

**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW**

**OTHER ORIGINAL SUIT NO.4 OF 1989
(R.S.No. 12-61)**

Sunni Central Board of Waqfs,

U.P. and others

...Plaintiffs.

Versus

Gopal Singh Visharad and Others ...Defendants

**STATEMENT OF .P.W.NO. 17
SHRI ZAFAR ALI SIDDIQUI**

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

O.O.S. NO. 4 OF 1989
(R.S.NO. 12-61)

Sunni Central Board. of Waqfs,
U.P. and others ...PLAINTIFFS.

Versus

Gopal Singh Visharad
and others ...DEFENDANTS.

STATEMENT OF P.W. 17

20.10.2000 Zafar Mi Siddiqui, Son of Shamsheer Ali
Siddiqui, Age 65 years, Resident of
Mohalla Dariyapur, District Sultanpur,
Profession —Legal Practice, made the
following statement:

I am M.A. L.L.B. I had done M.A. in Geography in 1959. I had passed the L. LB. examination in 1960. I had started legal practice from 1961- 62. I was enrolled as an Advocate. The person as my senior with whom I worked used to take up civil cases. My work is related to civil and revenue cases. I had been continuously in the panel of the 'Survey Commission set up by the District Judge and had been working as such. I have been doing this survey work since 1964-65. I have left the survey work since the year 1996-97. Prior to this Shri Hashim, the plaintiff of this case had asked me to conduct a survey of this disputed land. Then the advocates of the plaintiff, Shri Mannan Sahab Shri Jilani Sahab and Shri Mushtaq Ahmad Sahab engaged me to do the survey work.. When they told me, I did the survey of this disputed land on 19th, 20th, 21st July, 1970. The plaintiff had given me the Nazul map of 1931. I was asked to do the survey of 23 plots. The plaintiff had also given me

the Nazul Khasra of 1931. All the 23 plots of the disputed land were shown in this. There was a Mosque on one plot of the disputed land. That Mosque was on Plot No. 583. On the eastern side of the Mosque Plot Nos. 586, 581 and 584 were situated. On the northern side of the Mosque Plot No. 582 was there. There were Plot Nos. 590 and 588 on the southern side of the Mosque. I am telling this number from the map and Khasra of 1931 Nazul.

In the map of 1931 Nazul there was a Sihadda on the southern side. I started my work from there. I carried out measurements of some plots to find out this Sihadda and then I realized that this Sihadda might be at that place. After getting the place dug out, the Sihadda was found there. I measured the plots to the east and north of the Sihadda I found the position of the Sihadda at the right spot all right as per the map. A garden was found nearest to the Sihadda situated from 632 to 638, that is, that garden consisted of all these numbers. I carried out the measurement based on 1931 map and it was found quite right at the spot that was, it is quite similar to the place. When I was carrying out the survey, at that time, another Survey Commissioner from Court had gone there and I was instructed that I should prepare a report of mine and should also assist him. A number of boys from Ayodhya were helping me in my this survey. At the time when I did my survey work, the lawyers of the plaintiff Shri Mannan, Shri Jilani, Shri Mushtaq Ahmed as well as the plaintiff were present. An advocate from Faizabad Shri Aftab Ahmed Siddiqui was also present. When I carried out measurements at the site, I had also prepared notes — Within a month after the survey i.e. within a month after making my notes, I had prepared a report. I had prepared these notes at the site. At the time of carrying out measurements, I had also drawn a rough sketch at the site. I had prepared the map with the help of that very sketch. I

have the map as well as the report with me at this moment which were prepared earlier. I can produce the report and the map. (On the subject of producing the report the lawyers of the opposite party raised objection and they said that they had already filed those objections in writing. They say that this report cannot be filed by the witness and the report of the Survey Commission has already been submitted in this regard. As the process of testimony is on, it would be worthwhile that this report should be kept in possession for the time being but the orders regarding its admissibility and acceptability would be passed later on after the completion of depositions of the witness). The Witness took the report and the map which was marked as Paper No. 191 C-2. I have signed each and every page of this report as well as the map. (There is no mention of any date on this report). After getting typed, I prepared this report on 13, 14 October, 2000 and I prepared the map also on that very day after tracing from the old map. I have prepared i.e have got typed this report also on the basis of the old report. This map was traced with my own hands.

That which is shown in the map and is also written in the report and is correct as per the site and the map.

(Cross-examined by Shri Ranjit Lal Verma, Advocate on behalf of Nirmohi Akhara, the Defendant No. 3,).

xxx

xxx

x x x

x x x

There is a survey paper in Geography which is prescribed for M.A.(Previous).

Verified after hearing the deposition.

Sd/-

Zafar Ali Siddiqui

20.10.2000

Typed in Open Court by the Stenographer as per my orders. In continuation of this be present on 13.11.2000 for further cross examination.

Sd/-

20.10.2000

Dated 13.11.2000 (In continuation of dated 20.10.2000 the statement of P.W.-17 Zafar Ali Siddiqui begins under Oath). (Cross examination by Shri Verma continues).

I have passed my M.A. examination in Geography. I am not aware of the history as to which of the subject of Geography and Land Survey started first. In regard to the coming into being of human beings, the subject of Geography is very old one. I do not have the full knowledge of Hindi language and Devnagri Script. I have studied elementary Hindi. Whatever elementary Hindi I have studied enables me to read complete Hindi and Devnagri Script. I have passed my High School and Intermediate examinations from Inter Board of Allahabad. When I passed my High School and Intermediate examinations from the UP Board, Hindi was not a compulsory subject at that time. English subject was compulsory at that time. I passed the High School examination in 1951. At that time I had passed the elementary Hindi examination. In Inter also elementary Hindi was my subject. I passed M.A. Geography examination in 1959. India is on the southern side of the globe. It would be wrong to say that India is situated on northern portion of the world globe. At the moment I cannot tell as to what is the area of India in the geographical sphere. I would also not be able to tell as what is the area of India from north to south and east to west. On the southern side of India, the Indian Ocean and Arabian Sea are situated. In the south of India only Lanka country is situated. At the moment I am not able to remember as to which bay is situated between Lanka and India. Geographically the country of Lanka is known in same manner from the very beginning i.e. from ancient times, this country is known by the name of Lanka from the very beginning. I know that the Ganga river and the Saryu River are in Uttar Pradesh state of India. In geographical terms

the name of Ganga river has been Ganga from the very beginning but the name of Saryu river keeps getting changed. The river Ganga has come out of Gangotry but I do not remember as to from which place the river Saryu has come out . Most of the rivers flowing in Uttar Pradesh have come out of Himalayas. The name of the river Saryu is also Ghaghra river. The name Ghaghra river finds mention in the old geography books that I have read but the name of Saryu river does not get mentioned there. Ghaghra river flows from the northern direction of Ayodhya. This river has been flowing in the north of Ayodhya for a long time. The survey work does not necessarily require the knowledge of geography. The land survey work does not necessarily require the knowledge of geometry. According to my knowledge and opinion the knowledge of geography subject is necessary for land survey as the land survey (field work) is connected with that work. The land survey began in the time of Akbar. During the time of Akbar the measurement work used to be done with a rope (string) and the rope used to be measured by hand. During the period of Akbar the hand measurement used to be accepted and it was called by that very name.

During the time of the same Akbar, the measurement used to be done by fingers i.e. width of fingers and a measurement stick was made of 41 fingers. I do not remember as to what was its measurement name (on being reminded by the lawyer), the witness said that the measurement was perhaps called ilahi. I do not remember as to how many ilahis would make a cord. I am unable to remember that 60 ilahis would make a cord. As far as I remember in the beginning this cord used to be straight and in the same form and it did not have any marks etc in the middle. With the passage of time, during the period of Akbar, a bamboo stick used to be fixed at every 41 finger

measurement on this cord and it was linked with an iron ring. I carried out the measurement of the disputed place with the help of Shahjahani chain. Shahjahani chain began to be used during the period of Shahjahan. Shahjahani chain was introduced with an iron chain. During the time of Shahjahan the Shahjahani chain was made of 20 lathas (sticks). This latha was made from 8 feet 3 inches measures. It is not correct that the Shahjahani Chain may have begun with the 42 finger measures. I do not remember that the measurement of 42 fingers may have been later adopted as that of 33 inches. I do not remember that during the period of Shahjahan 33 inches may have been taken as one yard measurement afterwards at the time of reforms. It is not correct to say that the Shahjahani Chain may have been of 60 yards. I do not remember that any new chain may have been made during the period of East India Company prior to British Rule. I have heard the name of the Guntar Chain and I also know about it. It was invented by Guntar saheb. I do not remember as to when it was invented in India.

I do not remember that the Guntar Chain may have been introduced in 1620. I also cannot tell as to how and when the Guntar Chain was invented in India.

I would not be able to tell as to since when the measurement work began in acres in India. I also cannot tell as to in whose reign it began. I do not remember whether it was Guntar Sahib who started the measurement work in acres. The measure of Guntar Chain is 66 feet. There are 100 links in Guntar chain. Perhaps the measurement of one link is of 7.5 inches. I would not be able to tell as to how many chain measures are there in an acre. The witness further said that acre-measurement is not done in Avadh. The first settlement that took place in

Avadh was not done in acres but in bighas. Except Avadh region there are separate chains for measurement in rest of the Districts. In Avadh only Shahjahani Chain is used. The Chain which was used in the District of Faizabad is not used in Gonda District. The Shahjahani Chain is of 165 feet length. This chain has 20 gathas. The measurement done by me was made of 10 gathas by me for the sake of convenience. For the sake of convenience the lawyers and other people get made this chain of 10 lathas for carrying out my work. I did not made the chain of 10 lathas on my own but it was given to me by my seniors. This chain was given to me by my senior Shri Laxmi Narain Shukla. I got this chain near about the year 1975. I do not remember which place and when did I measure with this chain for the first time. I do not remember which place did I measure prior to carrying out measurement of the disputed place with this chain .

I had ascertained the correctness of the chain when I got it for the first time. I had tested it with a scale, in Shahjahani chain a brass ring is used and 1 ,2, 3, 4 pointed marks are made on that ring (Guriya) that is the rings have same marked notches of the same numbers. There is a circle on the fifth ring (Guriya). After the mark of 5, there are again 4 notches, 3 notches, 2 notches on it and there are no marks of 6,7,8. Every link is connected with an iron ring. I do not know the standard weight of a chain. If any ring of the chain gets broken, another ring (chhalla) is fitted. At the time of fitting the second ring the measurement is kept in mind so that the chain is not big or small. This chain of mine never got broken from 1975 to 20 July, 90. The chain with which Shri J.P. Srivastava, the Court commissioner was carrying out measurement was of 99 links i.e. it was less by one link. His chain also had 10 gathas. The chain of Shri J.P.Srivastava, the Court commissioner was checked prior to measuring work on my

advice. This advice was given by me on behalf of Md. Hashim, the plaintiff. This advice was given by me to the Court Commissioner and this advice was repeated by all of you i.e. all the lawyers present . This was a test work. I do not remember whether the Court commissioner write anything on paper in this regard but he did not prepare any list before me after testing of the chain. The weight of the chain was not taken.

The Chain was not washed. It was not counted before me as to how many rings (chhalle) were there in the chain but the links were counted. One link was found less on counting the chain and then a tape was used to measure. This tape or tag was given by some one present there. This tag with which the link was measured was 100 feet long. This chain when measured after spreading it filly, was found less by 9.9. inches. This chain instead of being of 82.6 inches was found to be less by 9.9 inches. The Court Commissioner had also taken with him a chain of 10 lathas (sticks) in the beginning. In the Shahjahani Chain there is a link of 9.9 inches and it has remained so from the very beginning. This link (kadi) was sent back by the Commissioner and he got another one from the Collectorate. This incident of chain testing took place in 1990. I do not remember as to how much time was taken to get another chain. Till the time another chain was got, Sahadda and Chomeda etc. had been pin-pointed on the map. Another chain was tested when it came. I do not remember as to whether any record was made regarding the testing of the other chain or not. This measurement work was done on 19, 20 and 21 and the work of the last day ended between 2 and 2.30 O'clock.. The first day's work had started at 11.00, 11.30 AM . In the meanwhile I had inspected the disputed site as shown by Md. Hashim, the plaintiff. At the time of inspection I saw every thing which came to my sight i.e.

trees, temple and well etc. Whatever work at the time of measuring this disputed site was done by me was for my client Md. Hashim. I was appointed by Md. Hashim for this work.

Md. Hashim had given me the copies of the Nazul map, Khasra and the plaint when he sent me at the time of measurement. This Khasra was the Khasra of 1931. This Khasra was not a certified copy. It was perhaps a photostat copy. I do not remember whether the map given to me by Md. Hashmi, was a certified copy or a Photostat copy. This map also was of the year 1931. This map was of Mauza Kot Ram Chander. Except the map of Mauza Kot Ram Chander, the maps of its nearby Mauza were not given to me. It was written on the map given to me by Md. Hashirn that, it was the map of Mauza Kot Ram Chander.. I do not know what does it mean by the terms Nazul or Nazul land. As for as I remember besides the measurement of the disputed land, Shri Akhlak had called me for measuring the Nazul land before 1980 and he had given me a map for carrying out measurement work. I do not remember at the moment as to what land and Mauza I was asked by Hafiz Akhlak to measure. The measurement work assigned to me by Haifz Akhalakh was not connected with this case. Neither that measurement work was connected with any other case nor that report was filed in any Court. As the map given to me by Hafiz Akhlak was 1 inch = 10 latha (stick) that is why I am telling that, that was related to Nazul land. The map prepared in the first land settlement of the habitation is based on this very measurement i.e. 1 inch = 10 latha. I do not know whether the map made in the first land settlement was made on any orders or not. I do not know that any notification had been issued or not by the Board of Revenue for effecting the first land settlement in 1860. In first land settlement when any habitation would appear at

the time of measurement work then that populated area was numbered serially. In this habitation serial number the enclosure (Ahata) was numbered and a map was also drawn separately. It is correct that when the populated area was serial numbered, a separate map was drawn of that populated area and a Khasra was prepared. It is also correct that wherever there was no populated area, it did not get any separate map drawn for it. When the Nazul map was drawn then a single map was drawn for each and every thing on the map i.e. the place of Mazarua and non Mazarua habitation was in the same map. I cannot tell whether that map was a land settlement map or not. It was mentioned in the map that it was a Nazul map. The field book prepared at the time of the survey means the notes taken at the site at the time of measuring work. Only the distance of the places from one another found on the site is mentioned in the field book. The main work of the Survey Commissioner is to carry out inspection after reaching the spot. He then prepares a rough map of the disputed place after viewing the spot. I did not prepare any field book on the spot but prepared a rough note and a map on the spot. I did not file in the Court by enclosing with my report, the Khasra, copy of map and plaint given to me by Md. Hashim and the notes and rough maps etc., prepared by me. I do not possess all these things now. I returned all these documents to Hashim Sahab. I had given all these documents to Hashim Sahab within one or two months i.e. one-two months after carrying out inspection of the site. I did not make any mention in my report that I had received all the above documents and I returned them afterwards to Hashim Sahab. When I got typed the report which has been filed by me, I did not have with me the map of Khasra etc., which were given to me by Md. Hashim. I had with me the rough map and my notes, prepared by me, when I got my report typed. Notes mean the distances written at the time

of measurement. The report filed by me was actually filed by me on 13-14 October, 2000 on the advice of Shri Mannan, Advocate, Shri Jilani, Advocate and Shri Mushtaq Sahab, Advocate. I had gone to Shri Mushtaq Sahab, Advocate due to some work when Shri Mannan and Shri Jilani asked me to file this report and so I got the report prepared. Md. Hashim did not come to me, before my evidence, in this regard. On the spot rough notes and maps prepared by me are with me at my home. It is not required of an Attorney Commissioner to file his report by enclosing with his report the rough sketch map on the basis of which he has prepared his report. I am not aware of the fact that any Nazul land settlement of Faizabad district or that of Ayodhya was done in the year 1931 or not. I do not know that the maps of Nazul have been made on the basis of piece of land (chak) and not on the basis of Mauzas. The numbers of the disputed site were written on the map given to me by Hashim Sahab at the time of measurement work. I do not remember as to whether the boundary round the disputed place was mentioned in the map given to me by Hashim Sahab with his plaint or not. There was also the Sihadda in map of Nazul and I had seen it. Sihadda means a meeting point of 3 villages. The witness was shown the filed plaint application and the map enclosed with it by Hashim and after seeing it the witness said that it was the same plaint and map the copy of which was given to us at the time of measurement work. The plaint given to us was the copy of the amended copy enclosed. On this plaint 2-A/1 Aa Ta, 2-A/18 Aa was written. The witness was shown the Khasra Paper No. 65-A 2/3 and after seeing it the witness said that the copy of the very Khasra was given to him at the time of measurement by Hashim. On this Khasra amended original Khasra (Mashmoole Khasra tarmimi) is written. In this Khasra, there is no mention of any serial wise numbering. On this Khasra Nazul No. 503 is given. On

this Khasra in front of Plot No. 503 this is written "Masjid Waqf Ahde Shahi Masjid and ahead of this is mentioned "Bazariye Misil Numbri 427-6/47 Munfasle 41 Isvi dakhil Khariz, banam Raghu Nath Das banam place", after this writing is illegible. In this Khasra in Column No. 3/1 of Nazul Plot No. 583 this is written "Abadi 444", the Abadi 444 means that here the number of the enclosure of first land settlement is given. In this very Khasra what is mentioned above is written and nothing is legible after this.

What is written in the remarks column of this Khasra is not legible to me. One copy of the same map, which was given to me by Hashim Sahab was with the Commissioner, Shri Srivastava and both the maps tallied with each other. The witness was shown the map Paper No. 59 A-1/19, which is enclosed with the Commissioner's report and after seeing this the witness said that, it was not the map which Court Commissioner was having with him at the time of measurement. The witness was shown the map Paper No. 110-A-2/18, which is enclosed with the Commissioner's report, and it is also not the map which was in possession of the Commissioner at the time of the measurement. The map the Commissioner was having with him at the time of measurement was a big map and it was about one yard in length and width. The witness was shown the map Paper No. 110 A-2/24, which is enclosed with the Commissioner's report and after seeing this the witness said that, this also is not the map which the Commissioner was having with him at the time of the measurement. I do not remember whether the map which the Commissioner Srivastava Sahab was having with him was a certified copy or not. The map and the size of the map in possession of the Commissioner at the time of measurement tallied with the size and form of the map which was with me. I did not come to this Court when the report of the Commissioner was filed in the Court

in this case I did not come to this court ever in this case. I have also not seen the report prepared by the Commissioner Srivastava Sahab. Nothing came to my notice during the time of measurement that there was no map available regarding Nazul in Faizabad and the map which was given was a traced map (copy of the map). The amended map was not written on the map which I had with me nor it was an amended map. After seeing this map Paper No. 59- A 1/19 the witness said that on this map the Plot No. 583 is south downwards where the map ends, and also the last plots 643,642,641 and 646 and 648 are there. In this map on Plot No. 649 i.e. on the north-eastern corner of the plot no.649 sihadda has been shown. No sihadda has been Shown on the eastern side. There is not any sihadda on the northern side also. The witness was shown an application dated 21.1.1991, Paper No. 110 A-2/34 seeing which the witness said that he was not present when the application was given. It was not asked at the time of measurement that the map with which the measurement is being done has not been prepared on the orders of any Collector or R.O. I also do not know that the Nazul Officer may have written that this Nazul map is not in order and there are no signatures of any officer. The witness was shown the map of the Disputed Suit No. 4/89 on which there is paper No. 220/C-1 and after seeing the map the witness said that it is the same map which Commissioner Srivastava Sahab had taken with him to the site. He carried out the measuring work with that very map and besides that he had no other map with him. There is a following writing on this map "Mauza Ramkot Ayodhya, Pargana Haveli Avadh, Tehsil and Zila Faizabad 31 E. 1338 Fasali". Some portion of it is torn off and which is not legible. It is not written on this map as to on whose orders this map was prepared but there is a stamp on this map which bears date of issue. This copy was taken on 30.1.62. It is not known

whose stamp it is then he said that he was not able to read it. It is not legible from where the copy was found and how it was found. The name of the maker of the map is not written. Prepared by, compared by etc., is written on maps but all these things are not written on this map. List of identifications is not mentioned on this map. The witness himself said that on top of the map "Muqabla Kiya, Nakal Kiya, Milaan Kiya is written" in Hindi and signatures are also there. The scale of making a map is not written on this map. In this map point of direction is written. Three sihaddas are visible in map. There is a sign of sihadda on this map and sihadda also has been made. There is a Sihadda on southern side of this map on plot No. 649. In the south of 649 the Plot 648 is situated. After 648 nothing has been made on this map and according to this map Plot No. 648 is the last plot of this Mauza. It is not correct to say that the Sihadda made on the north-eastern corner of Plot No. 649 is not the last limit of the village i.e. of this Mauza because south of this Nazul Plot No. 648 of this very Mauza is situated. When the witness was shown Paper No. Exhibit-10 he said following is written in this "Nakal Khasra Abaadi Mauza Ramkot Chander Land settlement former Pargana Haveli Avadh, Tehsil and Zila, Faizabad". There are serial wise numbers in this and they are 167,163. It does not find any mention of enclosure number 444 but there are some numbers mentioned there.

I had prepared notes regarding all the objects found on Nazul Plot No. 583 at the time of making measurements. There was a wall all around the disputed place on Plot 583. Its main gate was both, on the side of north and east. I did not go inside from the northern gate. The northern gate was open. We i.e. myself, and the Court Commissioner did not make any measurement inside of this gate. I had seen from the eastern gate from the outside. I had only gone up to the

gate. The height of both the eastern and northern gates was the same. I had seen the eastern gate open. There was in view a vacant open space inside the eastern gate. Only a small portion of land was seen and there was no construction work seen. One had to take the stairs so as to reach the northern gate, then he said that there were stairs near the north-eastern corner of the Mosque. I had gone above till the northern gate by taking the stairs. There was a main door at a distance of 8-10 feet from where the stairs ended. I saw the door from top to bottom. At this stage the attention of the witness was drawn to Photo No. 20 in the album prepared by the Uttar Pradesh Archaeological Survey. The witness said that he is unable to remember as to whether the door was in this shape or not. I do not remember whether some thing was made on this door or not. The witness was shown the photo No. 40 of the coloured album. After seeing this photo the witness said that he was not able to remember whether the door was of the same make or not. After seeing the Photo No. 41, the witness said that he could not remember whether such and same kind of door was there or not. After seeing the Photo No. 42 also the witness said that he could not remember whether there was a similar door there or not. After seeing the Photo No. 38 of the that same album, the witness asked whether that photo was also of the same door or not . After seeing the Photo No. 38 the witness said that no form of any lion or of any animal was visible to him in that photo. The witness was shown the Photo No. 45 of the same album and asked whether that photo was that of eastern gate then the witness replied that he did not remember whether, that photo was of the same door nor not. I did not see any touchstone in the eastern gate at the time of the measurement. The land near the eastern gate was leveled and no slab of any black stone or of plain stone was found there neither any epigraph was found there. On

the east of that eastern gate, there were no shops of batashe and sugar sweets (elaichidana) etc., After seeing the Photo No. 44 the witness said that he was not able to understand whether there was any stone or not and the writing appearing on it was not legible to him. After seeing the photo, I cannot tell whether any such touchstone was there or not. It is true I had not drawn any rough map of the inside of the disputed site. I had done the measurement work from outside only.

I did not see any stone or pictures on stones at the time of measuring work then he himself said that he did not find any figures (pictures) all around the walls of the Mosque. Once on going to Gola Gokarn he had seen the pictures and carvings on stones. Except this he did not see any such pictures anywhere. That was a painting. I had seen pictures, cinema etc., while I was studying. I do not watch T.V. also but it is there at home. I have never watched any such pictures where idols etc., may have been made after finishing a stone. The Paper No. 54 A- 2/42 filed in Case No. 4/89 by the plaintiff was shown, seeing this the witness said he could not say whether that was an idol or not but it did appear to be a human figure. Similarly after seeing Paper No. 54 A-2/44 and 45, the witness said no idol was visible in that picture but human forms are visible such as there being a picture of somebody dancing. In Photo No. 44 a picture of a woman is seen. The Photo Nos. 11 and 12 of the coloured album prepared by the State Archeological Department were shown to the witness, on seeing which he said that he could not say whether those were the walls of the disputed place or not. This boundary wall might be 12-13 feet high. I found at the time of measurement all round the boundary wall that there was a space for movement of people there. Two chain pullers were there with me at the time of measuring work. Hashirn

Sahab was there and sometimes Akhlak Sahab was also there with me. On the western side of this wall i.e. in the west of the disputed building, a space for the movement of eight people together was not available. On the western side of this disputed site, there was no munder (parapet) but there was space of 3-4 feet and after this there was a slope. This slope was quite low. This slope was about 20 feet deep. No body could climb up from there. The western wall also might be about 12-13 feet high. The western wall was in quite a good condition. It was not broken. There was no embankment (Pushta) made down the western wall. I am not able to remember whether some trees were growing on the western wall of the disputed site or not. After looking at the Picture No. 36 of the coloured album the witness said that no wall was visible in that photo. Some people are visible standing there. I do not see any munder (parapet) in the west of the people standing in the picture. Nothing appears westward of this photo and so I cannot say that any slope is seen in this picture or not. I had measured this disputed place with a chain. I had not measured the width and height of these walls at the time of measurement. While measuring all the four corners of the disputed site, I did not take cross angle from inside. At the time of measurement all the four corners were my base lines. I did not make any angle while doing measurement work. On the westward of the disputed site some land is vacant and afterwards there is a road. I did not measure any corner of the disputed site from the road. There are two stairs in the north of the disputed place the first set of stairs are near the gate meant for coming to the disputed site from the road and the second set of stairs are near the north-eastern corner of the disputed site meant for going westwards. I do not remember as to how many steps were there in the first set of stairs. I also do not remember what was the height of these stairs. The first staircase coming

from the road might be of about three-four steps. These stairs were about 4-5 feet wide. The first staircase passing by the road might be about 5-6 feet wide. The first staircase is straight towards the gate. On climbing the first staircase about 40-45 feet land was lying vacant upto the place of the disputed site i.e. from north to the south this land is about 40-45 feet.

Verified after hearing the statement

Sd/-

Zafar Ali Siddiqui

13.11.2000

Type in open court by the stenographer as per my order. In continuation of this witness be present on 13.11.2000 for further cross-examination

Sd/-

13.11.2000

Date: 14.11.2000 (In continuation of 13.11.2000
the statement of P.W.-17 Shri Zafar Ali
Siddiqui begins under oath).

I got to be nominated by the District Judge in the Survey Panel from 1965 to 1996 and I used to get 10 to 12 survey work every year. In these surveys, in addition to agriculture survey, habitation surveys were also being done by me. I had done all these surveys in Sultanpur District. There are Nazul lands in Sultanpur District. But there are no separate documents prepared of the Nazul land neither there is any Khasra or map. According to my knowledge the Nazul land is written serially on the revenue register there. These numbers have been shown in the very maps made in the revenue settlement. In Sultanpur the Zamindari addition of the inhabited land has not been done. Therefore the Nazul land is the land which has been taken away by the Zamindars from the tenants. The inhabited land means the land which is controlled by the Municipality. I know Persian a little bit. The term Nazul has been derived from Nazil. Nazul means to come down from somewhere. I have not read any book related to Nazul. I have also not read the Crown Grants Act. I have also not read the Government Grants Act. It is not correct to say that Nazul land is the land where the Nawabs of Avadh would go for camping and the same is called Nazul land. It is true that the status of a Nazul land owner is like that of a Zamindar and he becomes the owner of the land.

Question:- Whether the Proprietor of the Nazul Land, is
Zamindar Nazul Department like other Private
Zamindars?

(Shri Jilani, the lawyer of the plaintiff objected to this question and said that there is no justification to ask this

question to the witness neither there is any relevance of this question with the deposition of the witness.

In the opinion of the Court as the witness has done the survey of the Nazul land and done so with the Nazul map therefore, there is no force in this objection. Hence it is rejected.

Answer:- I have no knowledge about this.

In the cases where I filed the reports after doing the survey of the inhabited lands, all of such reports were accepted by the Courts. I cannot tell the details of the cases where I filed the reports after carrying out the survey i.e. I cannot tell the details of the inhabited land survey of 1996-97 for which I have given the report. I also cannot tell as to whether I had done any survey of an inhabited land in 1996 or 97. I have not done any historical survey of an inhabited land in Sultanpur. I also do not remember whether I have done any survey which may have been very disputed one. I have also not done any survey whose reports may have been filed in the Court of the District Judge. In my opinion every case is important therefore, I would not be able to tell about my report submitted in such a case which may have been very important. It is not correct that I have not done any survey of an inhabited land neither I have filed my report in any Law Suit. It is not correct to say that for this very reason, I am unable to give the number or reference of those Law Suits.

When I went to do the survey of the disputed site, I had taken with me a chain, some buntings, some long bamboos and 10-12 iron pegs. Some people were also with me. I had three persons with me who were helping me in my measurement work. Hashim Sahab sometimes helped

me. I did not know the three persons before hand who were helping me in the measuring work neither had they done any work with me. In addition to the above equipments I had also got spade and shovel. Excepting this no other objects such as geometry box and compass etc., were with me. But I had a Try Square (Guniya) and scale with me. I do not remember at the moment any other equipment which may have been called for and used by me during the survey. It is not necessary to determine two points in opposite directions for carrying out any survey. It is not that only one fixed point is sufficient to fix any plot but if the Sihadda is found then the survey work can be done with Sihadda. If Sihadda is found, the very Sihadda is taken as a point and all the four corners can be find out from that very fixed point. If the corners of the disputed plot get aligned with the Sihadda, there is no need to verify those point with some other fixed point. Sihadda is right or not is determined by nearby plots. It is not correct to say that the identity of the Sihadda is based on the nearby plots or with it only. If there is any dispute about the Sihadda then it is seen first whether there is a platform of 4 X 4 then it is seen whether there is coal or sand or not and then after that the stone is seen and if it is not determinable on that basis too then it is verified with the nearby plots. Hashim Sahab did show us and got identified the disputed plot when I had gone to do the survey of the disputed site. I did not fix the buntings, pegs or bamboos on the disputed plot which were identified by Hashim Sahab. Md. Hashim did not identify the disputed plots by standing at every corner of them. It is wrong to say that in this work I prepared a rough map of those plots on the basis of the map. All the disputed plots are not in a compact area. The disputed land can be in 8-9 blocks. On the spot also the disputed land was found to be in 8-9 blocks. I have prepared my rough sketch in these very 8-9 blocks and I have written whatever was

there on those plots such as well, temple, mosque, trees and buildings etc. We found a portion of a temple in one of the plots. I himself said that it appeared to be a house but we were told that it was a temple. I have not put any numbers on the above mentioned 8-9 blocks in my sketch neither I have made any reference regarding them in my report. Sihadda was on the southern side of the disputed building. Leaving aside this southern sihadda, we did not find any other Sihadda on the spot. It is true that there were two Sihaddas on the border line on the eastern side of the disputed building in the map but they were not found on the spot. By the map I mean the map which was taken by the Court Commissioner with him at the time of the survey (Exhibit- 50). I had also a copy of that map. No Sihadda was seen on the spot but it had to be searched for. It is true that the stone of the Sihadda has one length-width but I do not remember at the moment how much it generally is. All the sihaddas have a similar length-width and thickness whether they are in the city, in the village or in the fields. These Sihaddas are long which have four sided make up. They are their upwards and wide downwards. The top of the Sihadda is flat and a plus sign is inscribed on the top of it.

This Sihadda is fixed in the middle after constructing a platform of four feet but it is four sided from the bottom to top. With a view to identify the Sihadda it is not necessary that one and half feet bitumen should have been placed below it but there are coal and sand or they are put there. It is not correct to say that coal is laid below the Sihadda when bitumen or charcoal is not available. During his survey the Court Commissioner had also searched the Sihadda along with me. I advised the Court Commissioner that there should be a boundary of the plot near the road and then both of us searched for it there. On my advice both the Commissioner and myself measured the nearby garden and according to the map made measurements with

it upto the place of the Sihadda. After this we made a guess by making marks and by doing the measurements from the nearby plots that the Sihadda must be within these five-six feet. It is true that for searching of the Sihadda both of us i.e. the Commissioner and myself worked together. The Court Commissioner also had the chain, buntings, iron pegs, long bamboos, scale and compass etc. with him. Quite a number of employees accompanied him for the survey work and there were also the Kanungo and Lekhpal etc., We made Sihadda the first point for making measurements. For finding out the Sihadda we started the measurement work by taking the south-western corner of the garden plot which is situated at Plot No. 633. I did not fix any other ending point for making straight line except the above, beginning point. The Court Commissioner had also carried out the measurement work by adopting this as the starting point. No bunting was used on this starting point as there was a wall there. The bamboos were also not fixed near the wall. The spot from where we started, both of us i.e. the Commissioner and myself had fixed a nail. I cannot recollect at the moment whether the chain was actuated by the Commissioner's man or our man. The person who moves the chain in a survey and who goes ahead is called a leader. The person who is behind him is called the follower. The surveyor walks alongwith the follower. I do not remember at the moment as to whether myself and the Commissioner were both with the follower or he or myself was with the follower. The leader had started walking eastward with the chain as per our directions. The direction which the leader followed was fully a wall. He had gone upto the last limit of the wall. I am not an archeologist but that wall appeared to be old. This wall was straight one. There were walls all around that garden. I had not drawn the map of the garden or of the wall in my rough sketch but I had noted down its point. This garden

was in the east-west side in length and it was wide in the north-south side. I have not read geometry therefore I would not be able to tell as to what the bottom line of a triangle is called. I also do not know about diagonal and angle. If I found after that the measure of the length and width shown on the map and that of the plot shown on the spot, tallies then I took them to be correct. If all the four lines are aligned correctly then it is not necessary to verify it. If all the four corners of a plot are found then its measurement is made according to the scale, while drawing a map, by taking down them in the notes. No other thing is required to see that all the four corners do not get disturbed. The line (with dot) shown between the Plot No. 593 and 95 in the map enclosed with my report is the south-northern line of both the plots. It has been shown on the map, but was not on the spot. I did not think it necessary to measure with a cross line the four points of any plot during my survey neither did I measure it. I cannot tell whether the Court Commissioner Sahab had done so or not because he was surveying ahead of me and I was surveying after him. After the survey by the Commissioner, I also made survey if it was necessary to do so by me. I did not survey if it was not necessary in my opinion.

(The cross examining lawyer drew the attention of the witness towards Plot Nos. 633 and 636 of the filed map Exhibit No.50 in the Original Plaint No. 4/89. On seeing this the witness said) that there is a straight line from 634 to 638 in the east of Plot No. 633. It is not correct to say that at the southern edge of Plot No. 634 to 638 there is a curvature line. The northern line of Plot No. 632 is not a straight one. It is true that the northern line of Plot No. 635 is quite prolonged from north of Plot No. 633 and 632. The Plot Nos. 632 and 638 is a compact quadrangle but its southern line is not the straight one but it is irregular. The

remaining three lines are straight. The Court Commissioner Sahab when carried out the measurements, he measured some plots in my presence and some plots in my absence. I will not be able to tell as to how long the Commissioner Sahab did the survey with me during all the three days. Whenever Commissioner Sahab did the survey work, he did it with Nazul map and not with Kistwaar map i.e. he did not do it with the land settlement map. He surveyed for the three days with the Nazul map only. In the first land settlement, the dimension of every Khasra was written but it was not written in the subsequent settlement. On seeing the map the Khasra is needed only for seeing the area of the land. If Khasra map and the area of a land on the spot are different from one another then the area entered in the Khasra would be accepted. This principle is applicable to the Nazul land also and this very principle is applicable to every land settlement.

It is true that a surveyor finds out another point if the Khasra, site and the map do not tally with one another so as to avoid dispute. But this does not happen again and again. It seldom happens. It is not my opinion that when Khasra, map and the area on the spot are different with another, then the entry of the Khasra would be treated as correct but this fact is well established and the Courts accept only this fact. As per my knowledge there is no such provision where Khasra is not accepted. It is also wrong that where there is difference in area of all these three, the boundary of the land settlement map and the Khasra of the first land settlement would be treated as correct. It is not in my knowledge that the Full Bench has given any ruling that only the entries of the first land settlement may have been recognized in the above circumstances.

It is true that the Court Commissioner also found Plot Nos. 632 and 638 correct and found out the Sihadda by accepting it as a point. Where the Sihadda was found on five-six feet land, that land was levelled and there were no trees or fence there. On our instruction our men dug the place. The Court Commissioner was also present at that time and he agreed to the digging being done. The very chain pullers accompanying us as mentioned above did the digging work. When it was needed to do the digging work, spade and shovel were asked to be brought. At the time of the digging the Commissioner Sahab and the lawyers of both the parties were present on the spot. That digging would have taken one hour's time. I do not remember correctly at the moment about the depth of the land where the upper portion of the Sihadda was found. The platform where the Sihadda was buried was joined by lime-stone mortar. The platform was not dug out. The digging was done all round the platform to bring it outside. The Sihadda was not raised upwards after the digging, it remained where it was buried. When the digging was done on all the four sides of the platform we saw coal and then all of us accepted the fact that it was Sihadda. Five-six feet long-wide and about three and a half feet deep digging was done at the time of digging. The Sihadda was two and a half feet high and from bottom its thickness was about six inches and on top it was about four inches thick. The platform was of 4 X 4. After the digging myself and the Commissioner Sahab had gone down and the coal was found there, that is we saw it. That coal was a wood coal. Below there the surface of the coal was seen. The surface of the coal was about two-two and a half inches thick. We had seen the coal by taking it out. The Commissioner Sahab did not prepare any list of all these proceedings before us. I have not read the report of the Commissioner and so I cannot tell what he has written in his report. It is wrong to say that the

Commissioner did neither get any digging done nor he had seen any coal etc., there. It was tried to search for the two Sihaddas which had been shown in the map but the northern Sihadda had gone in the river and the one to the south of it had come under the inhabited area and so it was not found. There is a Sihadda on the north side on the border line towards the east of the disputed land in the map and there is another Sihadda in the map at some distance southwards. There is a Sihadda in the map on the northern corner towards east of the disputed land and the other Sihadda is southwards at some distance of that very border line.

(At this stage the cross-examining lawyer drew the attention of the witness towards map Exhibit 50 filed in Original Case No. 4/89, seeing which the witness said) that on this map the northern Sihadda is made at the north-eastern corner of Plot No. 366 which has disappeared in the river. The second Sihadda is made on the South-Eastern Portion of Plot No. 485 which has come under the inhabited area. I and the Commissioner visited both the places. According to the map when we went for finding out the Sihadda towards the northern side, the river bank was seen after some distance. This proved that this Sihadda had disappeared in the river. The Sihadda made on the north-east of 649 and the other eastern south Sihaddas which are seen, only the 649 Sihadda does not have any marking on it and a line has been drawn from a point which in turn indicates the border of the Mauza. One Sihadda has been shown on the south-eastern corner of Plot No. 485 in the map. The second Sihadda has been shown on the north eastern corner of Plot No. 366 of that very eastern line. The Sihadda of Plot No. 485 was not measured with that one which was dug out. I went for the first time to the disputed site on 19 July, 1990. I have not written the area of any plot

number in my report. After surveying Plot No. 582 I have shown in my report 6 lathas east, 2 lathas west, 13 lathas south and 13 lathas north, the area of which comes to 2 Bigwa 12 biswasi as per the measurement done. In my report in some portion of the north of 582, I have shown 587 and in some portion I have shown the road side. I have not written any number of the road. I do not remember as to what area of 582 is entered in the Khasra. (After seeing the above map Exhibit 50 the witness said that) it is correct that there is a part of 587 in the north of 582 in the map. It is true that 587 is not on the spot as it has been shown in the map because some of its portion has come on the road. I had surveyed the width of the road north of 587 but perhaps, I have not entered its measurement in my report. Plot No. 238 is northwards of the above road. I had not surveyed 582 from Plot 238 but I had surveyed from 238 to 582. I had done the measurement from the north-western corner of Plot Nos. 593 and 595 so as to find out Plot No. 238. One durable grave and three trees were there on plot 593 at the site and the remaining land was vacant. Turbat is not made in a grave. By looking at the construction, I understood that it was a grave. I have not seen the tombs of Hindus so far. It is not correct to say that the Dharamshala and a temple of Manas Bhawan Trust are there at the north-eastern corner of 593 and 595. Where two fences (meren) meet, whether they are straight or curved, it is called a corner. The mention which I have made of there being graves on 619 and 620 in my report were not the pucca graves. The land of Plot No. 619 and 620 is levelled but there are graves made there. By seeing the Kacchi graves on the site, I understood that there were graves as the form was the same. On these Kaccha graves, pucca graves are constructed which are of the same form. Kaccha graves are one and a half-two feet higher from the surface of the earth and the pucca graves are both higher

and lower in comparison to this. The length of the grave is according to the length of the dead person. Neither did I count the number of graves there nor did I write it in my report. I have written in my report that the western line of 625 and 626 is an old wall, which is quite high but I have not shown it in my map neither I have shown that Plot because I did not feel necessary to do so. On looking at the wall it appeared to be quite old and besides, the persons present there told us that this wall is hundreds of years old and so I have written in my report that this is an old wall. If a flag is attached from the starting point of 633 to the point of Sihadda, both of them would not be in the same straight line. The map which has been attached with my report has not the Sihadda of 633 as I did not think necessary to show it there. No hand made map of the site was given to me by the Plaintiff, Hashim. (At this stage the cross examining lawyer drew the attention of the witness towards the map Paper No. 110 A-2/17 filed in Original Law Suit No. 4/89 and after looking at it, the witness said that) the Plaintiff had not given to him this map or any other similar map at the time of survey. Even after the survey work neither he showed me nor gave me such a map nor his lawyers gived or showed me the map. A temple written by me on Plot No. 238 was told to be a temple by a non- Muslim person present there. He had a (Tilak) mark on his forehead. I do not know whether that person was a party in this case or not . It was not necessary for me to note down the statements of outsiders at the time of the survey but did so wherever it was necessary to do so. By seeing the make of the mosque mentioned by me on 583, I took it as a mosque. The graves found in 582 were kacchi grave It is quite wrong to say that the report and map submitted by me were made and filed without any basis in this case.

(The cross examination by Shri Ranjit Lal Verma, Advocate on behalf of Nirmohi Akhara, the Defendant No.3 comes to an end).

Verified after hearing the statement

Sd/-

Zafar Ali Siddiqui

14.11.2000

Type in open court by the stenographer as per my order .In continuation of this witness be present on 15.11.2000 for further cross- examination

Sd/-

14.11.2000

Date: 15.11.2000 (In continuation of 14.11.2000, the statement of P.W.-17, Shri Zafar Au Siddiqui begins under Oath).

Cross examination by Shri Ved Prakash, Advocate on behalf of the Defendant No. 13, Shri Dharam Das.

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Though I had gone to the site for doing the survey on the instructions of Md. Hashim Sahab but he had not given any written orders. Neither Shri Jilani nor Shri Mannan Sahab had given me any written orders for doing the survey. I have not filed any Vakalatnama on behalf of the Plaintiffs in this Suit. I did not ask for any written order from Hashim Sahab, Mannan Sahab and Shri Jilani Sahab regarding the survey. No fees for doing the survey was fixed before the start of the survey but afterwards I got Rs. 1500/- as fees. I did not have any talk with the Survey Commissioner appointed on behalf of the Court before going to the site. He met me on the spot itself. I did not make any application to the Court before going to the place for carrying out the survey or for on-the spot inspection of the place. I do not know whether Shri Hashim Sahab or any other advocate had made an application or not to the Court in regard of my going there. I had also not asked for any permission from the District Administration, Faizabad for doing the survey or on the spot inspection of the place. I was one of the seven persons allowed by the Court to go there on behalf of the Plaintiffs.

I do not remember whether at that time Shri Mulayam Singh Yadav was the Chief Minister of U.P. In those days. Md. Azam Khan was a Minister in the Mulayam Singh Government but I do not know whether he was a Minister

for Waqf and Revenue. I have no knowledge that the Chief Minister, Mulayam Singh Yadav and Md. Azam Khan were opposed to the construction of Ram Janam Bhoomi Temple in Ayodhya.

It is wrong to say that I came in contact with Shri Hashim Sahab or Shri Jilani Sahab after the constitution of the Babri Masjid Action Committee. On the contrary I know both of them from before. I did not go for doing survey in any other case of Shri Hashim Sahab. I went 2-3 times for doing measurement work in a case which was connected with a society which is on Hardoi Road for Shri Jilani Sahab. I do not remember now as to how much before I had gone for doing survey in the case of Jilani before going to do survey in Ayodhya. I had only gone once on behalf of Shri Jilani in the matter of Aliganj Society and I had gone with him and I went for the second time when Lekhpal and Kanungo etc. had gone to the site. There was a dispute between both the parties in the case of the Society. I do not know the name of the other party.

When I went for on the spot survey in Ayodhya, I had the copy of the plaint with me.

(The cross examining lawyer drew the attention of the witness towards the map Paper No. 2/16-A-1 attached with plaint and after looking at it, the witness said that) such a four sided place was visible at the site. Keeping in view the quadrangular position of this map I did not make any map but I did the measurement work and prepared the map according to the plot number. The above map has been correctly prepared which is attached with the plaint and the other map prepared by me after doing the survey work according to plot number is also correct. As the map prepared by me has been prepared on the basis of plot, so it does not tally with the map attached with the plaint. Shri

Hashim Sahab had ordered me that there were some numbers which also include the plot number of the mosque and I should demarcate them after measuring all those plots. Hashim Sahab did not ask me to do the demarcation according to the map attached with the plaint. I did not advise Hashim Sahab that the survey should be done on the site on the basis of the map attached with the plaint. I also did not think it proper to demarcate after measuring them on the basis of the map attached with the plaint.

I do not know whether it was the first settlement or not according to the circular dated 31.8.1860 issued by the Chief Commissioner of Avadh.

I know that according to the above settlement dated 31.8.1860, Kishtwar map, Khasra, Abadi map and Abadi Khasra were prepared. It is not correct to say that only the maps and Khasras are the main sources for deciding title so as to settle the dispute between two parties. But the reality is that Khatauni is an important deed for deciding a title and the entries recorded in the Khasras are treated to be correct for occupation. In the first settlement also Khatauni was prepared which was done in 1860. It is wrong to say that except four documents i.e. except Kishtwar map, Kishtwar Khasra, Abaadi map and Abaadi Khasra, other documents maynot have been prepared but Khatauni was also made. It is true that in both types of Khasras the possession of the real possessor was written. It is wrong to say that the dispute between two parties is settled on the basis of possession recorded in the remarks column but the truth is that only the possession is determined according to the entries recorded in the Khasra and the ownership title is determined on the basis of entries etc. recorded in Khatauni and Khevat. It is wrong to say that Khevat was also not prepared in the first settlement. The third

Agricultural Land Settlement effected after U.P. Land Revenue Act, 1901 was effected under that Act. It is not correct to say that it may have been decided as per the provisions of U.P. Land Revenue Act that Khevat and Khatauni of agricultural land would be prepared. I do not remember under which provision Khatauni and Khevat used to be prepared before 1901 and after 1860.

There is no fixed time for the raised earth of a kucchi grave to settle down neither it is easy to say as to in how much days the raised earth gets settled down. This depends on weather as to in how many days the raised earth gets settled down. It rains in Ayodhya every year. I do not know that a grave is made by burying even the dead bodies of Hindu Saints and holy men. I did not make enquiry as to whose graves were there in the cemetery on the site. As the graves were of Islamic shape on the spot so I concluded that they were Muslim graves. The kaccha graves of the Muslim community are always made in the north-southern length and the width of a grave is two and a half feet and the grave like slope is on the grave or tomb. As I have never seen the tomb or grave of the dead body of the Hindu community and so I cannot tell that the head of the grave of such a dead body is on north side and the feet are always on the southern side. It is not necessary for a cemetery or cremation ground always to be in the north of a city or inhabited area neither it is necessary that the samadhi place should be in the north. It is wrong to say that the graveyard situated on the site may not be a graveyard but it may be a samadhi place of the Hindu holy men and saints.

(The cross examining lawyer drew the attention of the witness towards the photos (pictures) of the coloured album prepared by the State Archeological Organization

Department and after looking at) Photo Nos. 13, 14 and 15 and 16, the witness said that he was not able to see photo of any animal neither did he see any such photo on the spot. After looking at the Photo Nos. 13,14, 15,16, the witness said that the figure of any animal was not visible to him in those photos but it appeared to be the figure like that of a jungle man in a zoo.

(The cross examining lawyer drew the attention of the witness towards the photo no. 9 and 10 of black and white album prepared by the State Archeological Organization Department and after looking at them) the witness said no form of any animal was visible in Photo No. 9 and in Photo No. 10 the same type of figure of a jungle man was visible as it was being seen in coloured Photo 16. It is wrong to say that, it might be the figure of the Hindu God Varah which is also called boar. There is the mouth, the eyes, the feet, the belly and tail in the photo appearing in Picture No. 10 but it was not the form of any animal but as I had said above that figure appeared to be that of a jungle man. No figure of any animal or jungle man was visible to him in photo no.9. He said that it was wrong to say that he may not have gone to the site and may have filed his report and the map after preparing them as per the instructions of Hashim Sahab by sitting at home. (The cross examination by Shri Ved Prakash Advocate on behalf of the Defendant No. 13 comes to an end).

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

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I have received the M.A. Geography and LL.B degrees from the Allahabad University. It is true that when I went for survey work on 19, 20 and 21 July, 90, till that time my standing as an Advocate was of 28-29 years and my standing as a Survey Commissioner upto that time was of 25-26 years. It is true that a list of Survey Commissioners is prepared each year by the District Judge in the District Courts. I had been submitting my applications each year in the Court of District Judge, Sultanpur and on that very basis my name does appear in the list of Survey Commissioners every year. I had read a book named Practical Geography on the subject of geography while studying M.A. Geography. I do not remember the name of the writer of that book at the moment. As far as I remember I had read about the Revenue Law subject while doing my LL.B course but not about the subject of Land Law. I do not remember at the moment whether I had studied the history of Revenue Law of U.P. or not. After joining the legal profession, I had read a book on the subject of survey. The name of the survey book was "Principle of Survey" but I do not remember the name of the writer. It was perhaps Girja Shankar or some one else. This book was printed in 1935.

After coming into the legal profession in 1965, I had read the 1935 edition of the above book. I had not read in the book as to how the Survey of land was done according to settlement in Avadh. It is true that after the notification of the land settlement, the settlement work is not done at the same time in the whole province but it is done from time to time Tehsil-wise and District-wise. It is true that today's U.P. was previously called United Provinces of Agra and Avadh. I do not remember that any Land Settlement Revenue Law enactment was prepared for United Provinces of Agra and Avadh or not.

I cannot tell that Agra and Avadh were separate provinces prior to the United Province of Agra and Avadh.

It is not true that I have been practicing in the Civil Courts of Sultanpur District Courts from the very beginning. But I have been practicing as a lawyer in the Revenue Courts from the very beginning. In addition to U.P. Zamindari Abolition Act, 1950, I have also read U.P. Revenue Act, Avadh Rent Act and the U.P. Tenancy Act. Avadh Rent Act was applicable only to Avadh area. I do not know in which year the Avadh Rent Act was enacted (but again said) I do not know the year in which the said Avadh Rent Act was made. I do not know whether any other Act was applicable in the province of Avadh prior to the Avadh Rent Act. The settlement used to take a long time. Sometimes it ended in six months and sometimes it took even a year in the settlement of a single village. I take up the Civil cases also. There is a lot of difference in the right and the title. Both are different words. Both have got separate meanings. Right is called the claim for using a thing and the title is called the ownership of a thing. Khatauni is the record of title. It would be correct to call a Khatauni as record of right if it is used for finding out "Mafhoom". Mafhoom is generally the synonym of "Matlab". It is true that Khatauni can be called both as Record of Titles and Record of Rights. It is correct that right and title both are decided between the parties to a dispute in any settlement. I do not have any idea about the fact that any final report is prepared during and after the settlement. I also do not know as to whether a final record is prepared after the final report or not. I also cannot tell whether the final report or final record is deemed to be applicable from the very date when the settlement work begins. It is true that Districts of Faizabad, Sultanpur and Lucknow were included in Avadh but I do not know whether Gonda was

also included in Avadh or not. I also am not aware of the fact that in addition to the above three districts which of the other districts were part of Avadh. In the District of Sultanpur the first settlement started in 1860 and continued upto 1864-65. I do not know neither I have seen when the first settlement started and ended in the Mauza Kot Ram Chander which is related to this Suit. I do not know that the first settlement of Mauza Kot Ram Chander began in 1861 and continued upto 1878 because I have not seen the relevant documents. In the District of Sultanpur second settlement started in 1897 and it continued upto 1901. I do not know when the second settlement of Mauza Kot Ram Chander started and upto what time it continued. Neither I know whether the second settlement was actually done or not in the said Mauza. In the District of Sultanpur the third settlement started in 1935 and it continued upto 1941-42 but I do not know whether the third settlement took place or not in Mauza Kot Ram Chander and also I do not know when it started and upto what time it continued. I have not seen the documents of Mauza Kot Ram Chander relating to the third settlement.

I have not read any book about Nazul. I do not know as to under which provision the Nazul land is managed. I also do not know whether any Acts, Regulations or rules have been framed regarding Nazul as no Nazul Department Office has been set up in the District of Sultanpur where I am doing legal practice. Therefore, I do not know whether or not any rules or regulations have been framed regarding Nazul. There were two States of Hasanpur and Deyra in Sultanpur and the rest of others were just small kings and Zamindars such as Amethi and Kudwar. It is true that all the Kings, Talukdars, Zamindars and Riyasat people appointed sepoy and agents for collecting land revenue and for governance. It is correct that the place where

Zamindars lived was called a Zila (District). There were so many districts in each State. The Zila was called Zilla. This is a fact that the Ziledars (agents of landlords) used to prepare all the necessary documents and records in their areas which had the entries regarding rayyots, land revenues, land, kishit and inhabited area. Such records as were prepared by Ziledars (agents of the Zamindars) cannot be called government records. I do not know whether there is a settlement office at the State level or not. At the District level there are Tehsildars and S.D.M. in the District level administration. Besides, there are Deputy Commissioners for the management of Revenue Administration. I know that there is a Committee in the Municipal Board but I have no idea about Nazul. As far as I know both revenue as well as settlement records and Nazul records have got their own validity. None of them can be preferred in comparison to the other. In other words in my opinion all the three types of records have their validity in equal measure. It is wrong to say that the importance of the Nazul records prepared by the Nazul department is equal in importance to that of the records prepared by the Zamindar. I have not read the Avadh Rent Act fully. In the U. P. Zamindari Abolition Act, I found the mention of proprietor and under proprietor. I did not come across the definition of proprietor and under proprietor in the U.P. Zamindar Abolition Act. I have not read the definition of the said two words in any other Act also. I know the difference between a proprietor and under proprietor though I have not read their definitions in any book. The definitions about proprietor and under proprietor were explained to me by my ancestors as they too were Zamindars. When my father usually talked about the other landlords while sitting in a meeting, I came to know that proprietors were big Zamindars and under proprietors were small Zamindars. By this knowledge I accepted the definition of proprietor and

under proprietor to be a complete definition and I did not try to read any book about this. I do not know whether there used to be many a type of tenant before the abolition of Zamindari or not but I do know there used to be rayyots.

The photocopies of any document do not have any legal validity unless they are attested. The Court accept attested photocopies in any Court matters. In case of there being any dispute the photocopies are compared with original records.

When I went to do the survey work at the spot, I had Nazul record copies with me. I do not remember as to whether those copies were the photocopies or they were attested. I also do not remember whether documents with me were the copies of the original documents or the copies of copies. At the time of the survey I had with me the copy of the plaint along with the map in addition to the copies of the map and Khasra. I do not remember the number of the plaint case. It is true that the title of the copy of the plaint, I was having with me, was Md. Hashim vs. something.

It is wrong to say that I may have told title of the case wrongly in which Md. Hashim versus other were parties. I do not remember whether the details of the plaintiff's properties were given in the plaint the copy of which was given to me or not. I had noted only the plot number of the impugned land from that plaint and I had not read the remaining plaint. I did not have prior knowledge that those were the disputed properties the plots of which were written in the plaint. I have said correctly that Md. Hashim, the plaintiff of this case had asked me to do the survey of that land. Md. Hashim had directed me to do the survey by coming to Sultanpur court. He had gone to Sultanpur for some other work. Janab Hashim Sahab had not given me

any documents at that time. He had told me about the survey verbally. He had not told me on which date I was to go. I have not been appointed as a lawyer in this suit by Md. Hashim or by the lawyers of the plaintiff to date as there is no Vakalatnama of mine in this case have so far been filed.

I was not given any power of attorney (Vakalatnama) by either Md. Hashim or his lawyers. It is true that Md. Hashim and his advocates had requested me to do the survey as a surveyor. No remuneration was decided upon for doing the survey work but Hashim Sahab had given me the remuneration on the last day after completion of the work. Shri Jilani Sahab had called me by writing a letter in the first week of June, 1990 for doing the survey work. I came to Lucknow within two-four days after receiving the letter. I was asked to give my report after doing the survey on the site according to the Nazul plots. I was instructed to do so at the house of Mannan Sahab by the lawyers of the plaintiff. He said again that at that time only the plot numbers were given and nothing was told to him about the Nazul. I have filed my survey report in this case. At this stage the lawyers of the cross examining persons read out to the witness the following portion of his report and asked him whether it is correct or incorrect "I was appointed by the lawyers the plaintiffs of the above case (Sarvashree Abdul Mannan Sahab, Zafaryab Jilani Sahab and Mushtaq Ahmed Siddiqui) to do the survey work on their behalf and they had directed me to prepare my report by doing the measurement work on the site of Plot Nos. 238, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 590, 593, 594, 595, 603, 606, 607, 610, 619, 620, 621 and 628". The witness said that he had mentioned this correctly in the report. I cannot tell due to special reasons as to why I did not write the name of Md. Hashim in the above report and I also did not think necessary to do so. I also did not think it

necessary to write that Md. Hashim Sahab had already requested me to do the survey of the disputed land. As far as I remember the advocate of the plaintiff Shri Jilani had made all the three documents available and had asked me to do the survey. It is true that I had given much more importance to the advocate of the plaintiff in comparison to Md. Hashim because Md. Hashim was himself present in the presence of the three advocates and had kept silence by which I understood that Shri Hashim agreed with the advocates. Though, it is true that after the survey came to an end, it was Md. Hashim who gave me the remuneration.

Verified by hearing the statement

Sd/-

Zafar Ali Siddiqui

15.11.2000

Typed in the Open Court by the stenographer on my dictation. May be present for further hearing tomorrow i.e. on 16.11.2000.

Sd/-

15.11.2000

Date: 16.11.2000 (In continuation of the statement dated 15.11.2000, the deposition of P.W. 17 Shri Zafar Ali Siddiqui begins under Oath).

I have quite a good knowledge of English (then he himself said) that as most of the work in the District Court is done in Hindi so I do not have much practice in writing and speaking of English but I have the ability to understand English. I am well versed in Urdu. English was medium in all the examinations I appeared in after Inter.

When any claim is made for any immovable property, the claimed property is shown in numbers or sometimes in boundaries. The plot numbers are the settlement numbers also. I could not decide upon by seeing the plaint given to me by the advocates and Md. Hashim whether the disputed land had been shown by giving settlement numbers or not and by which numbers these were shown. A map was also attached with that plaint. I do not remember at the moment whether there was any boundary of the disputed property in that plaint or not. (The cross examining advocate drew the attention of the witness towards map-Nazari Paper No. 2 A/18-A of plaint of Regular Suit No. 12/61 of O.S. No.4/89, on seeing which the witness said) I do not remember whether it was the same map which was given to me alongwith the plaint. (At this stage the attention of the witness was drawn towards Paper No. 2/16 A of this very Suit) by seeing which the witness said perhaps the map given to him alongwith the plaint was of similar nature. In this map the boundary of the disputed property had been shown. On the north of it a road has been shown. Graveyard is written above this road. On the north of the graveyard north is written. It is true that a pucca road and a grave yard have been shown inside E, F, G, H of this map.

It is true that what is on the north-south and east-west of E, F, G,H has not been shown in this map. There is also not even a marking to denote as to what is all round this. This plaint does not appear to me to be an extra ordinary one. The map and the Khasra given to me by the advocates were of the Nazul settlement. By looking into that map and Khasra I came to a conclusion that, the map was all right and under the rules that could be depended upon for doing the survey work. (The cross examining advocate drew the attention of the witness towards map Exhibit No. 50 filed in Suit No. 12/61 and by seeing this the witness said) that on the top of the left side it is written in Urdu "Naksha Kishtwar, Mauza Ram Kot Ayodhya Pargana Haveli Avadh Tehsil and Zila-Faizabad-31 Isvi babat 1338 Fasli". After seeing the map I realized that this map has been prepared by the Department of Nazul. I had seen a Nazul map only once before seeing this map. I had seen the map near about the year 1980. The following words in Hindi are written on the left side of this map-in Urdu letters the work note is written and after that there is Hindi writing "(1) the number are not clear as at some places the map has got erased. (2) In the real map the writing scale is not there".

It is true that I gave my consent after getting all above mentioned documents and thought that those documents were sufficient and the survey work could be done on the basis of that.I had told this at that time to Shri Hashim Sahab and the lawyers that on the basis of those documents survey could be done, the measurement could be done and I would do that. After examining the site, I could ask for some more documents if I thought that it was necessary to do so. That map did not seem to me to be an extra ordinary one and it appeared to be all right. Generally scale is given in a map. It would be wrong to say that a

scale is not given in a special map. It is true that I imagined this map to be a correct one.

I do not remember how many surveys I have done as a Survey commissioner in which the scales were not given in maps. I do not remember as to under which provision the Survey Commissioner is reinstated or his list is prepared. No qualification has been prescribed anywhere for appointment of Survey Commissioner. I know that there are general rules (civil) for Civil Courts. It is true that District Civil Judges prepare a list of Survey Commissioners under general rules in the District Courts. It is also true that several types of Commissioners are appointed. One type is that of Survey Commissioner. It is also true that District Judges include the names of such persons in the list of Survey Commissioners who have got the knowledge of Survey work. There are also inspectors (Amins) in the District courts from whom the work of survey is taken. It is not a fact that all the important surveys are got done by the Advocate Survey Commissioners. It is true that the qualifications of an Inspector are mentioned in Para-522 General Rules (Civil) according to which an Inspector should have sufficient knowledge of Hindi, Arithmetic, Mansulation, Elementary Land Surveying, and Mapping and Order 26 of C.P.C. I have got elementary knowledge of Hindi. I do not have competent knowledge of Hindi but I have got sufficient practice of reading Hindi while doing usual work in Hindi, but I do not have sufficient practice of writing Hindi. Under Order-26 of C.P.C. a request is made for the reinstatement of a Commissioner i.e. a request is made for the appointment of a Commissioner and the Commissioner is appointed under this very order. I do not remember at the moment what more is written in Order-26 but I can tell it by consulting a book. It is not correct to say that I do not have full knowledge of Order-26.

I have kept none of the reports with me for more than a year or so regarding whatever surveys done by me of the civil Courts. I have always filed the reports immediately after completing the assignment. I do not remember as to how many such reports have been filed by me which do not have any dates on them. But as far as I remember, I have not filed any such report in a Civil Court which do not bear any date on it. I have not filed any report, after commissioning a survey in Revenue Court i.e. I have not done any survey of Revenue Court. This is my first and only report which I have filed in the High Court. It is not correct to say that as this is my first report which has been filed in the Hon'ble High Court by me, so I did not think it right to put a date on it. I did not put any date on it because I had prepared the original report in Urdu and no date was written on it at that time. So when I filed this report in the High Court, I did not put any date on it at that time. I had been enrolled as a pleader and I am a pleader even this day. I would not be able to say whether my enrolment as a Pleader was done under the Legal practitioners' Act or not and whether it continues under it or not. I am registered as a pleader in the District of Sultanpur. I do know that I cannot practice as a pleader in other districts without the permission of the District Judge but I can do work in the Board of Revenue and the Commissionarate. In addition to this case there have been many opportunities when I have worked as a private surveyor. It is necessary for a surveyor to take the following things with him for doing on the spot survey (1) Chain (2) Buntings (3) Iron Strands (4) Bamboo (Long) (5) Tape (6) Men.

I do not remember the definition of Geographical North. I also do not remember the definition of magnetic north orally. There is no meridian in the survey but it is in the map. The lines from the east to the west in the map are called meridian. It would be wrong to say that my above

answer regarding meridian is wrong. There is a difference between the Guntur Chain and the one that is used in Avadh. The length of the Guntur Chain is 66 feet whereas the Chain that is used in Avadh is 165 feet long. I cannot tell about the chain that is used outside Avadh. He again said that in Jaunpur Guntur Chain is used. I have not heard the name of the Punjabi Chain. The Shahjahani Chain is generally 165 feet long. It is true that the length of the Avadh Chain and the Shahjahani Chain is similar. I do not know about the triangular measurement but I know this much that wherever a new map is prepared, the triangular system is used there. Quadrilateral system is also used and I know about it. Full lines are drawn in the pond or field where there are many corners i.e. they are irregular. This is called quadrilateral system. I found many plots which had more than three corners when I had gone for the survey work. I had to use a quadrilateral system in one of the plots during this survey. I did not do so in the other plots as it was not required. (The attention of the witness was drawn to the map Exhibit No. 50 filed in this very case and the advocate asked the witness as to which was the plot of which he had done the survey with quadrilateral system). The witness said that he had surveyed Plot Nos. 628 and 629 with the quadrilateral system. In this map there were 25-30 plots having more than three corners which came in my view at the time of the measurement work but I did not think it necessary to use the quadrilateral system there as the need to so did not arise. It is true that there are more than three corners in Plot No. 588 adjacent to Plot No. 583 and in the Plot No. 590 which is south of Plot No. 583 in this map. I did not think it necessary to apply the quadrilateral system in the two Plot Nos. 588 and 590. It is correct that some northern portion of Plot No. 588 meets the southern portion of Plot No. 583. In my opinion Plot No. 583 had special significance. I was told that while doing

my survey work, I should decide as to on which plot the mosque is situated i.e. whether it is on Plot No. 583 or not. It is true that there are more than 3 corners in Plot No. 583. He again said himself that it is a corner and if a correct line is drawn, it would become quadrangular. There is no corner in Plot Nos. 628 and 629. Gosha is called the corner (Juj) of a plot. There is no corner in Plot No. 628 and 629. I have not written in my report as to by which system I have done the survey of plot No. 628 and 629. I have also not written that I have done this by quadrilateral system. There is a corner in Plot No. 238. I also did not think it necessary to do the measurement of Plot. No. 238 by quadrilateral system.

It is true that a base line has to be drawn while doing a survey work which is an important part of survey. I did not draw any base line during the time of doing this survey or measurement because it was not a survey but a work of making boundaries. The witness after looking at the report filed in this case said that in this report under "Unwan-A—Mukadma" "Survey Report" is written. It is also true that the above sentence has been underlined. It is also true that I wrote my report after this.

Question: - You thought it more appropriate to write "Survey report" instead of "Hadbarari" (demarcation) in this report of yours?

Answer: - As the survey word is of the English language which has the general meaning of measurement and Hadabrari (demarcation) is also called measurement so instead of "Hadabrari". I have written the English word "Survey". It is not correct to say that "Hadabrari" is generally called as demarcation in English. I do not know that "Hadabrari" is called demarcation in English. I have read the Land Revenue Act. It is published both in English and Hindi. I have read the

English edition. I have read Section-39 and Section 41 of this Act. I do not remember whether the word demarcation has been used in both these two sections or not. I do not remember whether there is a provision of Hadabrari (demarcation) in the Land Revenue Act or not. In my opinion one should have good knowledge of Land Revenue Act so as to practice on revenue side in Uttar Pradesh. I mostly do practice on civil side and take up only those cases of revenue which are related to filing-rejection of the cases. I seldom do take such cases. It is wrong to say that I have been making wrong statements so as to hide my wrong doings.

I did not give my report to the plaintiff or his advocates after the survey work because the advocates and the plaintiff had told me that I should keep my report ready after the survey work and whenever there would be any need they would take the report from me and file in the Court. According to me I kept this report for 10 years with me as a trust of the plaintiff. It is not necessary to prepare a field book for doing this type of survey but notes and rough sketch maps do suffice for this purpose. If there is a need, the measurements are written in the rough sketch maps. At some places the measurement was required to be written with rough sketch during this survey. Wherever it was required, I had written the measurements on the rough sketch map. I made the rough sketch of the plots which were told to me to be the disputed ones on the site. There were other plots too in between these disputed plots but where it was required to join two plots, I made the sketch and at other places I did not do so. I did make the Sihadda in my rough sketch map from where I had begun the survey. But I noted them down in my notes. I did not note down in

my notes as to what distance I had to cover to go to other plots and from what angle from the Sihadda but I wrote down the distance to the corner of the plot I had to go to from the Sihadda. The need for an angle did not arise as there were walls, fences and corners on the site. It is wrong to say that I did not make angle as I do not know geometry but I did not use the angle because in this survey there were earthen fences and the map on the site, on the basis of which the measurement of the plot had to be done so I did not use the angle. It is right to say that I have told in my deposition prior to this day that the plaintiff and advocates had asked me to carry out the survey of the disputed land but I have used the word survey for measurement. I have heard about the "Site Plan on Scale". This is made on the scale after doing the measurement. Survey is done for preparing a new map and the site plan is prepared after doing the survey of the site. It is correct that I treat the site plan, survey and demarcation (Hadabrari) as measurement but the ways of all the three are quite different from one another.

I had done the chain survey in my above survey i.e. I did the measurement work with chains. I do not remember at the moment but perhaps the author of book read by me on the survey was Girja Shankar. The methods of survey are given in that book. I do not know about the acute angle, obtuse angle and straight angle but do know about right angle. I know triangle which is of four corners. I have heard the word polygon but I do not remember at the moment as what object it is. I also do not remember whether it is the name of a fruit or the name of a place. The area of the triangular plot is derived by a mathematical formula. It is perhaps base into vertical upon two but I do not recollect at the moment. I have not studied mathematics but I have known and learnt the mathematical formula from my superiors. I did not go to any school to learn this formula

but my senior Shri Shukla had made me learn and know about this. I learnt this formula from other seniors too during the course of my work. The basis of the knowledge of this formula is based on the experience of learning, knowing and doing work with my above seniors. If there is such a plot which has got five lines of various sizes then the measurement of that would be done by measuring from corner to corner of that plot and then the site would be surveyed according to the map and a number of sub-plots would have to be made so as to arrive at the area of that plot. According to the map sub-plots would have to be made which might be rectangular and triangular and then the area of that plot would be arrived at after adding all the areas of all these sub-plots and told to be so. I do not know as to by what formula this method is called. I had read as to how the areas of any circular plots are to be found out but I do not recollect about this at the moment because I did not have any opportunity to survey circular plots. If there is any semi- circular land then the area of that too would be found out in the manner of circular land. The Learned Cross Examining Advocate drew the attention of the witness to the Paper No. (9)Sheet/10 of the map attached with the Survey Commission Report filed by him. On seeing this witness said that some lines of Plot No. 629 are circular one. As I had to demarcate Plot No. 628 so I did not measure the Plot No. 629. It is correct that Plot No. 588 of this very map has got a minor southern portion as being circular below this plot. The western portion of this plot is not circular one but there is a bended line over there. The southern line of the north-western corner of Plot No. 588 has been prepared in somewhat circular form. I did not find out area of this Plot No. 588 as it was not required to do so. Similarly, I did not think it necessary to arrive at the area of Plot No. 590. If the southern line is 10 gathas from east to west and the eastern line is of 8 gathas from north

to south and the western line is of three gathas of any plot then in such a situation the length of the downward line from east to west would be less in comparison to the length of the upper line. It is true that if the upper line is curved then it would somewhat gain its length from below.

The upper line of this very Plot No. 582 is little bit curved northwards but it is not so much curved that it may not be called a straight line. In my view this upper northern line is straight line. (The Cross Examining Learned Advocate drew the attention of the witness towards Page No. 8 of the Commission Report filed by him. After reading this the witness said that) it is correct that on that page is written "Number 582 was surveyed thus — in the east 6 lathas in the west 2 lathas, in the north 13 lathas, in the south 13 lathas, which was found to be correct on the site as per the map". It has been written correctly. I do not think this survey to be extra ordinary or spectacular one. In my above mentioned statement I have stated it correctly that the upper line would be bigger.

I had not measured Plot No. 587 because it was a slope and this slope was very low. Though, I know the method of measuring the plot which has got a slope. It is not correct to say that I did not think it necessary to survey it due to special reasons. As there was a slope and there was a difficulty in measuring it and I had found out the upper plot so it was not needed to do so.

It is wrong to say that 582 is not only in the north but in the west also of Plot No. 583. The line which I have shown in the map in the west of 583 is the line of that very road which was on the site. It is correct that the road has a plot number. I have not shown in my report or map that the route is adjacent to 587. At this stage the Cross Examining advocate drew the attention towards Plot No. 582 of the map and asked the witness whether he had shown any dividing line between Plot no. 582 and the road on the map.

After looking at the map the witness said that the dividing line is shown but it is very dim. The witness again said that the line is very dim and was not visible but that was drawn by him. (Court's observation). The Court saw the map and no dividing line was visible on the map.

It is true that there are some permanent lines on the settlement map and some dot lines are made which are curved ones. It is not correct to call them broken lines. (The Cross Examining Advocate drew the attention of the witness towards map Exhibit-50 filed in this Suit. On seeing this, the witness said that) there is no dotted line between the road and Plot no. 585 which has been shown in this map. In this very map a dotted line has been shown between Plot No. 593 and 595 and the road which is on Plot No. 577 has been shown in a dotted line up to some distance.

Plot No. 629 had not been shown in dotted lines. The north-western line and the southern line of southern corner (gosha) of Plot No. 590 has been shown in dotted lines but the eastern line of Plot No. 590 which has curves in it has not been shown in dotted lines. The southern line of Plot 588 is also not a dotted line. To show "sub-plots" of any plot, they are shown in dotted lines in the map of settlement which is called corner (gosha). I did not try to know what the dotted lines were meant for in the map given to me.

I have used dotted lines to show the border lines of the plots in my map filed with my report. The permanent line has also been used to show the border lines of the plots and for this very reason the western border line of plot No. 587 has been shown in dots. (The Cross Examining Learned Advocate drew the attention of the witness towards Exhibit No. 50 filed in this case. Seeing which the witness said that) it is true that I prepared my map on the basis of Exhibit No. 50 i.e. prepared by measuring from it that is I

prepared my map by copying Exhibit No. 50. Plot No. 587 has not been written in the map (Exhibit 50) which is in front of me but Plot No. 587 has been written in the copy of it given to me. It is wrong to say that the copy of the map given to me was incorrect. The map, the copy of Exhibit No. 50, which is a copy of the original and a copy of which was given to me was also the copy of the original map. Plot No. 587 has not been written in the Exhibit 50 but it was written in my copy. I had returned the copy of my map to the plaintiff after the work was completed. It had been given to me earlier by the plaintiff. I do not know now as to where is that copy.

It is true that I have shown some border lines in 593, 595 and 594 with dotted lines. I used the permanent lines and dotted lines at some places in my map for my own convenience. I made the straight lines with permanent lines wherever it was required but I have used the dotted lines at places where there was an earthen fence and it was not found at the spot. All the four lines of Plot No. 583 were the walls and not the mounted fence and so I have shown them with permanent lines in the map. There was no wall or mounted fence on the northern border of Plot No. 582 but it was quite high land from the road and it seemed to be a mounted fence. It had no width.

Verified by hearing the deposition

Sd/-

16.11.2000

Typed by the Stenographer in the Open Court as per my bidding. In continuation of the above statement be present for further cross examination on 17.11.2000.

Sd/-

16.11.2000

17.11.2000 (In continuation of 16.11.2000 the statement of P.W.-17 Shri Zafar Ali Siddiqui begins under Oath).

It is true that there is a width of every earthen fence and land. I have not seen any earthen fence or land which has got no width. (The Cross Examining Learned Advocate drew the attention of the witness towards the map Exhibit No. 50 filed in this case. After looking at it the witness said) the plot number above the well towards the east side of southern side of the Plot No. 586 is the number of plot 585 and not that of plot 587. There is no number on the quadrangular plot made by two lines in the east side of plot 581 which is on the eastern side of Plot 853. (Court observation). After examining Exhibit —50 the Court found that Plot No. 587 is written (in Urdu) above the well on the southern side and in the east of Plot 586 which was underlined by the Court in red pen. It is correct that in the west of Plot No. 585 (which is said to be 587 and the Court has marked in red colour) is Plot No. 588. It is wrong to say that I had already determined to show Plot No. 587 in the west of plot 583 due to some reasons. (The Cross Examining Learned Advocate drew the attention of the witness towards Paper No. I 110-A-2/17 of Annexure 1 of the Supplementary report of the Survey Commissioner filed in the case on seeing which the witness said that) it is wrong that this map was given to me by Shri Mannan, the lawyer of the plaintiff and I was told by him to prepare accordingly. Then again said that he was seeing this map for the first time. The point from where the Survey is begun is called the base line. He himself said that he could not tell as to whether it was called a base point or not in English but in Urdu it is called the point of beginning, that is, beginning or fixed point of the work. The measurement is done from the beginning point and I also began the survey work from the starting point. I had done this

measurement from the Sihadda situated in eastern-northern corner of Plot No. 649 and it was from there I began to arrive at, find out and demarcate other plots. I have not shown this starting point in the map. I have not shown in my map as to till what place I continued the survey from the starting point. (He himself said that) I have given in my map the map of the disputed plots or I have shown those plots which were adjacent to them and were necessary to be shown. The above method and formula of preparing a map is not my own but I have read this in books and learnt from the elders. I do not remember in which book I have read about this method and principle. I came to know about this method and principle by talking to elders or by looking at the reports etc. prepared by them. I do know that the things can be learnt by sitting with the elders and I did what I had learnt from them. It is correct that all the elders from whom I had learnt are now not in this world.

I do not know the protector or offset scale. I heard about a divider but I did not have a chance to see it. I have not heard of the surveying compass but I know there is a prismatic compass. I have not heard the name of pantograph. I know the magnetic needle which is there in the prismatic compass. I did not use the prismatic compass during my this survey. I also did not use it for preparing the map. The prismatic compass is used in the plain table. I had carried out the measurement in regard to this case with a chain that is I did with a chain system and not with any other system.

The place where I did the measurement work was at some places smooth and at other places it was uneven. The land which I found to be the highest one at the time of the survey might have been 20-25 feet high from the surface. In addition to this the height of the land may have been four feet, ten feet at different places which was found at the site. The land which came across at the time of survey to be

high one in between is measured by sinking long bamboos at both sides of it and by fastening a string above them and by measuring the string itself. During this measurement I used to remain with follower then I used to go to leader from the place where the chain was put down after placing the chain at the place and would take reading there. I would get a peg fixed near the follower and I would not come back to follower again after noting down the distance near the leader. I used to repeat this very formula when any upland would be seen and the bamboos were sunk. It would be wrong to say that when long bamboos are sunk on appearance of any elevated land during the survey the distance between the two bamboos is measured with a chain and these bamboos are higher than the land. But the string which is fastened on the bamboo is measured with a chain. As there did not appear any elevated land on the site therefore it was not required to do this type of measurement. The Court Commissioner also did not do any such measurement before me as mentioned above: At the time of survey at the site I did not hear the name of any Kuber Teela neither did the plaintiff or his lawyers referred to Kuber Teela. Plot No. 629 is elevated on one side but is sloppy and is smooth on the east-north side. I did not measure 629 as it was not required to do so. He himself said that he had demarcated Plot No. 628 and Plot No. 629 was within it. It is wrong to say that I was simply pulling the chain there and did not carry out any survey. The Advocate of the plaintiff had authorized me to advise and help the Court Commissioner.

(The Cross examining Learned Advocate drew the attention of the witness towards album of coloured pictures of the disputed site prepared by the State Archeological Organization, U.P.) In the picture No. 204 of this album the Advocates of the plaintiff Shri Jilani Sahab, Shri Mannan Sahab and Hafiz Akhlak Sahab are sitting. I do not know

the fourth person sitting there. During the survey Mannan Sahab and Jilani Sahab were present. Akhlak Sahab also used to be present but some times he used to go away. Shri Mushtaq Sahab, Advocate also used to be present on behalf of the plaintiff. Shri Aftab Siddiqui, Advocate of Faizabad also used to be there but sometimes he used to come late. The plaintiff of this case Hashim Sahab also used to be there but sometimes he went away. Besides, three persons had been called for survey. Those three persons had been called by the plaintiff as per my advice for helping in the survey work. Neither myself nor the plaintiff himself, on my instructions, had called any other person except those three persons. It is wrong to say that some boys were called for survey work. But those boys were called for digging work. These boys were called for Sihadda digging. At the moment it does not come to my memory as to who had called these boys but it may be that they may have been called by the plaintiff. I was also present during the survey and was doing the measurement work. The seven persons allowed by the Court to be present at the site for survey i.e. allowed to be present at the time of survey were advocates only. My name was also included in the list of seven advocates which was sent by the High Court. I was not a pleader of any party at that time. He himself said that I had gone for survey work at the instructions of the plaintiff and his advocates. I neither did read nor did see the orders of the High Court by which permission was granted for seven persons to go. I was told by Shri Jilani that High Court had granted permission to take seven persons alongwith the plaintiff at the time of survey and my name was also there. Shri Jilani had told me that according to High Court Order seven advocates could go with the plaintiff at the time of survey.

There is no diagonal drawing in the map filed with my report. It is wrong to say that the line drawn between Plot

No. 593 and 595 is a diagonal but that is a fence between 593 and 595. There is no need of a diagonal if all the four corners and line of a plot are found out. The need arise for a diagonal if a plot has more than four corners. But wherein there are directions of four corners, diagonal line is not needed. Plot No. 588 and 590 are made neither quadrangular nor they have four sided goshas (directions). They also do not have four sided goshas although the southern portion of Plot 590 is a four sided gosha. During the survey at the site, I had taken a diagonal, by fixing at various points. I did not think necessary to show it in the map. The place shown between 621 and 620 may be a part of northern plot but I have not written it in my map. As I have not written the number of the northern plot in this map of mine so I cannot tell the number of that plot at the moment. I can tell the number after seeing the original map. Similarly I have not written the number of the plot which is in the south of Plot No. 620 and 621 but I can tell it after seeing the map. I have shown in my map only the plot number of the Suit Land and as the northern and southern plot was not the Suit Land, so I did not think necessary to give its plot number. Plot No. 629 is not the Suit Land. Plot No. 609 and 608 are also not the Suit Land. He himself said that as those plots were adjacent to the Suit Plot, therefore, I have given their number in my map. In my map I have shown Plot No.238 in the north of the northern road which is the Suit Land. It is true that I have not given plot numbers adjacent to that plot because it was not needed to do so. It is true that I have not written the number of the northern road also in my map but I have written the roads. (The Cross Examining Learned Counsel drew the attention of the witness towards the map bearing Paper No. 2/16 A enclosed with the plaint of Original Suit No.4/79 and the witness said that) E, F, G, H has been shown in this map but it is not written in the map that it is the Suit property. I

had read the copy of the plaint given to me by Hashim Sahab and his lawyers. I had come to know after reading the plaint as to what the Suit property was. It is true as I am remembering at the moment that Suit property were the 23 Nazul plots. There 23 plots were given in the plaint. The map was enclosed at the end of the plaint. (At this stage the Cross Examining Learned Advocate drew the attention of the witness towards Para 24- (A) of the plaint and after reading it the witness said that) the same thing was written in the copy of the plaint given to him.

Question: - Have you not understood what is Suit-property after reading this paragraph of the plaint?

Answer:- There is a mention of sketch map of Suit-property of the plaint in Para -24 (A)

It is true that the Suit property has been shown in that sketch map by encircling it by E, F, G, H. It is true that I had understood that the Suit property has been shown by E, F, G, H in the sketch map. This plaint was verified in Ayodhya on 6 December, 1961. The witness said after reading the verification clause of the plaint that this was verified in Ayodhya, this is written in it. It is true that the number of these Nazul plots were also shown in this plaint after the court order on 2-1-62. In this map which is attached with the plaint, a graveyard has been shown northwards in E, F, G, H and after that a metalled road and then a graveyard have been shown. I had done the measurement and survey of those graveyards and the metalled road. I had drawn the boundary lines of the numbers of those graveyards, metalled road and then graveyard. Plot No. 238 shown by me in my map in the north of metalled road is the situation of the graveyard shown in E, F, G, H. The width of metalled road has been shown and not the length. The graveyard situated in the south of the metalled road is number 582 and I have drawn the boundary lines of the same. Plot No.580 and 582 in the

south of the metalled road shown in E, F, G, H are the graveyards. He further said that on 580 a police post was found at the site so the sign of graves could not be seen there. During the survey the plaintiff had told me that previously there were graves on Plot No. 580 also but now a police post has been constructed there. I did not demarcate E, F, G, H which have been shown in the map of the plaint but I demarcated the numbers. Shri Jilani Sahab the Counsel of the plaintiff had told me that I should demarcate according to Nazul plots that is plots of Nazul land had to be found out and shown as to in which plot the mosque and the graveyard were situated. It is true that Shri Jilani had instructed that I had to demarcate these 23 numbers. The plaintiff Hashim Sahab had told me that I should do the measurement of the disputed land. Hashim Sahab asked to carry out measurement and did he ask to do the survey or not. My deposition made earlier is correct that Hashim Sahab had instructed me to do the survey of the disputed land but by survey I mean the measurement work. Any client who is not literate and gives me instructions for any work relating to the Suit then I work legally after going through the legal documents and after making out what he says. This was my understanding that Md. Hashim the plaintiff in the case was an illiterate person. Md. Hashim had not asked me to do a survey but had asked me to carry out measurement of the land.

Verified by hearing the deposition

Sd/-

17.11.2000

Typed by the Stenographer in the Open Court as I dictated him. In continuation of this be present on 11.12.2000 for further cross examination.

Sd/-

17.11.2000

Date: 8. I .2001 (In continuation of 17.11.2000 the statement of P.W.-17, Shri Zafar Ali Siddiqui begins under Oath).

The mention which I have made in my statement about settlement of Revenue Records denotes to that settlement which is prepared by the Government after nearly 30-40 years in connection with measurement of the land, giving new numbers, old numbers of plots, their measurement to ascertain whether they are big or small and making of new maps etc., and this is called Revenue Settlement Record. This Revenue Settlement Record is prepared by the State Government. These days there is U.P. State Government. Prior to this there was the United Provinces State. Lucknow and Faizabad cities were in the Avadh State at the time of United Provinces. I do not remember at this moment in which province the Lucknow and Faizabad districts were prior to the formation of United Provinces. There have been three settlements in Ayodhya, Faizabad. The first settlement took place in 1860-62. I do not remember under which Act the first settlement took place. I also do not remember under which Act the second settlement took place. I do not remember about the third settlement too as to under which Act it took place. I also do not remember as to under which provision these settlements took place. It is wrong to say that I did not give importance to these settlements and that is why I did not make efforts to know under which provision these settlements were effected. He further said that no need arose for this and so I did not try to know about these things. I had no need to know the above fact during the period of my legal practice since 1961 to this day. I do not remember at the moment as to under which provision or Act the settlement of the Nazul land is done. (Then again said that he could tell by reading the books). The Settlement Records prepared by the Nazul

Department as well as the Revenue Settlement Records both are prepared by the Government and so I give importance to both of them. I cannot tell at the moment whether the settlement of Nazul Land is prepared by the Revenue Department or not. But both the settlement departments are under D.M. By D.M., I mean the District Magistrate and he is also called the District Officer. Both these persons are the same. The District Officer is also called the Collector. I do know that District Magistrate is appointed under a separate Act and the Collector under another Act. District Magistrate is appointed under C.R.P.C. and the Collector is appointed under Revenue Act. I do not remember at the moment as to under which Act the Collector was made for the first time but the definition of Collector is given in all the Revenue Acts which are prevalent. I do not remember as to under which Act the Collector's post was created or came into being.

The meaning of the word 'Mohal' used to be pargana, as is the case these days and which was related to the landed property of Zamindars before the abolition of Zamindari system i.e. it was the area of landed property, as it is these days for pargana and it was called Mohal. I have read the definition of Mohal but I do not remember it at the moment. I have also, read the definition of Mauza word but I do not remember it now. There can be so many Mohals in a Mauza. There can also be many Mauzas in a Mohal. There cannot be many Zamindars in a Mohal. There can be only one Zamindar in a Mohal.

Question: - Whether it would be right or wrong to say that there can be many Zamindars in a Mohal?

Answer:- If a Zamindar has many heirs then after his death all those heirs would become share holders and

Zamindars but there cannot be two separate Zamindars in a Mohal.

If any portion of a Mohal of the Zamindar is purchased by some outside person then that person would also become the shareholder of that Mohal and in such a situation there would be two Zamindars of that Mohal. By which Act Mohal was created does not come to my memory at the moment. I do not remember at the moment as to under which Act Nazul was created but I can tell it by reading from the books. I have carried out all the surveys only after getting the certified copies of the documents relating to the disputed properties. In this Commission the certified copies were given to me at the time of Survey Commission of the disputed site. I was given the certified copy of the Khasra of the disputed site, certified copy of the map but I was not given the certified copies of Khevat and Khatauni as these were not required in the survey. They were giving me the certified copy of Khatauni but I had not taken it. I have not taken up any suit without a power of attorney. There is no need of a power of attorney in the survey done by me on behalf of the party. If any private party of a Law Suit engages me for survey work, I do survey on its behalf and there is no need of a power of attorney in such a case. I do not remember how many such surveys I have done. (Again said) I have done quite a number of such surveys. I may have done hundreds of such surveys. When I went to do the survey in connection with this case then I had not gone in the capacity of an advocate but had gone on the bidding of a party i.e. as an expert. It is true that the fees given to me for doing the survey was not the fees of an advocate but it may be called an expert fee. This expert fee was not decided by me on my own behalf but I accepted what was given to me by the plaintiff. The plaintiff Md. Hashim is neither my friend nor a relative

of mine. It is not that I generally do this that if somebody gives me the survey work then I do it and accept whatever fees is given by him. It is wrong to say that I had gone with a biased mind in favour of Md. Hashim before starting the Survey Commission of the disputed site. I did not get this noted down by the Commissioner Sahab who had gone on behalf of the High Court that I had come as an expert on behalf of Md. Hashim as I thought it was not required to do so. I also did not seek permission from the Commissioner Sahab that I also would do the measurement work of the disputed site because I did not think that was necessary to do so.

According to law also I did not think it necessary to do so.

(The cross examination by Shri Vireshwar Dwivedi, Advocate on behalf of Shri Umesh Chandra Pandey, Defendant No. 22 comes to an end).

(Cross examination by Shri Madan Mohan Pandey, Advocate on behalf of Shri Paramhans Ram Chandra Das, Defendant No. 2).

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Accepted the cross-examination done by Defendant No. 3 and Defendant No. 22.

(Cross examination by Shri Puttu Lal Mishra on behalf of plaintiff Rajendra Singh Visharad S/o Gopal Singh Visharad plaintiff Suit No. 1/89)

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I do not remember as to when order of the Commission was passed in this Suit. I did come to know at the site that Shri J.P. Srivastava was appointed as Commissioner by the Court. It was perhaps 19, 20 July. I do not remember the date and year correctly. I also do not remember as to when this case had come to the High Court. When arguments for appointment of a Survey Commissioner were going on in the High Court, I was not present in the court before going to the site for survey commission; I did not go to the High Court. I never come to the High Court in connection with this Suit nor did I take part in this case. I had gone to the house of Shri Mannan 7 or 10 days prior to the survey on the site. I had gone to the house of Shri Mannan Sahab only once in this connection.

I was told by Jilani Sahab that the list given on my behalf contained my name. I do not recollect whether my name was given with my consent or it was given without asking me. No detailed conversation with me had taken place in connection with these names neither I was told that the list would contain the names of their advocates or parties or pleaders. Jilani Sahab had told me that at the time of the survey, I would have to remain with the Commissioner and help him and would have to keep a watch on their claims. Jilani Sahab had also told me that I would have to prepare a separate report in this connection and whenever I thought necessary, I should carry out the measurement too. All this conversation took place at the house of Mannan Sahab, with Jilani Sahab. I do not know whether there was any permission or order from High Court to do this type of work or not. I did not come to Lucknow to help the Commissioner Sahab but I met him at the disputed site while doing survey commission work. I reached only when the Commissioner Sahab had started to run the chain at the time of the survey. The Commissioner Sahab did

neither take any attendance at the site nor did he write the names of the persons present there nor any proceedings were recorded in this connection. The work of throwing the chain had started about 11.30 AM. This survey work had started on 19th July. I do not remember the year but it is mentioned in the report. At the time of the survey Shri Jilani Sahab, Mannan Sahab, Mushtaq Sahab, Shri Aftab Sahab were present on behalf of the plaintiff and I was also there and some other persons were also there whose names I do not remember. The plaintiff Hashim Sahab was there and I do not remember the names of other persons. On behalf of the Respondents (Defendants) Shri Dwivedi, Advocate, Vermaji, Puttu Lal Advocate, Devkinandan Aggarwal and Shri Tilahari Sahab were present there. Some other persons were also there. I do not remember as to which of the defendants were present themselves. I did not give any notice or information to any defendant that I also would do the survey work. (Then again said) that Jilani Sahab had told me that I cannot do the survey alone there and so I should do the survey alongwith the Commissioner Sahab. I had not taken permission from the Receiver Sahab or anybody else for the survey work. The Commissioner had started the survey work from before Plot No. 238 but on my objection Sihadda was searched for. I had raised this objection on behalf of the plaintiff. The Sihadda began to be searched for on my objection. On the first day itself i.e. on the 19 the Sihadda had been found. This Sihadda was found at 2 - 2 ½ O'clock. This Sihadda was found in Ram Chander Kot. I do not remember the plot number but I can tell it by going through the report. The name of this Mauza is Mauza Kot Ram Chander. The Sihadda is found where the boundaries of three Mauzas meet. It is made by Government servants with the help of measurements ie. they fix it. I do not remember what were the Mauzas whose boundaries were joined to make the Sihadda. I can tell it

by seeing the map. (The cross examining advocate drew the attention of the witness towards the map exhibit filed with survey commission report, filed by him, by seeing which the witness said) in this map the Sihadda has not been shown because it is not the map of the Mauza but this map exhibit is of the disputed site at the spot. I had done the measurement from the Sihadda and had noted down every distance in my notes. I do not remember what it is called in the technical language of survey when notes etc. are prepared but generally it is called the notes of measurement. I have heard the word Sajra. Sjara is called the place where the length and width of the map plot is written. It is called field book. The map is prepared with the help of field book. It is true that whenever map is to be checked, it is checked with the help of same Sajra (field book). (The cross-examining advocate drew the attention of the witness towards the map exhibit attached with the survey commission report, filed by him, by looking at which the witness said) that there is no Sajra (field book) in the map attached by me with my report i.e. I have not attached the field book with the map exhibit. So I cannot tell length and width of the plot. I can tell the area of any plot by carrying out measurement with a guniya. If any plot is measured in this map then that measurement can be checked by the field book. This map can be corrected with the help of length and width given in the report. If the report is separated then the correctness of this map exhibit cannot be checked. This is a part of the report. This map exhibit has been made on the scale. The plot cannot be measured by this map at the spot. It is not true to say that this may be a principle of survey that for the purpose of measurement work, it is necessary that two fixed points should be found i.e. two fixed points may be decided upon. At the time of the survey of the site only one Sihadda was found and the other one was not found. On which side the

chain was thrown for the first time after finding out the Sihadda can be told by me by consulting the report. I have mentioned about the field book in the report itself so this fact can be ascertained from the report even if there is no field book separately. It is wrong to say that a map is prepared on the basis of a Sajra (field book) and the report is written afterwards but the truth is that the report is prepared on the basis of Sajra and the map is made afterwards. While making a map, it is made by seeing the report and then the Sajra is not required. I had prepared only notes at the time of the survey, no Sajra (field book) was made separately rather the same notes of mine is my field book. I did not make any field book separately. My notes were my field book. I did not attach those notes with my report because; I did not think it necessary to do so. The plaintiff had got identified the disputed site at the time of survey of the site. This identification was made to the Survey Commissioner and to me. I do not remember whether I had written it in my report or not. I can tell it after reading the report. I have not read the Survey Commissioner's report so I cannot tell whether he had written this or not. At the time of the survey the plaintiff had told that this is the disputed land. He did so by standing there. Nothing came to my notice that the plaintiff may have refused to identify the disputed site and then the Defendants may have had to request the Commissioner in writing to compel the plaintiff to get the disputed site identified by him. I do not remember that the Commissioner Sahab ended the survey without considering that application. (Again said) that it was being told on behalf of the defendants that the plaintiff should identify E,F,G, H on the spot but the Commissioner Sahab was telling that the plaintiff had told about the plot numbers and places so it was not required. All the surveys done on 19, 20, 21 dates were carried out in the presence of the Commissioner

Sahab. Besides, the Commissioner Sahab I also carried out the survey work and whenever I thought necessary, I used to get the measurement done with the help of the chain. Such occasions did take place when at times the Commissioner Sahab was present when I carried out the survey and at other time he was not present while I was doing the measurement work. I do not remember how many hours did it take to carry out the survey work on the first day. All the three days the survey would usually begin at 10- 10.30 AM and would come to an end by 4 or 4.30 P.M. On the last day it had come to an end at 3 or 3.30 P.M. At the start of the survey the defendant had raised the objection to the effect that E, F, G, H should be identified and then the survey should begin. E, F, G, H were not measured on the spot but the plots on which they were, had been measured. I do not remember as to whether the Court has accepted or rejected the report filed by the Commissioner Sahab. I am not aware whether any objections have been filed in the Court or not in this regard as I was not in touch with the Court in this behalf. At the time of cross examination R.L. Verma Sahab had told me that the report had been rejected. It would be wrong to say that I was continuously present in the Court at the time when the arguments were in progress in this Court on the report of the Commissioner Sahab. It is also wrong to say that I was helping the lawyer of the plaintiff in the arguments at that time. I do not know that this Court had appointed another Commission after rejecting the report of Shri J.P. Srivastava. I also do not know that Shri J.P. Srivastava had gone again to do the measurement work. It is also wrong that I had gone on behalf of the plaintiff in the second survey also. I also do not know as to who were the persons who had gone on behalf of the plaintiff for the second time. I also do not know as to who went on behalf of the defendants. I also do not know that the second time

also the report of the Commissioner may have been rejected. There is no mention of any plot number etc. in the map exhibit regarding the three Revenue Land settlement so far i.e. of the three land settlement settlements two settlements have been held in Ayodhya, Faizabad and no plot numbers of these settlements have been given in the present map. I have made my map on the basis of Nazul Settlement .(Out of the two Revenue Settlements held in Ayodhya, Faizabad the one was held in 1860-62 and the other one was held in 1937). Again said that in the meanwhile another Nazul Settlement was held in 1930, I have not taken any help from the Revenue Settlement Record during this survey of mine and in preparation of map and report neither did I do any measurement work at the site on the basis of them. It is wrong to say that I have filed this report of mine as I was told to do by the plaintiffs in this regard. It is also wrong to say that I remained present in the second survey. I was present only once in the survey which was held on 19, 20 and 21 dates. It is also wrong to say that I have been pleading this case on behalf of the plaintiff from the very beginning.

(The cross examination by Shri Puttu Lal Mishra, Advocate on behalf of Shri Rajendra Singh Visharad S/o Late Shri Gopal Singh Visharad, the plaintiff in Suit No. 1/89 comes to an end.)

(Cross examination by Shri Hari Shankar Jain, Advocate on behalf of Hindu Mahasabha, Defendant No. 10 and Shri Umesh Chāndra Tripathi, Respondent (Defendant) No.17).

(Cross examination done by the above respondents on behalf of the previous respondents (defendants) was accepted by Shri Hari Shankar, Advocate.

(Cross examining by Shri Vireshwar Dwivedi, Advocate on behalf of the Plaintiff 1, 2 and 3 in Suit No. 4/89)

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The cross examination on behalf of the defendants so far done from the side of the above plaintiffs was accepted by Shri Vireshwar Dwivedi, Advocate.

The cross examination on behalf of all the defendants came to an end and the witness was relieved.

Verified by hearing

Sd/-

8.1.2001

Typed by the Stenographer in the Open Court as per my bidding.

Sd/-

8. 1.2001