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# Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

## Day 45 Arguments: 16 September 2019

The court is hearing the set of appeals to the 2010 Allahabad High Court judgment that divided the disputed title equally among the Nirmohi Akhara (original suit number 3), Sunni Waqf Board (original suit number 4) and Ram Lala (original suit number 5 filed by 'next friend' D.N. Agarwal).

Last week, Sr. Adv. Rajeev Dhavan for the Sunni Waqf Board disputed the maintainability of the Nirmohi Akhara's suit. Further, Sr. Adv. Zafaryab Jilani appearing for the Sunni Waqf Board presented evidence identifying the structure as a mosque, where *namaz* had been continuously offered.

Today, Sr. Adv. Rajeev Dhavan argued that various Hindu parties, including Triloki Nath Pandey ('next friend' of Ram Lala, who replaced the late D.N. Agarwal), members of the Hindu Mahasabha and trustees of the Ram Janmabhoomi Nyas (Ram Birthplace Trust), seek to wrest the temple's shebaitship from the Nirmohi Akhara.

*The Bench assembled at 12.15 PM.*

### *7.36 Hindu parties attempt to wrest control from Nirmohi Akhara*

Sr. Adv. Dhavan read out from the complaints of various Hindu party-initiated suits, in particular those of Ram Lala and the Hindu Mahasabha. He stated that they sought to build a new temple under the Ram Janmabhoomi Nyas' trusteeship. He submitted that these parties sought to remove the old temple structures and build a new one, managed by the Nyas. He alleged that various current appellants will be future trustees of the Nyas. He singled out Triloki Nath Pandey (currently Ram Lala's 'next friend') and members of the Hindu Mahasabha.

Sr. Adv. Dhavan argued that these parties were attempting to wrest control over the Nirmohi Akhara's shebaitship. He read excerpts from their complaints, where these parties expressed dissatisfaction with the existing temple administration. His aim appeared to be to demonstrate that the Hindu parties and Nirmohi Akhara were making claims adverse to each other.

### *7.37 Hindu deity must manifest in a concrete form to gain legal status*

Sr. Adv. Dhavan responded to the Bench's request for clarification and stated that a Hindu deity must manifest in a concrete form for it to gain legal status. For example, a deity can manifest in the form of a physical idol. He argued that a 'positive act of recognition' is required to confirm the manifestation. He proceeded to dispute Sr. Adv. K Parasaran and CS Vaidyanathan's claims that the Ram Janmasthan (birthland) is a deity requiring legal status. He submitted that they claimed legal status on the basis of belief alone, not a positive act of recognition, but notably did not define requirements/ingredients of positive recognition.

The Bench inquired whether it should treat the two manifestations of Ram (plaintiffs 1 and 2) in Ram Lala's suit filed through late Sr. Adv. D.N. Agarwal as two 'independent and discreet' deities. Sr. Adv. Dhavan argued that they are both presently represented by the shebait, the Nirmohi Akhara. Further, he submitted that to maintain late Sr. Adv. D.N. Agarwal's suit, would amount to treating them as separate entities. He argued that in late Sr. Adv. D.N. Agarwal's suit, plaintiffs 1 and 2 stake different claims that should not be combined.

### *7.38 The whole area is not a juristic entity*

Sr. Adv. Rajeev Dhavan disputed that the counsels for Ram Lala's original suit could claim the whole area was a juristic entity, being the Ram Janmasthan. He submitted that historically Hindu idols were only worshipped in the outer courtyard and that Hindus had no access to the inner courtyard. He argued that claims of Ram's manifestations are limited to where Hindu worship took place.

### *7.39 Illegal acts cannot be the foundation of rights claims*

He reiterated that illegal acts cannot be the basis of rights claims, regarding the presence of Hindu idols in the inner courtyard. The plaintiffs in original suit number 5 could not claim ownership or management rights on the basis of illegal placement of Hindu idols in the inner courtyard. The Allahabad High Court found that the Hindu idols were placed under the central dome on the night of 22 December 1949 and were originally located in the outer courtyard.

*The Bench rose for lunch at 1 PM and re-assembled around 2 PM, when Sr. Adv. Dhavan resumed his submissions.*

### *7.41 'Ram Janmabhoomi' is actually Ayodhya*

Sr. Adv. Dhavan argued that Ram Janmabhoomi was a reference to Ayodhya at large and not the portion of the structure in dispute. Sr. Adv. Dhavan stated that the Sunni Waqf Board's argument was that the disputed property housed the mosque. Moreover, he asserted that the Nirmohi Akhara cannot make any claim concerning the inner courtyard, merely because a few idols were placed in the area by stealth. He argued that no idols were kept inside the inner courtyard before 22 December 1949 and any claim over the inner courtyard was therefore baseless.

Before 22 December 1949 the Waqf Board enjoyed continuous and uninterrupted possession of the disputed site and the claim that a mosque was constructed over a destroyed temple was baseless.

### *7.42 Next friend's suit is not maintainable*

Sr. Adv. Dhavan questioned the intention to create a new temple under the trusteeship of Nyas. He argued that when the maintenance and management of the temple can be taken care by the shebait (Nirmohi Akhara), Sr. Adv. D.N. Agarwal (Plaintiff No.3 in Suit No.5), the 'next friend' of the deity, had no locus standi in the present case. He pointed out that the next friend could have sued on behalf of the deity only if the shebait was not functioning properly.

## **Case Documents**

- 2010 Allahabad High Court Judgment

(<http://elegalix.allahabadhighcourt.in/elegalix/DisplayAyodhyaBenchLandingPage.do>)

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