

Case Description (/court-case/ayodhya-title-dispute)

Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

Day 49 Arguments: 20 September 2019

The Supreme Court is hearing thirteen appeals to the 2010 Allahabad High Court judgment

(<http://elegalix.allahabadhighcourt.in/elegalix/DisplayAyodhyaBenchLandingPage.do>) that divided the disputed title among the Nirmohi Akhara, the Sunni Waqf Board and Shri Ram Virajman (represented by 'next friend' Sr. Adv. D.N. Agarwal). This week, the court is hearing Sr. Adv. Rajeev Dhavan appearing for the Sunni Waqf Board. After arguments for the Sunni Waqf Board conclude, the court will briefly hear some minor parties and then the rejoinders by the Nirmohi Akhara and Shri Ram Virajman.

Yesterday, Sr. Adv. Dhavan disputed the reliability of various witness statements and further, reiterated that Sr. Adv. Agarwal's suit is not maintainable. Today, Sr. Adv. Dhavan argued that the Babri Masjid dates back to the 16th century, disputing the High Court's findings.

The Bench assembled at 11.07 AM.

Sr. Adv. Dhavan said he will address the Bench on three issues today: inscriptions found at the site, the nature of juristic personality in the context of deity-hood and questions of limitation. He only had time to argue on the first issue.

Third parties

Prior to presenting his substantive arguments, Sr. Adv. Dhavan asserted that the court should *not* hear Dr. Subramanian Swamy's writ petition alongside the current appeal proceedings. He said that the issues raised by Dr. Swamy pertaining to the fundamental right to freedom of religion had already been answered by the court in *Ismail Faruqui* (<https://indiankanoon.org/doc/37494799/>) (AIR 1995 SC605 A). Further, he submitted that the court had disposed of other similar intervention applications a year ago. Note that Dr. Swamy's current writ petition was previously an intervention application (converted on 14 March 2018 (https://sci.gov.in/supremecourt/2010/36350/36350_2010_Order_14-Mar-2018.pdf)).

7.56 Persian inscriptions show Babur's general constructed the mosque

Sr. Adv. Dhavan relied on Persian inscriptions found at the site to substantiate his claim that Mir Baqi, Babur's general, constructed the mosque in 1528 (935 Hijri). He based his argument on two inscriptions found at the site that include information on the construction of the mosque – one at the pulpit and one at the main gate. In addition, he

referenced a third inscription ('*kalmah*' inscription) that allegedly dates to the 16th century. He substantiated his claims with reference to a report by the expert Bashir Ahmed.

7.56.1 Inscriptions are authentic

He disputed the argument that the inscriptions are not authentic. Justice Agarwal (High Court judgment) had held that the inscriptions are unreliable. Sr. Adv. Dhavan argued that the High Court rejected their authenticity on frivolous grounds, like the belief of locals that Aurangzeb had constructed the mosque. The High Court also held that Mughal-era translations of the Persian inscriptions were unreliable, on the ground that Hindus during that period were incapable of understanding Persian. Sr. Adv. Dhavan offered the counter-example of Hindu scribes of the Mughal Empire, who knew persian and arabic.

7.56.2 Mosques can have Sanskrit inscriptions

Finally, he answered the Bench's earlier query about Sanskrit inscriptions. He submitted that there existed mosques with Sanskrit inscriptions. Thereby, he suggested that merely because the disputed structure at Ayodhya has Sanskrit inscriptions, does not disprove that it is a mosque.

7.57 Shri Ram Virajman is seeking to wrest control from the Nirmohi Akhara

Sr. Adv. Dhavan argued that the Sr. Adv. D.N. Agarwal, in his capacity as the '*next friend*' of Sri Ram Virajman, sought to take away the Nirmohi Akhara's management rights of the Ram Janmabhoomi temple. Referring to Shri Ram Virajman's High Court pleadings, he stated that Sr. Adv. D.N. Agarwal sought to construct a new temple and place it

under the management of the Ram Janmabhoomi Nyas (of which Sr. Adv. D.N. Agarwal is a trustee). Sr. Adv. Dhavan submitted that Shri Ram Virajman sought a perpetual injunction against the Nirmohi Akhara.

The Sunni Waqf Board recognises the Nirmohi Akhara's shebaitship (management) rights of the outer courtyard. Today, Sr. Adv. Dhavan signalled that the Board would not recognise the Nyas' shebaitship rights. He argued that the Sr. Adv. D.N. Agarwal's suit is not maintainable. In particular, he questioned the *locus standi* of Sr. Adv. D.N. Agarwal, arguing that he did not have the basis to be the deity's '*next friend*'.

7.58 Nature of juristic personalities

He concluded today with a few remarks on the nature of juristic personalities.

7.58.1 Two juristic entities cannot be plaintiffs in the same suit

First, he claimed that the Sr. Adv. D.N. Agarwal strategically had filed his suit on behalf of not only Shri Ram Virajman (idol), but also the Ram Janmasthan (birthplace), to increase the likelihood of claiming rights over the disputed land. He suggested that the two juristic entities could not be plaintiffs to the same suit, as they will not be granted the same reliefs (if the court rules in their favour).

7.58.2 Nature of divine self-manifestation

Referring to *The Hindu Law of Endowments* by P. Saraswati, he expanded on the nature of divine self-manifestation. He stated that there is a distinction between self-revelation and artificial revelation. He ran out of time before he could go any further, but

suggested that the relevant question was whether the dispute Ayodhya title can be said to be 'self-revealed'. He will expand on this in the next hearing on Monday, 23 September with relevant case-law.

The Bench rose at 12.19 PM and the matter was listed for Monday, 23 September 2019.

(Court reporting by Sanya Talwar)

Case Documents

- 2010 Allahabad High Court Judgment
(<http://elegalix.allahabadhighcourt.in/elegalix/DisplayAyodhyaBenchLandingPage.do>)

www.vadaprativada.in

About Us (/about-us)

Events (/events)

Contact Us (mailto:jai.brunner@clpr.org.in)

www.vadaprativada.in

Also Visit

Supported By



(<https://southasia.fnst.org/>)

2017-20 © Center for Law and Policy Research

www.vadaprativada.in

www.vadaprativada.in