

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

Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

Day 34 Arguments: 27 August 2019

The current Ayodhya dispute before the Supreme Court pertains to a set of appeals to a 2010 Allahabad High Court judgment, which divided the land title equally among the Nirmohi Akhara, the Sunni Waqf Board and Ram Lala. The origins of the legal dispute trace back to 29 December 1949, when the Additional City Magistrate of Faizabad placed the site under the receivership of the state, under Section 145 of the Code of Criminal Procedure, 1898 (http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75). In response, the Nirmohi Akhara and Sunni Waqf Board filed suits in 1959 and 1961, respectively. In 1989, Ram Lala became a litigant when Sr. Adv. D.N. Agarwal (<https://timesofindia.indiatimes.com/india/The-man-who-was-Ram-Lallas-next-friend/articleshow/6668887.cms>) filed a suit in the Allahabad High Court, acting as the deity's 'next friend'. The Akhara and Board's suits, as well as other relevant suits were transferred to the High Court and clubbed to this matter.

For the sake of brevity, the court has numbered the original suits as follows:

- Nirmohi Akhara = suit number 3
- Sunni Waqf Board = suit number 4
- Ram Lala (DN Agarwal) = suit number 5

Currently, the Supreme Court is hearing Sr. Adv. S.K. Jain argue on behalf of the Nirmohi Akhara. In the previous few hearings (<https://www.scobserver.in/court-case/ayodhya-title-dispute/ayodhya-day-32-arguments>), Sr. Adv. S.K. Jain has changed the Nirmohi Akhara's original argument. The Nirmohi Akhara had claimed the disputed land title earlier, and thereafter claimed shebait rights, which are rights to manage the temple/deity. In addition, Sr. Adv. S.K. Jain argued that Sr. Adv. D.N. Agarwal's suit was not maintainable. The bench questioned how the Nirmohi Akhara could make adverse claims to the deity's suit, while still claiming to be the shebait.

Morning Session

1.26 Challenge to maintainability of Ram Lala's suit is conditional

Sr. Adv. SK Jain stated that the Nirmohi Akhara's challenge to the maintainability of Ram Lala's suit is conditional. He stated that he would not press the issue if the other Hindu parties did not dispute the Nirmohi Akhara's shebaitship rights.

1.27 Sunni Waqf Board's suit is barred by limitation

Sr. Adv. S.K. Jain argued that the Sunni Waqf Board's suit is barred by limitation, as they had failed to file a suit within the appropriate time. He said that there were three causes of action, which were the riots of 1855, construction of the Ram *Chabutra* inside

the mosque in 1931 and the riot in 1934.

Sr. Adv. S.K. Jain stated that the Nirmohi Akhara's suit was not barred by limitation and directed the court towards his arguments on 6 and 7 August. With this, Sr. Adv. S.K. Jain concluded for the Nirmohi Akhara.

The court began hearing senior advocate PN Mishra for a Shankaracharya connected to the Hindu Mahasabha (Janam Sthan Punroddhan Samiti's Shankaracharya Surupananda Ji Maharaj of Dwarka Pith - defendant 20 in suit number 4).

3.3 Location of Ram Janmasthan

PN Mishra sought to establish the location of the Ram Janmasthan by referring to the Hindu scripture Skanda Purana and a map (exhibit 36). He submitted that the temple is located north west to the 'Lomus'.

Rajeev Dhavan (for Sunni Waqf Board) cast doubt into the judges' mind over the utility of Mishra's account. Dhavan submitted that the Mishra's map lacked cardinal directions. He added that the maps relied upon by the Hindu parties should all reference the cardinal directions and suggested relying on the mosque (as it faces west towards Mecca).

3.4 Location of Ram Janmabhoomi using scriptures and Edward's accounts

Next, PN Mishra relied on the research by British collector Edward, who set up 149 stone pillars to assist persons performing the Ayodhya pilgrimage detailed in the Skanda Purana (*Ayodhyāmāhātmya*). Mishra argued that Edward accurately establishes the location of the Ram Janmabhoomi as described in the Skanda Purana. He read from the cross-examination of a witness in 2004 (see Vol 62 of 2010 High Court judgment), who had performed the pilgrimage and attests to the accuracy of the stone pillars.

Justice Chandrachud stressed that there is a significant difference in relying on religious scripture to indicate faith and relying on it to determine a physical location.

PN Mishra submitted that the Edward's knowledge, even if anecdotal, is valuable as it attests to the veracity of research done in 1902, prior to any litigation in the current dispute.

Afternoon Session

PN Mishra resumed arguments after lunch. He cited the Valmiki Ramayana and work by the scholar Hans Bakker, to re-establish the alleged location of the Ram Janmabhoomi as being the disputed site. Further, he submitted that the Ram janmabhoomi has existed since time immemorial.

Responding to Rajeev Dhavan's remark about cardinal directions from before lunch, PN Mishra submitted that the full map with compass and topography can be found in the Allahabad High Court judgment (volume 2, page 2045, paras 3539-3540).

3.5 The site was not designated as Waqf Property

Next, he sought to dispute that the site had be designated as waqf property. He submitted that for a property to be designated as waqf property, it must meet three conditions: at the time of donation, the waqif (donor) must be the owner; he should make a public dedication; azaan (call to prayer) should be called in public. The bench asked who had designated the site and PN Mishra argued that no one had. He submitted that the Sunni Waqf Board argues that Babar did when he ordered the construction of a mosque.

3.6 Babur did not build a mosque at the site

Then, he disputed that Babur had built a mosque at the site in the 16th century. He argued that the site cannot be called or defined as a mosque. He stressed that Babur's memoir (Babur nama) does not reference a mosque being constructed at Ayodhya. He also relied on the Jesuit missionary Tiefertaler's writing (relied upon by the Allahabad High Court), who in the 18th century described the structure as contemporary. Further, Tiefertaler describes disagreement over whether the mosque was constructed by Babar or by Aurangzeb.

He argued that the Sunni Waqf Board's prayers rely on the assumption that the mosque was built by Babar. He submitted that there are several discrepancies with regards to the inscriptions allegedly demonstrating that the mosque dates back to the 16th century. In the 1885 suit, a Faizabad civil judge observed that no Islamic inscriptions, only superscriptions, were found. PN Mishra proceeded to show that there conflicting accounts of what the inscriptions say:

- A Fuhrer translates inscriptions in 1888 and argued that the mosque was constructed by Mir Khan in 1523 (doesn't correspond with when Babur came to India).
- Syed Badrool Hasan takes ink stamps of the inscriptions in 1935. Archaeological Survey of India interprets ink stamps in 1960s and lists different date for the construction of the mosque

PN Mishra argued that hence the inscriptions could not be relied upon. Further, he submitted that the origin of the slab on which the inscription sits has been disputed. He relied upon Justice Agarwal's opinion from the 2010 judgment.

3.7 Sunni Waqf Board's evidence is recent and unreliable

He concluded the day by questioning the value of the evidence relied upon by the Sunni Waqf Board in the Allahabad High Court, which he submitted primarily stemmed from after litigation had begun in the dispute. By contrast, he submitted that the evidence relied upon by him in the High Court is 'pre-litigation' and dates back to time immemorial.

The bench rose at 3.55 PM. PN Mishra will continue tomorrow.

About Us (/about-us)

www.vadaprativada.in

Events (/events)

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

Also Visit



Supported By



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

www.vadaprativada.in