

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

OTHER ORIGINAL SUIT NO.4 OF 1989

**SUNNI CENTRAL BOARD OF WAQF
U.P. & OTHERSPLAINTIFF**

**VERSUS
GOPAL SINGH VISHARAD AND**

OTHERSDEFENDANTS

**STATEMENT OF P.W. '11'
SHRI MOHAMMED BURHANUDDIN**

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SHRI MOHAMMED BURHANUDDIN

Shri Mohammed Burhanuddin S/O Maulana Qari Hamiuddin, age : 60 years, resident of Sambhal, Distt. Muradabad, Professor, state on oath, as under:

My primary education took place in the two madrasas of Sambhal. Sambhal is in Distt. Muradabad After that, I got my education at Darul-Uloom, Deoband. From there, I obtained the degree of Fazil in 1957- 58. Thereafter, I taught in Madarsa Alia Arabia, Fatehpuri Delhi. The degree of Fazil is higher than that of Alim. In some of the madarsas, there is a course for Alim but no degree is given. After Delhi, I came to Darul-Uloom, Nadwatul-Ulema, Lucknow, in 1970. This Madarsa is known by the name of Nadwa. I have been teaching in Nadwa since December, 1970. I teach mainly Hadees, Tafseer and Fiqh.

I have, in particular, read the following Tafseers (Interpretations) of the Holy Quran: Khazin Kashaf, Ibn Kaseer, Mazhari, Bayanul- Quran, Baijabi, and Ma'ariful-Quran.

While the main books of Hadees that I have read are: Bukhari Sharif, Muslim Sharif, Tirmizi Abu Dawood, Al-Nisa'ee, Ibn Maja, and Mishqat Sharif.

And, books of Fiqh that I have read are namely; Hidaya, Sharah-Waqaya, Kanjud- Daqayak, Qaddouri, Badaye, Raddul-Muhtar and Durul-Muhtar.

There are no specific instructions in the Holy Quran or the Hadees about the architectural designs of mosques. According to the Sharia, there

is no need for a particular type of a building for a mosque, nor a particular design. The only important thing is that a mosque should always be facing Qibla. It is not mandatory for a mosque to have domes and minarets. It is also not necessary for a mosque to have a well, nor arrangements for Vaju (ablution) made there. A mosque can be surrounded by a graveyard from all the four sides. The presence of another religious place on way to a mosque does not affect the mosque's quality or its purity. If a mosque's is in a dilapidated condition, it can be demolished and reconstructed, If some other people had demolished a mosque, it would still be considered a mosque, whereas, if any already constructed mosque was demolished, the land would still be considered to be that of a mosque. Once a mosque is built on a piece of land, it will remain a mosque forever. Even if the walls or pillars of a mosque have pictures of birds, animals, or men and women, or gods and goddesses, namaz can be offered in that mosque. However, if such images are on the walls facing Qibla, then namaz would take place, but will be considered as makrooh (abominable). It will be fault or incomplete. Makrooh means its sawab (reward) will be lessened. If an idol of a god or goddesses is placed in any part of a mosque. even then the mosque will remain a mosque. If people belonging to some other religion, start praying in a mosque, even then it will continue to remain a mosque.

A grave can be shifted whenever needed, but the question of the place being shifted does not arise.

A place is basically a land how that cannot be shifted. By a grave being moveable, I mean the dead body being moveable. If no more space is left in the graveyard, and the graveyard becomes so old that the dead bodies have dissolved in the earth and its waqf is not such that restricts the use of land in any other manner, then that place can be used for any other purpose, otherwise not. In other words without the consent of the endower that place cannot be used for other purposes.

During my education, I have also studied a little bit of the Indian History. I do not know if Babar had destroyed a temple to build a mosque in Ayodhya. According to my knowledge, the Babri Masjid had not been constructed after destroying a temple.

(Cross- Examination on behalf of the Nirmohi Akhada, Respondent No.3, by Shri R.L.Verma, Advocate).

I have studied Arabic. I know this language. I started studying Arabic in Sambhal. I do not know English. I know a little bit of Hindi. A little that I have read about the Indian History, I have studied either in Urdu or in Arabic. A bit of it I have studied in Persian as well. I have read some portion of Tareekh Farishta. Apart from that, I have not read any other book in Persian. In respect of Babar, I have read Arabic book known as Nuzhatul-Khwatir. I have not read any other book about Babar but I have certainly read the history of Mughals.

My father was a Maulavi who used to teach children I have read the Holy Quran in Arabic I am its corner (Hafiz). The Ayaats or verses related to law are said to be 500. The total number of Ayaats in the Holy Quran is about 6,500. There are four fundamentals of Islamic Law, which English-speaking people call "sources". They are namely; Quran-e-Majeed, Sunna (Hadees), Ijma and Qayas. Sharia means the law that Allah has given to his people.

The Lubab Taaweel Fi Mahasinul-Tanzeel, which is also famous by the name of Khaazin, has been written by Alauddin Ali Ibn Mohammed Ibn Ibrahim. In this book nothing is recorded about the mosque as I had stated above. This book is not about that. The same is true about the book of Tafseer. It is true that there is no such details in the Quran Sharif also about what the shape and the design of a mosque should be, or what will happen if images of animals, birds, gods and goddesses or men and women are carved there, or in case a mosque had fallen, then would that still be treated as a mosque, or what would be the effect if there exists a place of worship on all the four sides of that mosque etc.

At Nadwa, the books of Hadees that I am teaching, I have myself studied them. I was 20 years old when I studied these books. The books of Hadees mentioned by me earlier are written in Arabic. I have not brought any of these books today. But, in case I am asked to do so I can bring them. The central point of these books is the same. Light has been thrown on namaz, fasting, Hajj, marriage, zakat, i.e., on all modes and aspects of life. The mosque means a place of offering namaz and sajda. Namaz and sajda can be offered at any sanctified place.

It means that no particular place is required for a mosque. A mosque is built for God so that his name can be remembered. I am telling this

according to the books on Hadees and Quran Sharif too. A mosque is a house of Allah by which everyone who offers namaz is benefited. One who makes a mosque is known as a builder. It is not essential that there must be Muslim population where a mosque is built. The mosque is built for travelers also. A mutawalli (trustee) has a relation with the waqf and not the mosque. It is, therefore, necessary that every mosque should have a trustee. The builder of a mosque can build it on his own land and he can also build a mosque on a land donated by some person of his own accord for this purpose. In case he signs a deed of endowment in respect of this mosque, then a trustee would be appointed; otherwise there is no need of appointing a trustee. The trustee would be only for that waqf, which is in the name of Allah, according to the Sharia. A trustee is responsible to look after the mosque which has been endowed in charity for waqf. This is a job of a trustee to attend to all works, religious or administrative. Management includes arrangement of mats, water, water-jugs and cleanliness. There is no particular restriction on payment of any remuneration to the trustee. He can accept it. It is not forbidden.

In case there is no trustee in a mosque, or no one has been appointed, the management of that mosque is taken care of by residents of that Mohalla. By residents of the Mohalla, I mean the people who mostly offer namaz in that particular mosque. If there is no Muslim living in that mohalla, then, any one of those coming to offer namaz in that mosque can make these arrangements. Where congregational (Jamaat) namaz is offered in a mosque, then an Imam is a must. Any well-educated and well-versed among those who come to offer namaz can perform the duty of an Imam.

If the Imam is a salaried person, then he will give the call (Ajaan) for offering panchwaqti namaz only then when this is included in the terms and conditions of his appointment. The Imam is not bound to call for namaz. This is the duty of a Muazzin (the person appointed for his purpose). The Imam will be bound for making calls for namaz only when this is included in the terms and conditions of his job.

I do not agree that it is necessary for an Imam to be well-versed with Sharia and that he must have studied the Holy Quran and the Hadees, that he must have received moral and ethical education; rather, he should have

enough knowledge pertaining to the namaz. It is correct to say that in earlier times, the rulers also used to be Imams. [Volunteer : that they were well-versed with matters relating to namaz].

The namaz is offered after hearing the Azan. If there is some doubt, the Imam would verify whether the Azan was given or not and then he would have the namaz offered. But, this is not necessary that there should be Azan before the namaz. Even in the case of namaz-e-jumma, the Azan is not compulsory. It is another matter that in this case more emphatic stress has been put in comparison to all other types of namaz. It is not necessary that there should be a special place in a mosque to give azan. This might have been the case earlier, but we do not see that calls for prayers are given from balconies of minarets of a mosque. That namaz can be offered even without a call for prayers. This is mentioned in the Fiqh books. According to the dictionary, Fiqh means intellect and intelligence. In a practical sense, Sharia is a collection of issues dealt within the Quran, Hadees, Ijma and Qayas. Practically speaking, there is not much of a difference between the Sharia and Fiqh. In the Sharia, making a call for prayers before the namaz is called Sunnat. Normally, a call for prayer is given by a person. However, since the invention of the loud-speakers, it is used to enhance the reach of the call.

There are many important books of Fiqh. I can quote the names of many famous books. But, I cannot say which Alim knows the name of a particular book or not. In my reckoning, one of the most important book is Raddul-Muhtar, which is famous as Mashhor-e-Shaami. Its writer's name is Mohammed Ameen Ibn Abideen Shaami. I do not think that Shareh Vaqaya is more famous than this book. Shareh Vaqaya is not the complete name of the book. Hidayah is another important book. All the issues related to Sharia are mentioned in these books. There is no fundamental difference between Sharia and Fiqh. Sharia has been methodically arranged in Fiqh. After having studied the Sharia closely and after giving it a close thought, the Sharia has been completed in Fiqh. Much has been said regarding mosques in the Hidayah but no specific instruction has been given about the shape of mosque. It is so written there that a mosque should be built on such a place which is neat, clean and undefiled, and that this should be the property of the person making the endowment, or one who has given it of his free will, or one who has given it as an endowments. It is also true that the building of a

mosque forcibly on some other person's land is also forbidden. In case it is proved that the land belongs to someone else then a mosque cannot be built there without the consent of its owner. If there already exists a structure in the name of a mosque, then it can be re-structured after the removal of the roof and this will be accepted as a mosque. If there is a property belonging to a Muslim or a non-Muslim, it cannot be forcibly converted into a mosque by demolishing or modifying it. If it is proved so, then that mosque will not be considered lawful. Whatever I have been telling, is from Fiqh, and this is found in Hidaya and many other books. This is also found in Fatwa Aiamgiri. Fatwa Hindiya and Alamgiri are names of one and the same book.

At least 10-12 Ulemas have written this book under the guidance of Aurangzeb. Whatever, I have said has also been dealt within this book.

Sunna and Hadees is almost one and the same thing. Whatever Prophet Mohammed did, or, said, or, saw other persons doing, and did not object to, or, whatever he approved of, is covered under Sunna. It can be divided into three sections as Fi'li, kauli and Taqriri. They are called: Sunnat Fi'li, Sunnat Qauli and Sunnat Taqreeri. Hundreds of books have been written about them. This only is called Hadees. The foremost among the writers of Hadees are: Abdulla Ibn Amr ibne Aas, Abu Baker Ibn Hazim and Hazrat Anas. The books written by them are not available. These books have become non-available a little after the demise of Prophet Mohammed. But most of their quotations have been incorporated into other books. During Prophet Mohammed's lifetime, Hadees was written by more or less than 10-12 people, and it was later compiled into one book. The compilation was done by a number of people. Hazrat Omar Ibn Abdul Aziz was among the first to do this on a large scale. While, Imam Malik was the first to compile the Hadees, which earlier used to be memorized by people. The book written by him is still available. It is difficult to say when this book was first published but it has been there for centuries. I have read the book which was published 50 years ago. I read this book for the first time about 40 years ago. There is no mention about the shape or design of a mosque. I do not remember if there was any mention therein about where a mosque should be built, or, about collecting contributions for building a mosque. There is also no mention of any restriction on the offering of namaz anywhere in a mosque even if there

are pictures/images of animas, birds, men and women on the walls and pillars of that mosque, except the wall facing the Qibla.

But it is wrong to say that I have said this simply on the basis of my own knowledge; this in fact, has been written in the books of Fiqh. There is a mention of restrictions on the display of pictures in the Hadees. This is wrong to say that it is written in the Hadees that a well is a must inside a mosque, or, outside, nearby a mosque. There is no such mention in Hadees that a mosque cannot be built on a graveyard. The only thing is that the sajda should not be performed facing the graves. In case the mosque is surrounded by graves on all the four sides then namaz can still be offered but within the four walls of the mosque.

I have never heard of a tented (Kanaati) mosque. If a mosque is surrounded by non-Muslim places of worship on three sides, then namaz can be offered there; no restriction is mentioned in any Hadees. If there happens to be a religious place of the Hindus to the north and the east, even then the namaz can be offered by passing through that side, even if the wall is closed on the western and the southern side. If a building has only two doors for entry in its eastern and the northern side each, and there are places of worship of the Hindus at both those doors, even then one can go inside and offer namaz, provided there is an entrance to it. This has been mentioned in the Fiqh. But there are no such details given in the Hadees.

If a person has not already done Vaju, then it is mandatory to do Vaju before offering namaz. If someone has come to the mosque from a faraway place, even then, they have no need of doing Vaju again. If a person has not done Vaju and there is no arrangement for doing so in the mosque and there is no water available nearby or very distant place from the mosque, then one can offer prayers after doing Tayammum (cleansing with sand). There is no need of water for Tayammum. I have seen such mosques where water was not available for Vaju. If someone comes from his home after Vaju, he is rewarded with virtuous recompense. This is written in the Hadees. The distance has no bearing or consideration.

I do not know much about the method followed by the Shiites for Vaju but I think there is a small difference between the method followed by the Sunnis and the Shiites. Shiites do not consider it necessary to wash their feet, whereas, we Sunnis consider it necessary. Vaju is necessary as per the

Quran. Vaju is for cleanliness and purity. This cleanliness is mandatory according to the Sharia. Along with the cleanliness of the body the purity of the mind is also necessary. In Vaju, the hands are washed three times and not five times; the mouth is washed and the wet hand is applied on the head only once. For one time Vaju, normally one rounded pot of water is enough.

If the Ulemas of any period reach a consensus regarding any question or issue, then it is called "Ijma". If someone differs at that time and has some objection and opposes the opinion of others, then it will not be called Ijma. But, once a consensus has been arrived at, then subsequent difference of opinion will be disregarded. There has not been any Ijma on the design or the shape of a mosque. No such issue has risen till now, that in case there is a graveyard on all the four sides of a mosque, whether the namaz should be offered there or not. Ijma is mentioned in all the books of Fiqh. All the great books of Fiqh have mentioned about Ijma in them. There is no difference of opinion on whether namaz can be offered in a building surrounded on two, three or four sides by non-Muslims places of worship. In fact the namaz can also be offered there. These are issues, which have been raised only recently. These are being deliberated upon and are still under consideration as no one has raised any objection and no one has expressed any difference of opinion until now. I cannot say since how long these issues are being raised but these must have been there for 50 years because I have been hearing about them since my childhood.

I do not remember at the moment, whether I had read anywhere about such issues before I was even able to understand things. As I have heard this issue was raised in connection with Babri Masjid and somewhere in Madhya Pradesh. This issue of Babri Masjid is of Ayodhya in Faizabad District. I have never been in Ayodhya. Neither I heard that Ayodhya is called "Mecca khurd" (small Mecca). I do not even remember that there was one grave less in Ayodhya than in Mecca. I also do not know that there were some dummy graves in Ayodhya.

To my knowledge, this problem never arose that if there were no minarets on a building, then it will not be accepted as a mosque. (He himself said that to his knowledge there were many mosques, where there were no minarets). A mosque once built never loses its existence. Once a mosque has come to exist then whether namaz is offered there or not, it will always be

accepted as a mosque. If congregational (Jamaati) prayers have not been offered there, even then the mosque will remain there if the builder of the mosque has handed it over to the people after completion, and then this will be accepted as a mosque even if the namaz had not been offered once there. If the intention of the builder was for mosque and he gave it to the people duly built as a mosque, then it is a mosque. I do not agree that it is written in the Hadees or Quran Sharif that only that structure will be recognized as a mosque where congregational namaz is offered.

The Shiites and the Sunnis can have separate mosques but it is not mandatory. If the builder of the mosque is a Sunni, then that masjid will be known as a Sunni mosque, but Shiites too can offer namaz there. That mosque is generally called the mosque of the Sunnis. If the builder of a mosque is a Shiite, the Sunnis can offer namaz there, but then that will not be called a Shiite mosque. It is not necessary that a mosque be called a Shiite mosque. If the mosque was demolished by others, that place will still be called a mosque as given in Ijma (consensus). This is also mentioned in every book. But I have no knowledge of any particular example in this regard or about demolishing of a mosque. However, such an incident did take place in India when the Babri Masjid was demolished. There has been a consensus on the incident that took place on December 6, 1992. The place of a demolished mosque will always be known as a mosque. This has been agreed upon under Ijma throughout the ages. That place remains a mosque as also agreed upon by all the Maulanas of all times — that's what I had read. I read about this in the Fiqh as well. The Ijma on this issue was possibly reached as a result of contemplating the many issues that may arise in future. And so, the possibility of such a case was foreseen and Ijma was reached accordingly. It is however incorrect to say that Ijma is only reached on "current issues" and that there is no scope of doing so with regard to anticipatory or probable issues.

The books in Fiqh also mention that if the walls and pillars of a building except the wall facing Qibla, are covered with images of animals, birds gods and goddesses and other living beings, namaz can still be offered there. However, namaz can also be offered if these images were engraved on the wall facing Qibla. But, this namaz will be deemed abominable. Similarly, if there was a pillar with such images between the Qibla wall and the person

offering namaz, namaz can still be offered there. But, if these images were too close to the person offering namaz, namaz can be offered there but then again it will be deemed abominable.

Statement certified after having been read out

Sd/-

Mohammed Burhanuddin

16th September, 1997.

Typed on our behest by the stenographer in the Open Court.

Ordered to be present for further deposition tomorrow, the 17th September 1997.

Sd/-

16.9.1997

Date 7th September, 1997 — In continuation of 16th September 1997 — PW — 11, Mohammed Burhanuddin's statement under oath:

Ijma can be divided into three parts since there are three types of Ijma, namely a) Ijma-Sareeh, b) Ijma-Sukuti and c) Ijma-Admul-aili-bilfasl. The most important and the most effective one is the Ijma agreed upon during the lifetime of Prophet Mohammed by his companions known as "Sahabis". As regards the followers every Muslim is his follower. Those who were companions of Prophet Mohammed during his lifetime, they are called "Sahabis". Sukuti Ijma is of another type. It is so when some Ulemas have expressed unanimous opinion and the others refrain from giving any opinion. The third Ijma is that when the opinion of the Ulemas is divided into two schools of thought and there is no scope for a third line of thought. The Ijma of Sareeh type cannot be changed or amended under any circumstances because this has been given by the Sahabis in the presence of Prophet Mohammed. Those who lived during the lifetime of Prophet Mohammed. Those who lived during the lifetime of Prophet Mohammed, if they have given Ijma even after the passing away of Prophet Mohammed it will be accepted as correct. Although the second and the third type of Ijma are not as powerful as Ijma-Sareeh, yet I have not read anywhere about their alterations. It is wrong to say that the second and the third types of Ijmas are weak. Those Ulemas who are experts in Arabi, those who are highly learned and have in depth knowledge of the religion, whose thinking is pure and clear and of high quality, nothing is beyond their grasp, and who are extremely religious in practice as

well, only such people are called “Mujtahid”, and only they are entitled to give Ijma. It is also true that these gentlemen have also to keep in mind the advice of Prophet Mohammed that they should not give Ijma on any such matter which is wrong according to the Sharia.

There are five kinds of laws of Sharia, namely ; 1) Farz (religious duties, 2) Haraam (fobidden), 3) Makrouh (abominable). 4) Mandoub (regrettable), and 5) Ja,ez (permissible). These can be called religious commandments. In a layman’s words, it can be said that the category of Haraam includes those deeds which have been forbidden. The forbidding of such deeds has been done very strictly and on the basis of sound reasoning. While actions under “Makrouh” are also forbidden, but not with the same strictness. In the category under “Ja’ez” fall two kinds of deeds or actions. These deeds can either be done or left undone. There is neither a reward nor punishment for doing or not doing these actions. For example, I can sight a type of Haraam which is that a mosque cannot be built with money earned unlawfully or illegal means.

Questions: Has there ever been a decision under “Sakuti” or “Admul-ailli-bilfasl” Ijmas wherein under the “Makrouh” commandments and instructions of the Sharia, forcible building of a mosque by demolishing the place of worship of other religious has been prohibited?

Answer: I am not aware of that. I do not remember.

All books do mention that it is incorrect to forcibly demolish the places of worship of other religions or the properties of other people, to build a mosque.

If the Imam is a Sunni and the person offering namaz is a Shiite. He (the Shiite) can still offer namaz in the Shiite’s way. Ijma is not taken on such petty matters and, therefore, there is no Ijma on this issue.

Having studied and understood the first three sources of Islam, with the help of the ideology thus formed about them, the issues, although not covered under them yet could be solved, keeping in view their basic principles. This comes under Qayas, (this is analogy or syllogism), such as to give someone that quantity of wheat which has been taken from him. This is very clearly given in the Hadees.

There is no instruction/order about rice. So, in such cases to decide the issue of the rice, keeping in view the basic principle of the first three sources, is covered under Qayas. The need for Qayas arises at that time only when some issue cannot be solved under the first three sources. If the Quran, Hadees and Ijma are silent about any particular issue, in that case the need for Qayas arises. According to my knowledge, the Quran, Hadees and Ijma are silent about the shape or design of mosques. When any question arose on the shape or design of a mosque the Ulemas' opinion has been sought. They gave their opinion whatever they considered proper on the basis of Qayas. I have had never faced any such issue in connection with the shape and design of mosques where the need for applying Qayas has risen. To my knowledge, I have not come across any such issue where there had been created any obstruction by the people of other religion for entering in the mosque and thereby the need for Qayas by the Ulemas had arisen. If someone build a mosque for his own family only and the outsiders are not allowed to offer namaz in that case it will not be called a mosque.

There is no mention in the Sharia or in the Hadees about any tradition/custom in regard to the shape or the design or the construction of mosque. The people of any particular period can build a mosque according to their tradition/custom, choice and their economic condition. A mosque can be built adjacent to a house if there was passage for the public and there was no restriction on their movement. It is wrong to say that a public mosque should not be built adjacent to somebody's house. A mosque can be built alongside, just adjacent and touching a temple, in the same "ahata" (compound). It is wrong to say that in order to maintain the continued existence of a public mosque, the continued offering of prayers in that mosque by the public is a must always. (Volunteer that even if the prayers are not offered, even then it will make no difference in the status of the existence of the mosque). When a builder endows a building or a land for a mosque due to his sentiments or intentions, then that would be called a mosque whether prayer are offered there or not.

Tradition/custom is not covered under any religious source according to Islamic law. If the tradition/custom does not conflict with the religious principles then it comes under "urf". It is, therefore, accepted as such, but this acceptance or the recognition is temporary because if the urf changes then its recognition or acceptance get discontinued. If the tradition/custom keeps continuing and does

not change, it keeps getting acceptance and recognition. But, the Tradition/custom is formed only when it is accepted and recognized in a major part of a country or in the whole of the world. Different customs in different periods of time have been established in respect of the mosque in India. I will not be able to tell when and where the first mosque was built in India. I will not also be able to tell when and where the custom of building domes and minarets on mosques had begun in India. No such custom was established that, in a particular period of time, minarets were built in a mosque then, every mosque in that period was built with minarets. To my knowledge, the custom regarding the shape of the mosque had in practice for two to three hundred years. I have no knowledge whether any customs regarding the shape i.e. design of a mosque existed in 1526 AD or not, or if there was one, what was that.

If a plot of land is endowed for a graveyard, then that would be called a graveyard. That place would also be called a graveyard where dead bodies are consigned to. If a particular place is endowed for a graveyard, then that place will be recognized as a graveyard even if dead bodies are buried there or not. A grave can be an un-cemented or a cemented one. But, it would be better if it is left un-cemented, and in case it is to be made a cemented one, then it could be given the shape according to the choice of the people. I have never seen the tomb samadhi of a Hindu. When I have not seen a Samadhi (tomb of a Hindu), then I cannot say whether the grave of a Muslim and the shape of the Samadhi of a Hindu are one and the same. Graves in India are built in the direction from North to South. There is no other special distinction (about the graves) in India as far as I know.

In case a land has been endowed for a graveyard and even if no dead bodies are buried there, even then that endowment cannot be returned or undone. The endowment never expires. Every graveyard cannot be called a Takia i.e. the abode of a faqir. I have heard this off and on, but do not know this in detail. It is not necessary that some person should be appointed for the upkeep, care and maintenance of the graveyard. It is not necessary according to the Islamic law.

I know the word Darvesh. This is a Persian word, but I do not know who and what is a darvesh and who is called a darvesh in India. I have some knowledge about a Khanqah (shrine), but not much. A Khanqah is a place where some wise old people live whether many in number or one only, and other people keep

coming to them, even if those wise old men are alive or had passed away but people still come to that place, then that place is called a khanqah. But this word is not given in the Sharia, it is used in the common language of the people.

If an endower has endowed an ahata/compound (boundary) and some open land for a mosque, then whole of that endowed place would be known as a mosque, even if the mosque has been built on a small portion only.

Question : If in one and the same ahata/compound three domes with roofs are built to the West, and there also exists an almost 200 year old temple to the East will in that case, too, the whole of this ahata/boundary or compound still be called a mosque?

Answer : If there was circumstantial evidence to the effect that a temple was built at later stages on the same ahata housing the mosque, then the whole land will be considered as mosque.

I have seen Hindu temples from quite a distance. This is wrong to say that I have seen the temples from a close distance. I have not read anything about the temples of the Hindus, rather I have only heard a little about them.

I have no knowledge whether worship is offered in these temples or not. The chiming of the conches and the gongs is heard outside. I do not know the worship is offered five times or the conches and the gongs also chanted for five times. The Muslims say their prayers five times a day. All these have fixed timings. The first one is called "Fajer" it is an Arabic word which means the dawn. So this is known as Namaz-e-Fajer. I do not know that sunrise is called "Ushakaal". The Fajer ends as soon as the sun rises. As soon as the sun starts going down a little, time begins for the second namaz, which is known as "Namaz-e-Zuhur". Nowadays, the sun starts going down at quarter past 12 in Lucknow, when the time for namaz-e-zuhur starts. The third one is called "Namaz-e-Asr". When the shadow of a person doubles from the original size then it is time for namaz-e-asr. Now a days, this time falls at about 4:30 PM in Lucknow. After this, it is time for the "Naaz-e-Maghreb", which is after the sunset. The fifth namaz is called "Namaz-e-Isha". When the red and white colours both fade from the sky, then it is time for namaz-el-sha. Nowadays, this time begins at about 7:45 PM in Lucknow. If at such a time worship is being offered in any temple alongside any mosque, even then the namaz can be offered. A person offering namaz is so deeply absorbed in it that he does not have any feeling of sensitiveness to all this. Every namaz takes more or less 15

minutes to complete. One namaz means a namaz offered at a time. I do not know whether the chiming of the bells and gongs etc. at the time of Aarti by the Hindus also continues for 15-20 minutes.

I have not heard the names of any gods and goddesses. I have not heard any details about them. I have heard the name of Ram, but I do not know anything in details about him. I cannot say anything about his capacity and status.

I do not know as to when I was asked to render witness in this case for the first time. I did not read any book on Bhagwan Ram after I came to know about my rendering as a witness. I know very little about other religions. I do not know that at the time of sunrise, the worship of Bhagwan Ram is performed by singing devotional songs, and by chiming the bells, conches and gongs etc. including the decoration of the idols of Bhagwan Ram and Janakiji, according to the Hindu religion, for half or $\frac{1}{4}$ of an hour. I do not know whether Ayodhya is as religious a place to the Hindus as Mecca is to the Muslims. I have not read any such book wherein there was any mention of Ayodhya or that might have been written about Ayodhya only. I have read some general books, wherein some mention was made about Ayodhya. I have read that there are many temples and mosques in Ayodhya. there are 36 mosque as I had read. But I have not read anywhere about the number of temples in Ayodhya. I had read a book written by Mr. Shahabuddin about Babri Masjid, in which I had read that there are 36 mosques as far as I can remember.

I have read in the History that Babar did not visit Ayodhya. Babar had come to India in the Hijri year of 932, as far as I remember. I have read that there were already many mosques in India before his arrival. This I am telling on the basis of my guess because the Muslim rule was already established at many places in India. But there is no satisfactory mention of mosques at that time in any book. The book in which I have read the mention of 36 mosques in Ayodhya was written and published after the year 1986. I do not know if any other king after Babar had got a mosque constructed in Ayodhya. Babar had got a mosque build in Ayodhya, this I had read in the book published after 1986. I have not read it in any other book except this one.

I have passed through Faizabad but I have never been to that place. I had gone to Azamgarh from there. But, I do not know whether Faizabad came on my way while coming back from Faizabad or while going. Babar had won his last battle in India in 932 Hijri. As far as I remember, he had won this battle

against Sikander Lodhi. I do not remember if Faizabad was included in the Awadh Province then. I do not know as to who was the ruler of Awadh in the year 932 Hijri. To my knowledge no other mosque had been built by any Mughal king in Lucknow except the Teelewali mosque, which is heard to have been built by Alamgir Aurangzeb. I have never read in any history book or government gazette notification as such that a mosque had been built after demolishing a temple.

I have read something about Akbar. I have read the Ayena-Akbari a little but not the whole. I have read it in bits. I have not read anywhere that Raja Todarmal and Maan Singh had come to Ayodhya, and that they had solved this problem once and for all. I have not read that the entire disputed property had been given to the Hindus.

I have heard the name of Shankeracharya. I do not know whether he was an exponent of the principles of non-dualism (advait vad), that is the oneness of God. I am not aware that Swami Ramanand was in the same tradition. I do not know if the Nirmohi Akhada run by the Ramanandi sect, is a shrine (that is math) of the Panchayati Vairagis (mendicants), or, a temple of theirs had continued to exist there. I do not know but there is a mention of Hindu-Muslim riots of 1934 in a book written by Mr. Shabahuddin. I have also heard and from many people heard that namaz had continued to be offered in the disputed property. I have also heard that in 1949, idols were placed there and the Government had locked the place, thereby stopping the Muslims from going there. I do not know that the Muslims were debarred from going there since 1934.

There are other teachers also who are older and more learned too than me. There are many categories of scholars. As far as I know, there is no first category scholar in India. I can name a few gentlemen who fall in the second and third categories. Maulana Mufti Zafaruddin, Maulana Mujahid - ul - Islam, and Maulana Mufti Mohammed Khalid Saifullah are amongst them. There are few Ulemas of lesser status, in Lucknow, such as Mufti Mohammed Zahur. Some people consider me in this category too.

It is wrong to say that whatever I had stated about mosques, graveyards and other Islamic religious places, neither has any mention in the Holy Quran, Hadees, Ijma, nor in any other religious book, or, any tradition. It is also wrong

to say that the whole statement is my personal opinion. And, it is further wrong to say that I had twisted facts of history.

(On behalf of respondent No. 3, Nirmohi Akhada, Cross- Examination by Shri R.L. Verma, Advocate, ends).

Statement certified after having been read out.

Sd/-

Mohammed Burhanuddin

17th September, 1997.

Typed on our behest by the stenographer in the Open Court.

Ordered to be present for further deposition tomorrow, the 18th September, 1997

Sd/-

17.9.1997

(In continuation of 17th, September, 1997) — Statement by Mohammed Burhanuddin or oath begins:

(Cross-examination on behalf of Dharam Das, respondent No. 13, by Shri Ved Prakash, Advocate) The witness stated on oath that:

The books on history that I had read pertained mainly to the period after Prophet Mohamed. The Prophet is not the founder of Islam that is to say Islam had not been founded by him, rather it was Adam Aleh Salam who founded it. Prophet Mohammed was the last prophet and he gave the final shape to Islam. Islam had not acquired the final form before him. It was a comprehensive development given by him to Islam. To give details of the entire development would require a whole book, and books have actually been written about this. He had given detailed instructions covering every aspect of life which was not there earlier. The battles fought by Prophet Mohammed were not 100 in numbers, but they were only 27 to my knowledge. These include those battles also which were just minor skirmishes, in which there were no casualties. These battles were fought against those people who created impediments or hindrances against Islam and who did not listen to his admonition and advice. It does not necessarily mean that all those people were idol-worshippers. I have no such knowledge that nature used to be worshipped in Mecca before Prophet Mohammed. But it is a fact that there used to be idol-worshipping. There is no

doubt that Prophet Mohammed was against idol-worshipping and that he had preached and taught people to do the same thing.

I know that there is an animal known as a pig. But I cannot say whether there is any other animal like pig in shape or figure. It is true that according to Islam, a pig is an impure and unholy animal. In case a mosque crumbles and falls down and the place is turned into grazing ground for pigs, even then the mosque will continue to exist. I do not remember any such example to quote where this might have happened. This is another matter that the place would apparently become defiled by being turned into a grazing ground for pigs, but that could be made un-defiled as the things defiled by urine and shit are cleaned. I have heard the name of the city of Lahore. I have not heard that there used to be a mosque by the name of Shaheed Ganj. I do not know that Sikhs had taken possession of that mosque and had built a gurudwara there. This is correct that nowadays Lahore is in Pakistan. And, since the Sikhs had built a gurudwara there, I do not know if the Muslims do not call it or accept it as a mosque.

I have heard the name of Somnath Temple. I have also heard that Mahmood Ghaznavi had tried to demolish it, but the view point or reason for doing so was political and not religious. As far as I have heard, Mahmood Ghaznavi believed in Islam. I think that if he had demolished this temple because of political reasons, then he was right to do so. But in case he had done this on account of some religious reasons, then he was wrong. I have no knowledge that he had smashed any idol in the Somnath temple.

I do not know if he or his associates had offered namaz in that temple. I also do not know if he had tried to convert Somnath temple into a mosque. Had he succeeded in converting this temple into a mosque, it would have been a very illegal precedence. In Islam, political matters are sometimes separated from religious ones. If it was about Islamic politics, it would be dealt with according to Islamic law. But if it was about the present politics and was further deviated from Islam, then it would be considered to be inconsistent with religion. If a course of action was taken from a political point of view and it happened to be against the principles of Islam, then it would not be acceptable by the religion. It would be considered unlawful in the religious context.

Question: If a Muslim politician works against principles of Islam and demolishes temples, does this still make him a follower of Islam?

Answer: We will call him a Muslim just as we do to one who does not pray or does not keep a fast as long as he is true to his religious 'aqeeda'. What we mean by 'aqeeda' is faith and belief and also 'aastha' or 'wishwas' or 'yaqeen'. In Islam one cannot grab someone else's property, inflict losses unlawfully, harass or annoy. This is just not allowed. Committing such an act is illegal. If politics is consistent with the principles of Islam, then it would be known as Islami politics. And, if it was against the principles of Islam, then it would be un-Islamic. Islam does not permit any action which is against its principles. According to Islam, it is illegal to demolish a temple without the permission of its owners.

I have heard that in India, there were many Muslims who had got temples built for the Hindus. I have also heard that they had later on handed over these temples to the Hindus where they carried out their worship. But, I have not heard that those Muslims who had got these temples built, had gone back there again to offer namaz. I have already mentioned that idol worship is against Islam. It is wrong to say that a mosque cannot be built where idols have been installed, unless they (the Muslims) have acquired the land legally. Acquiring the land legally means the owner had given it up with his consent/approval, or, had donated the land, or, had sold the land provided there was an owner of this land. This can be God's land, or, of a ruler, or, this can be a Government land. It can also belong to a person being his private property. If the land belongs to the Government, then the ruler would have all the rights to it. If this is a Government land, and the ruler is a Muslim, and has been legally appointed so, then the ruler can build a mosque on this land. If another ruler conquers the existing one then the possession of the mosque would automatically shift to the conqueror.

I have heard that Hindus believe in idol worship, but I have not seen anyone doing so. I do not know that the Hindus worship every kind of God's creation such as, trees, plants, animals, birds, too. I do not know if they worship the hearth, platter, roller pin or whether they also worship signs of feet or footprints. But the Muslims do not worship these things. In fact, they worship God only.

(At this stage, the able advocate drew the attention of the witness to the white and black photos of the disputed property taken by the Department of Archaeology. U.P.)

I have seen the Photographs No. 9 and 10. I have not been able to understand them. Hence, I cannot answer this question as to whether these Photographs are of a pig or not. I have seen Photographs No. 31 and 32 which depict some sort of impressions. I cannot say whether these photographs are of Hindus gods and goddesses. Photographs No. 81 and 82 look similar to each other which depict a child in them.

{At this time the able advocate drew the attention of the witness to colour photographs of the disputed property taken by the Department of Archaeology of Uttar Pradesh.}

I have seen Photographs No. 38, 39 and 40. I do not see signs of any animals there. Rather, some stones are seen in them. The Photographs No. 38 depicts an archaic gate. The eyes and the mouth stated to be seen on these stones are not visible to me anywhere.

In Photographs No. 61, one picture that of Budha is visible clearly, but the other two pictures are dim. Photographs No. 62 depicts a small cistern which the Shiites use. I cannot call it a 'havan kund' because I have never seen one. I have seen Photographs No. 13, 14, 15 and 16. I do not agree that a picture of a pig is seen in all of them. A hole is seen in Photographs No. 16, which could not be called a picture of an eye of a pig. I cannot call the lower portion of the said hole, a face. This is wrong to say that the form of a pig is seen in these photographs and that I am knowingly concealing this fact.

When a Muslim gets a mosque constructed, he will never have pictures of living things on the inner or the outer portion of the mosque. The question of having pictures of a pig does not arise. If a picture of some living thing is made on the outer side of the four walls of the mosque, then it will not be permissible. This is difficult to say whether any Muslim would do such a thing or not because many Muslims also do some such things which are not proper. In case a Muslim while getting a mosque built, also gets pictures made on the other side of the four walls of the mosque, then it would not be permissible. (Volunteers that it would be permissible to say the prayers in this mosque. Any person can get a mosque built. Any Muslim can get a mosque built).

Question: In case some such women, whose earning is haraam (that is, not permitted according to the Islamic law), gets a mosque built, will that mosque or that building still be called a mosque?

Answer: It will be improper to offer the prayers in that mosque. If there is only one mosque which has pictures of a pigeon on its walls outside I will offer my prayers in that mosque, provided there is no such pictures in the inner portion and also there are no other mosque around. If a Muslim, who is committed to his religion, is getting a new mosque built all over again, he will not have any footprint made in that mosque. He can have the pictures made of any non living things because this is not prohibited in the Sharia. But he cannot worship these things.

No Muslim, while getting a mosque built a new, would have the pictures of living things whether animals, birds, men or women, or, gods and goddesses, in the inner portion of the mosque. In case he does so, then he would be treated a sinner. But the building would still be called a mosque, provided other conditions are followed completely. I have neither seen nor heard, nor read about such a mosque having been built anywhere, where the builder of the mosque had got such pictures made in that mosque. Whether, such a building is a mosque or not, is entirely a different matter altogether.

I belong to Sambhal, District Muradabad. There is a Jama Masjid. It is wrong to say that there was a temple of Bhagwan Vishnu there before being demolished by a Muslim ruler and a mosque built thereafter.

(Cross-examination on behalf of Shri Dharam Das, Respondent No. 13, by Shri Ved Prakash, Advocate, concludes).

(Cross-examination on behalf of Shri Umesh Chander, Respondent No. 22, by Shri Vireshwar Dwivedi, Advocate).

I have studied Hadees (traditions set by the Prophet). Fiqh (Islamic law), Tafseer (Commentaries), Mantiq (Logic), Philosophy, Asul-I-Hadees (Principles of Hadees), in Darul-Uloom, Deoband. I had passed the standard examination of Alim, also. My subjects in Alim were: Nahu (Arabic Grammar), Sarf (Morphology of Grammar), Balagat and Philology, Asul-e-Fiqh (principles of interpretation of Quran), Adab (Literature), Fiqh (Islamic Law), Hadees (Tradition) and Tafseer (Commentary and interpretation of Quran). Apart from these subjects, I had studied up to 7th class in a Government school where my subjects of study were Urdu, a little of Hindi, Mathematics and Geography. It is difficult for me to explain about my

standard of little knowledge of Geography and Hindi. I did not study History in the school. I have studied History privately on my own at my house. I have studied History pertaining to different periods, viz. Ilaphat, Khilafat-e-Rashai, including both kinds of history i.e.; religious and political. I have studied political and religious History both. I have studied in brief the Indian History relating to Mughals. I have studied some history relating to Khilafat-e-Banni Ome'y'a and Khilafat-e-Abbasi, also. I have studied a little bit of many of the Mughuls kings. I have studied some of the important incident about them. I have read an important incident pertaining to the period of Humayun, that he was banished from India. Then, he again conquered India with the help of the Iranians, and established his rule.

The most important first event of that period is Babar's coming to India and fighting famous battles first at Panipat and then at Chittor. Whatever I have read about Babar, I gathered that he had more political interests, than religious, for coming to India. He was somewhere near Samarkand, before coming to India. He was near Samarkand and Kabul. He also lived in Kabul. I have heard the name of Babar-nama. This is translation of Tuzk-e-Babri. I have read the translation of this book in parts.. I do not remember who has translated it. It is difficult for me to say when I had read it. It is wrong to say that I read this translation after 1986. In fact, I had read this before 1986 but it is difficult to say when exactly I had read it. I mostly keep reading books as it is my habit.

I had read the history of one or two kings before Babur such as, Sikandar Lodhi. It is difficult for me to answer this question whether India was Dar-ul-Islam (Place of Islam) or not, because I do not have the correct knowledge about the affairs of India of that period. I do not know whether Babar used to be called a Ghazi (one who fights against the infidels). Ghazi is an Arabic word which means one who fights the infidels. Ghazi is not a title or a rank. Even if an ordinary man participated in a battle he can be called a Ghazi according to the dictionary. I cannot tell that apart from the dictionary on what account he cannot claim himself to be a Ghazi. Ghazi is not a religious term nor does it have any specific concept. I have no such knowledge that Babar had ever claimed himself to be a Ghazi.

Nadwat-ul-Ulema which has many objectives, is an organization. It has very good objectives such as the spread of education. That organization had

established an institution called Dar-ul-Uloom. It is a madarsa. I am a senior teacher (mudarris) in that madarsa. I am a teacher of higher class. Our institution has published many books on religion in Hindi. I do not remember at this time that there may have been a book named "Namaz Kyun Aur Kaise". Ablution (Vaju) is a must for offering prayers. Before the congregational prayers (Jamati namaz), it is a traditional practice to begin with the words 'Allah-o-Akbar' to say and hear taqbir 'Allah -o- Akbar but it is not compulsory. After taqbir, Quran-e-majeed is read in a standing posture. Thereafter, the bowing posture, that is genuflexion and sajda, that is, to bow the head on the ground and then taking a sitting posture in a particular way again sajda is performed. In this way, one rakat (one set of standing, genuflexion and standing, etc. in prayers) is completed. The second rakat is also completed as the first one. It is not compulsory to say prayers barefooted. If there are sanctified, pure and clean shoes worn, the prayers can be said. By pure shoes is meant that there should be no dirt on the shoes and whatever other impurities have been mentioned by Sharia should not be there on the shoes.

If a person starts from his home after doing ablution, and if on the way his shoes or socks get polluted with some impurities, in that case, that person cannot offer the namaz. If someone starts from home after ablution for offering namaz, he is rewarded with a virtuous reward at every foot step. There is a mention in the Hadees of sin being remitted in reward of this. After the ablution, whatsoever time may have been passed on starting from home for the namaz, one is rewarded with a virtue, for each step taken and also ordinary sins are pardoned, but not the serious ones. This, I have read in the Hadees. This has also been mentioned in many books related to Hadees. This is also written in Tirmizi Hadees. Generally, such matters are mentioned in the chapter on Vaju.

We tell our pupils about the magnitude of virtuous rewards that are bestowed on having performed Vaju at home.

The literal meaning of Mujtahid is great scholar. The leading personalities amongst the Ulemas decide as to who is a Mujtahid. I think that, at this moment, there is no such organisation of the Ulemas in India. Nowadays, no one is said to be a Mujtahid. No organization has appointed me a great scholar. I do not consider myself a Mujtahid of any standing.

Hidaya is a book in which issues relating to Sharia and the orders on them are given. This Hidaya has been written by Burhanuddin Marginani, which contains religious problems. There are explanations/interpretations by not very high learned scholars. The words and utterances of the past great Ulemas have been copied in this book. This is not an interpretation but a Fiqh. I have read Hidaya several times. I have taught it also. This is correct to say that this book is a compendium of Islami Law. Those who are believers of Islam are Muslims. This is correct that this law is for Muslims only. (He himself said that the non-Muslims living in a Muslim- ruled state are also subject to follow these laws).

I have never heard the above-mentioned book named Hidaya Fil-furu. In Arabic, furu' means branches. It is not so that if we consider Quran Sharif as a root, then Hidaya would be its branch: Those people who are religious and faithful and who are believers too, they lead their lives in accordance with the Holy Quran. Those who do not believe and are unfaithful, many words have been used for them in the Quran, for example, atheist, polytheist, kafir (yahud or yahudi, that is, Jews) and Nasrani (Christians), etc. etc. Jazia is a capitation tax which is levied against those non-Muslims in an Islamic state who are exempted from military service. Those who pay the capitation tax are called zimmi. It is ordained that the place of worship of a zimmi (non-Muslim citizens of a Muslim state, who are held in trust) would not be demolished. Whosoever non-Muslim lives in an Islamic state is a zimmi. No non-zimmi can live in an Islamic state permanently. If he still lives there and does not pay capitation tax, then this tax is recovered from him forcibly as is done in the case of violation of any other rule or law. In case, a person is old, a child or a worshipper, then the capitation tax would be waived.

I do not have any knowledge whether capitation tax (Jazia) used to be collected from the non-Muslims in India at the time of the arrival of Babar. One who fights against the Caliph in command is a rebel. (He again said that Khalifa-e-waqt (the caliph in command), means the lawful Government. Házzrat Ali had been chosen the Caliph after Hazrat Osman. The Sunnis acknowledged Hazrat Au a lawful Caliph. The murderer was not from the Sunnis.

We accept Hazrat Maawiya as a Muslim. There has been a battle between Hazrat Ali and Hazrat Maawiya, but Hazrat Au had not been killed.

This is correct that all the sects of Sunnis including, Hanfis, acknowledge Hazrat Abu Bakr Siddiqui as the first Caliph after Hazrat Mohammad and the Shiites acknowledge Hazrat Ali as the First Caliph after Hazrat Mohammad, as far as I know. Apart from this, there are other differences, but this is the main fundamental difference. I have not heard anywhere that these two sects had riots amongst themselves in Faizabad. There is little difference in the methods of both Shiites and Sunnis in offering prayers, but I have not got much knowledge about the methods of offering Namaz by the Shiites. The Shiites raise their open hands up and down after namaz, while the Sunnis do not do so. They keep their hands upside on the knees while they are in a sitting posture and moving their necks, left and right, they offer salaam.

I have no such knowledge that both these sects suspect each other, lest any of them have brought any idol with them. It is not so that the Shiites had migrated to West Asia, Persia and India because of having been forced out by the Sunnis.

This is wrong to say that the Sunnis do not like to offer their prayers in a mosque built by the Shiites, but this is correct to some extent that many of the Sunnis do not like to offer their prayers under guidance of a Shiite Imam. I have heard the name of Nizam of Hyderabad. As far as I know, he was Sunni. I have no knowledge about it that he could not offer his prayers in the Jama Masjid in Hyderabad, even as being a ruler of the state. I do not know whether the British Government had passed any law regarding awqafs (plural of Waqf in India) or not. I know this that Uttar Pradesh was known as United Provinces earlier. I have a brief knowledge about the Waqf law passed recently by the Government of Uttar Pradesh. By saying 'brief knowledge' I mean that I know about the passing of the law. But, I do not know as to what that law was, or the details thereof. I have been living in Lucknow since 1970 and I know that Lucknow is the Capital of Uttar Pradesh. I have been imparting religious education. In Islam, the awqaf (laws relating to charitable endowments) has its own importance. My job is to understand myself and make others understand the importance of the awqaf, according to religious books, and not to learn and teach the laws made by the Government. The mosques and the graveyards both come under laws relating to endowments. (Again said) endowments have also been made in respect of the graveyards and the mosques. I have some knowledge about this that there are separate

Waqf Board for Aukafs of shia and Sunnis. I have not tried to find out as to why this is so).

Statement certified after having been read out.

Sd/-

Mohammed Burhanuddin

18th September, 1997.

Typed on our behest by the stenographer in the Open Court.\

Ordered to be present for further deposition tomorrow, the 19th September, 1997.

Sd/-

18.9.1997

Dated 19.9.97 — (In continuation of 18.9.97, statement by Mohammed Burhanuddin, on oath begins):

I had some knowledge; therefore, I did not make extra efforts to find out as to why separate Waqf boards were constituted for Shiites and Sunnis. I had some forehand knowledge of some of the reasons for this already. The Shiites have some such awqafs for taziadari imambara (the places for keeping tazias for the Muharram) and marsiyas (funeral notes for the dead), which the Sunnis do not have. So there are differences on these issues between Shia and Sunnis. But I do not agree that because of these above said basic differences between the two, there has been continuing dissension or quarrels. Volunteer : that he had no knowledge of a single such disturbance which was caused because of these reasons. This is wrong to say that I am making a wrong statement about this.

I do not know the details regarding azadari (offering of condolences and mourning). It means literally 'to express condolences on the death of someone'. It is not so that the Shiites like to do this and the Sunnis do not let them do this. Madeh-i-sahaba means the praise of the companions of the last prophet of God, which includes the first three caliphs, but this is generally known that Shiites do not recognize the first three caliphs. In their opinion, Hazrat Au was the first caliph. It is difficult for me to give any details because I

cannot give any date, but this could be understood that the idea of this discontent cropped up nearly 100 years back. I have heard that when Sunnis offer Madeh-i-sahaba, the Shiites feel it bad, so they start reading Tabarraah relating to merriment and hilarity.

This is wrong to say that there has been continuing fundamentally basic conflict between the Sunnis and the Shiites for a long time now and that I am knowingly concealing it.

Pakistan is a Muslim country and the Muslims are in a majority there. I do not know that Pakistan was created by partitioning India because of Islam. The Qadiyani Sect is not recognized as Muslims by the Sunnis (who follow the tradition of Islam by the Holy Prophet) in the whole world. I do not know that the Shiites do not have the equal status amongst Muslims in Pakistan. I have heard the names of the countries of Arabia. I know the name of Saudi Arabia. At this stage, the advocate of the plaintiffs, Shri Z. Jilani, raised an objection saying that a question relating to the difference of opinion between the Shiites and the Sunnis of Saudi Arabia, or, of any other Islamic country cannot be asked from the witness and also the question whether a particular country is Islamic or not can also not be asked, because this has no relation to the issues involved in the case. The witness has been presented as expert, who is being examined for the purpose of proving Islamic law and to throw light on it. In this case, it appears from the pleading by the party that the disputed mosque was got constructed by Mir Baqi who himself was a Shiite. Whether this is meant for all the Muslims, and whether the Sunni Waqf Board can file a law-suit or whether there are any fundamental difference between the Sunnis and the Shiites, and what is the Islamic tradition in other Islamic countries. In any case, this question cannot be asked whether a country is Islamic or not.

The Holy Quran and the Hidya are both written in Arabic language. The Hadees is basically in the Arabic. Prophet Mohammed was Prophet to all Muslims. Hence, it is wrong to say that these books are only meant for the Arabs. Since Prophet Mohammed was born in Arabia, his mother tongue was naturally Arabic and, hence, the importance attached to this language. Islam began with Adam (Peace be upon him) who is known to have first come to Lanka. Whereas Prophet Mohammed, the last Messenger of God, gave it the

final shape, and further propagated it on a larger scale. Islam spread from Arabia where he was born, to all over the world.

The Masjid-i-Haraam is a sacred place and is situated in the Holy City of Mecca in Arabia. Every Muslim, who is financially sound, physically fit and possesses a mean of transport, has the duty of performing of Hajj, at least, once in his life-time. It is the duty of every adult Muslim. The Holy City of Mecca is, thus, the most pivotal place for Muslims all over the world. It is the center of religious activities and not just for living and lodging purposes.

Question: Islamic laws applicable in the Arab world are considered to be of great importance to all the Muslims of the world, particularly the Sunnis?

Answer: These are Islamic laws. Hence, the importance's is not only because of being applicable in the Arab world, but because this is an Islamic law.

It is wrong to say that I was trying to conceal the truth about this. I do not believe that Sunnis and Shiites are completely different sects.

The Holy Quran mentions about Tayammum, while referring to the Namaz but there is no such mention in the Holy Quran that Vaju is a must before namaz. If possible, one can take bath, and if there was nothing around, then perform Tayammum (washing with sand), but again, only out of compulsion. But the truth is, Vaju has to be performed before namaz and taking bath after contacting a woman, and in the absence of water, Tayammum is performed, that is, washing with clean sand. The absence of water also covers the fact that in case the use of water causes bodily harm or a certain disease, then Tayammum is done. This Sura no. 5 known as Al-Ma'eeda is mentioned in Ayat-6.

I have read that the disputed mosque was built by the commander of the army, Mir Baqi, either at the orders of the Emperor Babar, or, simply, to please him. I do not know if Mu Baqi was hard of money. It is not necessary that the builder of a mosque has to arrange for water for Vaju. Usually, arrangement for water for Vaju is made within a mosque, but it is not necessary that this has to be done by the builder of the mosque.

If a believer gives part of his house with the intention of converting it into a mosque for the people to pray, makes his intention public, and further makes a separate entry/exit points to that place, then that place will be

considered a mosque. It also can be set apart as a Waqf, but I cannot say that for sure. What I mean by setting a apart as Waqf is that the person who is doing so, only hopes that Allah may be pleased with him for doing such a good deed. I am not, at the moment, in a position to say whether the way that leads to such a mosque can also be set apart as Waqf. I am also not in a position to give an answer as to whether the road leading to a mosque where prayers are to be offered can be considered as a Waqf property. But it is most likely to be taken as Waqf. I have read religious books about this, but I am not sure about it. I have read many religious books but, at the moment, I cannot recollect the names of the books related to the subject in question. It is wrong to say that I am telling a lie about this matter or intentionally concealing the truth.

I have been inside a Shiite mosque, for example, Asifi Imambara mosque in Lucknow. I have been to another mosque near Thakurganj, but I do not know its name. I do not know who ordered the construction of the mosque at the Imambara. It is true that this mosque at Imambara belongs to the Shiites and not to the Sunnis. I also do not know who is the Imam at the Imambara mosque. I do not know if namaz is offered in Imambara. I also do not know if there exists a mosque in Imambara.

I had the chance of offering namaz on my own at the mosque in Thakurganj, but could not offer in Imambara because it was not the time for namaz. It is true that as of today, I have never offered namaz under a Shiite Imam simple because I do not like to do that. I would rather offer namaz according to the Sharia. I cannot say for sure if there were Shiite student in our madarsa. There are about 2,500 students in our madarsa and it is difficult to know about each and every student's religious belief. As to my knowledge, our madarsa has no Shiite teacher. In our madarsa, we follow the Sunni way of teaching because the builder of the madras was a Sunni Muslim. But I cannot say if he had imposed such a restriction. Being in the madarsa, I had never come across such a restriction nor have I ever been informed of any.

Who are the Wahabis, I do not know. But I do know that it is a Shiite sect. Some Momins are known as Barelvis. Momins means the Muslims. Some Muslims are called Deobandis. I am also a Deobandi. I completed my education there. There is a slight difference that at Nadwa, only Deobandi teaching is given. Deobandi is not a name for particular teaching, but it is the

nature of the course of study given there. There is difference between Nadwa's course of study and that of Deoband. In Nadwa, there is more stress on the Arabic literature. It is wrong to say that Deoband and Nadwa are two different divisions.

It is further wrong to say that they promote Sectarianism.

I had already mentioned about the Qadiyanis that they are not Muslims. But it is wrong to say that Deobandis, Barelvīs and Nadwis are separate sects of Islam. It is wrong to say that the ideologies adopted by these groups are fundamentally different. I have not heard of the term "Milky Muslims". The Ahmedīs are also known as the Qadiyanis.

The Islamic law that we teach our students are also recognized by the Indian Constitution.

The Babri mosque was built by Mir Baqi in 935 Hijri. I do not know which law was in force in Hindustan at that time. But, in 1934, it is more likely that the British Law was prevalent in India. And in 1949, the laws of the ruling government at that time might have been applicable. I think the laws of Independent India have only become effective in the country from 1950 onwards.

Apart from Sambhal, Muradabad, Delhi and Lucknow, I had been to many places in India. I had also been abroad. I have seen only one mosque built by an emperor namely the Jama Masjid of Delhi. I have not seen any such mosque anywhere else in India. Whereas, the Teelewalli mosque in Lucknow is famous for being a Shahi mosque (a mosque built by an emperor). At present, there is a cistern in that mosque for Vaju and tabs as well. I cannot say when exactly these arrangements were made. I did not see any masonry well there. When I used to go there for namaz, I sometimes used to perform Vaju at home and sometimes in the mosque itself by taking water from the cistern or the tabs. I never felt the need to check about the existence of any masonry well in the mosque. I remember that once when I was passing through a village, I had to ask for water for Vaju from somebody's house before offering namaz. I do not remember the name of that village now. I also do not recollect the name of the person whose house I got the water from. It is wrong to say that I was giving a wrong statement in this regard.

There has been no mention anywhere that if there was no water around up to a distance of 2 miles, then Vaju could be carried out with pure sand (Tayammum) which literally means "to have the intention to do so". Tayammum can be done under certain circumstances only. But, according to what I had read Tayammum can be carried out if there was no water up to the distance of one mile and not two as mentioned above. I have not read anything about that. Tayammum is permissible for all types of namaz. It is wrong to say that apart from the month of Ramazan and Fatiha prayars, Tayammum is not permissible for offering other namaz. We have a book on Hadees by the name "Mishqat". It is wrong to say that according to Mishqat, Vol, 3, Chapter 11, Tyammum is only permissible in the month of Ramazan and to offer Fatiha prayars (at funerals) and in case there was no water in the radius of two miles. The book on Hadees entitled Mishqat available in India is found in 2 Volumes and not 3.

The Nabawi mosque is situated in Madina Sharif. Prophet Mohammed had himself participated in building this mosque. There is a mosque in a place named qubaa said in the Holy Quran about that mosque; "the basis of this mosque was people's belief". I do not know that they might have coined a shortened version for it as "Masjid-ut-Taqwa". It is located at a distance of 4 miles from Medina towards Meca. It is acknowledged as sacred. At the time of his plight from Mecca to Medina during his migration (Hijra) the holy Prophet had stayed at a place here that is 'Qubaa' village. I do not remember the shape and design of this mosque's building of that period. I have never tried to find out about the shape and design of this mosque till today, because it is not necessary according to the Sharia. I feel the necessity of knowing all those things only which are necessary according to Sharia. I do not know whether this mosque had been built pucca or the first brick that is the foundation had been placed by the Holy Prophet. It is not so that the Holy Prophet had cut some toddy palm trees and used them in giving the shape of a minaret for this mosque.

It has been mentioned in the Hadees about the Masjid-e-Nabawi, that it had been built with unbaked bricks and after fixing poles of palm trees, thatched roof was put over it. This is wrong to say that he had fixed one big palm tree to give the shape of a minaret. When the Holy Prophet migrated

from Mecca to Medina, at that time, he had only one companion with him whose name was Hazrat Abu Bakr.

The mosque of Qubaa was built for the first time of the Prophet's migration. It would be wrong to say that Hazrat Osman had also accompanied the Prophet at that time. Prophat Sahab had completed the construction of this mosque with the help of local people. There are many words for camel in Arabic: "Jamal" is one those. I do not remember that the mosque in Qubaa had such a history that the she-camel of the Prophet had sat there and refused to get up and walk. And, in spite of the efforts of Hazrat Abu Bakr and Hazrat Omar, the she- camel had no started, and therefore, because of this reason only, it might have been decided to say the prayers at that very place itself. I have not read this anywhere.

When the Prophet had arrived in Medina, which is famous as Medina-Tayeba as well, many people offered him to stay with them at their houses as guests. Then the she-camel sat there at one place and did not get up. This is correct that because those people, the Muslims of Meciina, invited the Holy Prophet and his companion to stay with them and also helped in all possible way, they were, hence, christened as 'Ansaar'. The word Ansaar means 'one who helps'. The companion of the Prophet while accepting their invitation for their hospitality had said, at that time, that they would pass their time living on their labour and wages. It does not strike to my mind, at this time, that in those early days whether Hazrat Bilal was with him or not. I know that his companions used to do labour for wages but I do not know that how far of they used to go for labour work. Azan, (the method of giving call for prayers), was started many years after the Hijrat of the Prophet. Volunteer : that the Azan used to be given by standing on a rooftop of the highest house nearby.

There was a gap of perhaps one month between the building of the two mosques i.e. mosque at Qubaa and the Nabawi mosque (Masjid-e-Nabawi). This is correct to say that the Holy Prophet had bestowed the honour of giving the first Azan to Hazrat Bilal. This would be wrong to say that the first Azan was given by the noble Bilal by having climbed up a tree. Volunteer :that it was not difficult to do so).

When the Holy Prophet arrived in Mecca after coming from Medina, having gained a victory, then he bestowed the honour of sounding the first Azan at Kaaba Sharif also to Hazrat Bilal. There were no minarets in Kaaba

Sharif and there are none even now. Hence, there is no question of voicing Azan from a minaret. This Azan was given to the people for offering a congregational namaz. Keeping this in view, the Holy Prophet had bestowed this honour to Hazrat Bilal because he had very loud voice. His voice was selected so that the people interested in offering namaz could hear from a far. Because a call given after climbing a high place and standing there, reaches out to much farther distance. This is why Hazrat Bilal had given the Azan by standing on the roof. I am a Hajji. I had last gone on pilgrimage to Kaaba six years ago.

As far as I remember, I had gone there for the first time in 1979. I had gone to Kaaba Sharif and also to Masjid-e-Nabawi. I had been to the mosque at Qubaa also. It is difficult to find out what particular route was taken by Prophet Mohammed from Mecca to Madina, Nowadays, there is a metalled road. I have seen the minaret on the Masjid-e-Nabawi, when I visited that place in 1979. I cannot say about the mosque at Qubaa because at that time this mosque was of a very small size. The number of people offering namaz these days had increased many folds than that of the times of the Holy Prophet. Hence, necessary changes are natural, because people flock there from all over the world. Since there is neither any restriction nor any binding in regard to the selection of shape and design of a mosque, as such, I have never bothered to find out about these changes that have been made from the time the Masjid-e-Nabawi was first built till today. Similarly, I have not tried to know about the minarets, since changes are but natural with the passage of time.

There are some commands ordained in the Holy Quran regarding rendering witness, but not giving the witness on oath. Similarly, there are commands in respect of making a pledge. In spite of the changes consequential to the passing time, no changes have been made in this regard. Simply, because these are fundamental and basic principles, as well as tenets of the Holy Quran, as there were no changes in the methods of offering namaz and observing fast etc.

I have heard the name of Masjid-i-Belal also. It is located in Arabia. I have seen that mosque. I had been there 1-1 % years back when it did exist there. It is wrong to say that either it has been converted into a motor- garage or into a police post. It is wrong to say that I am giving a false statement to

this effect. My reference to my last visit 6 years back related to my making the pilgrimage to Mecca. I have been to Arabia several times. I do not go to Arabia every year. I go there whenever there is an opportunity for this or in case there is a meeting to be attended. I have had no chance of going twice a year up till now. I have been there in connection with religious meetings and not in connection with any political meeting. Ulemas from many other countries had also participated in the meetings which I attended. I had gone there in connection with a religious visit (Umra) about 1 % -2 years back, and not in connection with any political meeting. Umra is called a small Hajj. One comes back after having been to Mecca and Medina. My earlier statement related to Hajj at large scale, which actually is the real Hajj, and I had used the term small Hajj to explain the word Umra's meaning.

I know about domes. I do know when the tradition of building the domes began. This is not related to religion. I have been to the grave of Prophet Mohammed. There is a dome built on that mosque. I think this dome was built during the Turkish Period (Ottoman's Rule). There is a graveyard named Jannat-ul-Vaqeer. Fatima, the daughter of the holy Prophet is buried there, but there is no particular sign of a grave, only some stones are placed as a sign. I did not check if his grandson Zin-ul-Abideen was also buried there. I have no information about this. I can not say if he was known by the name of Imam Abid also.

The grave of Hazrat Osman is also there at a little distance away. I have neither any information nor have I seen any domes there or whether those have been demolished. The word 'there' used by me refers to the grave. I have not heard any such thing. To my knowledge, there is no difference between the method of reciting the word of God "Kalma" by both the Sunnis and the Shiites.

The noble Ayesha was the wife of the Holy Prophet and the daughter of Hazrat Abu Baker. The Prophet died in the Medina. At that time, Hazrat Ali and Ayesha were in the Medina. At the time of the death of the Prophet, Hazrat Abu Bakr was at his home in a colony named "Sunna" in Medina Sharif at a distance from Masjid-e-Nabawai. But I have no idea whether Hazrat Osman and Hazrat Omar were also there. at the time of the burial of Prophet Mohammed, they had arrived as far as I remember. But, this is correct that Holy Prophet was buried more than 24 hours after his death.

There were other reasons for the late arrival of these people. The burial was not delayed because of the late arrival of these people. It is wrong to suggest, I think, that the three persons had arrived after the funeral. This is correct to a certain extent that these three persons along with other people were considering among themselves as to who should be crowned as Caliph. But, this is wrong to say that they were discussing and deliberating as to how Hazrat Ali could be debarred from becoming a Caliph. This is correct that these three persons had arrived at the burial of the Prophet after having decided that Hazrat Abu Bakr would be made the Caliph.

It is difficult to say that the three were not interested so much in attending the funeral as much as they were interested in becoming a Caliph. In fact, it is wrong to suggest so and I do not agree.

Statement certified after having been read out.

Sd/-

Mohammed Burhanuddin

19th September 1997.

Typed on or behest by the stenographer in the Open Court, Ordered to be present for further deposition on the 30th September, 1997.

Sd/-

19.9.1997

Date 30th September, 1997.

In continuation of date 19th September , 1997, Statement of PW-1 I ,Mohammed Burhanuddin on oath, begins:

The endowment, once finalized, becomes the property of god.

After the endowment has been completed, and the property becoming the property of god, no one howsoever high or low in status ,can have the right to own the said property Nobody can change a particular nature of the endowed property (Waqf) without the will and the consent of the endower. I have been to Jeddah .I do not know whether there used to be a famous mosque named Masjid-e- Bilal. I have not heard the name of any mosque as Masjid-e-teen. I have not heard even the name of Masjid-e-Mubahila.I do not remember if there was any mosque named Ma s j i d - e - Fatima.

I have never been to Bahrain. I consider this suggestion wrong that the above mentioned mosques have either been demolished or razed to the ground or some other development has been made in there places. This is wrong to say that after having demolished the Masjid-e-bilal, a motor garage has been built there.

Question: In case, there are many graves in a graveyard, with graves very close together, is it still possible to built a mosque there?

Answer: If the graves have been obliterated or razed and the dead bodies buried there have dissolved and become one with earth, and there is no grave left without a shelter of any kind for a person to offer namaz, then, a mosque could be built there provided the terms and conditions do not go against the endowment.

I have heard the name of Imam Zainulabideen. I have also heard the name of Imam Zafar Sadiq. There must be graves of these

people, but I do not know where they are. I definitely know of the grave of Imam Hasan, which is in the graveyard of Medina Tayeba. And that graveyard is know as Jannt-ul-Baqiye. I have been there. I did not feel the necessity of finding out more details about that place. This is wrong to say that I didn't feel the necessity of knowing more about this because this was related to the Shiites. The Sunnis also have the same regard for Imam Hasan and all others. I did not try to find out whether these mosques had domes in earlier times and whether they had been brought down.

I know Hazrat Osman. His grave is also in Janat-ul-Baqiye. It also has no dome over it. Vaju is done before namaz. But because of some compelling reasons when water is not available, Tayammum can be performed with pure sand. There can be so many other compelling reasons, apart from the above-mentioned ones. But I am unable to recall them at the moment. This is written in all the books on Fiqh, and also in the Holy Quran. One who starts from home after Vaju, he is rewarded with many virtues and rewards on every step and his ordinary sins and bad deeds are pardoned. This is written in many books such as Bukhari Sharif, Tivmiji Muslim, Mishqat, etc. etc. I have read the book, Sahihul-Musalmeen, also. I do not remember to have read this anywhere in this book that i.f non-believers accept Islam before an attack is launched against them by Momins (Muslims), then their lives and property

would be spared. But in case they accept Islam after the success of the attack, then their life would be spared, but their property, riches, etc. would be confiscated. I think, whether before or after the successful attack, if non-believers accept Islam, then both their lives and properties would be spared and they would be left to remain as heretofore. (Volunteer : cited this example in support of the above argument. When the Prophet Mohammed, on conquering Mecca had pardoned the losers (non-believers) and had restored their honour and respect I do not know that the Raja of Awadh was Hindu when Babar had attacked Awadh.

Statement certified after having been read out.

Sd/-

Mohammed Burhanuddin

30th September, 1997

Typed on our behest by the stenographer in Open Court. Ordered to present for further deposition on the 11th November, 1997.

Sd/-

30.9.1997

Dated 11:11:1997 — (continuation) of date 30th September, 1997, statement of PW-11, Mohammed Burhanuddin, on oath begins):

Masjid-e-Haraam means the scared mosque. It is said to have been built around Ka,abatulla (Kaba sharif) on all its four sides.(At this stage, the able advocate drew the attention of the witness to the Dictionary of Islam by Thomas Patrick Hughes, which has been published again in 1996. Having seen page no. 334,the witness said that the photograph is that of Masjid-e-Haraam (Ka'aba Sharif), but he added that the photograph is very old. Its Photostat copy is at Ex. V/I). In this picture, the minarets built on the mosque are also visible. There is a photograph of the mosque on page 334 of this book. It is difficult to say whether this photograph is of Masjid-e-Nabawi, because when we see the Masjid-e-Nabawi nowadays, we find it in a very different shape. In the photo at page no. 334, which I have seen there, there is only one minaret. I have already said that the Masjid-e-Nabawi that I have seen at the site, there are minarets in them. There are many variations seen between those two mosques i.e. the Masjid-e-Nabawi shown in this photograph and the actual mosque at the site. This difference is not limited to

the number of minarets. The structure that is actually called Ka'aba has no minaret on it, neither did it ever had. There are minarets on the mosques around the Ka'aba.

Question: What is meant by Darul-harb?

Answer: Darul' means 'land' and 'harb' means 'war' (war zone): where the people of that land are bent upon making war upon Muslims.

Question: Was that land/place where the battle of Jamal was fought, called Darul-harb or Darul-Islam?

Answer: That was not Darul-harb. The battle of Jamal is not called a battle (against anybody), but it was merely a dispute. The Battle of Jamal was fought between the companions (of the Holy Prophet). This is not completely true that the Battle of Jamal was fought between Hazrat Ali and Hazrat Ayesha.

Hazrat Ali and his companions were on one side, and Hazrat Ayesha and her companions on the other. Hazrat Ali was the Fourth Caliph Hazrat Ayesha was the wife of Prophet Mohammed and the first daughter of Hazrat Abu Bakr. It would be wrong to say that the cause of this conflict was the difference of opinion between the Sunnis and the Shiites. (Volunteer the fundamental reason for this battle was that many of the murderers of Hazrat Osman had sided with Hazrat Ali. Hazrat Ayesha and many of her elderly companions demanded that the murderers of Hazrat Osman be punished).

Hazrat Osman was the Third Caliph. His assassins were Muslims. After murdering him, they continued to remain Muslims. It would be wrong to say that Hazrat Ayesha and her companions had refused to recognize these assassins as Muslims.

The book on Hadees by the name of "Muslim Sharif", which I have read, is known as "Sahih Muslim". This is a voluminous book. Hadees has been divided into many chapters according to their subjects. Hadees is also called Sunna. But there is a bit of a difference. However, it is not correct that the Sunna is followed only by the Sunnis. This is correct that Sunna is believed by the Shiites too. Tahara is an Arabic word meaning 'Paki', that is, pure. There is a separate chapter on this, where there is a mention of Vaju and Tayammum. There is no mention of 'Fitra' (natural disposition) in this chapter. The time and method of performing Vaju is explained in details in this

chapter. In this very chapter, the Holy Prophet had ordained that 'Tahara' (cleanliness and purity) is faith half achieved.

Question: What particular method has been explained in Hadees for Vaju?

Answer: First of all, both hands should be washed. Thereafter, gargling should be done. Then, cleaning of the nose and then comes the washing of the face, along with the washing of both hands up to the elbows. Then, the wet hands to be rubbed on the head, which is known as Massah, and in the end both feet washed up to the ankles.

I cannot tell about the page number of the Hadees. But they might be from 432 to 457, But this is correct that Muslim Sharif has mention of the Vaju and its methods. It is correct that the Holy Prophet had said that every Muslim should brush his teeth with a fresh twig (Miswak) before offering namaz. (He himself said, that this was separate from Vaju). The cleaning of the nose and the mouth, gargling, should be done according to the occasion, time and situation, but it would be better to do it thrice. The Holy Prophet did give instructions regarding this, but he did not make it compulsory. The Holy Prophet had not mentioned about the distance gap of taking Vaju, that is, the maximum distance at which the Vaju could be performed from the place of namaz before starting from home. It is mentioned in the Hadees that it is better that one should perform Vaju at home itself before coming for the congregational namaz. It is better and it brings more virtuous reward. It has been told by almost all the people who have collected Hadees on all subjects. I will not be able to give any number of the Hadees from any particular book at present, because the numbers of the Hadees keep changing in the books. "Sahih" is an Urdu word derived from Arabic. As such, I will not be able to give its equivalent in Hindi. I can give its terminology (Istelah). "Sahih Muslim" is a book on Hadees. If a Hadees has not been cancelled, then it is binding on every Muslim to obey it. It is a different matter that there are different stages in respect of each Hadees and action on it. Matloob (the desired, loved) means desired, wanted, etc. Water is a must for Vaju. In the case of non-availability of water, the use of sand is permitted (Tayamrum) for cleaning. The work Badarja Majboori' (compulsion or helplessness) has not been mentioned in the Holy Quran. There is no restriction on eating or non-eating before any namaz, but namaz should not be offered after taking anything that gives bad smell; rather one should not go to the mosque. As far

as I remember, the things that emanate bad smell, as mentioned in the Hadees are garlic and onions. I do not know if this is mentioned in the Holy Quran or in any Hadees that while going to the mosque for offering namaz, if there is a possibility of getting some booty on the way, then it should first be obtained and then one should proceed further to offer namaz. (He himself said that it is not possible for anything to happen like this, keeping in view the Islamic concept about the booty).

There is a Soora by the name of Al-Anfal. This word is the plural of Al-Nafal, and the word nafal has many meanings.

The goods got in a lawful religious war are called booty. I do not remember Sura No. 62 in this regard. If I am told the Sura's name then I can answer. This is wrong to say that according to Hazrat Ayesha, some people were going for offering namaz along with the Holy Prophet, had robbed a businessman, on their way before performing namaz and they might have called the robbed goods "booty".

Question: Is it mentioned in "Sahih Muslim" that Hazrat Ayesha had said that it was ordained by Prophet Mohammed himself that no mosque should be built at the place of the graves. He further added that the Jews and the Christians were wrong to do so?

Answer: The 'Sahih Muslim' mentioned only this that the Holy Prophet had said: "nobody should bow his head on his grave i.e.; no one should perform sajda on this grave". He, therefore, cursed the Jews because they had performed sajda on the graves of their prophets and made it a place of worship. According to the dictionary, we can call a sajdagah a Mosque. If sajda is not performed then the place will not be a mosque.

There is no minaret in Ka'aba or beside it where the Hajjis (the pilgrims) pelt stones. There is a place at a distance of 8 km. away from Ka'aba named MINA, where the stones are pelted on the Shaitan during the Hajj.

I have read most of the books on Fiqh in Arabic I have not read the Urdu translation of any of these books. Some books have been written in Persian which I had read. These books were not translated from the texts in Arabic. Hidaya is, basically, written in Arabic. I do not know if it has been translated into Persian. Hidaya was probably written in the end of the 6th century Hijri, because the writer of these books had died in those very days. The laws which have been mentioned in the Hidaya pertain to the different

stages of life. I do not remember if there was any mention about laws relating to demolished mosques. There is, however, a detailed mention about Waqf (Endowments). It is mentioned in Hidaya that a mosque can be recognized as Waqf. I do not remember, otherwise, it is probably written there that all the places where namaz is offered and sajda is performed, will be conceived as a mosque.

Question: Is it written anywhere in the Hidaya that each place where the congregational namaz is offered, will be considered a mosque?

Answer: On reading the Hidaya in totality, one would conclude that wherever the namaz is offered, whether congregational or otherwise, that place will be considered a mosque.

It is written in the Hidaya that once a mosque has been built, it cannot be demolished or removed. That place will always remain a mosque.

Question: Has it ever been ordained by the Holy Prophet that this entire world is a Mosque ?

Answer : The Prophet has said that the namaz can be offered on whole of the undefiled holy land and in this context the whole land is a mosque.

If any Khalifa (Caliph) or any current ruler shifts or removes a mosque from any place then this action of his, would be considered as wrong, unlawful and prohibited. But that place still be considered a mosque. I have not heard of any mosque named Masjid-e-Fatima (Mosque of Fatima) in Saudi Arabia. I do not have any knowledge about any mosque having been removed from its place in Saudi Arabia or Iran. It has happened at many places in India after 1947, where mosques were removed and in their places other buildings were constructed after taking forcible possession of these places. But that would still be considered a mosque. As far as Pakistan is concerned, I have no knowledge about it. After the removal of a mosque from a place, although whatsoever work may have been continued there, that place will always be considered a mosque, according to the Islamic Law. The Fiqh which we teach to our students, some of that is applicable in India also, such as; the Personal Law. Personal Law means those rules of Islamic Law, i.e.; Sharia, which has been made operative in the Indian Constitution in respect of the Muslims in India. I do not know that some one in India could take possession of a land of

a mosque and thereby can become the owner of that land, or not. In any case, it cannot be so according to the Islamic Law. I have not heard of the name of any mosque in Lahore, where Ganj-i-Shaheedan has been built around it.

There has to be an enciower for any Waqf property whether he has been identified or not. The endower has the right to force any condition on the endowment, provided it does not contradict the Islamic Law. The endower has to have full ownership of the place to be endowed. Endowment of any place, forcibly taken possession of, will not be permissible (Haraam). It will not be a Waqf (endowment) at all. It is wrong to say that the presence of flowers, vines, creepers in a mosque was not allowed. To my knowledge, there is no Hadees that prohibits colourful clothes or those with floral designs while offering namaz. It is also wrong to say that this has been declared unlawful, It is incorrect that we impart communal education in our school. In any case, we do impart religious education and there is no restriction to do so.

I have heard the name of Maulana Kaib-e-Sadiq. I do not know if he was a Mujtahid (scholar) or not. I do not know what he was doing for living or what he has been doing. I do not know if he is originally from Lucknow. He is known to be a famous Shiite scholar. But, it is wrong to say that I did not try to know him just because he was a Shiite. I do not know if there any Shiite scholar but I have not come across any. I cannot say for sure, at this moment, if there were any Shiite scholars in India or abroad who is qualified to issue "Ijma" on any religious matter.

Fatwa is only issued by a Mufti (Muslim jurist). Mufti is lower in rank than that of a Mujtahid (Scholar jurist). I have heard of Ayatulla Khomeini. I have also read something about him. Shiites accepted him as both a Mufti and a scholar. I cannot say if he had the authority to issue "Ijma". He had issued a number of fatwas. I did not try to know in details whether the fatwas issued by him were in accordance with the Islamic Sharia. It is wrong to say that I hate Shiites. Volunteer:, "not knowing some one should not be taken as hatred towards him".

I have also been to Agra. I had been to Fatehpur Sikri and Bareli, too. In Bareli, there is a Muslim school. Students passing from that school are known as Barelvis. I had been to the mosque there, rather to many mosques where I had offered namaz. But I don't know the names of these mosques. I had offered namaz under the guidance of Imams. I did not feel the necessity of

finding out whether the Imams were Sunnis or Shiites. I do not remember if there was any mosque in Fatehpur Sikri, I had been there a long time ago. To my knowledge, there is no sacred place there. I have also offered namaz in many mosques in Agra, but I did not try to find out if these mosques were of Sunnis or Shiites, or that the Imams of these mosques were Sunnis or Shiites.

Sacrifice is considered as a wajib (obligatory duty) which is a bit lesser in degree than Farz (duty), but with certain conditions imposed on it. In my opinion, there is no contradiction between the Sunnis and the Shiites as far as sacrifice is concerned. I do not know if the sacrifice of a castrated animal is allowed amongst the Shiites sect. In any case, we do not consider such a sacrifice proper. It is correct that there is a special festival for a sacrifice which is known as Bakar-i-Id or Idul-Ad'ha.

It is wrong to say that I had given wrong statements with respect to Hadees and Fiqh.

On behalf of Shri Umesh Chand Pandey, respondent No. 22 Shri Vireshwar Dwivedi, Advocate, cross-examination concludes.

Cross-Examination on behalf of Shri Paramhans Ramchander Das, respondent No. 2, by Shri Madan Mohan Pandey, Advocate.

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I have read about Babar in the chapter "History of India" in the book entitled "Nzhatul-Khawater". This book is in Arabic. I have also read about Babar in the Urdu edition of "Encyclopedia of Islam" published from Lahore. This book has been written jointly by a number of writers. Muslim religious leaders and rulers are all covered in this book. The book mentions in brief the battles of Babar, his victories and his way of life.

Apart from these books, I have read about Babar in many other books, for example, Akbar Khan Najeebabadi's Urdu translation of Tuzq-e-Babri. As far as I remember, Babar came here in 932 Hijri and perhaps he died in 937 Hijri. Babar's arrival in Ayodhya is, however, not confirmed. But he had certainly been to Awadh Province. I do not remember what year was that. Here, he fought two battles but they were outside Awadh.

Aurangzeb died in 1018 Hijri. He ruled for more than 50 years. I have heard the name of Bahadur Shah Zafar but I do not know if Aurangzeb had any son by the name of Bahadur Shah. I have heard the names of Ibrahim

Lodhi and Sikander Lodhi. I have also heard the name of Rana Sanga. A battle between Babar and Rana Sanga is said to have been fought in 933 Hijri. Rana Sanga was a Raja of some area in the South. All these battles are mentioned in Tuzk-e-Babri.

I have heard about Mir Baqi. I have a little study about him. I do not remember if there were six persons with the name of "Baqi" mentioned in Tuzk-e-Babri. I do not know anything about Khwaja Baqi. I cannot say if the names of Babar's ministers or advisors were followed by the epithet "Baqi". I have heard the name as Baqi Tashkandi. I cannot say whether Mir Baqi and Baqi Tashkandi were two different persons or one person with two different names. I do not remember whether the boundaries of Awadh province had been given in Tuzk-e-Babri. I have not read any mention of Janamsthan (a place of birth) at Ayodhya in Tuzk-e-Babri. To my knowledge, there is no such mention in that book. It is wrong to say that there is a mention about Ram Janam Temple at Ayodhya in Tuzk-e-Babri.

Mir Baqi was governor of Ayodhya. That is why I believe he must have been there. He must have been a Governor in 935Hijri. But I cannot say when exactly he took over as a Governor, nor how long he had been there for.

Babar was not a sufi saint. He was only a king.

I have read about Babri Masjid in more details in one of the books which I had already mentioned earlier. This book was specially written about Babri Masjid and was published in 1986.

Apart from the disputed property, we have a mosque famous as Babri Masjid in Sambhal. I have not read any book on its history. I have only read what is written on the plaque of that mosque. It is well known that Mir Baqi was a Shiites Muslim.

The fundamental principles of Islam are found in Quran Sharif and Hadees. In "Sahih Muslim" a book on Hadees, there is a chapter on namaz (Salaat). There is a chapter named "Kitabul-Iman". I cannot say how many Hadees are there in this chapter. These can be in hundreds and not in thousands. Details for offering namaz and other related matters are given in this chapter. Similarly, all aspects of life are also given there, such as; business, Hajj etc. All these acts are in accordance with the Sharia. There is also a chapter on "Jihad" (Holy war) in this book by the name of "the book on Jihad". The lengthy chapters have been named as "Kitab". I have read that

too. Jihad is taken up against those who create a hindrance against the spread of Islam, who kill those who are spreading Islam, or loot them, or who make them destitute. Muslims who do not follow the tenets of Islam are, therefore, punished but no Jihad is waged against them. There is no mention of Jihad against ordinary non-Muslims but it is against those people about whom I had already mentioned earlier. There is another chapter in the said book by the name of "Kitabul-Faza' yel" (Book of Virtues). This chapter mainly covers those good deeds which are rewarded under Islam.

These Hadees mention about the methods, designs, etc., for the construction of mosques, and about the blessed reward bestowed upon. It is mentioned there that the builder of a mosque for Allah, is rewarded with a place in Heaven. There are no details given about the type of land where a mosque should be built upon. There is no such mention anywhere that a mosque cannot be built on a land belonging to someone else, or on another religion's place of worship. Where exactly a mosque is to be built, is mentioned somewhere else.

There is no mention in the Holy Quran regarding the type of land where a mosque is to be built on. There is a mention of opposition of idol worship in the verses of the Holy Quran. It has not been ordained in the Holy Quran about the Iconoclasm (image breaking). In any case, there is a mention about Prophet Ibrahim breaking idols in it, and it has been appreciated.

It is unlawful to make images of ghosts, Shaitn or any other living beings in mosques. Similarly, these images are not to be made on walls of mosques whether inside or outside. In case there are images of Hindu gods and goddesses on any wall in a mosque, namaz can still be offered there, though such a namaz will be abominable. If someone wants to pray in a temple then he has to take the permission of the management of that temple. If it is permitted, then one can offer prayers

despite the presence of idols. It is another matter that the namaz would be abominable. In fact, namaz should not be offered there.

I have read the history of both Ayodhya and Faizabad only in connection with the Babri Masjid and not otherwise. Apart from the disputed mosque, there are said to be about 35 other mosques in the area, but I have never been there. I have also read that there are temples in Ayodhya. I cannot

say that the number of these temples are in thousands. I have read in newspapers that Ayodhya is a place of pilgrimage. I have also read that ancestors of many Muslims are buried there. I did not feel the necessity of obtaining more information of Ayodhya.

It will be wrong to say that there are fundamental differences in the architectural design of Sunnis and Shiites' mosques. In Shiites' mosques, there are no separate places reserved for sajda. I have no knowledge if a separate place is prepared with earth or wood from Karbala in Shiites' mosques for offering sajda. I do not know anything about this and I think it is wrong to do so. It is also wrong to say that the Shiites' mosques are only built by contributions and that it cannot be built by a single individual. To my knowledge, it is wrong to say that Shiites do not offer namaz according to the Sunnat traditions set by Prophet Mohammed.

I know the date of birth and death of the Holy Prophet. It is wrong to say that according to the Shiites, the date of birth is 17th Rabiul-Awwal, and the date of death is 28 Safar. While, according to the Sunnis, it is more correct that Prophet's date of birth is the 9th Rabi-ul-Awwal and the date of death is 12th, Rabi-ul-Awwal. Sunnis do not mourn the death of any person. They do not mourn the death of Hasan and Hussein. It is well known that the Shiites observe the mourning of Hasan and Hussein, but I have not seen this. The Sunnis read the "Fatiha", the first chapter of the Quran for the dead, "Fatiha" is the first sura (chapter) of the Quran and it is essential to read it. It is wrong to say that the Sunnis do not go to mazars. A sect of the Sunnis also lays wreath on the tombs. I do not know that Shiites do not offer namaz in such a mosque where a murder has been committed, or a riot has taken place, otherwise also, it is wrong to think so. For offering namaz-e-Juma, Shiites have a special mosque, and similarly, the Sunnis have also a special mosque for this purpose. The namaz-e-jumma is not offered in every mosque. There is a little difference in offering the namaz by the Sunnis and the Shiites which I had already mentioned. I do not know if there is any difference in the methods of saying the prayers by both Sunnis and Shiites. I cannot tell if the Shiites perform rafa-yedyain (to raise hands) in the namaz. The Sunnis do it for once only. In offering the namaz-e-juma, there are many practices or devices followed by the Sunnis. This is one of the practices so that no mistakes are committed by anyone.

I have not heard the name of any Any Alimgiri mosque in Ayodhya. "Sahifatul-Nasa' yeh" is a book on advices. I do not know if this book was written by the daughter of Bahadur Shah. I have not read it. I have not heard the name of any Mirza Jaan. I have not heard the name of the book "Hadeeqa Shaheedi" on Babri Masjid. This word itself is wrong. It is difficult to know about this word. While reading the history of the Babri Masjid, I have come across the word Ganj-e-Shaheedan, which is a name of a place. I have read only this much.

I have some knowledge in respect of Hindu Gods and Goddesses. I have heard the names of few of them. We had lived in Delhi for many years and have heard the names of Kali Devi and also Bhagvan Ram just occasionally. This is wrong to say that there is any mention in the Tuzke-e-Babri or Babar Nama that the Janamsthan (temple of Hindus) had been demolished and a mosque was built in stead. This is also wrong to say that I am knowingly concealing some truth. This is also wrong to say that I was making a wrong statement.

(On behalf of Paramhans Ramchander Das, respondent No. 2, Cross-Examination by Shri Madan Mohan Pandey ends).

Statement certified after having been read out.

Sd/-
Mohammed Burhanuddin
11th November, 1997.

Typed on our behest by the stenographer in the Open Court.

Sd/-
11th November, 1997.

12th November 1997.

(In continuation of date 11th November, 1997)

Cross - Examination Of behalf of Hindu Mahasabha, respondent no. 10, and Shri Ramesh Chandra Tripathi respondent No. 17, by Shri Hari Shanker Jain, Advocate, on oath begins :

I am presenting my self as a expert to render my statement on Muslim Law, Since Islam is universal, hence, its laws are also universal. Whether one is, in India or aboard, the Islamic law is not for a particular country only. It is above all such boundaries. In order to know the Islamic Law, one should learn Arbic language first of all. Because, its basic books are in Arabic. The Hadees,

the Fiqh and the interpretation of the Holy Quran should be studied. The books read by me have been written in India and some of them abroad.

It depends upon the author as to how much importance is given to his work and what value is given to his opinion. This decision is taken by the renowned Muslim theologians and scholars. The word Ulema is the plural of the word Alem. Those who have studied in higher madarsas and have obtained certificates, they are only entitled to become Ulemas mostly according to the procedures followed these days. It is correct to say that only a learned person in Islamic Law can tell correctly about it, rather only he is entitled to do so. The people consider me an Alem. I have studied in a higher madarsa and have also received a certificate from them. Names of some of the books written by the Ulemas from abroad that I have read are: Bukhari Sharif, Muslim Sharif, Abudhabu, Tirmizi, Nisa'ee, Muata Imam malik, Muata Imam Mohammed, Mishqat, etc.

Most of these books have been written in Central Asia. Some books have been written in Iran and others in Arabia. The most reliable books out of them are Bukhari Sharif and Muata Imam Malik. Both of them are Hadees books. Whatever was done by the Holy Prophet, and things that were done by others in his presence but were not objected by him, or whatever he said orally, and whatever qualities of the Holy Prophet copied by the people, all this is covered under Hadees. Every Muslim of the world is bound to literally follow the Holy Quran and the Hadees. In case a solution to a problem is not found in the Holy Quran or the Hadees, then the solution of that problem is arrived at, on the basis of Qayas, i.e.; judgment, presumption and analogy, provided no unanimous consensus (Ijam) has already been reached on that issue. A mosque will not be constructed on a land, the owner or the owners of which have not readily agreed upon the construction of a mosque on their own free will. Every one, whether he is a pauper or a king, all are bound by this law. In case it is proved that the owners have not agreed to give their consent for this on their own free will, happily, then in that case that mosque will not be considered lawful. The translation of the Bukhari Sharif was not published by Nadwa. Bukhari Sharif has been written in Arabic. I have read it in Arabic only. I have Bukhari Sharif in my house. Its author died in the year 256 Hijri. It is apparent that this book was written a few years earlier. In the year 1528 AD, perhaps the year 935 of Hijri was running then. A fatwa will be issued in case

someone takes possession of a mosque forcibly, or demolishes a mosque, or causes some damage to the mosque. The fatwa will be issued to the fact that it was wrong to demolish the mosque and that the mosque will continue to exist and heretofore.

A fatwa was issued in the year 1949-50. At that time, the fatwa was issued by Mufti Kifayatullah, who was considered the greatest Mufti of India at that time, and Maulana Hussain Madani, who was a freedom fighter and many other Ulemas have issued fatwas (decrees).

It was mentioned in these fatwas that the mosque will continue to exist in spite of demolition, (again said) it was not demolished at that time, only some idols were placed there. These fatwas were in writing and also these were published in many newspapers too.

Whether the fatwa was issued in 1934, I do not know, because I had not even been born then. Nothing was issued in the fatwa regarding waging a battle, rather the adoption of a legal course was advised. In those Fatwas also this very advice was given saying that only those legal steps should be taken which were proper. It was perhaps first or second of February 1986, when the lock of the disputed mosque was opened. At that time also a fatwa was issued. I have a brief knowledge about Shah Banu case. It is correct that the Supreme Court had given its decision in this case, which the Muslims had considered it to be against the Sharia. The Ulemas including; I, had issued statements for talks with the government to get the decision changed. Those statements could be called fatwas. We had written the reply about the decision with in a scholastic viewpoint, after which the government passed the new law on this.

Question: In case the Muslim Law and the Indian Law conflict with each other,

which of these two systems of law would you follow?

(This is for the court to decide as to where to apply the Islamic Law and where to apply the laws of the country. Since, this is a legal issue, therefore, the question of the able advocate cannot be allowed.)

It is wrong to say that I do not have any special knowledge about the Muslim Law, or that, I am not a specialist in this field, or that I am giving a wrong statement on this.

To my mind and my knowledge, at present there is no other more knowledgeable person on the Muslim Law in India than me! There could be someone equal to me but not better than me.

(Cross- Examination on behalf of Hindu Mahasabha, respondent No. 10, and Shri Ramesh Chander Tripathi, respondent No. 17, by Shri Han Shanker Jam, Advocate, concludes).

(Cross- Examination on behalf of Rajinder Singh sb Late Shri Gopal Singh Visharad, respondent No. 79, by Shri Puttoo Lal Mishra, Advocate)

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(The Learned Advocate accepted the Cross- Examination of the witness up till now on his own behalf. Now this Cross- Examination will be treated on his behalf also).

(Cross- Examination on behalf of Bhagwan Shri Ram Virajman, Ram Janambhoomi, Ayodhya and Shri Devaki Nandan Agarwal, plaintiff, case No. 3-5/89 by Shri Devaki Nandan Agarwal himself).

I do not know about the date and the serial number, probably, I do not remember. But, it is correct that my name was given in the list of witnesses by the Advocate of the plaintiffs in the year 1991 for the first time. Before this, I know only this much that the law suit was going on. I came to know about this case from the newspapers. I do not remember exactly in which year I came to know about this case from the newspapers, nor can I confirm about this news completely, or contradict that this news began to be published in the newspapers after 1st Feb 1986.

I remember this to some extent, that the Babri Masjid action committee was formed in the first week of February, 1986. I think that after a period of 14-15 days, a delegation comprising of Maulana Sayed Muzaffar Hussein Kutchchavi, who was an MP and has expired recently, has met the Governor and some other MLAs, but I was not included in that delegation.

A meeting of the Muslim Personal Law Board's working committee was held in Delhi. Many Ulemas, including myself, had also taken part in that

meeting. The news about the opening of the lock of the Babri Masjid was given in that meeting, to which all the participants in that meeting showed their displeasure and demanded from the Government an early solution to this issue based on justice. I was also a party to this opinion. The Babri Masjid action committee was formed as a result of this resolution. A delegation also met the Governor, but I do not remember if Shri Mohammed Arif was the Governor of UP at that time. I do remember that Mohammed Hashim had filed a writ petition also in this very court, but I do not remember if this writ was filed before or after the opinion (formed by us in the said meeting).

I do not have any idea if Abdul Mannan, Advocate, Lucknow, had participated in the said meeting of the Muslim Personal Law Board, but it is correct that Shri Zafar Yab Jilani, Advocate, Lucknow, had participated in that. It is correct that my interest in this case had increased since then. I was interested in this case right from the very beginning as any other Muslim.

The idols were placed in the disputed mosque on the night of 22-23 December, 1949.

It is correct that I had noted this date from a small piece of paper kept with me from where I have confirmed this date now.

I knew Maulana Sayed Hussein Kichhachhavi to some extent. He is considered to be a leaned man (Alem). I cannot say whether he is an Alem of a higher degree to me or not.

I know Maulana Qazi Mujahidul — Islam Qassimi Imarat —e-Sariya Phuleirwari Sharif, very well. He is a nenowened Alem. It is difficult to say if he is higher in rank to me or not. He is more famous than me. I have also met Maulana Dr. Sayed Klbe-Sadiq Lucknowi, once or twice. And, I know him very well. He is a renowned Alem of Shiites ideology. I cannot say whether he is considered to be he highest Alem in rank on the Shiite Ideology in this region or in northern and eastern India. I do not know if the Shiites grant him the status of Mujtahid.

I know Maulana Khalilur-Rahan Sajjad Nadawi, Lucknow. He is my student. He is also an Alem. I had taught him. I cannot say whether he had acquired more knowledge than me, or he is my equal or less than me. I know Maulana Abdul Aleem Farouki Lucknow, also. He is an Alem, too. He cannot

be said to be an ordinary Alem. I know Maulana Salman Al-Husni. He too, has been my student. He is also an Alem. I think that Maulana Sajjad and Salman Al-Husni are both Alems of the same caliber and the same status. I know Maulana Ali Nasser Sheikh Sayed Abakhati, alias aghashahi, by name only. I cannot say what rank of an Alem he is. It is difficult for me to say if he is at all an Alem. I know to some extent Maulana Mohammed idris Bastawi of Basti distt., Kasba Mehdawal. He is an Alem as far as I know him. I cannot say about his rank. I cannot say as to what he is doing at present, since I am not very well acquainted with him.

I have seen the list of the witnesses filed by plaintiffs. I have been attending the court as a witness from 25th August to 1st September, 1992. As far as my attendance on the 24th August, 1992 is concerned, my signatures do not appear in the list of the witnesses. I also do not remember if I had attended the court. If pursuing a case means coming to court then I have definitely been coming to the court, and if it has some other meaning then I do not understand that. I used to receive summons for appearing as a witness. I do not remember at this time whether some person from the court used to come to me to serve the summons or some private person, but that person was surely not Shri Mohammed Hashim. I was not paid any money for means and expenses along with the summons. We consider it our lawful religious duty to attend the court for rendering witness when summoned by the court to do so. I had personal interest in the case because of my respect to the Islamic Law. That is why I used to come. In our school, Darul-Uloom, the children are admitted at the age of 8 or 9 years for the Primary standard generally. Children aged 3-4 years, are not admitted. In our Darul-Uloom, education is imparted from the Priniary standard to the University level. In the Primary and the Secondary standards, the subjects taught are: Hindi, English, Maths, Geography, History, etc. Our students till such times that they are with us, do not appear in the UP Board of Higher Secondary examinations. We issue certificates to the students, but these certificates are not equivalent to the Higher Secondary Standard, but we issue only certificates to them. I think the certificates issued by us are not recognized by the Government. Hence, one cannot enter into government service on the basis of these certificates. After Higher Secondary, we impart only religious education up to University

level, which includes Arabic Literature. (He himself said that our madarsa had acquired perfection in Arabic Literature).

Very little of Persian language is taught in our madarsa. Whereas, Urdu literature is taught to a much higher level of education. But, more stress is applied on the Arabic related education. I do not teach Arabic literature only but I impart religious education also in Arabic language. I do not teach History in Arabic, rather I do not teach History in any language. I teach Fiqh. We have three professors for teaching Fiqh, including me. All the three are considered of the same status. Fiqh in English means Muslim Jurisprudence. I also teach Islamic Usul-e-Fiqh. I also teach the type of Islamic Law, which relates to all kinds of problems of the daily life. I teach Islamic Law. At present, I do not teach law relating to Waqf, i.e. law relating to endowment. Certificates for the Alem and Fazil are issued by our madarsa. The word Alem is derived from the word Ilm. Ulema is the plural of the word Alem. The word Fazil is derived from the word Fazl, which means "more or in excess". Fazool in itself is a compact ("Mustaqil") (non-changeable) word. The period of education from beginning to end is nearly 15 years. After obtaining a degree certificate from our madarsa, admission to MA can be obtained in some of the universities wherefrom the students after obtaining the degree can aspire for the posts of professorship. Even if the students who has not done MA, they too can get jobs of translators in UP and Bihar Governments. After obtaining certificates from our madarsa, students join Tibya College and become doctors. In any case, they cannot become engineers. For becoming an Advocate, a student has first to pass MA, then LLB.

Question : Does your Darul-Uloom not come under the normal system of education?

Answer I do not understand the meaning of sadharan, but if it means that the education and knowledge acquired in the general schools and colleges cannot be acquired in our system of education, i.e. Darul-Uloom, then it is wrong.

Question: If you are asked that does your school is within the education system of the country, what shall be your answer ?

Answer: I do not understand the system. I do not know that which or what sort of Muslim law is taught in L.L.B. because I had never been in a University.

Question Can you say what Muslim Law is applicable in the Courts?

Answer : I understand that there is only one Islamic Law, which is applicable in the courts.

This is wrong to say that our school in UP is like a well and that I am a frog in that so called well.

In India, Babar has fought a battle against Ibrahim Lodhi, son of Sikander Lodhi. He (Babar) had not fought against Sikander Lodhi. I do not know whether, in 935 Hijri, Ayodhya was under the rule of Sharqi Sultan of Jaunpur. This is correct that there was no battle fought by Babar with any Hindu Raja in connection with the disputed place. I do not know whether the Ganj-i-Shaheedan had existed in 935 Hijri.

This whole matter is not correct that after conquering a country, the conqueror Sultan has a right according to the Islamic Law, to make the males his slaves, to take the women in his Hareem as concubines as womenslaves, to loot the riches, wealth, ornaments, diamonds, and murder those who do not accept Islam. The Islamic Law says that those who are hindrance in the spread of Islam, they should be counseled and offered truce and peace, and in case they are not willing for peace, and they are found inclined to fight, then they should be fought. And so, if they are defeated then the Muslim conqueror has the discretion to release them who have been arrested, or release them after taking some amount of money from them. But, in case it is dangerous to let them go, lest they should wage battles in future against him, then he should keep them in his own country and take service from them. In normal conditions, it is unlawful and improper to murder them except when someone is a very dangerous, who if left alive, could prove to be dangerous. He can make men and women his slaves in accordance with the conditions stipulated above. It is wrong to say that one who raises a heap of human skulls is called a Ghazi, rather this is forbidden to do so. I am telling this on the basis of knowledge acquired by reading the books,
Statement certified after having been read out.

Sd/-
Mohammed Burhanuddin
12th November, 1997

Typed on our behest by the Stenographer in the Open Court.
Ordered to be present for further deposition tomorrow, the 12th November, 1997.

Sd/-

12th November, 1997**Date : 13th November, 1997**

(In continuation of date 12th November, 1997 — Cross- Examination of PW-11, Mohammad Burhanuddin, on oath today begins):

I had said about taking service from the arrested people. Generally speaking they should not be considered as slaves. (Before the advent of Islam) — again said that Islam in fact had already been there before its own era. The tradition of slavery was prevalent before the life of the Prophet. (Slavery was already there before the Holy Prophet founded this religion of faith). This continued amongst the non-believers even after the advent of Islam. The word “gulam” (Slave) has not been used to mean this is Hidaya. I will not be able to understand the meaning of the English word “slave” because Hidaya is in Arabic. This is wrong to say that the word “gulam” has been used to convey the meaning in this sense in Hidaya and the Holy Quran. To my knowledge, it was not so that in India, the Muslim rulers after conquering a place used to convert the losers into slaves. I do have this knowledge that a slave dynasty had ruled India. They were Muslims. The conquerors could have confiscated the lands of the losers but it is not necessary that they might have done this after every victory. I have no such knowledge that after conquering Awadh, Babur had confiscated some land there. In Fiqh, the word “malik” has been used for the rulers, of which the Urdu translation means “king”. When a king conquers another country, then it is at his pleasure to consider any land of the conquered country as his government property and he can leave any portion of that land for the losers. And, the portion of the land that he keeps for his government continues to belong to his government.

Question In case a Muslim king conquers a country and continues to rule over that country, will the land of Hindu temple where idols have been places and the worship is carried on, still be considered the property of the conqueror king?

Answer : According to Islamic Law, if a Muslim conquers another country where the population is non-Muslim, then the places of worship will be allowed to exist in the actual position. The places of worship will neither be demolished, nor the worship be stopped.

I have enough knowledge about Waqf in respect of mosques. I know the Islamic Law regarding the Waqf of mosques. I think that no changes were made in this law during the British Rule. I do not know if there had been any change at all. I think that it is not correct that there is any law in India, Pakistan or Bangladesh, that if the possession of a mosque is taken by any opposing party, the traditional rights of a mosque comes to an end. And, if so, then that law will be considered as wrong and redundant according to the Islamic Law.

Question : If a mosque is demolished, then the special character and the particular nature of that mosque end. This is according to the law prevalent in India which has been in force since the British rule.

Answer : There is no such law as to my knowledge, and if it does exist, then it is wrong according to the Sharia. A mosque will continue to exist even after its demolition. The mosque is, in fact, the land where it is built, and so the demolition does not affect the Waqf.

Question Does a mosque mean a building in General?

Answer It is correct to some extent. But, according to the Sharia, a mosque includes the land, the building and the space above.

Here the mosque means all that has been endowed for the mosque and not only the building. In fact, even if the building collapses, the Waqf continues to exist. A mosque cannot be built on public land. In case, there is a co-owner of the land endowed, a mosque cannot be built without his (owner's) permission.

It is correct that a mumin (believer) has the right to enter a mosque at any time without any restriction.

Whatever written in Chapter 15 of Hidaya is all correct. However, there is not fatwa on some sections of that chapter.

The statement given by me in this court and which appears on page 43 are correct. It does not conflict with the Hidaya. The land endowed thus belongs to Allah. A trustee is appointed for its management, which is according to the conditions laid down by the endower. If a mosque is built on a Waqf land, a trustee can be appointed for that mosque. But, I do not agree that appointment of a trustee is a must for the management of the Waqf. This also applies to the building of a mosque. I am saying this keeping in mind the applicability of the Islamic Law in totality that governs Waqf. This is available in

all important books on Fiqh, like, Badaye Al-Sanaye. A mosque which has no trustee, the people of that mohalla offering namaz there manage the affairs of that mosque. They become the representatives of the people not by election but by verbal consent only. It is wrong to say that there can be no property of Waqf without a trustee, or that a trustee is a must for managing the affairs of a mosque.

It is wrong to say that I am making a wrong statement about this. I do not have any details on the fact that in UP, there are two Waqf boards, and in those Waqf boards no Shiites can be member of Sunnis Waqf boards and Sunnis can not be members of Shiites Waqf boards. I cannot say for sure if Sunni Waqf is that where the endowment has been made by a Sunni and vice-versa. I had already stated that I do not have full knowledge of the present Waqf law of UP. But, it is wrong to say that I do not have any knowledge of the principles of Waqf law.

What I had already stated that the Qadliyanis are not Muslims, is correct. I have seen the Photostat copy of a picture published in the Hindustan Times of 13th November, 1997. Maulana Abul Hasan Ali Nadwi — alias Au Mian, appears at mark "A" in that picture. Maulana Sayed Rabbe-Husni Nadwi, Principal of Darul-Uloom, is not visible in the said picture. I have attended this function for a short while. Out of the two, Maulana Abdul Hasan Au is a highly learned Aleem as compared to me, and it is difficult for me to say anything about the standard of his knowledge.

Question Mulla says in his book that a person who believes only in Allah that is God and secondly he believes that Mohammed is his prophet, is a Muslim?

Answer : This definition of a Muslim is defective. Believing in this does not make a person a Muslim. There are many other conditions, as well.

Ahmedis and Qadiyanis are one and the same. But, I cannot say anything about the Bohras and the Khwajas as I do not know anything about their beliefs.

I have some knowledge about the Sharia Act passed in 1937 during the British rule. I do not know whether the Hindu Law was made applicable to the Bohras and the Khwajas with effect from 1937, or whether they were covered under the Islamic Law after 1937. I also do not know who the Ismaelitis are. I do not know if they are Muslims or not. I had certainly gone for Hajj. There were

many Hajjis but I cannot say if there were any Khawajas, Bohras and Ismaeli among them. I have seen Shiite Muslims going for Hajj. Namaz is offered by everyone there at the same time, and no one look at the other while doing so.

As I had read, Adam first came down from Heaven in Lanka, but I cannot say if it was the same Lanka we know as Sri Lanka. I do not believe in this 100% because it is not necessary to believe such things in Islam. But, I am sure about this that Islam began from him only but again I am not sure if he is the same Adam who the Christians believe he is. His descendents were all believers of Islam, which was given the final shape by Prophet Mohammed. Adam's wife was known as "Hawwa" (Eve).

I do not know if there was a well near Ajmeri Gate in Agra which was said to have been got dug up by Babar. There are minarets in Taj Mahal. I have seen the Fatehpuri mosque in Delhi, which too has minarets but I am not sure of it. (Again said) there are not minarets in the Khirkiwali masjid in Delhi as far as I know. This mosque is somewhere around Haus Khas. It is in a very good condition except for a little damage on one side. I am not talking about Quvatul-Islam mosque. There is no mosque by the name of Jama Masjid in Lucknow. But namaz-e-juma is offered in many mosques. These can be called Jama Masjid. All the mosques that I had seen have minarets. There is a Jama Masjid in Sambhal, which also has minarets. It is said about that mosque that it was built by Babar. There is a plaque in that mosque which indicates this. I do not know if Babar had got any mosque built in Panipat.

Question : Are your statements on mosques appearing on page 2 and 4, sheer analogical or based on knowledge acquired from books?

Answer Most of the information given is from books, while some are based on the analogy of the detailed explanations.

The matter relating to pictures is mentioned in many books of Fiqh, such as, Bahar Rayek, Raddul-Muhtar, and Badaye AlSanaye. I do not remember, at the moment, which book exactly says that there is no need for minarets and domes in mosques, or there was no need for water arrangements for Wajuh there. I came to this conclusion after reading different books. My statement is correct that there is no special mention in the Holy Quran and the Hadees regarding the shapes, designs and styles of construction of mosques.

I have seen paper No. 116C 1/6 which is the first page of the book entitled "Babri Masjid". It is a true Photostat copy. I have got the original book.

I agree with page No. 5, para 3 of this book. The Photostat copy of which appears of page 1160 1/7. (It is marked as exhibit No. 2).

I have read some parts of "Fatwa Alamgiri". I cannot say is there anything written in Fatwa Alamgiri about this. But it is correct to say that it is unlawful to build a mosque on a land taken by force according to the Islamic Law. The namaz offered in such a mosque will be treated as "Makrooh" (abominable).

Question : Will it be against the Sharia?

Answer : That namaz will be abominable.

It is correct that according to the Hanafi Law, a person endowing a land as Waqf, should himself be the owner of that land, but not necessarily the occupier. I cannot say that it is written in Fatwa Alamgiri, that the owner should have full control of the land.

I cannot say what kind of Waqf would that be if a person endows an ill-gotten land as a Waqf, and later on, he purchases the same land from the original owner.

It is correct if a tenant or an unlawful owner of some ill-gotten land, donates that land for Waqf without the permission of the actual owner of that land, then this Waqf will be unlawful even if he had got a mosque built on it. It is imperative that the endower has full ownership rights to the land. It ensues from the endowment that every person has the right to offer namaz in that mosques. It is for use by the general public. However, it is not necessary that the encloser should declare his intention publicly. It is not enough to only thing of the endowment; rather the endower should express his intention either by practice or in words.

Question : It is essential for the endower to relinquish his ownership rights completely in favour of the Waqf while endowing a property, which will also be confirmed from his action for appointing a trustee, or an Imam for that property?

Answer : Once the Waqf has been finalized, the endower's ownership of that endowed property automatically stands relinquished. No separate action needs to be taken in this regard.

It is wrong to say that ownership of a person automatically stands relinquished before the completion of the endowment itself. Both the actions! steps are completed simultaneously. This is correct that even if the endowers does not hand over the possession of the endowment, but he allows the Muazzin, the announcer of the call prayer, to voice the Azan and also allows the namaz to be offered, then it is enough for the completion of this Waqf, and this Waqf can never be relinquished. As far as the question of providing a passage for the mumins (believers) by the endower is concerned, there are two opinions about this. One is that it is imperative for the endower to provide the passage while the other is that after completion of the Waqf, the mumins (believers) automatically gets the right to the passage. There is also a fatwa in this regard. I do not agree that to convert a building into a mosque, it is necessary to separate that building and that, at least once, a namaz has been offered by the believers with the owner's permission, and namaz has to be continuousty offered there by the public in general for the recognition of the property as a mosque. if a grave located on a Waqf land is removed from that place, then the Waqf will still hold good. And, in case the grave is located on a personal property, the rights of the owner to the owned property will continue.

On paper No. 107 C-1/82, there is a Photostat copy of a page from a book. I have not seen such a book. On paper 107 C-1179, there is a Photostat copy of the title page from the same book which has been shown to me earlier. I have read this book. The original book is available with me. The above mentioned two papers appear to be true Photostat copies of the two pages from that very book. Paper No. 107 C-1/79 is a photograph of the title page of the book Babri Masjid. I cannot say about the Photostat copy No. 77 of this paper as to what particular books it belongs to, because I have not seen that. I have never seen the original book to which this Photostat copy No. 82 pertains to.

I have never read the original book of which there is a Photostat copy or paper No. 88. I have never seen any such book title of which is said to be "Gumgashta Haalat-e-Ayodhya". I have never seen the book, the Photostat copy of which is on its page No. 92.

If Babur Nama means the translation of Tuzk-e-Babri, then I have read some of its chapters. As far as I know, there is no mention of the disputed building.

I have read some of Tarikh-eMughlia. This could be treated as a history of the Mughals. I have read that there was, not one but two inscriptions on the Babri Masjid, the gist of which is that this mosque had been got constructed by Mir Baqi in 935 Hijri. I do not know if there was any temple named "Aseer Qilla" during the Mughal period, which had been demolished and got reconstructed by Akbar, or that the temple might have been in the Aseer Qilaa itself. I do not know if Shahjahan had returned Parshav Nath Chintamani Temple in Gujarat at Saraspur near Ahmedabad, to the Hindus. This is written in every book that from the terms and conditions for construction of a mosque, it appears that a mosque could be build in a mohalla of Hindus also provided basic conditions are correctly fulfilled.

Question I ask that, is this not written in any book that to build a mosque in a Hindu mohalla or at a place with Hindu temples all around, is lawful?

Answer : In old books of Fiqh, clear answers to such issued are not given, but only the principles of Islamic jurisprudence where these answers could be found.

This matter cannot be treated merely as an analogy. Mutawalli (Trustee) is connected with the Waqf. If the mosque has been endowed, then that will be included in it. All mosques are endowed. It is correct to understand that the trustee has a connection with each mosque. The management of a mosque can be attended to by the trustee as well as the residents of the concerned mohalla.

This matter has been written in all the books related to the Islamic Law that namaz can be offered without an Azan, but it would be a sin not to give Azan (call for prayers). It is a sin.

The namaz without Azan would be lawful. If it is a congregational namaz, that too will be lawful, but it would still be a sin. Such has been written in all the books on Fiqh for example ; Badaye Al-Sanaye. It is wrong to say that according to the Sharia, namaz cannot be offered in a mosque without Azan, or that I am giving wrong statements in this regard.

Question : Which book of Fiqh says that except for the Qibla wall, there is not restriction in offering namaz facing the remaining walls or poles even if there were images of living things, birds, animals, men or women on them?

Answer : This is mentioned in all the books of Fiqh that such namaz will be abominable, for example; the above mentioned book. These books also mention that even if there were graves all around the four sides of a mosque, namaz can be offered but within these walls. A mosque can also be built in a graveyard in accordance with the conditions I have already stated above.

Musalla in Arabic means a place where namaz is offered. There is no need of a building. It also means the cloth or the mat on which namaz is offered.

Question : I want to know if a musalla can also be a part of Waqf?

Answer If musalla means a mosque of an Idgah, then it can be held as Waqf.

I have already told the meaning of "Musalla". Not all of them can be endowed as Waqf.

When a Muslim dies, the namaz that is offered before this burial is called the namaz-e-janaza. It is not true that in the graveyard only the namaz-e-janaza can be offered, or namaz cannot be offered taking shelter behind a wall there, by making it a mosque. If there is not partition between the place of namaz and the walls, then the namaz will not be offered but if there was a partition then the namaz can be offered. The mosque can be made within a graveyard observing the same conditions which I had mentioned earlier.

For entry to a mosque for namaz, a passage can be taken from any direction. I have correctly said in my statement that if there were religious places of Hindus in the east-south, the namaz can be offered by coming from that side also. This answer is based keeping in view the nature of the question. Otherwise, there is no restriction on passage from any direction, as is written in all books. It is also written in the above mentioned book.

I am not in the scholar category, I have already told this. I have a right to issue a fatwa. It is wrong to say that no Alem below the status of a Mujtahid can issue a fatwa. I do not know whether Au Mian can issue a fatwa. But, I do know that he does not issue fatwas, rather he gets fatwas issued by us only. An Ijam was issued about the Babri Masjid. It was a taciturn one. In a way, it could be called Ijam-e-Sareeh, that is absolute majority opinion. Those who participated in issuing this ijma included; Abul Hasan Au Nadawai, Maulana Mujahidul-Islam Qassimi, Maulana Zafiruddin, Maulana Mufti Ashraf AM, Mufti

Honourable Imam Shahi Masjid Fatehpuri, and myself. Ijma was first issued verbally followed by a written one.

This is almost correct that Ijma consists of three prominent categories. i.e. Ittifaq-e-Qauli which is also called Sareehi; Ittifaq-e-Fi'li and Ijma-e-Sukuti. First Ijma is when the opinion is unanimous and is declared thus. The second Ijma is concerned with the actions and methods. While the third, is based on a majority opinion, but not opposed by anyone. It is wrong to say that only an Islamic jurist (Mujtahid) has the right to issue Ijma and none below that.

Statement certified after having been read out.

Sd/-

Mohammed Burhanuddin

13th November, 1997

Typed on our behest by the stenographer in the Open Court. Ordered to be present for further deposition on the 21st November, 1997.

Sd/-

13.11.1997

Date : 21st November, 1997

(In continuation of date 13th November, 1997 — Cross- Examination of Mohammad Burhanuddin, PW-11, today on oath begins):

Al-Uloom Al-Sharia means the knowledge of Sharia. It has many branches. It is not a term or a technical word. There are many branches of Sharia and not only seven.

Question : Has it been divided into seven parts? (1) Ilmul-Quran, (2) Ilmul-Tafseer (Interpretation), (3) Ilmul-Hadees, (4) Ilmul-Diyaratul-Hadees, (5) Ilmul-Usooluddin (principles of religion), (6) Ilmul-Kalam (speech) and (7) Ilmul-Usoolul-Fiqh (principles of Islamic Law). Out of these, Ilmul-Usooluddin and Ilmul-Kalam falls in the same category. What do you have so say about this?

Answer : Some of them are correct and some wrong. The correct title is "Dirayatul-Hadees". This is not a subject as such but is has to do with understanding Hadees. Diraya literally means understanding.

Fiqh is also divided into two. One is Usoolul-Fiqh and the other is Fiqh (Islamic Law). I am well versed with Fiqh. I am teaching it nowadays. Even Ali Mian considers me a person of higher knowledge as far as Fiqh is concerned. I have studied in Arabic and teach in Arabic, as well. I teach Fiqh in Arabic.

Arabic is spoken by many and not only in Saudi Arabia. I do not know if Arabic is recognized as a language under Indian Constitution. I also cannot say if any business in India is carried out in Arabic.

I cannot say the Fiqh, that we teach, is whether any where in practice or not. We study and teach Fiqh as instructed in the Sharia. In our Darul-Uloom, an international conference was recently held in the month of current November, wherein the proceedings, were recorded in both Urdu and Arabic. One of the prominent guests who attended this conference was Abdulla Ibn Subail, the former Imam of the Haram Sharif. I cannot say whether Dr. Saleh Abdulla, who is said to be the Vice Chancellor of Medina University, was amongst them, because I did not know his name. In any case, the Vice Chancellor was definitely there. I do not know whether a message from the Prime Minister of Turkey was read out, since I was in the Court at the time. I did not feel the necessity of knowing about this.

It is correct that according to our belief, whatever has been said and ordained in the Holy Quran, and whatever has been commended by the Holy Prophet and has not been annulled, cannot be modified. It is also correct that every Muslim has to abide by it. I also do not agree that after 1958 AD, whatever changes made in the Muslim Law during the British rule, were to be treated as infidelity. I am not familiar with the Indian Penal Code. Hence, I cannot say whether it comes under infidelity. The changes made in the Islamic Law are of different nature. I can explain this in details but I need reference books.

In our school, we teach the Islamic Law to our students and not the law passed by the British Government. We do not teach the prevailing laws of the Government, but we only teach the Islamic Law. I cannot say about the sources of funds being received by our Darul-Uloom, whether it is received from abroad or not, as I am not responsible for financial matters. I do not feel the need to know this, but I know that we do not take any financial grant from the government.

Last Friday, namaz was offered in our mosque under the Imamatus of the Imam of Haram Sharif, whom I had mentioned about, above. The sermon was delivered in Arabic before and after the Friday namaz by the Imam himself since he had led the namaz. The sermon is usually delivered in Arabic by whosoever leading the namaz. There are minarets also in the mosque. In this

namaz also, Azan was given before the namaz like any other namaz. The Azan was given from inside the mosque but not by standing on the minaret. I do not think the azan was called through the loud speakers fixed on the minarets. There were many loud speakers fixed that day. I have seen one fixed there: I have seen it being brought down.

When namaz is offered at home, then that place does not become a mosque. When people offer their namaz in the veranda of their offices, that place does not become a mosque.

Question : If the place of a sajda has not been endowed for Waqf, will that place not be considered a mosque?

Answer : Conventionally speaking, a mosque has to be endowed as Waqf.

I do not know who the Wahabis are. Neither I know about any organization named All India Sunni Jamaatul-Ulema, or about their said secretary Maulana Aslam Baig. I do not know if this organization is in Lucknow. Statement certified after having been read out.

Sd/-

Mohammed Burhanuddin

21st November, 1997

(On behalf of the plaintiffs, Law suit No. 589, Shri Devki Nandan Agarwal, himself plaintiff, Cross- Examination concludes).

Typed on our behest by the stenographer in the Open Court. On behalf of all the respondents, Cross- Examination of PW-1 1, Shri Mohammed Burhanuddin concluded

Sd/-

21st November, 1997