was buried in Kabul (He said of himself that during those days, Kabul was a part of India). As far as I remember, Kabul was not a part of the Sultanate of Ibrahim Lodi. As far as I remember, he (Babar) breathed his last in Agra and he had expressed a desire that he be buried in Kabul and that is why he was buried in Kabul.

I am not aware whether Meer Baqi belonged to Shia community. I know him as a Muslim and I did not feel it necessary to ascertain whether he was a Shia or a Sunni.

It is a book of Hadis Sharif only which is generally called Baihaki. There is a discussion on the design of construction of the mosque in this book. There is a mention of two saying. I do not have the original book with me. I had seen the book in the library of the Madarsa of Mubarakpur. Freedom in the design of construction is a part of the law. One can get the construction done as per his choice.

There was no chapter on the mosque of Shahidganj Lahore in the history book which I read. There was no mention of it in that history. (He stated himself that he had read a Fatwa about this mosque).

There was a talk of demolishing that mosque in the 19th century and making a Gurudwara there, but I am not aware of the details. I did not try to find out as to what happened to the Gurudwara constructed there after the formation of Pakistan. I am not aware of the details about which a suit had been instituted which went upto Privy Coucil.

If there is an idol in a mosque, we shall remove it from there, but that does not mean that we would dismantle it. We would simply bring it and place it on one side. If some devotee is interested, he can take it to his place and worship it, but not in the mosque. If there is an idol in the mosque, we shall make all legitimate efforts to remove it and place it somewhere else so that there is no disturbance to our worshipping. Legitimate efforts include filing a suit also. Even if an idol has been lying somewhere for the last 100 years despite all compulsions, every Muslim would make a consistent effort to remove it and getting it placed outside.

Hazrat Mohammad Sahib acquired his education not as a student or any human being, rather Allah Tala had sent him equipped with education. There is a saying that he could write Arabic and he did it also. Noble Quran

descended on him, but he had identified scribes for writing it, he did not write it himself. The scribes included Hazrat Amir Maviya. If some Hindus put an idol in a mosque and worship it, we would invariably object to it. Demolishing a temple is not permissible in Islam. We shall never demolish any temple to construct a mosque. If some idol is placed in a temple, we shall not dismantle the idol. Question of constructing a mosque after demolishing that temple and dismantling the idol does not arise. I cannot tell in detail whether the land and property of Talukdars and landlords in Avadh had been acquired by the Company Government or the Britishers had acquired it after they came into power. I am not aware whether the British Government had taken over the management of such land and properties afresh or had undertaken it right from the beginning. I do not know whether the land on which the disputed building was constructed had been acquired by the Government or not. I am not aware whether there was a road in the north of the disputed building or not. I have already told that I have never visited the site. I had started teaching in 1962 just after completing my education and had been appointed as a Principal in the year 1976.1
(Cross-examination on behalf of all the parties concluded).

Statement read over and verified

Sd/-

30.04.1997

Typed by the Stenographer on dictation by me.

Sd/-

Commissioner

30.04.1997