

**In the Hon'ble High Court of Judicature at Allahabad.
Lucknow Branch, Lucknow**

**O.O.S. No. 4 of 1989
(R.S.No. 12-61)**

**The Sunni Central Board of Waqfs,
U.P. and others..... Plaintiffs.**

Versus

Gopal Singh Visharad and others . . . Defendants

**Statement of P.W. 21
Dr. M. HASHIM QIDWAI**

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

Other original Suit No. 4 of 1989

(Regular Suit No. 12-61)

22.11.2001 P.W. 21

Dr. M. Hashim Kidwai, Shri Late Abdul Majid Kidwai, aged about 80 years, resident of HIG 1, ADA Flats, Sir Syed Nagar, Aligarh, retired Teacher gave the following statement on oath:

My father was in U.P. Government service posted as Deputy Collector. My School education started in Basti. After Basti my father was posted at Saharanpur where my political life started. After leaving Saharanpur, I did my High School from Sitapur and after that I did my Inter, B.A. Honours and M.A. from Lucknow. I did my Inter from the Christian College and B.A. and M.A. from Lucknow University.

In July 1939 my father was transferred from Sitapur to Faizabad; at that time I was a student. In October 1941 my father was transferred from Faizabad to Lucknow as Additional City Magistrate. From July 1939 to October 1941, my father remained posted at Faizabad, where he was residing in the Cantonment Area. During this period I used to go to Faizabad almost during every vacation. For the first time I went to Faizabad in December 1939. In that month I went to see Babri Masjid with members of my family, and offered/performed the Magrib-Ki-Namaaz there. After that upto 1941, I used to go to Faizabad during every vacation. During this period I offered Magrib-Ki-Namaaz 15 to 20 times, Aasir Ki-Namaaz 4 to 5 times and Friday Namaaz two to three times in the Babri Masjid. About 100 persons used to attend Magrib-Ki-Namaaz and 40 to 50 persons Aasir-Ki-Namaaz and about 250-300 persons used to perform Friday or Jumme-Ki Namaaz. Whenever I offered Namaaz I performed it in congregation and as far as I remember one and the same Imaam was presiding over the

congregation. Maulana Abdul Maazid Dariyabadi was my uncle as well as father-in-law. I went to Babri-Masjid with him also. He has written almost 80 books in Urdu & English Languages; among them the English version of Quran Sharif deserves special mention.

In 1948 I was appointed as Lecturer in Political Science. At that time I was doing research work in Lucknow University. From 1948 to 1982 I taught at the Aligarh Muslim University, where I was promoted as a Reader in 1961 and retired as Reader in 1982. During my service under the Muslim University I worked on many administrative posts also, such as, warden of a hostel, provost of a hall and proctor of the University. Apart from that, I remained chairman of the Staff Association and elected member of the Executive Council as well as the Court. Prof. Nurul Hassan, the librarian of the library of the Aligarh Muslim University which is called as Maulana Azad Library, is known to me. I know him for the last seven eight years. I have seen him writing and reading papers and I recognize his signatures. The witness was, shown documents No.1,3,5,7,8,9, pertaining to Suit No. 4/89, filed with the application No. 31/2001, dated 19.11.2001. Having seen these papers he said: Signatures on these papers are of Prof. Nurul Hassan and I identify them. My political life started in 1930 when salt movement was going on. Although my father was Deputy Collector in Govt. service, I hoisted the Congress Flag. During 1931 when Shaheed Bhagat Singh was hanged to death, our Government school at Saharanpur observed strike in protest, and I also took part in the strike and as a punishment for that I was failed in the class-five examination. Later on during 1936 when the first meeting of All India Students Federation was held in the Christian College, Lucknow, I attended the function as a delegate. After that I worked as General Secretary of the Students Federation, Lucknow. After then I became member of All India Students Federation. When I was a student of Intermediate, I took membership of the Congress Party. In 1951, when idol was placed in the Babri Masjid, an all India

Conference was held at Lucknow to protest against this act, and I took part in the Conference. The name of the Conference was Kowmi Ekta Conference Among the eminent persons who took part in the Conference, were Acharya Jugal Kishore, the then Chairman of U.P. Congress Party, Feroz Gandhi, Mrs. Uma Nehru, Govind Sahay, Ram Kumar Shastri, Pt. Shri Krishna Dutt Paliwal, who was then Chairman of K.M.P.P. (Kisan Majdoor Praja Party), Dr. Z.A. Ahmad (Communist Leader), Gopal Narayan sexena. Shri Chandra Shekhar, who later on became Prime Minister of India also took part in the Conference. Prof. Mahesh Daft Sharma and Prof. Ram Asre were also present in this Conference. In this conference a resolution was adopted, demanding that the idols that were irregularly installed in Babri Masjid, must be removed from there and the U.P. Govt. was urged to take immediate action in this regard. In this Conference an Organization named Kowmi Ekta Mandal was constituted, I was a member of this Mandal's executive committee. Shri Akshaya Brahmachari played an important roll in organizing this meeting. That time he was Secretary of Faizabad Distt and he also went on hunger strike in this connection. Later on in 1984, I was elected as a Member of Rajya Sabha and remained M.P. (Rajya Sabha) for six years.

Near about the Babri Masjid there was the Mazaar of Kazi Kidwai situated who was an ancestor of Kidwai clan. After seeing the photographs No.154/4 to 154/16, filed with his report by the Commissioner appointed in Suit No. 1/89, the witness said: these are the photographs of the same Babri Masjid, Where I went to offer Namaaz during 1939-40.

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

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My father was originally a resident of Dariyabad, Barabanki. My grand father Maulvi Abdul Kadir was also Deputy

Collector as well as a landlord. I was born at Lucknow. At that time my father was a Tehsildar at Lucknow. Under the town Dariyabad where my ancestors were living, there were many villages where Kidwai families lived. In District Barabanki, Baragaon, Rasouli, Bhayara, Gadahi and Juggor of Lucknow district were villages where Kidwai families were also living. In Faizabad also a couple of Kidwai families lived. This is correct to say that famous politician Rafi Ahmad Kidwai belonged to Masauli town. As far as I know, my father was perhaps appointed as Tehsildar in 1916 or 1917 or 1918.

At first he was appointed as Naib Tehsildar and then promoted as Tehsildar. My grandfather also was originally appointed as Naib Tehsildar but later on promoted to the post of Deputy Collector. Long before I was born, my grandfather was posted at Faizabad. My grandfather had died in 1912 at Mecca during Haj journey; I was out born at that time. I was of 39 to 40 years of age when my father died. He expired in December 1960. In 1942 my father retired and from 1942 to 1948, I continuously stayed with him. During this period of six years my father never told me about performing or offering of Namaaz etc., by my grandfather at Babri Masjid. Then said: Now I remember that my father had, however told me once or twice that when my father was of young age, he had gone to perform Namaaz at Babri Masjid with my grandfather but only once or twice. At that time my grandfather was posted as Deputy Collector at Faizabad. Then my father's age was 6 to 7 years. My father died at the age of 75 years. I don't know that my father at the age of 6 or 7 years had gone to Babri Masjid for namaaz after the riots had taken place or before that, because my father never made a mention of this. In District Basti, my education started from Class III. Even before that I had a knowledge of Urdu language. My schooling in Basti started at the Government School. In Basti I studied for some months only in Class IV because in September my father was transferred to Saharanpur. So I left Basti. In Basti my father was posted as Deputy Collector and was in charge of Dumariya Ganj Tehsil. He never

worked as Deputy Collector of Khalilabad. River Ghaghra flows between Basti and Ayodhya and the same river is called as Saryu in Ayodhya. This river flows in between Khalilabad Tehsil and Ayodhya. Whenever I or my father went from Basti to our town Dariyabad, we used to go via Lucknow.

I had developed my understanding capacity at the age of four years and from that age I could understand the difference between the good and the bad. When I got admission in Class-III at Basti Government school, my age was about 7 years. Before his posting at Baste my father lived for 5-6 months at Distt. Gonda and before that for one months at Pratapgarh. And before Pratapgarh he remained posted at Lucknow. This I had developed my full sense of understanding when we were at Lucknow. In 1936 I passed my High School from Govt. High School, Sitapur. My date of birth according to my High School Certificate is 31st March, 1921. I was a science student at High School level. I did not study Hindi at the High School level but I had studied Hindi upto Class VIII. In the eight class)n my Hindi course I had studied poems of Tulsidas and Kabirdas. I did my Intermediate with arts subjects. In 1938, during my intermediate course my subjects were History, Civics, Urdu. In 1938, I took admission in B.A. My subjects were Political science, Urdu, History and English General in B.A., When I took admission in B.A., my Father was posted at Sitapur. For my B.A., I voluntarily selected history and political science for my study. I did not selected these subjects at the behalf of any politician. I studied medieval history and British history in B.A. I had passed my B.A. in two years only. I did my B.A. (Hons.) in Political science. Political science is a subject included about human rights and government as well as private units. The subject of my research was: "Origin and development of Islamic state in first century Hizri". For my research work, Prof. Chaudhry Mohd. Sultan of Lucknow University was my guide. I took about five years more to finish my research work. After my appointment in Aligarh University, the subject of research remained the same and there I completed my research work and submitted my

thesis. At Aligarh University my guide was also Prof. Ahmad Sultan who had gone from Lucknow to Aligarh. When I joined the service of Aligarh University, my father was living at Lucknow only. Since the responsibility of running the family fell on my shoulder so I left the research work incomplete and joined the service at Aligarh. I could not get living accommodation in the campus of the Aligarh Muslim University. So I hired a room outside and lived there. My father and/or members of my family were not living with me at Aligarh. During my appointment/service at Aligarh my father or members of my family did not stay with me. He further said; My father expired in December 1960, till then no member of my family lived at Aligarh. But when I got housing accommodation, they came to reside with me. I was usually visiting Dariyabad town. Maulana Abdul Mazid Dariyabadi was my real uncle and was eight years younger to my father. He was occasionally visiting Lucknow also, but was permanently settled at Dariyabad only and he was not visiting Faizabad. My uncle was good scholar of Urdu language and his knowledge of Quran was also good and I usually had discussions with him on religion and Quran. My marriage took place in the closing days of 1946.

I had read details about the riots that broke out in Faizabad on the disputed structure in 1934. I had no discussion on this matter with my father, uncle or father-in-law. I had read the news of riots in the newspapers next day of the occurrence.

Sd/-

Attested After hearing the statement.

Dated 22.11.2001.

On hearing us the stenographer typed the matter in the open court. For further enquiry appear again tomorrow on 23.11.2001.

Dated 23.11.2001

(The statement on oath by PW. 21 M. Hashim, in continuation of his statement dated 22.11.2001)

The full information of 1934 riot remained available regularly in the newspapers. The cause of 1934 riot was cow-killing incident which took place at village Shahjahanpur. I don't know whether Shahjahanpur village is situated on the route of 'panchkosi parikrama' (five kos round) of Ayodhya. I only came to know that the cow was killed at Shahjahanpur and that was the cause of riots and latter on Masjid (mosque) at Ayodhya was damaged. I read in the newspapers that the dome of the mosque was specifically damaged. Some persons were also killed, but I don't remember now as to how many persons were actually killed. Perhaps, among those killed, Muslims were more than the Hindus in number. However Hindus were also killed. I don't know whether at that time Hindus had gathered for 'Parikrama' and gathering was Lakhs of people and Muslims were killed and three Bairagis were killed at Shahjahanpur. I don't know who was the Collector who posted there at that time because a long period of 67 years has passed after that. So I don't remember the name of the Collector posted there. I really don't know the details but a news item appeared in the newspapers that punitive tax was imposed only on the Hindus of Ayodhya. I don't remember whether or not any tomb was broken at that time. In 1934 the dome (Gumbad) of the mosque was specifically broken, this I had read in the newspapers. I don't know in detail whether the whole dome was felled down or it was partially damaged. I had read in the newspapers that along with the dome the wall was also damaged. I had not read whether the Minaar (minaret or tower) was damaged or not. In 1939 when I went to Babri Masjid for the first time to offer Namaaj, I did not try to know as to which of the portions of the dome and the wall were damaged. Because I had gone only to perform Namaaj, I offered my prayers and came back, without making any specific enquiry. I had read in the newspapers that the dome got repaired at government expenses. I read this

news in the newspapers on the third day of incident. I don't remember whether this incident was reported in detail in the newspapers as to how much damage the dome had suffered and how much damage was done to the walls of the mosque. When I went there for the first time to perform Namaaj, I did not try to find out the portions of the dome and the wall that were repaired. As far as I remember the mosque (Masjid) had no Minaar. This was already in my knowledge and when in 1939, I went to perform namaaj for the first time, this fact was confirmed. I had read about Babn Masjid in records and books of history and had heard from elderly people also. I had knowledge about this mosque before I did my B.A., I had knowledge of Indian culture and basic history of India even before I passed my B.A.. I had also knowledge of the Geographical situation of India. I don't believe that Bharatvarsha is basically a land of the followers of Hindu Sanaatan Dharma only. In my opinion, Hindustan/ Bharat has been basically a land of different religions and cults. Basically Hindu Sanaatan Dharma, Buddhism, Jainism, and Islam, Sikhism, Christianity etc. have been in existence here. The culture of India is thousand years old. There were no followers of Islam or Christianity before four thousand years. This is a fact that the people who inhabited India in the beginning were primarily idolaters and offered prayers of trees, animals, sun and God Goddess. It is correct to say that such people were called Hindus. In my opinion, the followers of Sikhism do not come under the fold of Hinduism. This is correct and I also believe that Hinduism has much catholicity.

Islam originated in Arabia in 1435 Years ago. Before Islam came into existence, the people of Arabia were either pagans, Christians or jews. Islam means 'submission to the will of God and also peace'. There is nothing like caste in Islam. It is correct that one who is a follower of Islam is called Muslmaan. The person who brought the message of Islam was Hazrat Mohammad (Sallal Laho alaihe vasallam S.A.V.) Quran is the last book of Allah (God) which was revealed to Hazur S.A.V.

through Hazrat Zibraeel. It is in Arabian language. This book was not revealed at one go but in instalments for about 15-20 years. There are 14 Suraas in this book. This book contains all instructions as to how to lead life and it also contains rules and regulations. Shariat is a code of law which contains rules and regulations about the different aspects of life. It

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contains actions and sayings of our Rasul and it is binding on each and every Muslim, next to Quran. The basis of Islamic law, in addition to Quran and Sunnat, are the interpretations of four Imaams i.e. Muslimn jurists, namely, Imaam Abu Hanifa, Imaam Shrafee, Imaam Malik and Imaam Ahmad-Bin-Humble. The interpretations by these for Imaams are based on Quran and Sunnat. Our 'Paigamber Hazrat Saheb became 'Nabi' at the age of 40 years and thereafter lived at Mecca for 13 years and spread the message of Islam among the people. And Islam, according to Akida of Muslims is eternal that is, it is in existence from the days of Aadam. Our Rasul after 13 years on the orders of Allah, left 'Mecca and came to settle at Madina, because the people of Mecca were offending him and creating troubles for him. And when he reached Madina, he became the Head of the City State of Madina and by the time he expired, this state extended its territory far and wide. It was correct to say that the religious head used to be the head of the State also. Quran contains more than 6000z 'Aayats'. These Aayats are on law as well as on many other subjects.

Question: According to Quran and Shariat, whether some religious injunctions were issued or not?

Ans. I am not an Islamic jurist, but I broadly know that Quran has explained what is right and what is wrong, what is good and what is bad, and these instructions are binding on all Muslims. According to Islam, it is not proper to forcibly get possession of any land or building. The meaning of 'Imaam' is leader. Imaam's main function is to give guidance in religious matters to the muslims. Apart from that Imaam issued instructions on all

aspects of life. As far as I know, the qualification prescribed for an Imaam is that he should be a good Muslim and should be well versed in Quran and Hadees. It is correct to say that the Imaam should be a man of moral character and conduct. Imaams are appointed at Masjids (Mosques). Many mosques have their managing committee who appoint Imaam. This is correct that in the mosques where Friday Namaaz is held, generally there must be an Imaam. The mosque committee generally appoints its Imaam, and if there is no such committee in existence then Waqf Board appoints the Imaam and if the mosque is not a registered body then people of the local area appoint the Imaam. Namaaz is held five times in a day. First Namaaz 'Fazir' is held before sunrise. The second Namaaz is called Johar which is held after mid-day, the third is Masir which is held in the afternoon and the fourth Namaaz is called Magrib which is performed after the sunset. And the last Namaaz of the day is called Eesha which is held one and half hours after the Magarib Namaaz. Fazir Namaaj is performed nearly half an hour before the sunrise. It is correct to say that 'Minaar' (minaret) was constructed for the purpose of calling people by climbing on its tower where there is no minaret there it is done on roof. people get up before Fazir Namaaz is held. The timing of the Friday Namaaz is almost the same that is fixed for Johar Namaaz. Not only for the Friday Namaaz but for all types of Namaaz, presence of Imaam is necessary because there cannot be congregation without him. Every Namaaz is performed collectively in a congregation and there is scope for performing it separately also. It is correct that if a person goes to mosque alone, he can perform Namaaz singly. But more importance is given to a congregational Namaaz. The literal word meaning of 'Masjid' is a place to bow to perform Sajda (i.e. the place or a building where Namaaj is performed. A mosque must have a building. There should be a ceiling or roof in a mosque to save people from heat and rains. Generally a mosque is constructed separately at a place which is at a distance from residential quarters; that is, it is not attached to residential houses. There should be no obstruction to have an

access to the mosque. Even before constructing a mosque, it is ensured that the way to the mosque would remain clear and unobstructed. If Namaaz has not been held in a certain mosque from a very long time, even then the nature or form of the mosque remains the same; the mosque will remain mosque and it continues to remain mosque unchangedly.

One side of the grave, a Katwa of wood or stone is fixed so that it can be easily identified. It is also made of bricks and other construction materials but a Kachcha i.e. ordinarily prepared without any construction material is preferred.

To identify that the grave is of a Muslim, a piece of wood is fixed there. This piece is fixed on the side of the head of the dead body. This is correct that the place where Hindus are burned is called 'Samaadhi' But there is a difference between a Samaadhi and a Qabr. The Qabr of Muslims are 'Kibla' faced. There is a marked difference between the design and construction of a Muslim Qabr and a Hindu Samaadhi. It is correct that the middle part of the Qabr as well as Samaadhi is somewhat raised.

The literal meaning of Mutwalli is trustee, who manages thing or who looks them after. Most of the mosques have a committee for their management, but there are trustees also. Sometimes the appointment of a Mutwalli of a mosque is done by the people of the area themselves but many mosques have Mutwalli appointed by the Waqf Board. Imaam and Mutwalli are two different office-bearers. Sazzadnashin has no concern with the mosque. He manages different Dargahs. Dargah means tomb of a Muslim Saint. There is no concept of Sazzadgi in Quran and shariyat, but in practice there is a Sazzada on a Dargah.

Qabristan (graveyard) denotes a place where there are graves of Muslims. The designation Qabristan is not based on the number of graves dug there. It is correct to say that there are Takiyadars or keepers in a graveyard. In addition to the keeper

some Muslim organizations also look after the maintenance of a graveyard. For example, in Lucknow Anjuman Islahul Muslimeen is such an organization. A Takiyadar is generally appointed by the graveyard committee. If there is no such committee in existence then Muslim of the area appoint some Takiyadar (keeper). Generally, the function of a Takiyadar is to look after the graveyard. If the size of the graveyard is big, then more than one Takiyadars are appointed. Normally the Takiyadars stay at and reside in the graveyard itself, but sometimes they have a separate residence nearby. No particular place is prescribed for Takiyadars residence in the Shariyat.

Khankah has no concern with the graveyard. A graveyard and a mosque can exist side by side. There is no Khadim (or Mujabir) in a mosque, the mosque has an Imaam only. According to Shariyat it is not necessary that Imaam must reside in a mosque, but there is no prohibition on his residing there. This is not correct to say that gates or doors of most of the mosques remain open or unbolted but the fact is that after the Namaaz of Eesha the gates are closed and reopened sometime before the Fazir Namaaz. During my stay at Lucknow I generally used to go for Namaaz to a mosque which was near to my house. The name of the mosque was Maamu-bhanje Kabra-ki-Masjid. When I was 5-6 years old I performed Namaaz for the first time in a mosque. Now I cannot tell exactly what was the actual date (day, month or year) when I performed that first Namaaz. When I started living at Aligarh, I used to go for Namaaz in a nearby mosque. In Aligarh, I offered my first Namaaz in October 1948. Now I don't remember as to who was the Imaam there at that time. I stayed at Aligarh in many houses, one after the other, so I never cared to know the names of Imaams concerned. Before leaving Aligarh, I offered my last Namaaz of Maghrib, along with about 200 persons in a congregation and I offered my last Friday Namaaz (of Zumma) in a mosque of Sir Syed Nagar, along with about one thousand persons.

I duly became a regular member of Congress Party in 1936-37. I think civil disobedience movement took place four times in different town viz. Salt movement, Civil disobedience movement of 1932 and 1940 and Quit India movement was also civil disobedience movement. Salt movement of 1930 is known as Dandi Yatra of Mahatma Gandhi. Having got inspiration from the salt movement of 1930, I began taking part in politics and from that point of time I have remained active in politics. Throwing of bomb in the Central Assembly by Bhagat Singh took place in 1928. When I took part in politics before 1930, I came to know of this bomb case through newspapers only. I was also impressed by the revolutionary movement of Bhagat Singh. After the strike in 1931 when I was punished as fail in the fifth class because of I took part in this movement, this reason of my failure was not shown in my result card that since I took part in the strike I was failed in the examination. It is wrong to say that I could not get good marks in all the subjects, therefore I failed in the examination. In Saharanpur at the time of Namak Satyagrah I had hoisted the tricolour kaumi flag of Congress on my house which was got removed by my father. That house was not a government accommodation allotted to my father; it was a private house. My father was Deputy Collector at that time. As I had hoisted the flag on the top of a long bamboo stick, it was seen fluttering in the sky by all people. At that time the size of the tricoloured flag was horizontal as it is now, and it had three colours at that time- green, white and red. Later on, in the Karachi session of the Congress, the red colour was replaced by Saffron colour. But previously white colour was flanked by red above and green below.

At that time 'Charkha' (spinning wheel) was marked on the white part. I had bought this flag from market. No action was taken against me or my father for putting up or bringing down the said flag. This incident of putting up or bringing down the flag was not popular. The first session/meeting of All India Students Federation was held at Ganga Prasad Memorial Hall,

Lucknow in August 1936. Pt. Jawahar Lal Nehru was Congress President and he himself had inaugurated the All India Students Federation. This students Federation was formed for carrying out political activities. The invitation to attend the conference was given through newspapers and public notifications; personal or private invitations were not sent to anybody. In 1936, the number of the members of Students Federation rose upto 4000, which later on went on increasing. After 1936, a separate unit was established in each province. These units were constituted in 1936 in the meeting held at Ganga Prasad Memorial Hall. In 1936, as far as I remember, Shri Mohan Kumar Manglam became the Secretary of the Madras Unit. In 1936 I was not Secretary of Uttar Pradesh Unit, but later on during 1936-37 I became the Secretary General of Lucknow Students Federation and held the post continuously for five years. During my tenure of five years as Secretary General, there were 8 to 10 thousand members of Lucknow students Federation. I was elected Secretary General of the Lucknow unit continuously for five years. I held that position upto March-April of 1942 and after that due to quit India movement, elections were not held and I continued as Secretary General. During my tenure as Secretary General from 1937-1942, I organized many strikes, rallies and processions against the British rule. I violated Section 144 also. In spite of my active participation in political activities, no officer of the British Government ever took any action against me or any member of my family, and were never harassed or oppressed by any officer. No action was taken against me for violating Section-144. During 1937-1942, I remained more close to the Congress leaders, but I was also in contact with the two leaders of Muslim League, viz. Chaudhry Khalikuzzama and Maulana Hasrat Mohani. Moreover, I remained in closest contact with Congress Leader Shri Rafi Ahmed Kidwai and I feel proud of having worked with him for 15 years. I first came in contact with him in 1938. As I was frequently visiting him, I had full knowledge of all his political activities.

During "do or die movement" of 1942, I had distributed revolutionary pamphlets against the British rule in mosques and had sent Muslim students to cut electric and telephone wires. In addition I organized meetings and rallies against the British rule. I also financially helped my associate political workers who had gone under ground. Despite of all these activities on my part, the British government did not take any action against me or members of my family, because it was the policy of the British Government that they wanted to show to the World at large that Muslims were not taking part in the Indian freedom Movement. So they, barring a few prominent leaders, never arrested any field worker like me. I mean to say that from that time onwards the policy of the British Government was to divide and rule the Indian people. Another policy of the British rule was to show that congress Organization was a revolt monger against the British rule. In my publicity material, I used revolting words on the pattern of English people, because the British rulers branded freedom movement as revolt. While the fact was that my all activities were directly connected with freedom movement and patriotism. In 1942 movement, Muslims at the grassroot level were not arrested. In the beginning, out of about five thousand members of Lucknow Students Federation about 1000 Muslims were educated members. In 1942 movement, one Gazi Munne Khan, who was a prominent worker at field level was arrested from Lucknow. Except him no leader worth the name was arrested. In those days, some prominent Muslim leaders of congress were Maulana Abul Kalam Azad, Dr. Sayyed Mgp mood, Rafl Ahmed Kidwai, Khan Abdul Gaffar Khan, Abdulla.

I have read a book titled "A Bunch of Old Letters-My Recollection", written by Pt. Jawahar Lal Nehru. He has mentioned in the book, which is a true fact also, that all Muslims had joined the Indian freedom Movement and the number did not matter. In the same letter it was correctly said that in the 1942 Quit India Movement, all Muslims took part. This is correct to say that the statement given by Maulana Abul

Kalam Azad in the court of the Presidency Magistrate of Calcutta on 20th February 1927 was remarkably famous. It was also correct to say that in his statement Maulana Abul Kalam Azad had said that at the time of 'do or die' movement, all Muslims of India were concerned with the freedom struggle and there number does not matter much. And he had further said that what we were doing was not reason but patriotism, and all Muslims were part and parcel of India. This is totally baseless to say that all my active cooperation in the freedom struggle which I have stated above is just to lift my status in the eyes of others.

The Kisan Mazdoor Party was formed in 1951. Its founders were Pt. Krishna Daft Paliwal and Triloki Chandra, and later on Kriplani Saheb also joined them. Shri Rafi Ahmed Kidwai also gave his support to this party. Some members of Congress made a separate group called Congress Socialist Party; Acharya Narendra Dev and Jai Prakash Narayan were leaders of this group., This would not be correct to say that Patna Adhiveshan (Session) was held in 1934 during which N.G. Gore, Jai Prakash Narayan and some other Congress leaders had formed Socialist Congress Party under the chairmanship of Acharya Narendra Dev. But the fact is that in 1934 Congress session was held at Bombay and before that in 1933 session, which was held at Patna, above said Socialist Party came into being. The interim government of Congress was formed on 22nd September 1946. The group constituted by Jai Prakash Narayan and Acharya Narendra Dev left the Congress Party. This would not be correct to say that Acharya Kriplani had formed the above said party but it is correct to say that he had presided over the Patna Session of that party. In 1947 Acharya Kriplani was head of the Indian National Congress. He resigned in November 1947. This is not correct to say that Acharya Kriplani formed the Kisan Mazdoor Party as soon as he resigned in 1947. But the fact is that he formed the Kisan Mazdoor Party in 1951. In June 1951, a convention named Kowmi Ekta was held in Ganga Prasad Memorial Hall in Lucknow. At that time in 1951,

Babu Purusottam Dass Tandan was the head of National Congress. I don't remember as to who was the President of Kisan Mazdoor Party of Uttar Pradesh in 1951. The conveners of 1951 conference were Pt. Krishna Datt Paliwal, Babu Triloki Singh and Akshaya Brahmachari. At that time, Shri Akshaya Brahmachari was a member of National Congress and the remaining two i.e. Shri Paliwal and Shri Triloki Singh were members of the Kisan Mazdoor Party. Shri Akshaya Brahmachari was from Faizabad, Paliwal was from Agra and Sh. Triloki Singh was a resident of Lucknow. My first meeting with Sh. Akshaya Brahmachari took place at the residence of Sh. Rafi Ahmed Kidwai at New Delhi in 1950. But I can not recall month and the season of this meeting. During 1949-50 Sh. Rafi Ahmed Kidwai was communication Minister in the Central Cabinet. My meeting with Sh. Akshaya Brahmachari at Sh. Rafi Ahmed Kidwai's residence was not by sudden chance; but I was a regular visitor to Sh. Kidwai's residence and during one of my meetings with Sh. Rafi Ahmed Kidwai I just met him without any appointment. During that first meeting no discussion was held on the Kowmi Ekta Sammelan of 1951, but some mention was made about matters pertaining to Ayodhya. Before that meeting I had already got some information through newspapers about the placing of idol in the Mosque in 1949. When I met Sh. Rafi Ahmed Kidwai, I told him that the idol which was placed forcibly, should be removed from there. I don't know whether Sh. Rafi Ahmed Kidwai himself took any action or asked the Central Government to take any action, but I know one thing that he was against the placing of idol in the Mosque. At the residence of Sh. Rafi Ahmed Kidwai, in his presence, Shri Gopal Narayan Saxena had introduced me to Sh. Akshaya Brahmachari. Before my first meeting with Sh. Akshaya Brahmachari, I know about him and his fast-unto death Sh. Triloki Singh had also told me about him. In addition to this Sh. Keshav Dev Malviya had already told me about Sh. Akshaya Brahmachari. In between the Kowmi Ekta Sammelan (Conference) which was held in June 1951 and my meeting with Akshaya Brahmachari at Delhi which took place in 1950 and before that also, I had never met Sh.

Akshaya Brahmachan. As far as I know, Akshaya Brahmachari was not residing at Chinhat by 1951, however, after that conference he started living there. Before 1951 conference Sh. Akshaya Brahmachari was residing near the tomb of Mamu-Bhanja in the Kothi of Sh. Talha Vakil. He had his office also in the same bungalow and since my father was also living nearby and whenever I came from Aligarh in vacations, I happened to meet Akshaya Brahmachari.

Dated: 23.11.2001

Sd/-

Attested after hearing the statement

On hearing us the stenographer typed the matter in the open court. For further enquiry, appear again on 24.11.2001.

Dated 24.11.2001 (The statement on oath by P.W. 21 M. Hashim, in continuation of his statement dated 23.11.2001)

After the Kowmi Ekta Conference, which was held in June 1951, "I Akshaya Brahmachari started living in the bungalow of Taiha Vakil Saheb, near Mamu-bhanja Masjid.

Aligarh University had three long vacations during May and June for about two and a half months, during October Dashehra holidays for ten days and Christmas holidays for 10-12 days during December. In those vacations I used to come Lucknow from Aligarh. After Kowmi Ekta Conference Akshaya Brahmachari started living in the house of Talha Vakil Saheb, near Mamu-Bhanja Masjid. My father resided at Lucknow from October 1948 to December 1980. During the period from June 1951 to 1960, I was meeting very often and talking to Akshaya Brahmachari. We had discussed the incident of placing idol in the Mosque. During my first meeting with him, Gopal Narayan Saxena had told me that Akshaya Brahmachari was a resident of Faizabad and was Secretary of the Faizabad District Congress Committee. I do not remember whether anybody had told that he was a Vairagi Sadhu (recluse monk) of Ayodhya. I have seen many sadhus. He used to put 'Tika' (mark) on his forehead but that was Ramanandi tika or some other type of tika; that I don't know and he when I summarily glanced at his face, I could find that he used to put some mark on his forehead. I do not know that Akshaya Brahmachari was a disciple of Mahanta Ram Padarath Dass of the famous temple of Ram Ballabha Kunj, Janaki Ghat at Ayodhya. I don't know and he never told me that he originally belonged to Bihar. I had no information that Akshaya Brahmachari was expelled from the Vairagi Sampradaya (Community). He never told me that he was very much harassed by the Sadhus in Ayodhya and it became difficult for to stay there. He however told me that when he kept fast (Vrata), many people there harassed and teased him and the government did not come forward to help him. I remember that some Mahantas harassed. As far as I remember

Akshya Brahmachari kept his fast in the PCC Office. This fast-unto-death (Aamran Anshan) he kept in the Provincial Congress Committee office at Lucknow. During his fast period I never met him, because I was staying at Aligarh in those days. I came to know through the newspapers-Kowmi Aawaz, Lucknow and National Herald, Lucknow that Akshaya Brahmachan had broken his fast at the assurance given by Sh. Lal Bahadur Shastri, who was Police Minister at that time. As far as I remember, he kept this fast for many days. It is wrong to say that he actually did not keep any fast or Aamaran Anshan, but just publicised this through newspapers and advertisements; because Hayatulla Ansari, Editor of Kowmi Aawaz had told me in detail as to how Akshayaji had kept fast-unto-death. I do not have any idea of the fact that by the time, stay orders were passed by the court in the case. In the conference of Jamiyate Ulma, I came to know that the court had passed stay orders in the case. At that time Pandit Govind Ballabh Pant was the Chief Minister of Uttar Pradesh.

Question: You have stated above in this court that Akshaya Brahmachan had played a prominent roll in organizing this conference. Then what was the mode of convening that conference? Whether invitation was issued or general notice or advertisement was published in his name in the newspapers?

Ans: As far as I remember, a circular letter was circulated about this conference. The circular letter was signed by many persons but the prominent person among them were Sh. Akshaya Brahmachari, Pt. Krishna datt Paliwal and Babu Triloki Singh. Newspapers also bore such advertisements.

In addition to the names of above said three persons in that list, the names of Moulana Kasim Shahjahanpuri, Hayatulla Ansari, Gopal Narayan Saxena, Ram Kumar Shastri, Prof. Radhey Shyam etc. were also there. This advertisement was published in the National Herald and the Kowmi Aawaaz in the form of a news item. About this conference publicity papers were

distributed and posters were also fixed at many place. The basic subject matter of this advertisement was to maintain national harmony and to fight out communalism. According to my opinion, communalism (Firqaparasti) means usurpation of legal rights of a community by the other community and to propagate feelings of hate against a particular community, its religion, culture and language and try to destroy history.

Question: Don't you have faith in the sayings of Sufi Saints, Muslim Faquirs, Hindu Saints, Purans and Quran?

Ans: This is wrong to say that Muslim Sufis or Saints have faith in the fundamental unity of all religions, but they believed that Islam is a complete religion. But they were however totally against hatred among human beings, and they believed in tolerance. It is correct to say that Sufi Saints always emphasized on earning bread by labour.

Question: Just as Arya Samaj, Brahma Samaj were established to remove distortions in the Hindu religion, in the same way whether some movement did start against the hypocrites among the followers of Islam? What have you to say on this point?

Ans: I am sure that there also the Wahabi Movement wanted to purify Islam and tried to remove evils or distortions that had unfortunately erupt in Islam. Sh. Abdul Bahav Nazdi had started this Wahabi Movement and in India, his follower was Shah Waliulla Saheb. He had a school and in this all Ulma of Deoband were members and Sayed Ahmed Shaheed as one of its leaders. In the Kowmi Ekta Conference it was said that Hindu hypocrites and Muslim hypocrites were the greatest communalists and for communal harmony we have to fight against them. One purpose of the conference was to mobilize public opinion against communalism. As of this conference, people began to feel that the way the idol was placed in the mosque at Ayodhya is the worst example or form of communalism and that is a blot on the face of our democracy.

In my above statement I had enumerated names of some of the prominent persons who took part in the conference, out of them only our, Ex-Prime Minister Chandra Shekhar is alive at the moment. In 1951, I had seen Sh. Chandrashekhar, was a leader of UP Congress. I don't remember that he was living in Lucknow at that time. In exact age at that time. In 1951 Sh. Chandrashekhar was in Congress and he had no the Social Party. May be, he was a whole-time worker in the congress office situated at A. P. Sen Road, Lucknow, but I

do-ri

e'nt have any definite knowledge of it. Further said himself: so far as

I know, the office of the Socialist Party was not at A. P. Sen Road, but it

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was in Paandariba. I had visited that place. He had emerged as a leader during his student life. I think Sh. Chandrashekhar had spoken

on the main resolution in the above said Kowmi Ekta Sammelan. I

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think, the National Integration Committee which was first constituted to

promote national integration during the Prime Ministership of V.P. Singh 'J' was further strengthened by Sh. Chandrashekhar. I remember that during A4L1-

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the period from 1951 upto his appointment as Prime Minister, Sh.

Chandrashekhar had stated that the idol had been wrongly placed in the mosque and it should be removed. I had read such news items in the newspapers like Kowmi Aawaz, National Herald and Hindustan Times. It is not correct to say that in the Kowmi Ekta Conference of 1951 Sh. Chandrashekhar was not

present and I am putting his name in the list of persons present because he held a high post. As I remember, after the conference the office of the Kowmi Ekta remained in the bungalow of Talha Vakil Saheb and after sometime Akshaya Brahmachari shifted to Chinhath and started living there. I don't know whether the office of Kowmi Ekta is still functioning or has been closed, but I think that organization has come to an end. Kowmi Ekta Mandal was functioning till 1953. Sh. Akshaya Brahmachari himself was carrying out its work. During 1951 to 1953, I had met Akshaya Brahmachari couple of times, when he was living in the house of Talha Vakil Saheb. I don't know whether Akshaya Brahmachari had any children. I do not look into the personal life of every person. I was elected as a Member of Rajya Sabha from U. P. Assembly. It is a fact that at that time Congress Government was functioning in U.P. I got the information that in 1986, the order to open the lock was given by the District Judge. At that time we, some Muslim Members of Parliament belonging to Congress Party had met Prime Minister Rajiv Gandhi and expressed our strong protest against the action. This news item appeared next day in all the newspapers published from Delhi. When I was a student of Lucknow University, the university primarily observed three long vacations. Among them, the first was Summer Vacation, the second in October called Puja Holidays and the third was Christmas holidays during December. During these three holidays I regularly used to go to Faizabad where my father was staying. In addition to these vacations, there were Eid, Baqreid holidays also in which I also used to go to Faizabad. In Faizabad cantonment where my father was living, there was a mosque not far away from my father residence. I don't remember the name of that mosque, as a long period of 60 years have passed in between. I remember the name of Taatshah Masjid, which is one of the famous mosques of Faizabad. Except this Taatshah Masjid I don't remember the name of any other mosque in Faizabad. The Taatshah Masjid is situated at Faizabad Chowk. I don't know whether at Faizabad Chowk there is a mosque of Hasan Raza. However, I had

offered Namaaz many times in Taatshah Masjid. I have heard the name of Mogal pura area. As far as I remember, this Taatshah Masjid is situated in that area only or may be in a nearby area. I used to go for Namaaz by car. I think I had offered Friday Namaaz 10-15 times there. I did not try to recognize Imaam of the mosque at that time, so I cannot tell the name of the then Imaam. I remember that he was always present at the time of Friday Namaaz, whenever I offered Namaz, Hundreds of people used to gather for the Friday Namaaz. As far as I remember there is no dome (Gumbad) in the TaatShah Masjid but it has minarets (Minaar). Perhaps there are four Minaars, but as I never tried to count them I cannot exactly tell the number of Minaars. It is correct to say that the Minaars of Taat Shah Masjid are very high and can be seen from any place in Faizabad town. Namaaz is performed in rows and during my 10-12 visits there I could mostly find place in back rows, So I cannot tell as to how many rows were actually made. I do not remember the area of that Masjid i.e. I cannot tell the length and breadth of the Masjid. It is a fact that the area nearby the Taatshah Masjid is closely populated. There are residential buildings attached to it on the north and the west and there is a narrow street of three feet on the eastern side and on the southern side there is a road perhaps eight feet wide. I do not exactly remember all this. May be that on the eastern and southern sides there is a high wall. I think, more than 70-80 persons can offer Namaaz there at a time.

Dated: 24-11-2001

sd/-

Attested after hearing the statement

On hearing us the stenographer typed the matter in the open court. For further enquiry appear again on 11.12.2001.

Dated 12.12.2001 (The statement on oath by P.W. 21 M. Hashim, in continuation of his statement dated 24.11.2001)

My younger brother and my brother-in-law used to go with me to TaatShah Masjid., I had gone there alone once only. In the cantonment Area of Faizabad, Khan Bhadur Umar Saheb and Khan Bahadur Mehendi Hasan Saheb were residing, who usually came to see my father and discuss things with us also. In the Lal Kurti Mohalla of the cantonment area, there was a mosque, where I used to go for Friday Namaaz. Sadar Bazar Mohalla is adjacent to the cantonment area. I don't know whether there was any mosque in the Sadar Bazar. Lal Kurti Masjid had Minaars and Gumbad (dome). I performed only one time Friday Namaaz in Tatshah Masjid and remain offered in Lal Kurti Masjid. Faizabad town had many mosques but I don't remember their names. Further said: At chowk there is Shiya Masjid of Hasen Abbas. As a long period of 60 years has passed, so I would not be able to tell about the design and construction of Taatshah Masjid and Lal Kurti Masjid. But I saw no specific difference in the basics of the two. There is no specific model of construction prescribed for a mosque. When I used to go for Namaaz to Lal Kurti Masjid, there was only one and the same Imaam to help and preside over the congregation. My father's residence was at the distance of less than half a mile from the Lal Kurti Masjid. I offered Friday Namaaz 10-12 times in the Lal Kurti Masjid. I never performed Asar Namaaz at Lal Kurti Masjid. In those days, during Friday Namaaz, not less than 200-250 persons used to take part. I never went to the courts at Faizabad, So, I cannot tell whether the Lal Kurti Masjid is on the north or not. I have also not seen the Circuit House at Faizabad. I cannot tell the number of people residing nearby that Masjid because I used to go these to perform Namaaz only and never cared for other things. As far as I remember all Namaazis could be accommodated in the Masjid during Friday Namaaz. I don't have any idea of the length and breadth of this Masjid. It may not be correct to say that the length of Lal Kurti Masjid was 20-

25 feet. The length and breadth of Lal Kurti Masjid was less than that of the disputed structure, i.e. Babri Masjid. During 1939-41, I was doing my B.A. from Lucknow University. During this period when University remained closed due to holidays, I used to go Daryabad and Faizabad. In December 1939 I went to Faizabad for the first time. During July 1939 to 22nd December 1939, I did not go to my father's place in Faizabad. I never went to Ayodhya or Faizabad before December 1939. But I had knowledge about Faizabad and Babri Masjid disputed structure much before December 1939. This knowledge I gathered from history and literary books and from miscellaneous sources.

When I went to Ayodhya for the first time by my father's private car, he had only one car at that time. It was of Cheverlet make. When we went to Ayodhya by that car, there were six occupants in the car, among them one was driver and another person was an employee. Apart from these two, four other persons were myself, my younger brother, my middle brother, my younger cousin sister. The driver was a resident of Sitapur, not of Faizabad. And the employee was from Lucknow. The driver knew all the routes to and from Ayodhya. His name was Nizamuddin. Himself told: He died 25 years back. Nizammuddin died at Lucknow. During the later period of his life, he was living with his son at Golaganj. At the time of his death I was at Aligarh and did not attend his burial and had just heard of his death. Himself said: He had left my father's service long back. Whenever I went to Ayodhya disputed structure, I always went by this cheverlet car and Nizammuddin was the driver. It is correct to say that Ayodhya is situated on the east of Faizabad, I had heard that the road, that goes from Faizabad to Gorakhpur, was going upto Saiju Ghat only before the construction of the bridge. As far as I remember I had gone upto the disputed structure by this road only. As further as I recalled we reached near the disputed structure at 4.30 P.M. The car was parked at some distance before the disputed structure and we had gone to the disputed structure on foot. The road by which we went to Ayodhya was not unmattled.

While going to Babri Masjid, I did not see any other mosque. May be that there was some mosque, but I did not see. However a couple of temples came to my sight on the way. When I went for the first time, I did not see Hanuman Garhi Mandir. There were temples on both sides of the road. When we got down near Babri Masjid in Ayodhya, first we went to Kazi Kidwa's Mazaar for Fatiha. For going to that Mazaar, there was mantled road upto a short distance and remaining portion was footpath (Pagdandi)/track. The length of the mantled road was about 15 yards and the track/footpath was also of the same length, 15 yards and after that there was the compound of the Mazaar. I did not notice at that time that the road was made of tarcoal or cement. The compound of Kazi Kidwa Mazaar was bounded by a boundary wall and there was a gate to go into the Mazaar. In the compound there were tombs of Kazi Kidwa and also of his sons and relatives. I did not count the exact number of tombs but there were 15-20 tombs in all and all of these were mantled. The boundary wall was 8-10 feet high. I did not notice that the bricks used therein were baked (Lakhouri) or of mud. When we went there, the gate/door was open. Some other persons had also come there for Fatiha. I did not estimate as to what was the length/height and breadth/width of the door but the door had lock also and it was sufficiently wide to allow in many persons at a time. The disputed structure was perhaps on the north eastern side of the mazaar of Kidwa. From there we went to 'Ganje Shaheedaa' there were martyr's tombs. There is a mention of 'Ganje Shaheedaa' in our family records. The route to Ganje Shaheedaa from Kidwa Mazaar look 5-6 minutes durations. As far as I remember, Ganje Shaheedaa was on the east of Kazi Kidwa Mazaar. I did not notice that the door of the Mazaar of Kazi Kidwa was on the western or eastern side. After getting down of the car, it took five minutes to reach Kazi Kidwa Mazaar. The disputed structure was on the north east of Kazi Kidwa Mazaar. When I went there, there were two gates to enter the disputed structure. One was on the eastern side while the other was on the northern side. After entering into the structure, there was a compound like place on the outer side.

Then on the western side there was a partition made of barbed wire, after climbing two steps, there was a courtyard and then the portion having dome (Gumbed). After entry into the compound in between the gate and the barbed partition, there was a raised platform, which was called 'Ram Chabutra'. An idol/statue was placed on the Chabutara and some Sadhus were sitting there. They were singing religious songs (bhajans). I did not observe that there were living rooms for Sadhus in the same compound on the other side of the platform, and there was a tin shed also. As far as I think there were footmarks, 'Chulha', 'Belan', 'Patra'. This was perhaps on the other side in the courtyard towards the second gate. Further said: that was beyond the barbed partition that is outside the Masjid in the outer compound. The eastern gate was sufficiently big. And perhaps there was wall etc. above that. The other gate was also constructed in the same manner. On both sides of the main gate, the wall was about 12 Feet high. As I had not measured the length, breadth and height of the wall so I can not actually tell measurements of its dimensions. Himself said: as the time of Namaaz was approaching fast, rather the ' Namaaz had already started and singing of religious songs (bhajans) had stopped. The length of the walls on both sides of the eastern gate could be estimated to 35-30 feet. The distance of the barbed partition from the eastern gate was about 10-15 feet. It is correct to say that barbed wire partition was on the eastern as well as northern side of the courtyard. Sita Rasoi (Kitchen) was on the northern side of the barbed wire partition. It is also correct that after crossing Sita Rasoi, the main boundary wall was of 12 feet height. The distance of the outer boundary wall from the barbed wire was about 15 feet. This is correct that the main boundary wall was at a distance of 15 feet on the southern side. The length of the barbed wire from north to south cannot be estimated now. The distance of the mosque from the barbed wire was perhaps 10 yards. These are all rough estimates, not the exact figures. Beyond the barbed wire, on the eastern side was the main structure with the dome. I think, outside the dome, the outer portion was about 100 yards long from east to the

west. The Namaazis were present in the domed structure as well as in the courtyard. At the time of Friday Namaaz two rows (saf) were there on the platform and 3-4 rows were inside the structure. In the Masjid, that is, in the domed structure there were about 200 persons and on the western side of the barbed wire, i.e. in the courtyard of the Masjid there were nearly 150 person offering Namaaz. It is a fact that there was no Namaazi on the eastern side of the barbed wire. I cannot estimate the age of the Imaam who was helping or presiding over the congregation. But by his voice I could gather that he was not very old. When I went, with my father-in-law, to the disputed place, we offered the Namaaz there. My father-in-law went with us to the Babri Masjid 2-3 times to offer Magrib Namaaz. For the first time my father-in-law went with us to the Babri Masjid on the first or the second of January 1940. His age was 48 years at that time. In December 1939, I had seen Khan Bahadur Omar Saheb offering Namaaz in the Babri Masjid. Khan Bahadur Omar Saheb was living in the Cantonment Area of the Faizabad. I think his age was more than 50 years at that time. At that time there was no opportunity to see other persons present there and therefore I cannot tell their names. When we had gone to see Ayodhya for the first time and the time of Magrib Namaaz approached we offered Namaaz there only, otherwise the main intention was to see Ayodhya as well as Masjid. The idea of seeing the Ayodhya was two-fold firstly it was the birth place of Ram Chanderji and secondly there was Babri Masjid to be seen. In Ayodhya I saw 'Kanak Bhavan' and Hanumangarhi 'only once, while River Saryu a number of times. On the way there were other mosques also. I walked on the roads of Ayodhya and saw many mosques and temples. At time I did not require the company or help of Muslim or local person, because I had sufficient knowledge about Ayodhya. I had heard that there was Sunhari Masjid in the Sahajwada area. I never heard that on the north of that masjid towards the river was a temple of the place of pilgrimage (Tirath) which was destroyed by Aurangjeb. A Muslim peon of my father had told me about the Sunhari Masjid. Neither that peon nor my driver or any other

servant had told me about any other Mazaar. I have not read in any book that there was any Mazaar of Hazrat Kajalnath. I have not heard that Mazaar of Jalalshah is there near the disputed structure. Wherever I went to offer Namaaz, my driver was with me. If by chance he was not available, then my elder or younger brother and sometimes my brother-in-law would have been with me. And a couple of times my uncle that is, my father-in-law was with me. Wherever there is a photo or picture of an animate object, either of men or of animal, Namaaz should not be performed there. But where some Jar (Kalash) or any inanimate object is carved or painted, Namaaz could be performed there.

(The learned Advocate who was cross-examining the witness, invited the attention of the witness towards photograph No. 9 of a coloured album of the disputed structure, that was prepared by the archeological organisation of Uttar Pradesh). Seeing the photograph the witness said: I had gone to the disputed place by this gate only. This is the eastern gate of the disputed place. Having seen the photographs No. 39 and 40 of the same album the witness said: figures of lion have been carved/shown there. He himself said further: When I had gone to the disputed place, I had not seen these figures there. Having seen Photo No. 57 of that coloured album, the witness said: this is the same raised platform (chabutra) where the sadhus were sitting and singing religious songs and prayers. Seeing the photo No. 72 of the same album, the witness said: this is the same kitchen and footmarks that I had seen there. The cross-examiner Ld. Advocate invited the attention of the witness towards the photo No. 20 of the black-and white photo album. Having seen that the witness said: There are figures of lion here in the photograph but I had not seen them at the disputed place. Having seen the photo No. 29 and 30 of this album, the witness said: this is the photograph of the platform where I had seen the Sadhus doing bhajan-kirtan. Having seen Photo No.40 of the album, the witness said: this is the photo of the scene that I had seen at the disputed place. (The cross-examiner Ld. Advocate invited the attention of the witness

towards a Photo/Document No. 154/9 of the disputed structure which was filed by Sh. WasirAhmed Pleader along with commissioner's report in the original suit No. 1/89. Seeing this document the witness said: This is the second gate of the disputed place which I had seen there. When I had gone to the disputed place for the first time, then 'azaan' (call) had already been given and the Namaaz had started. After getting down of my car, when I was proceeding towards the Masjid, the people assembled there were seen performing Namaaz. The place where our car was parked, was some what higher than the normal level of the land. It was correct to say that for entering into the Masjid by the second gate one had to climb up 10-12 steps but I don't remember the total height of those staircases from the ground level where I was standing. It took only 8-10 minutes to finish the Magrib Namaaz. We took about 45 minutes to reach the disputed place from my father's residence at Faizabad. It was the 27th day of December 1939 when I had first gone to Babri Masjid/disputed structure. Whenever I had gone to the disputed place, I never any particular person appointed forgiving call/azaan. I had seen Muazzin calling azaan at the disputed place. Muazzin was giving azaan, while standing in the courtyard of the Masjid. A mention of Kazi Kidwa's Mazaar was made in the manuscript-"Kidwatul Tawareekh"-which was in the possession of one of my relatives. This manuscript was written in Persian by hand and was not published or printed. There is a reference to Kaazi Kidwa in an autobiography - 'Apbiti' written by my father-in-law. This book was perhaps published during 1977-78 after my father-in-law's death. It takes 5-7 minutes to recite Fatiha. Most of the graves in Ganje Shaheedaa were not 'pukka'. There is no mention of the disputed place in the books written by my father-in-law.

The first Hizri Centenary corresponds to 6th-7th Century A.D. .In India, the Islam entered in about 7th century A.D. In those days some Arabian merchants had come to the area near Kalicut and with them Islam entered into India and began spreading here. On the other hand Mohammed-Bin-Kasim had

attacked India during the half of 7th century A.D. I would not be able to tell the names of the merchants who came from Saudi Arabia to have trade with the local people. It is a fact that after Mohammed Bin- Kasim, Mohammed Gauri invaded India and Afganistan. This would not be totally correct to say that Mohamed Gazanawi and Mohammed Gauri had invaded India to plunder and amass wealth from here. This is not correct to say that Mohammed - Bin-Kasim got defeated at the hands of King Dahir and went back. I, however, believe that Khalifa had called him back. This is correct to say that Mohammed Gazanawi came upto Somnath, broke the temple and plundered and went back with tons of wealth. Then said: He did not break the temple, I think Changez khan never came to India, I don't subscribe the view that Babar came to India just to plunder and amass wealth. Babar had come from Fargana (Uzbekistan). It is correct to say that Babar was defeated in the second battle of SamarKand. Tahmaash Safbi of Iran was not a contemporary of Babar, but of Humanyun. This is wrong to say that Babar took the help of Tahmaash of Iran. He adopted Shia sect and then conquered Samarkand. Before the Mughal period, Lodhi dynasty was ruling here. Before the Lodhi dynasty Khilji dynasty was in power. Among the Muslim dynasties the ghulam/Slave dynasty was ruling before the Khiljis. According to me the period of Bakhtiar Khilji was thirteenth century A.D. Sant Kabir lived during the period of Khilji rule. This is a well known fact that Kabirdass was a disciple of Ramanand.

It is a fact that Awadh was a province during Muslim period and the capital of Awadh was first at Faizabad and then it was shifted to Lucknow. Faizabad was capital of Awadh during the period of Mohammed Shah. But in the days of Asifduddowla the capital of Awadh was at Lucknow. This shifting of the capital was perhaps took place in the seventies of the 18th century. This is correct that during the Maurya age, Ayodhya was called Kaushal. It is also correct that under the influence of Buddhism Ayodhya came to be known as Saket. After Mauryan Dynasty, the Shunga dynasty came in power. I

have, of course, heard the name of Pushyamitra, but I don't know much about him. I have no knowledge of any such inscription in which it is said that Pushyamitra protected Ayodhya from the onslaught of yavans. I don't subscribe this view that Muslim rule from its beginning with the Slave/Ghulam dynasty has not been secular in approach. I also don't accept that some particular Ulamaas were pressing people to follow a particular religion. Himself further said: There was no interference by the rulers in the religious matters of non-Muslims. This is not correct to say that most of the Muslim rulers instructed their historians to write history according to their directions. I don't agree that the British rulers had got prepared wrong documents about the disputed place. The disputed structure has as much importance for Muslims, as any other mosque has. This is correct that there is no importance of a mosque situated at particular place. I do not accept the view that since Shri Ram Chandra was born at Ayodhya and Hindus adore him as God, therefore that place is venerable. I regard myself a nationalist and act as a nationalist. I respect every religion. It is wrong to say that I never went to Ayodhya during 1939-40. This is also wrong to say that as I am a Muslim, I have therefore given a wrong statement. Further himself said: I have come here to give witness as a true Indian and to tell the truth.

(The cross-examination by Sh. Ranjit Lal Verma Advocate on behalf of Defendent No. 3 Nirmohi Akhara is over)

(The cross-examination on behalf of Mahant Dharmdass, Defendent No. 13 by Sh. Ved Prakash Advocate begins)

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I am leading my life according to the tenets or principles of Islam. This is also correct to say that Muslims don't have faith in idol-worship. This also true that they are against it. It is a fact that idolatary was practiced in Mecca before the period of Mohammed Saheb and it is also correct that idolatary was

practiced during the period of Mohemmed Saheb. I object to this view that Mohammed Saheb showed the path to abolish idolatary; rather Mohammed Saheb gave this message from Allah (God) that people should worship one God. All facts about Allah are given in the Quran.

Question: Those who follow principles of Mohammed Saheb and also follow the tenets of Islaam, have to follow principles of Darul Islam, and 'Darul Harab'?

Answer: Islam does not have this principle. Followers of Islam are of various types; some are staunch or bigoted Muslims, while others are liberal. Not only the staunch followers of Islam, but followers of other religions also wish that number of followers of their religion should increase, their religion should spread all over. According to Islam, one who does not believe in Khuda (God) is 'Qafir' (non-believer).

Question: According to tenets of Islam, one who believe in Khuda is Qafir or one who does not follow principles of Islam is Qafir?

Answer: According to principles of Islam, one who does not believe in Khuda (God) is a Qafir.

This is wrong to say that according to Islam to kill such Qafirs is right.

'Secular' word has many equivalents in Urdu, Persian, Arabic; for example, such equivalents are "Ravadari" 'Sulahkuli' 'betasubi' in Urdu. I believe that Englishmen are foreigners and other Indians also believe that they are foreigners. This is correct. We call them foreigners because they have come from a foreign country and ruled over us and never accepted this country as their own land. As Babar came from a foreign country he may be called a foreigner but his sons or successors in dynasty cannot be branded as foreigners.

No muslim can act against Islam or tenets of Islam. Islam does not say to make idols and worship them. That's why, a Muslim cannot make or keep idols in a mosque. I have never offered Namaaz in such a building where there were idols. I have never offered Namaaz in such a mosque where there were idols or figures of gods and goddesses and human beings. This is correct to say that no Muslim who follows the tenets of Islaam would perform Namaaz at such a place. If the idol/statue is not in the building then Namaaz could be performed there and if the idols or figures are at the gate, then there could be no Namaaz at the gate.

Question: If an idol or figure of a swine is fixed at the gate of a building, then can Namaaz be performed inside that building?

Answer: In such a situation Namaaz could be performed inside the building.

If a figure of a swine is formed or fixed at the outer side of a building even then the building could be called a mosque. Such points have not been discussed in the Quran that if there is a figure or statue of a swine in front of a house/building, then it could be called mosque or not.

sd/-

Attested after hearing the statement

On hearing us the stenographer typed the matter in the open court. For further enquiry appear again tomorrow on 13.12.2001.

Dated 13.12.2001

(The statement on oath by RW. 21 M. Hashim, in continuation of his statement dated 12.12.2001)

It is true that swine is an illegimate (Haraam) and unpious or impure animal. If a figure of a swine is made at the main gate of a building, it does not make any difference, it can be called a Masjid. It is not possible that a Muslim while constructing a mosque, would make a figure of a swine inside or outside that building.

Question: If there are idols of gods and goddess in a building, then Namaaz would be performed only after removing the idol from there. What do you say on the point?

Ans: Yes, if there is an idol in a building, then Namaaz would be performed after removing the idol from there.

When I went to the disputed building for the first and the second time, I saw every part of the building, inside and outside. There were domes (gumbads) and pillars in the Masjid and there was courtyard or hall. I think, there were 10-12 pillars. Himself said: In side the Masjid a member, arch (mehrab) was constructed. I think the pillars were made of stone, not of cement and lime. The pillars were of different colours. I don't remember their details but pillars were multicoloured. Some stones were of red colour, some were of black colour. There was some carving (craft work) on these stones. There was no figure of any animal object carved on these pillars, it was a simple carving of some leaves and flowers and some scene/figure was carved. It is wrong to say that the figure of some gods and goddess were carved or engraved on the pillars. As far as I remember, the pillars were of one colour only. When I entered into to main gate, I did not see any figure of swine or anything else made on the gate. When I went to offer Namaaz, there was nothing which should have been shifted from there for performing Namaaz. I had performed Namaaz 15-20 times in

Babri Masjid but it never happened that something had to be covered with some sheet before offering Namaaz there.

This is correct to say that religion is above everything for Muslims and has the first and the foremost place for them. It is true that I am also a Muslim and give due importance to the religion; but in Islam the rights of a country or duties of a citizen towards his country are also mentioned and the Rights of neighbours are also elaborated. I think it my duty to obey all these instructions of Islam. It is correct that I am a Muslim and therefore I give more importance to Islam than to India, but I believe in Indianism as well as my Islam religion and feel that both are complementary to each other. This is a fact that shakas, Hunas etc. who came to India from outside before Muslims and mingled in the main stream of the country. This would not be fully correct to say that the Muslims who came from outside could not mingle with other citizens of this country; but the fact is that some Muslims became local muslims and all these Muslims adopted the Indian modes of living and thus a composite national culture evolved. My ancestors were Muslims and they had come to India at the time of Mohammed Gauri. This is true that those who adopted Islam were told to perform Namaaz five times in a day and go to mosque and perform there. If masjid is not available, perform at home only.

Question: You just said that many people in India adopted Islam, but is it correct to say that other Muslims forbade them to go to temples for worshipping idols?

Ans. Those who adopted Islam, became Muslim on their own will and there was no need to tell them not to go to temples. Thus the question of going to temple after adopting Islam does not arise.

I have heard the name of Sir Mohammed Iqbal. I have heard) read and remember that he wrote the song 'Saare Jahanh se achchha Hindostan Hamara'. Sir Iqbal had died much

before the birth of Pakistan. He died in April 1938 and Pakistan came into existence on 14th Aug.' 1947. He must have wrote this song about 30-35 years before his death. This is wrong to say that after composing this song- 'Saare Jahan se Achchha he tried or wished that whole of India should become Muslim. It is true that Britishers during their rule antagonized Hindus and Muslims against each other and impressed on them that both are two different races (kaums) but they never told that both of them are two separate religions. I think that Britishers believed that Hinduism and Islam are basically opposed to each other.

Question: Britishers divide Hindus and Muslims on the basis of their personal marriage and succession laws. Do you agree to this view?

Ans.: I don't subscribe this view. I think that Muslims demanded that their personal law should remain untouched or intact in the matters of marriage, inheritance/succession and divorce (talaq). This is correct to say that Muslims had demanded this because the laws pertaining to marriage and succession/inheritance etc were different and Islam had its own laws in this regard. I have studied and taught the constitution of my country.

Question: The provision of Universal civil code was adopted in the constitution because the country was to run on democratic lines under the constitution; and after the enforcement of common civil code political party could get occasion to divide Muslims and Hindus on the basis of sect or religion. Do you agree to this view?

Answer: As far as I understand, the fundamental rights of citizens have more importance than the directive principles of state policy, because they are justifiable and because of this spirit the minorities have been given a right to follow their personal law. This is wrong to say that the provision of uniform civil code was made for maintaining nationalism and destroying

communalism in the country. I don't agree to this view that this provision was made, not to allow any political party to divide the voters on the basis of sect or religion at the time of elections. This is wrong to say that Congress Party also adopted the policy of divide and rule like the British. The Congress Party always tried to unite both the communities. I do not accept the view in favour of having a uniform civil code for the country.

The cross examiner learned Advocate invited the attention of the witness towards the Photo No. 13,14,15,16 of the album of the coloured photographs of the disputed structure, prepared by U.P. Archaeological Organisation. Having seen the Photo No. 16 the witness said: This is wrong to say that there is a figure of swine in this photograph. I don't think that stomach, mouth, nose etc are depicted on the reverse side. In brief, it is not a picture; it is not a figure of an animal. Regarding photo No. 13,14 and 15 my reply is that there is no figure in them. I think these are not the photographs of any animated objects or animals. At the most these pictures are of some carvings. I do not know much about this art of carving therefore I cannot tell as to what things or designs have been carved. Having seen the photograph Nos. 50,51,52,53, and 54, the witness said: I think these are photographs of different portions of Babri Masjid, but I have never seen such portions in the Babri Masjid. Whenever I went there to offer Namaaz I did not see these things there. So far as I think that after December 1949 many things were made and added in this disputed structure. I never went to the disputed place ever since May 1941 up till now. I heard from many people and read in newspapers that after May 1941 many things were made and added there. In 1950 and after 1992 I read this in the Urdu newspapers and it was also discussed in the conferences of Jameeyat Ulma (who always supported the congress) that after 1950 many new things which were made and added to the Babri Masjid. I don't have details of things which were made and added after 1952 till 1992; but I know that these things which were made and added after 1992:

Make-shift Mandir (temple), a temple on Rama Chabutra and a couple of temples in the area and some residential houses etc. It is wrong to say that the things were made and added after 1950 is just my imagination. I had, however, read in the newspapers that after 1950 many things were made and added to the Babri Masjid and idols were placed there after 1949. During the period from May 1941 to December 1949 no new construction was done. As I know, between 1949-50, that is, after 1950 for many days no new construction was done on the disputed place. In other words upto 1992 no new construction was made. After seeing the photo Nos. 104 to 114 of the said album the witness said: I think these are pillars of Babri Masjid. I think the pillars are of Babri Masjid and there is carving on them and after 1941, I think there has been no change made in that. In the photo No. 126 of the abovesaid album, saffron (Gerua) colour is seen at some spots, that was not there previously and some stones have also been changed; stones in some pillars have been replaced and saffron colour is applied. After a period of 62 years. I cannot tell now as to in which pillars the stones have been changed. But by seeing photograph it can be discerned that stones have been changed in some pillars. It is difficult to say as to when these stones were changed, but from the photographs it is clear that saffron colour is applied and the stones have been changed. Most probably this change has occurred after 1950.

I had read in the newspaper 'Al-Jameeat' Delhi, that stones have been changed. I don't remember the details now as to how many pillars were changed and stones replaced in them and what was written on those stones. The above said newspaper is a part of Jameeat Ulma. After reading the news item regarding replacement of stones, I protested against this to the leaders of the Congress. The protest was an oral one. I had raised this point in the meeting of Jan Congress, held in 1950 and the item was discussed also. After this discussion no action was taken on this issue by government. This would be wrong to say that no change or replacement was done in the

stones of pillars and whatever I have said about the change of stones is simply my imagination. This is also wrong to say that I have said about the change of stones after seeing the photographs today only.

After seeing the photo Nos. 139 to 147 of the album, the witness said: It is correct to say the pillars shown in photo Nos. 139 to 147 are of the disputed place. Similarly, the pillars shown in the photo Nos. 163 to 167 are also of the disputed place. I have doubt whether the pillars shown in the photo Nos. 176 to 200 are of the disputed place. Further himself said: So many pillars were not there when I used to go there during December 1939 to May 1941. It is correct that some photographs show full pillars while others show only a part or half of them. In photographs No. 182 to 184 only half pillars have been shown. It is correct to say that in photo No. 186 the photo is of a half-pillar. This is wrong to say that all the pillars shown in the photo Nos. 176 to 200 are of the disputed place.

(The cross-examiner learned Advocate invited the attention of the witness towards photo No. 9 and 10 of the album of black and white photographs) After seeing these photographs witness said: these are not the photographs of the disputed place, so far as I remember. Having seen the photo No. 20, the witness said: This is the photograph of the gate of the disputed place as it existed at that time. This is correct to say that the pillars seen in the photo Nos. 55-66 are of the disputed place and they possess the same type of carving as shown in the coloured photographs, but I have doubt that the pillars as shown in the photo Nos 71 to 76 were of the disputed place. I have doubt that the pillars as shown in the Photo No.89, are of the disputed place. But these pillars resemble those pillars which I had seen on the spot. I don't agree at all to this view of M. Karim Chagla, who was a Minister in the Union Government, that "The constitution was enacted for the whole country, it is binding on the whole country and every section and community must accept its provisions and its directives."

I have heard the name of Tahir Mohmood. He has written a book on Muslim Personal Law. I don't agree to his view given in the 1977 Edition of that book that "In pursuance of the goal of secularism, the state must stop administering religion based personal laws."

When I had gone to the Mazaar of Kadir Kidwa, I read 'Fatiha', but I did not present the gift of sheet cloth (Chaadar) and Batasha (Sweets) on the Mazaar, because this act is against Islam. It is not correct to say that those Muslims who present Bataasha and Chaadar at the Mazaar are not Muslims; they are very much Muslims, but the reality is that we consider this practice as against the tenets of Islam. It is wrong to say that we don't recognize Mohammad Karim Chagla and Dr. Tahir Mahmood as Muslims due to their above said view. They are very much Muslims, but their views are against Islam. This is wrong to say that I am a staunch (Kattarpanthi) or fundamentalist Muslim, but I am a Muslim and simultaneously I am also a nationalist. This is wrong to say that I never went to Ayodhya for offering Namaaz. This is also not correct to say that the pictures or figures of gods and goddesses were duly carved in the pillar the disputed structure and it is wrong to say that an image of swine was carved there so Namaaz was not performed there.

(The cross-examination by Sh. Ved Prakash Advocate on behalf of Mahant Dharmadass, Defendant No. 13 concludes).

(Cross-examination on behalf of Sh. Umesh Chandra Pandey, Defendant No.22 by Shri Vireshwar Dwivedi Advocate starts)

As I have already said in my statement that 'catholicity' means 'rawadari' i.e. liberalism. This liberalism is found both in Hindus and Muslims. The research thesis 'Origin and Development of Islamic State' that I had submitted, pertained to

the first century Hizri. If we convert the first century Hizri into Gregorian calendar it will be equal to the periods of seventh century A.D. I had discussed Arabia and the world before the advent of Islam in my research. During my research work I did not read about Babar but had read about Babar in High School and B.A. I had studied Quran Shareef as well. It is correct to say that the word 'Namaaz' has not been used in the Quran Shareef. Further himself said : In Quran Shareef there is a mention of offering 'Salat'. This mention is found in many 'surats' of Quran Shareef. This is correct to say that one of the 'Surats' is 'Al Maaydaa'. This is correct to say that in 'Sure Al-Maaydaa', it has been ordered that before offering Namaaz, try to do 'wajoo' (washing of hands and face) and if it is not possible express your helplessness or reason therefore. When I used to go to the disputed place for Friday Namaaz, I regularly used to take bath before going there and sometimes I went after doing 'wajoo' at my residence; otherwise it was essential to do 'wajoo' before 'Namaaz', that is why I did 'wajoo'. Taking bath is essential only if you are impure, therefore I did 'wajoo'. I think bath is essential if you are impure, this has been ordained in the Quran Shareef somewhere. As I am not a 'Hafiz' so I cannot quote the exact sura. As far as I remember there is not any Surat titled 'Alagneema, I had studied Persian in the beginning and some Arabic also. I read Quran Shareef primarily in Arabic and then its translation in Urdu. I had learnt Quran Shareef in Arabic from Maulwi Saheb and later on studied its Urdu translation myself. This is correct to say that some people says Mohd. Kasim as idol-breaker. According to me he was not an idol-breaker. Mohammed Gauri was not primarily an idol-breaker. Then said: He was not a regular idol-destroyer. He sometimes broke some idols. I cannot estimate the number of idols broken by him. Mahmood Gazanwi was a patron of art and craft, but he was not an idol-breaker. I cannot tell in detail as to how many temples and idols were broken by Mahmood Gazanwi and as far as I remember I have not read such detailed in my book. It is correct to say that all the three persons viz.

Mohammad-Bin-Kasim, Mohammed Gaun and Mahmood Gazanwi were idol-breakers but with, a difference of degree.

This is correct to say that 'King' is called Badshah and Emperor is called 'Shahanshah'. I have read auto-biography of Babar. Babar had written his own diary also. I don't know the name of his diary. I don't exactly remember whether his diary has been translated into English or not. I have heard about the book Babarnama and have studied it also. I don't remember as to who was the writer or editor of the edition that I had read. I don't know that the book that I had read was a translation of Babarnama or not. The Babarnama that I had read, contained the description of Babar and his period. This is correct to say that the real name of Babar was Zahiruddin. He was a resident of Fargana and Turk by race. It was correct to say that the mother of Babar was from the family of Changezkhan. It is correct to say that Babar was expelled out of Fargana many times by the Chieftains of the nearby place. This is also correct that Babar had to turn towards Afganistan and India under such circumstances and he decided to spread his rule. It is correct to say that for this purpose only he had to fight many battles and looted wealth from here and there. It is correct to say that Babar called himself a 'badshah'. Actually he called himself 'Padshah' which is a Persian equivalent of Badshah word of Urdu. One who defeats a non-believer in a religious battle is called 'Gaazi'. It is correct to say that Babar had fought a war against Ibrahim Lodhi, who was the ruler of Delhi at that time and defeated him. It is also correct that after that battle Babar fought against Rana Sanga near Khandwa and defeated him. This is again correct that after winning this battle he told that he was thinking that he would die in that battle but thanks to Allah that he made him a Gaazi. It is correct to say that Rana Sanga was certainly a Hindu. It is wrong to say that Babar was a bigot Muslim. I would not say that Babar was a liberal Muslim; but I think he was not a bigot.

I have read many books on Islam and hence understood the same meaning of Islam that I have already explained above. I have studied the Dictionary of Islam which is a voluminous work. I accept the meaning and definition of Islam as given on the page 220 of the Dictionary of Islam by Thomas Patric Uses 1955 (The witness gave this statement after seeing the said book). It is correct to say that Zehad purports such religious battle which is fought by a Muslim against a non-Muslim. Himself said further: Battle fought against such a Muslim or a Muslim state that acts against the tenets of Islam is called Zehad. I accept the definition of zehad as given on page 243 to 248 of the said dictionary.

sd/-

Attested after hearing the statement

On hearing us the stenographer typed the matter in the open court. For further enquiry appear on 14.12.2001

Dated 14.12.2001 (The statement on oath by P.W. 21 M. Hashim, in continuation of his statement dated 13.12.2001)

The word 'Qafir' has occurred in Quran Shareef. The word 'Qufr' (infidelity) is also used in Quran. This is correct that the word 'Qafir' is derived from the word 'Qufr'. The meaning of 'Qufra' is not to believe in Khudaa (God) and put somebody else with him. This is correct that qafir and Mushrik are equivalent words. Qufr means to deny the existence of Khuda or not to believe in Khuda. At this point the learned cross-examiner advocate invited the attention of the witness towards

the word 'Qufr' as entered on page 281 of the Dictionary of Islam and asked as to what is the literal meaning of qufr. The witness said: I accept this literal meaning to some extent. This is a fact that on page 281 of the Dictionary of Islam the meaning given is: 'one who conceals the truth, I accept this definition as correct. The witness said: I accept this meaning: Infidelity: blasphemy Disbelieving in the Quran or in any of the tenets of Muslim religion', as given in that dictionary. It is correct that I don't subscribe fully to the definition of qufr (infidelity) as given in '4 the Dictionary. I want to add something more to the definition of qufr, such as disbelieving in khuda and to include others with khuda which is not given in the above definition. It is wrong to say that I am giving wrong statement on this point. This is also wrong to say that I forcibly want to add something to the meaning of qufr.

I have not performed Haz so far. I regularly offer Namaaz and I have been doing this since the time when I was 7-8 years old.

I think the ability to discern good and bad starts at the age of 7- 8 years. And I also got this capacity at that age. In my statement I did not say that I developed understanding at the age of 4 years and could discern what was good and what was bad, Instead I said that I started understanding things at the age of four. This is correct that I always sign on my statement

after reading it. (At this point the learned Advocate cross-examining the witness invited his attention towards the lines 6th and 7th of page 6 (Hindi Version) where his statement was recorded). Having read that the witness replied: I gave such a statement. I think both my statements, i.e. of 22.11.2001 and what I have said today, are correct. Himself said: At that time I forget to state that I started understanding good and bad much before my companions of the same age had started. I still have the capacity to discern what is good and what is bad. I hate telling lies. When I had gone to the disputed building for the first time along with my family, I performed the Magrib Namaaz there. My first visit to the Masjid was on 27th December 1939. Along with me other members of my family, except my cousin sister, had offered the Namaaz. When we had gone to the disputed place for the first time, my car was parked on the eastern side of the disputed building. Then said: parked towards the eastern gate. Then said: parked on the eastern road. This road was about 15-20 yards away from the eastern gate of the disputed building. I did not pay attention to the fact whether the road was made of cement or tarcoal, but it was certainly pakka. It had a good, sufficient width. I did not attentively see that its width was 20-30 feet or not. It would be wrong to say that I am giving a wrong statement at this point. According to my rough estimate the distance between my house situated in Faizabad Cant and the disputed building should have been around 5-6 miles. I used to go to Ayodhya, not for fun or festivity but for seeing things and if it was time for Magrib Namaaz, I offered that also there itself. I always had interest in the historical things. I never saw any historical place or thing in Faizabad Cant. I even don't know whether there is any historical item/place there. I am a Sunni. The distance between Faizabad Cant and Faizabad Chowk is about one and a quarter of a mile. From the chowk Ghantaghar (Clocktower) at a distance of about 100 yards, there is a Zamia Masjid of Sunni sect called Taatshah Masjid. There I had performed Friday Namaaz once only. I think Taatshah Masjid has no historical importance. I had heard that a Shiya Masjid called Moti Masjid

is also situated near Taatshah Masjid. I don't know about this masjid or whether it has any historical importance. I visited twice the Bahu-Begam Tomb. I don't remember at the moment as to on which side its gate exists. I have no idea that whether it is on the northern or eastern or any other side of Faizabad Cant. I went to Gulab Bari once only. I don't remember at this moment the exact side of its Gate. It is correct that it also has its historical importance. I had just gone to see or have a round of Gulab Bari. I don't know whether any place Moti Mahal by name which has a historical importance, is situated in Faizabad. Gulab Bari is there in Faizabad town. Among the historical places of Ayodhya, I had seen Babri Masjid, Mazaar of Kazi Kidwa, Ganje Shaheedaa, Hanuman Garhi and Saryu River. Names of other places I don't readily remember. I had read about the above said things/places in the books of history. Among these books one was Dr. Ishwan Prasad's History of Medeval India and the other was an Urdu book 'Taareekh Hind'. I had also read 'Kidawtut Tawareekh book written on the history of Kidwa Saheb. I had heard that in Ayodhya there was a person of nine yards of height and his grave/tomb was there. I had certainly heard of the 9 yard long tomb but had never gone there. Inspite of hearing and reading about the 9 yard tomb, I could not find any historical importance of it. I had heard that the Nageshwar Nath Temple of Ayodhya is the oldest one there. I did not go there also. I had heard about that temple that that the oldest temple there. It had some historical importance also. Even

then I did not go there. There was no special reason for not going to that temple. It is wrong to say that I had never gone to the disputed building in Ayodhya; but the fact is that I had offered Magrib Namaaz 15-20 times there. When I was a student of class VI or VII at the Government School, Saharnpur, I started taking interest in politics. At that time my age was about 9-10 years. Further said: Age was nine the first time. This is not correct to say that All India students Federation was initially an organ of the Communist Party. It was also not fully an organ of the congress Party. But the congress had majority

in this Federation and the Communist Party was in minority. When I joined Congress Party I was not major at that time and I was to come of age after one year. This is correct that in those days minor could become a member of Congress. This is wrong to say that I am giving a wrong statement at present. I was a member of Congress Party when I was at Lucknow. I don't remember at the moment as to who was the President of Lucknow City Congress Committee. So far as I remember that Triloki Singh was the President of Lucknow Distt. Congress Party. I think Acharya Narendra Dev was a member of U.P. Provincial Congress Party. You are wrong when you say that I am giving a wrong statement here. This is correct that Rafi Ahmed Kidwai was a very important person in the Provincial Congress of Uttar Pradesh and he became President of U.P. Congress in 1936. Acharya Narendra Dev became President of U. P. Congress in 1937. I became a member of Congress Party in 1937. In my opinion the age of discretion starts in the 18th year. During 1936-37 my age was 16-17. I was born in 1921. This is wrong to say that I am giving wrong statement with regard to my becoming a member of Congress. I don't have a close relationship with the family of Rafi Ahmed Kidwai. I am not a resident of the native village of Rafi Saheb. Himself said: Rafi Saheb was a resident of town Masauli and I belong to town Daryabad. This would be totally wrong to say that I had joined Congress to take advantage of the position of Kidwai Saheb. This is also wrong to say that I joined the Congress Party not in 1936-37 but after a long time.

It was a fact that Kowmi Ekta Mandal was an organization of politicians, that means all of its members were politicians who belonged to different parties. I was a member of Jan Congress in those days. In those days many people left Congress on the basis of ideology and they formed Jan Congress. This Jan Congress was established in 1950.

In the month of September-October 1951 I came back to the Congress Party alongwith Rafi Ahmed. Rafi Ahmed Saheb

had also left Congress in 1951 and I again joined back the Congress Party with him. Rafi Ahmed stayed away from Congress for 5-6 months only. During this period he did not join any other party, but he had certainly attended the first meeting of K. M. P. P., K.M.P. P. was called Kisan Mazdoor Party and Acharya Knplani was its President and Acharya Narendra .

Dev was not in that Party. I became a Member of Rajya Sabha only in

April 1984, about 30 years after Rafi Saheb's death. I did not fight any direct election during my political career whether it was of provincial assembly or of the Parliament. It would not be correct to say that I was became a Member of Rajya Sabha by the M.L.As of U.P. Assembly on the name and fame of Rafi Ahmed Kidwai.

As far as I know, the original name of Akshaya Brahmachari I was Akshaya Brahmachan only. He was a member of Congress Party. I had first met him in 1950 at New Delhi at the residence of Rafi Ahmad Kidwai. AT that time Akshaya Brahmachari was perhaps 40-45 years old. This is my guess. As far as I remember Akshaya Brahmachari had no beards, perhaps he had no monstaches as well. It is correct that he was a man of religious bent of mind and applied chandan on his forehead. I don't know anything about his personal life. I used to meet him after 1950 and during 1951 to 1953. He was not coming to me but whenever I went to Lucknow, many times I went to meet him at his office. He told me that he originally belonged to Faizabad. I don't know I whether Akshaya Brahmachari had married with any Muslim lady and that was why he w from Ayodhya. During 1951 to 1991 used to go to Lucknow to meet him. His office was at the house of Taiha Vakil Saheb. That was situated near Mamu-Bhanja Tomb. Talha Vakil Saheb's full name was Mohammed Talha. He died many years back. I don't know as to where Akshaya Brahmachan is residing. But it is heard that he is residing at Chinhat. I don't know in whose house he is living. This is also not known to me whether he is living in his own house or in

some other persons house. He was not performing Puja when I was met him. Talha Vakil Saheb's house is in Lucknow. Akshaya Brahmachari's office only was in one of the rooms of Talha Vakil Saheb's bungalow. It is not correct to say that Akshaya Brahmchari was living in the bungalow of Talha Vakil Saheb, and his office was also in the same building. But as far as I know only the office of akshaya Brahmachari was there. (At this point the learned Advocate cross-examining the witness, invited his attention towards the last three lines on page no. 23 of his statement (in Hindi) dated 23.11.2001). Having read these lines the witness said: My statement of that date was correct and of today is also correct. Further said on his own: After the meeting, Akshaya Brahmachari started living somewhere else and only his office continued in Taiha Vakil Saheb's building. This is wrong to say that I am misrepresenting the facts on this point. I have no knowledge at all about the place where Akshaya Brahmachan started living after the meeting of 1951. (At this point the cross-examiner learned Advocate invited the attention of the witness towards the fifth, sixth and seventh lines from below of page No. 23 of his statement (in Hindi) given on 23.11.2001 in the court) Having gone through these lines, the witness said: This statement of mine is also correct. He further said of his own: I did mistake only in my saying that he started living at Chinhhat after 1951. There was no pressure on me when it was giving my statement on 23.11.2001 in this court and neither I was giving my statement without thinking and understanding it, but my memory did not help me. 'Kajjaab' means who is a great liar i.e. an accustomed tier.

Sd!

Attested after hearing the statement

On hearing us the stenographer typed out the matter in the open court. For further enquiry appear on 8.1.2002.

Dated 7.1.2002

(The statement on oath by P.W. 21 M. Hashim, in continuation of his statement dated 14.12.2001)

I read about Babar only during my B.A. course, not before that. Medieval history was one of my subjects in B.A.. Babar was Sunni. I have nowhere read that Babar had later on converted to Shiya during his life time. I don't know whether Babar had come to Ayodhya, or had not come at all there. I think he had not come to any other place nearby. I think the disputed structure was built by Mir Baaqi. As I think Mir Baaqi was a commander in Babar's army. I have not read much about Mir Baaqi. Some people call the disputed structure as Babri Masjid only because it was built during his period. I have not read much on this point, so shall not be able to tell much. (He himself said further: I am not a historian myself). I am a graduate in History. In graduation, one of my subject was medieval history. I consider a graduate in medieval history as a knowledgeable person. The age of Akbar started near about 1546 A.D.. I don't know whether Mir Baaqi had built this Masjid himself or at the orders of his master; but I think it was built with

the consent of Babar. I can not tell as to how many mosques are there which were built at the order of the king and have minarets (minarets) on them. I have seen at least four to five mosques without minarets. For example, one is the disputed mosque; the second is a mosque situated in the Magbool Zagdan area in my hometown Daryabad. Some time before it had no Minar. In the same way I had seen some mosque in Saharanpur that was without Minarets. The Babri Masjid, as I had seen there, was built at the orders of the king and the rest of the mosques without Minarets were built by other people.

I think the purpose of building Minarets in mosques is to help people in locating the same. This is not correct to say that Minarets in mosques are used for giving Azaan (call). This may however happen in some mosques. I have heard of 'Masjid-e-Nabwi. Huzur Mohammed Saheb himself had contributed to its

construction. Masjid-e-Nabwi was not the first mosque of the whole world. Mohammed Saheb had bestowed the honour of giving Azaan to Hazrat Bilal Habshi at the behest of Mohammed Saheb had given Azaan (call) from the Minaar of that Masjid. I know Kaba Shareef. There is also a mosque there and it has minaar also. I think it would be wrong to say that in the mosque of Kaba Shareef Hazrat Bilal had given Azaan from its Minaar. In my view, the minaaars in a mosque are built not for making it beautiful or worth seeing but to know its location from a distance. It is correct to say that loud speaker was not invented and in use during the period of Mir Baaqi. I know that loud speakers are installed at the minaaars these days. Loud speakers are installed so that the call (of azaan) could be heard from a long distance, It is correct that this call is given to tell the public that it is the time for Namaaz and they should come for that. This call is called 'Azaan' which is given in Arabic language. And in the days when there were no loudspeakers, this call was given from some high place. This is correct that Minaar is the highest place in a mosque. This is wrong to say that I am willfully avoiding to say that Minaar is for giving Azaan in a mosque. As far as I remember, the urinals were perhaps built on the left side in the backyard of the disputed structure. That is this place was built in the backyard on the left side. Namaaz is performed with the face towards the west. I think the place for 'Wazoo' (washing hands and face) was there in the backyard on the left side. On entering the Masjid, place for urinals as on the left side and place for Wazoo was beyond that. There Wazoo was done with water but 'Taiyyamum' was not done. Water was available from the pots put nearby the place of wazoo. "Badaniyaan" were also put there. I don't know the source from which the water was coming or brought there. Probably there was a well. I did not see any well there. I have not yet seen any such mosque that was built under royal orders without any well there.

The barbed wire partition that I have mentioned above was in the form of a fence or railing (jungla). There were no

barbs in the fence when I had gone there. At that time there was no partition of barbed wire in that structure. It is correct that I gave my statement in this case on 12th December 2001 also. It is correct that I have said in the last time on page No. 36 of my statement (in Hindi) dated 12 December 2001 that after entering into the Masjid there was a compound like space and after that towards the west, a partition was built there with barbed wire. When later on I went through my statement I thought that it was not correct, and actually there was partition made of railing like wall. As I have got the first opportunity today only after 12th December to correct my mistake, I went to do the same now. It is correct that my statement was taken on 12th December and today also. Said further himself: the copy of my statement of 12th December was made available to me after 14 the December that is why I could not request earlier to correct this mistake. This is correct that I had signed my statement of 12th December on the same day. This has not happened that I signed that statement without going through the same.

It is correct that in the 6th line on page 13 of my statement I had stated that Minaar is built for the purpose of giving Azaan (call) from there, so that people may come for Namaaz and where there is no Minaar, Azaan is given from the top of the roof. I consider my above said statement as wrong, because when I later on consulted the Muslim theologist, they told me that the Minaar in a mosque is not meant for giving Azaan from there. That is why I do not consider my previous statement as correct, but I consider that it was a wrong statement. It is correct that the statement given on page 13 was my own statement and my statement of today is according to the expert opinion. This is correct that I have ample interest in this case. It is also correct that I am interested to this extent that a judgment is given to this effect that there was a mosque at the disputed place. But this is wrong to say that because of this interest I often change my statement after consulting others. This is wrong to say that I am a habitual liar.

I had not consulted my expert regarding the partition of the barbed wire, but amended my statement after using my memory. It is correct to say that when my education started, there were classes A, B, I, II and III in the schools. I think these classes used to be in primary schools. I had started my school education in class III of government schools, but not from 'Darzaa Soyam'. In those days Government schools started from class III. As far as I remember there were two types of schools in those days- the Anglo-vernacular schools and the Vernacular schools. This is not correct to say that Anglo-vernacular schools started from the fifth class, but the Government school, Basti where I started my education, started with the class III. There were primary schools also along with vernacular schools and Anglo-vernacular schools. I do not remember that primary-passed students were admitted to class 'Panjum' and in Anglo-vernacular school they were admitted in class V. It is correct that Vernacular Schools were upto class VII only. As far as I know these schools were called 'Middle-Schools' and those who passed out of those schools after doing class VII were called 'Middlechi'. It is not correct that in those days, the student who did not study English language, was admitted to a special class that was class

VI and it is also correct that the student who passed out with English as a subject was admitted to class VII. I do not agree that the government schools in those days started with class V only. Before getting admission to school I had studied for two years at home and was admitted to class III when I was of seven years. This is correct to say that I started discerning somewhat good and bad at the age of four. Full form of Ph.D. is Doctor of Philosophy. I do not know that the full form of Ph.D. is 'Philosophiae doctare'. The thesis I had written has its title as "Origin and Development of Islamic State in the First Century Hizri". The originator of Islamic state is Huzur Mohammad Saheb. By estate I mean Kingdom. Huzur Mohommed Saheb had established Islamic state and not the Islamic Kingdom. State according to me denotes as to how a country should be

administered, how people should fulfill their duties and exercise their rights. It is correct that for me state means a body enforcing rule of law; it is also called government, it is correct to say that Huzur Mohammed Saheb established government and carried on administration and fought many battles for the defence of his state. No battle was fought during the days of Mohammed Saheb for the expansion of the territories of the state. During the rule of Huzur Mohammed Saheb the full area of Hizaz had come under the Islamic State. During the life time of Huzur Mohammed Saheb, there was no expansion of the Islamic state except the area of Hizaz. Mecca, Madina, Zeddah of

today were included in the Hizaz area. Huzur Mohammed Saheb was not a king but was a sovereign and he was a religious leader at the same time. This is correct that he always depended on Quran for everything and for defence he depended on sword.

Question: So, may I presume that the staunch followers of Huzur Mohammed Saheb think it proper to depend both on Quran and sword even today?

Answer: I think the view of staunch, bigots is not in consonance with the teachings of Huzur Mohammed Saheb or the principles of Quran. I do not accept this view that the building that was in existence at the disputed place was felled down by religious bigots. This is wrong to say that on the place where the disputed structure existed, there was a temple of Hindus, which was destroyed and a mosque was constructed at the same place. This is also wrong to say that this disputed building was never used as a mosque at any time. This is also wrong to say that Muslims never went towards the disputed building after 1934. This is also wrong that I had never gone to the disputed structure and had offered Namaaz there. I am a Muslim as well as an Indian and am simultaneously both at number one. Both have equal priority for me; neither of the two come before the other.

'Zehad' means a battle which is fought with some religious, motive. Non-believer is called qafir also. Believer is he who has faith in Khuda. It is nowhere written in Quran that it is the duty of every believer that he should do away with (kill) non-believer. I have heard the name of 'Tirmizee Shareef'. I have somewhat gone through it also. It is correct that Tirmizee Shareef is also called Sahib Tirmizee. This is a book of Hadees. No such Hadees has come to my notice in which it is written that it is the order of Allah to fight against a qafir and kill him until he does not start believing in Allah. It is correct that I give first preference to Quran Shareef and give second preference to the constitution of India. It is also correct that if anything written in the constitution of India goes 'very much' against Quran, that shall not be followed or accepted. By 'very much' I mean anything that goes against any tenet of Quran or exercise thereof; for example, prohibition of Namaaz. It is correct that if having four wives at a time may be prohibited in Constitution, it would be called interference (madakhalat) and would be opposed through legal movement or means. This is true that Mohammed Saheb was born at Mecca. Visit to that place is considered by every Muslim as his good luck, a favour. It is also correct that every Hindu considers his good luck and a great favour if he gets opportunity to visit the birth place of his Lord Rama. It is true that Rama was born at Ayodhya. It is also true that Hindus have been paying visit to Ayodhya to have a look at the birth place of Lord Rama. It is correct that Hindus go to Ayodhya for the purpose of visit the birth place of Lord Ram from a very long time. I have heard that a big fair is held and people gather in big numbers at Ayodhya on Ramanavami, the birth day of Rama. This is correct that Ramanavami falls on the ninth day of the bright half of Chaitra month. This is correct that Hindus regard Lord Rama as the incarnation of Vishnu. When I had gone to Ayodhya, I did not go to the birth place of Lord Rama. I do not know the exact place of the birth of Lord Rama. I knew i.e. I was told that non-Hindus are not allowed in temples, I therefore did not go inside any temple. I have seen a

few temples just from outside, and among them one was the temple of Rama's birth place (Janmabhumi Mandir). I do not remember the topography of that temple at this moment. Certainly it was not at all situated on the structure of a mosque and it was not built near that, as I remember. I do not know that it was at a distance of 2-4-6 or 10 Km from the mosque. It is wrong to say that I am misrepresenting facts on this point.

As I have already stated above, my first meeting with Akshaya Brahmachari took place at New Delhi at the residence of Rafi Ahmed Kidwai. At that time, he was 45-60 or 40-45 years old. He looked older than me. My last meeting with him took place in 1986. This is wrong to say that I have misrepresented facts in my statement or I am an interested witness.

(The cross-examination of the witness, on behalf of Defendant No. 22 Umesh Pandey, by Advocate Sh. Vireshwar Dvivedi concludes)

(Cross-examination on behalf of Paramhansa Ram Chandra Dass, Defendant No. 2 by Sh. M.M. Pandey, Advocate begins here)

I know the points-at-issue between the parties in the case for which I am making statement. I know the parties of the case. In my view, the dispute in this case is on the proprietary rights in respect of Babri Masjid, Mazaar of Kazi Kidwa Saheb and Ganje Shaheedaa. According to me, the dispute is as to who has the proprietary right in respect of Babri Masjid which was a disputed structure. I have knowledge of the fact as to whose property was the disputed structure. The place where the disputed structure existed, was the Waqf land. Now that is the property of U.P. Waqf Board. Before Waqf Board came into picture, this was the property of the Masjid and Kabristan/graveyard committee. I don't remember the exact name of that committee. Probably it was called Babri Masjid Committee or Ganje Shaheedaa Committee. It was the property of that Committee until the Waqf Board came into existence and when waqf board came into existence, this Committee came to an end., According to my information, Babri Masjid committee

was there when U.P. Waqf Board was constituted. And the Committee came to an end after the formation of Waqf Board. As far as I remember, the committee named Babri Masjid Committee stopped functioning after the U.P., Waqf Board came into being. I do not have any more information about that committee. I cannot tell whether that committee was a registered body or not. I am not aware as to when the Babri Masjid Committee or Ganje Shaheedaa or Kabristan Committee came into being. As far as I know, the U.P. Waqf Board was formed in 1952. The existence of the above committee came to an end after 1952. The question of proprietary right on the land on which Babri Masjid or the disputed structure was standing, was raised and discussed in the conference of Jamitul Ulma, which I had attended. In addition, I read on this in Urdu newspapers also. I have not seen any document pertaining to the proprietary right. I do not know the nature or type of the land on which disputed structure was standing. The conference of Jamitul Ulma, which I had attended was held during 1950-51 and I got the information on its ownership or proprietary right. I do not remember in detail whether something was told about the revenue records of that land. It is, correct that I had an interest in this matter since 1949-50. I never tried to see or know about the papers or documents pertaining to the disputed land. I had read in a newspaper that in the revenue records the land is entered in the name of Muslims. I do not know more than this that this land is the property of Muslims. Since December 1949, this issue arose that Babri Masjid is the birth place of Lord Rama. Before December 1949, I had not heard that the Hindus regard the disputed land as the birth place of Lord Rama, which the Muslims regard as Babri Masjid. Yes, it is a fact that one party of the case regards it as the birth place of Rama while the other party calls it as Babri Masjid. I could not go to Faizabad or Ayodhya, ever since May 1941. During the period from December 39 to May 1941, I was not permanently living at Faizabad and used to go off and on during holidays only. I had read the account of Hindu-

Muslim riots that took place in 1934 at Ayodhya. When I went to Ayodhya during 1939-41, I had the knowledge of the fact that Hindu-Muslim riots occurred during 1934, but I did not have the idea that the riots took place for the disputed place. It is correct to say that one dome of the Babri Masjid got damaged during the riots of 1934. This damage was done by Hindu rioters. According to my knowledge the riot of 1934 did not take place on the question of masjid. The land of Ganje Shaheedaa is in the proximity of the disputed land, i.e., it is adjacent to it. When I went there, the disputed place was on the raised land; its level was higher than that of the road. If I am correct, it was on a land, the level of which was 15-20 feet high. It is true that there is a very big ditch on the western side of the disputed place. I don't have a correct estimate about the depth of the ditch, whether it was 40-45 feet deep or not. I can not guess correct whether the portion of the disputed place was above the level of the road. Ganje Shaheeda almost had the same level as that of the disputed place. Ganje Shaheeda was almost at the level of 15-20 feet height. I did not see any habitation around the disputed place at the time when I went there. I think there was no habitation as far as one and a half to two furlongs around the disputed place. There was a road passing on the eastern side of the disputed place. I think the road was about 15-20 yards away from the eastern gate of the disputed place. A road was on the northern side of the disputed place. I do not remember whether any road was there on the western or southern side also. There were temples on the north beyond the northern road, as I remember there was a temple on the road passing on the eastern side. On the southern side as I remember there were some mounds.

I had gone there by the eastern road which is now called Lucknow-Gorakhpur highway. I cannot estimate the distance of the disputed place from that highway. I had gone by motor car and left my vehicle on the road and after walking a distance of 15-20 yards I had entered the place by the eastern gate. As I remember, the eastern gate of the disputed place was at a distance of 15-20 feet from the road. On the way from the

highway to the disputed place, I saw many temples. When I was going from highway to the disputed place, I was told that first of all there was Hanumangarhi temple and then there were many other temples. When I went by motor car to the disputed place, I did not go by the western road. After seeing the map of the disputed place I can understand the location.

(At this point the cross-examining Advocate invited the attention of the witness towards the map, document No. 136/5, which was filed in other original suit No. 1/89) After seeing the map the witness said: When I had gone to the disputed place, i.e. the Babn Masjid, I saw the location of the spot which has been correctly shown in the map. After seeing the paper No. 136/6 of the same suit the witness said: I saw the same location of the spot which has been shown in this map. It is correct to say that both these maps show the location of the spots as I had myself seen during my visit. When I had gone to the disputed place, it was not locked. There was no lock fixed on the main gate also. There was no lock put on the gate of the partition wall. I think the lock was put at the disputed place during 1953-54 at the orders of the court and Namaaz was prohibited there. Then said: The lock was put, not during 1953-54 but in 1950. The Jamitul Ulma also filed a suit to get the lock removed. I don't remember whether any order was passed in this case or not. I have no further information on that. The order to remove the lock and open the disputed place was passed in 1986 and with that 'puja' (worshipping) was allowed at the place. After 1949, the offering of Namaaz there was totally stopped and very few Hindus were rarely going there to perform 'puja'. It is correct to say that since 23rd December 1949, offering of Namaaz had stopped there. This is wrong to say that ever since 1934 Namaaz was never offered at the disputed place. This is also wrong to say that in 1934 the riots broke out because Muslim wanted to enter the Masjid forcibly and offer Namaaz there. After opening of the lock in 1986, Muslim M.P.s belonging to Congress Party had met Prime Minister Rajiv Gandhi and lodged a strong protest. In the same way, on 6 December 1992 after the demolition of the disputed

structure, we collectively protested against the action. Further said: Jamitul Ulma and we people protested. This protest was done by us on political level. So far as I know, the place where Babn Majid was constructed later on was a vacant piece of land. Babar was the owner of that land at that time. I did not try to know as to where the birth place of Lord Rama actually situated; but it was not there where the Babn Masjid was constructed. This is true that Ayodhya is an important place of pilgrimage for Hindus. This is also correct that Lord Rama was born at Ayodhya. But all the Hindus do not say that Lord Rama was born on the same spot/place where the Babari Masjid was built. it is correct to say that some Hindus regard it as the birth place of Lord Rama. I do not have correct information that Mir Baaqi was a Shiya or Sunni Muslim. This is correct that this case has been filed by Sunnis but shiya people are also with us. We have an active support from Shiyas in this case. This is not correct to say that Shiyas are not supporting this case and they don't regard this land as property belonging to Muslims. Further said himself: Maulana Kalbe Sadik Saheb who is the vice-chairman of the Personel Law Board, has given his support to the Sunnis in this case. This is wrong to say that Shiya people have admitted that it is the place of birth of Lord Rama and thus they have quit their claim on it. I don't know whether Mir Baaqi was a Shiya or Sunni. This is wrong to say that Mir Baaqi forcibly broke the temple of Hindus and constructed the disputed structure there. In my knowledge, there is no other structure or mosque which is known as Babn Masjid. As far as I know, except Babri masjid there is no mosque which was built by Mir Baaqi under the command of Babar. This is wrong to say that I personally know this fact that this was a Hindu Temple which was broken and the disputed structure was constructed on its place and because of this reason I never tried to find out the real ownership of that land and never did I go to Ayodhya. This is also wrong to say that I am misrepresenting the facts because of my religious compulsions. This is also wrong to say that the disputed structure have been worshipped by the Hindus as a temple of Rama's Birth place since the time immemorial.

This is also wrong to say that after 1934, not a single Muslim did go there and offered the Namaaz.

(The cross-examination of the witness, on behalf of Paramhansa Ramchandra Dass, defendant No. 2 by Sh. M.M. Pandey ends here).

(The cross-examination of the witness on behalf of Rajendra Singh, 5/0 Late Sh. Gopal Singh Visharad in suit No. 1/89 Gopal Singh Visharad etc. vs. Jahoor Ahmed etc. by Sh. Puttu Lal Mishra Advocate begins)

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My father worked as Deputy Collector at Faizabad from July 4 1939 to October 1941. I had passed intermediate from Christian College Lucknow in 1938. For B.A., I studied at Lucknow University. I got admission in B.A. in 1938. At that time I was not living at the hostel but at my own house 'Khatun Manjil' in Golaganj. At that time other persons living in my house were my brother-in-law (bahnoee) and sister, two cousin sisters of my father and one cousin brother. In addition, two of my elder brothers were also living there. In 1938 when my father was posted at Sitapur, I used to go to Faizabad during Dushera holidays, December holidays and summer vacations. Similarly when he was posted at Faizabad, I went to Faizabad during December 1939 and thereafter I regularly used to go to Faizabad in all my holidays viz June, Dushera and December holidays. During December 1939 I went to Faizabad, I stayed there for one week.

sd/

7.1.2002

Attested after hearing the statement

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On hearing us the stenographer typed out the matter in open court.

For further enquiry appear on 8.1.2002.

Dated 9.1.2002

(The statement on oath by P.W. 21 M. Hashim Kidwai, in continuation of his statement dated 7.1.2002)

I started the journey of my political life in 1930. At that time I was 9 years old. I had seen the political atmosphere of my house ever since my boyhood. In my family, my uncle Abdul Majid Danyabadi was taking part in politics. He was president of Awadh Khilafat Committee and he was one of the prominent friends of Maulana Mohammad Ali. My uncle was living in Darlyabad but was coming to meet my father, wherever my father was posted. In Danyabad, I was required to live under his strict control during the summer vacations. Upto High School stage my permanent residence was my father house. My father had no active interest in the politics, as he was a government employee. My elder brother was also taking much interest in politics and I was very much influenced by him also. During 1930 to 1936, my position was of an active political worker. My active political work was based more at Lucknow and it was equal to nil at Danyabad, Sitapur. It would be wrong to say that when I was getting my education at Sitapur, my main

objection was to take part in politics; getting education was secondary for me. I was attending classes cent-per-cent in my school. And only utilizing my spare time in politics. This I was doing later on also. During the days of my education at Sitapur, I had met Babu Shambhu Nath who was a local leader. He was one of my father's fast friends. Babu Shambhu Nath was a member of the Congress Party. He was probably holding some post in the City Congress Committee. I don't remember as to which community he belonged to. I also don't remember as to in which area he was living. I remember names of 2-3 local members of Congress at Sitapur, such as Babu Jagannath Prasad Agarwal, who was president of the District Congress Committee, Sitapur and was living at Biswan. Other gentleman was Babu Gopal Narayan Saxena who was living at Sitapur at that time. Biswan is about 30 miles away from Sitapur. Upto

1936,,I had not taken part in any such movement, for which my name could come into records. At first, I became a member of Student Federation in 1936 and later on in 1937 I joined Congress. I became Vice-President of Congress Party, Aligarh in 1980, Then said: I worked as General Secretary of Lucknow Students Federation for about 5-6 years. Muslim League was formed in 1906. Jinnah Saheb became the President of Muslim League in 1912. I was never a member of Muslim League. The concept of two-nation theory was floated in 1940. I followed the principle of one-nation. It is correct that the election of 1946 was fought on the issue of two-nation and one-nation theory. The dispute about Pakistan first originated in 1940 and it got strength from the results of 1946 elections. In addition to the Congress Party, many other groups or parties opposed the two-nation theory. Some of them had taken part in the election in alliance with Congress and for some seats they had put their own, separate candidates, who were supported by Congress. These parties included: Jamaatul Ulema-e-Hind, Majlise Ehrarh, Momin Conference, Anjuman Watan Bilauchistan, Khudai Khidmatgaar, (North Western Province) etc. etc. By 1946) I became very active in politics and in 1945, with a view to opposing Muslim League at the student front, I laid the foundation of U .P. Muslim Students Federation. I alongwith its workers made a tour of U.P. and in 1946 travelled all through U.P. to solicit support for Congress Candidates, at the risk of our lives. After 1946, my interest in politics continued to increase. I did not hold any office in the Congress Party during 1946 to 1980. In 1980 became Vice-President of Congrss Party Aligarh. I retired from the service of Muslim University Aligharh in 1982. Since then I remained exclusively active in politics. I became concerned with this Mandir-Masjid dispute in December 1949 for the first time, when idols were placed in the Masjid. Before this, as there was no dispute, I had no interest in the matter. I had not gone to Ayodhya or Faizabad in connection with this dispute in 1949. And after 1949 never went to Ayodhya untill now. I got information of this dispute from the newspapers, various conferences and

sometimes from prominent persons. These conferences started from 1950. It is correct that Hindus were holding conferences in those days and the Muslims also had their separate conferences. As I was never invited to attend Hindu conferences, I did not attend them. Congress Party did not hold any such conference. During 1950 to 1961, I took part in four-five such conferences. It is correct to say that the conferences, which I attended, were all held in favour of the Masjid. In a few conferences where I had supported the resolution, my name was published in the news items. After 1964, I did not attend such conferences. In 1950 conference, it was proposed that a case may be filed in this regard. It is correct that such a resolution was adopted in that conference. I did not support the motion but I had surely attended the conference. People concerned with law also were taking part in such conferences. I don't remember the names of such persons, Then said: I recollect a name, Yunus Saleem Saheb, who had explained the legal position. Until 1962, I had never told any advocate that I would give evidence in the suit. The suit in which I am giving my evidence, was filed by Sunni Waqf Board. I don't remember the exact date as to when this suit was filed. But I very well remember that the suit is a very old one. I did not take part in the consultations that were made regarding filing of this suit. No party had told me to give evidence in this suit; I however got summons from the Court. I received this summon in November, 2001. I had not talked to my advocates before giving this evidence. As far as I remember, Babri Masjid Action Committee was constituted in 1980s. I had no concern at all with this committee. I even don't know as to who is pursuing the case. In the conference of All India Muslim Personal Law Board, Maulana Kalbe Sadik who is Vice-Chairman of this Board and also a famous shiya Alim, supported the case of Babri Masjid. I have no roll in the Muslim Personal Law Board to play. I don't remember that Shiya people had filed any such suit in which it was claimed that this Masjid belongs to Shiyas. I have no knowledge of such suit so far. In 1986 when the lock of Babri Masjid was opened, I, as a Member of Parliament, alongwith

other MP5, had met Sh. Rajiv Gandhi, who was the Prime Minister at that time. And I also met him many times later on the Masjid issue. I did not meet Sh. Chandra Shekhar on this issue when he was Prime Minister. This is correct to say that after meeting Sh. Rajiv Gandhi in 1986, I did not take active part in the Babn Masjid campaign. But I was strongly supporting that campaign, wherever I lived. This is correct to say that that sentiment is still strong in my mind. This is also correct that under that sentiment I am giving my evidence here.

I do not have the details of the suits filed on behalf of the parties on both sides. I don't know the details whether any suit proceeded under Section 145. I have no knowledge of the fact whether all Muslims of Ayodhya had submitted an affidavit in favour of Hindus in that suit under Section 145. When I had gone to Faizabad for the first time in December 1949, I had the intention to go to Ayodhya as well. This was wrong to say that I wanted to go to Ayodhya so as to testify the riots of 1934. I just wanted to see Ayodhya, that is why I went there, not to testify anything. I wanted to see important, worth-seeing places of Ayodhya. The car in which I travelled from Faizabad to Ayodhya, belonged to my father.

I had seen the disputed building from outside and inside as well. But I cannot tell about its boundary in details, as a very long period of 60-62 years has passed since then. The building was not in a pit, rather it was on a raised ground. I think it was at the level of 10-15 feet high above the road by which I went there. The gate through which I entered the disputed structure, was on the eastern side. As far as I remember there was no building existed in between the road and the eastern gate. The Mazaar of Kazi Kidwa was at a distance of 2-3 minutes from the disputed place. I cannot estimate the distance in terms of yards, and steps, that could be covered in one minute. I don't remember whether any slab (signboard) was fixed at the gate of the disputed structure. I did not see any slab fixed on the gate on which the words "Ram Janma Bhoomi" were written.

(The learned advocate cross-examining the witness, invited his attention towards the photograph No. 25 of the album of black and white photography of the disputed structure prepared by U.P. Archaeological Organization. After seeing the photograph the witness said:) In this photograph that gate of the disputed place is visible through which I had entered. This is the eastern gate of the disputed place. In this photograph, a strong slab on which Ram Janam Bhoomi is written and a number is visible; but when I had gone there, this slab was not there. Two pillars are also shown in this photograph. These pillars are made of stones. As far as I remember the colour of that stone was black. I cannot exactly say at the moment that both the stone pillars were black in colour. I thought both were black. In this photograph on the inner side a gate is seen which was used for going into the structure.

(The cross-examiner learned Advocate, invited the attention of the witness towards to photos No. 44,45 and 46 of the album of the coloured photographs of the disputed structure prepared by U.P. Archaeological Organisation. After seeing these photographs the witness said:) The stone which is now seen in the photograph was not there when I had gone there. In photo No.44 a stone/slab with words Janmabhoomi and some No written, on it, is visible, but this was not there when I had visited the place. In photos No. 45 and 46, stones fixed at the gate on both sides are visible. The pillars are of black stone but colour is applied there. In both photos No. 45 and 46, a gate is seen in the inner side. On the inner gate Ram Janmabhoomi words are written. But this was not there at that time. There was a Ram Chabutara in between outer gate and inner gate. Some sadhus were then seen sitting on the Chabutara, who were singing religious songs. I had entered the structure by the second gate that is visible in the photograph. I don't remember whether any gate, in addition to the inner gate, was in the inner wall or not. I don't remember also whether any roof between outer gate and the inner gate. The distance between outer gate

and the domed portion of the disputed structure was about 50 yards or more than that. From the inner gate the domed portion was about 50 yards away. Inner domed portion was about 100 yards in length. I don't know-the width. Then said: May be 15-20 yards. from the courtyard, pillars could be seen in the domed portion. The number of the pillars was about 12-14. These pillars were fixed lengthwise. The pillars were fixed at the courtyard floor upto the dome. The row of the pillars was east-west in length. Mostly I came out of the same gate through which I had entered, but sometimes returned by the northern gate where there was Sita Rasoi. From the northern gate as well the disputed structure was at some height above the road level, but I don't remember its exact height I came out by the northern gate, I came back by the same road, by which I had entered. When I came out of the structure by the northern gate, my car was parked in front of the northern gate and I sat in the car there only. I don't have the idea whether I went towards the eastern gate or not. When I entered through the eastern gate steps were there in front of me. The steps were perhaps 7-8 in number. When I came out of the northern gate, I had to climb down a few steps, but I don't know the exact number. After coming out of the northern gate, I saw the disputed structure from the road. The disputed structure was at a height of 10-12 feet from the road level. From the spot where my car was parked, two temples were seen on the north. As I did not go to those temples, I would not be able to tell the height and distance of the temples from the road. I did not pay much attention to the road, so I cannot tell whether the road was uneven or smooth. As a long period of 62 years have elapsed since then, it is very difficult to say as to which way or direction our car was parked.

I think the height of the building on the western side was also almost the same as on the eastern side. It was quite high in comparison to the road level. It is correct that the building was standing on a mound. I don't remember as to what was on the western side of the building. When I was coming out by the

northern gate, I came across Sita Rasoi on the way. I don't remember as to what was on the southern side. I would not be able to tell the height on the southern side, as I did not measure the same. I don't remember as to by which way I came out. I also don't know the name of the area where the building was standing. I myself have not seen the Government documents pertaining to the disputed place. I have no knowledge of Khasra and Khatauni. I do not have the detailed information as to what was the number and total area of the disputed place. I don't have any knowledge about the 'Nazool' land, nor I have any concern with that. I think, this would be wrong to say that the disputed land was a 'nazool land and was not a Waqf land. I had read in the newspaper that foundation ceremony (Shilanyas) was done near the disputed place but I exactly don't remember the number of the place. This is totally wrong to say that I had never gone to the disputed place and my whole statement is wrong. This is also wrong to say that I never saw that building either from inside or from outside. This is also wrong to say that I have given the wrong account of the disputed structure. This is also wrong to say that people of shiya community have not joined themselves with this dispute. This is also wrong that shiya people regard this place as the birth place of Rama. Prince Anjum Kadr was considered as one of the shiya leaders. I don't agree with him, as his opinion was that this was the birth place of Rama. Further said "As you say that his opinion was in the favour of Janambhoomi, I don't agree. It is correct that Maulana Agaaruhi, Maulana Hamid-ul-Hasan, Maulana Mirza Athar-all of them are learned persons belonging to Shiya Community, but they are not leaders of that community. It is correct that they do not subscribe to our views, but all shiya people do not subscribe to their views also. I don't know that all the four gentlemen of shiya community have not regarded this as mosque. This is wrong to say that my evidence is guided by some political motives. Further said himself: I have come to tell the truth to this hon'ble Court and have therefore taken oath. This is also wrong to say that I am getting some political benefit out of this evidence.

(The cross-examination on behalf of Sh. Rajendra Singh Sb Late Sh. Gopal Singh Visharad Plaintiff suit No. 1/89, by Advocate Sh. Puttulal concludes here)

(Cross-examination on behalf of Sh. Ramesh Chandra Tnpathi Defendant No. 17A and Hindu Mahasabha Defendent No. 10 by Sh. Han Shankar Jam Advocate begins here)

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(On behalf of Defendant No. 10, Hindu Mahasabha and Defendant No. 17 Ramesh Chandra Tnpathi, Shn Han Shankar Advocate adopted the cross-examination done on behalf of Plaintiffs in Suit no. 5/89 by Sh. Ajay Kumar Pandey- Advocate)

(One behalf of Plaintiffs in Suit No. 5/89, Shri Ajay Kumar Pandey Advocate adopted the cross-examination done on behalf of other defendants).

Cross-examination on behalf of all defendants concluded. The witness is relieved.

Sd/-

Attested after hearing the statement

9.1.2002

After hearing us the stenographer typed in the open court.