

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

Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

Day 25 Arguments: 9 August 2019

The court resumed hearing Senior Advocate K Parasaran on behalf of Lord Ram. In 1989, senior advocate of the Allahabad High Court DN Agarwal had filed a suit on behalf of Lord Ram. The first plaintiff in the suit (Suit 5) is Lord Ram Lalla and the second plaintiff is the Lord Ram Janmabhoomi site itself.

Background

The court is hearing a set of appeals to the 2010 Allahabad High Court judgment which divided the Ayodhya title equally between three parties: the Sunni Waqf Board, the Nirmohi Akhara and Lord Ram.

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In March 2019, hearings were suspended so that the parties could attempt mediation. However, the mediation proceedings failed and the court resumed day-to-day hearings on 6 August.

In yesterday's hearing (<https://www.scobserver.in/court-case/ayodhya-title-dispute/ayodhya-day-24-arguments>), it claimed that the Ram Janmabhoomi site is a juristic person and that the other suits in the Ayodhya title dispute are barred by limitation.

Today's hearing

Before the hearing formally began, senior advocate Rajeev Dhavan for the Sunni Waqf Board addressed the bench regarding the frequency of hearings. Friday is usually reserved for miscellaneous matters, so it is unusual for the court to conduct regular hearings in a constitution bench matter.

Dhavan submitted it would be difficult for him to 'assist the court' if the case is heard on all 5 weekdays, due to the amount of research required. He requested the bench not to 'rush' the matter and only hear it from Tuesday through Thursday. Chief Justice Gogoi took note and stated that the parties will be informed of the frequency of proceedings.

2.8 Sunni Waqf Board's suit is barred by limitation

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K Parasaran resumed arguments on the issue of whether the Sunni Waqf Board's 1961 suit is barred by limitation. While the suit was filed in 1961, it pertains to a Faizabad magistrate order from 29 December 1949. A suit is barred by limitation when it is filed too long after the cause of action (e.g. dispossession of land) took place. Different types of suits have different limitation periods under the Limitation Act 1908. However, under section 23, while a party is suffering a 'continuous wrong' the limitation period is effectively infinite.

K Parasaran argued that the Sunni Waqf Board did not suffer a continuous wrong. Recall that the 1949 Faizabad magistrate order placed the title under the receivership of the state, but allowed the pujas of the idols to continue. As a result, Friday namaz ceased to occur. The Sunni Waqf Board have framed this as a continuous wrong.

First, K Parasaran repeated his argument that no 'executive order of a magistrate in a civil position' can be construed as a wrong. He stated that unless it is appealed under Article 132 of the Constitution, it is not wrong and binding. Second, he argued that even if it were a wrong, it is not continued. He stated that the cause of action - the 1949 order - is complete, not recurring [cites 2001 4 SCC 492]. K Parasaran described the continuous effect on the Sunni party as a continuous 'injury', which he argued is distinct from a continuous 'wrong'.

2.9 Ram Janmasthan is a juridical person

Next, K Parasaran returned to the argument that the site itself (Ram Janmasthan) is a juridical person. He referred to the 2010 Allahabad High Court judgment, which held the same: 'the place is itself a personification of divine spirit.'

He added that the worship of the divine, via ritual, means that the divine is manifested in a formless, indestructible state. He emphasised that Hinduism allows the worship of God in any form. Hence, he concluded that an idol is not necessary to establish the presence of the divine. He gave the example of Kedarnath temple.

To substantiate his position, he submitted that previous judgments have recognized Hindu deities as juridical persons. He cited a 1925 Privy Council case, wherein the Hindu shastra was interpreted to treat a legal person as the equivalent of a natural person. He also gave the example of a company, which is afforded legal status. By analogy, he submitted that Hindu idols have the power to sue, or be sued.

K Parasaran continued to emphasise that Hindu deities may be formless. He submitted that the use of idols was an innovation to aid concentration during worship. He submitted that the sanctum sanctorum of a temple is divine and hence is called the Garbha Graha (holiest of holy places). Citing Article 26, he stated the sanctum sanctorum is constitutionally protected.

He asked rhetorically whether the Garbha Graha alone is divine and not also the places surrounding it: 'one cannot say God is present in the inner sanctum sanctorum alone'.

Parasaran submitted that it was in the public interest to extend the legal fiction beyond the sanctum sanctorum to the entire disputed area. He cited [1966 3 SCC 242] which established the Bhagvad Gita as law. 'when we think of the Hindu religion, it is

impossible to adequately define or describe it...it does not mean the worship of any one God or the practice of any 1 set of rituals...it is rather a way of life'.

The court broke for lunch at 12.46

K Parasaran continued his arguments from prior to lunch. He cited various judgments:

- [1969 1 SCC 255] which established that a Hindu idol is a juristic person (a person for the purpose of the law)
- *Mariappa v Puttaramayya* [AIR 1958 Kant 93] which clarifies the relationship between a juristic person and the person who occupies a position as the head of a trust

K Parasaran contended that you cannot divide a juristic entity into several parts, assuming that entire disputed site is a juristic entity. He offered the analogy of a human body which likewise cannot be cut into pieces without inexorably altering its being.

Offering a genealogy, K Parasaran speculated that juristic persons were invented in order to further human development. He argued that places of worship necessarily must be juristic entities.

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He submitted that a legal person is any person who in the eyes of the law has the capacity to be a person. He clarified that a legal person requires a designated person to represent it for the purpose of entering into contracts and generally exercising its 'juristic personality'. It is only in the ideal sense that a property can be said to belong to an idol.

Now, he submitted that the juridical entity in this case (Ram Janmabhoomi) 'is' a certain area on a map.

With this hearings concluded for the day. Responding to Dr Dhavan's comment at the beginning of the hearing for five days a week hearing, Chief Justice Gogoi noted that if he required a break between proceedings, the court will accommodate him. The next hearing is on Tuesday, 13 August, as Monday is a court holiday.

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