

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

Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

Day 35 Arguments: 28 August 2019

The Supreme Court is hearing a set of appeals to the 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 146 of the Code of Criminal Procedure, 1898 (http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75). In response, the Nirmohi Akhara (suit number 3) and Sunni Waqf Board (suit number 4) filed suits in 1959 and 1961 respectively. In 1989, Ram Lala became a litigant when Sr. Adv. Deoki N Agarwal (<https://timesofindia.indiatimes.com/india/The-man-who-was-Ram-Lallas-next-friend/articleshow/6668887.cms>) filed a suit (number 5) in the Allahabad High Court, acting as the deity's 'next friend'. The Akhara and Board's suits (and other relevant suits) were transferred to the High Court and clubbed to this matter.

Yesterday (<https://www.scobserver.in/court-case/ayodhya-title-dispute/ayodhya-day-34-arguments>), Sr. Adv. PN Misra for the Akhil Bhartiya Sri Ramjanam Bhoomi Punarudhar Samiti (All India Sri Ram Birthland Restoration Committee; defendant 20 in suit number 4) sought to establish the Ram Janmasthan's location using Hindu scripture and to date it back to pre-history. Further, he disputed the Sunni Waqf Board's claim that Babur ordered the construction of a mosque in the 16th century.

Today, PN Misra read out passages of the *Baburnama*, *Ain-i-Akbari* and other historical texts to argue that Babur never constructed a mosque at the dispute site.

The Bench assembled at 11.15 AM.

Concluding yesterday

3.8 Location of Ram Janmasthan

PN Misra submitted that before proceeding he would like to substantiate his argument from yesterday regarding the location of the Ram Janmasthan. He showed the bench Edward pillar number 100 (within the 24 parikrama, facing towards the Lomus), stating it indicated the location of Ram's birthplace.

Then, he returned to disputing the inscription that the Sunni Waqf Board claims establishes the mosque was built in the 16th century. He said that three different versions of the translation produced three different inferences. He argued that the

inscribed slab was hence unreliable. Reading from the 2010 Allahabad High Court judgment (page 1013 (paras 1012, 1480)), he posited that the inscription may have been implanted in contemporary times.

3.9 Disputing the Sunni Waqf Board's historical narrative

3.9.1 Baburnama

He proceeded to take the bench through the *Baburnama* (memoirs of Babur) to argue that Babur never constructed a mosque in Ayodhya. In doing so, he was disputing the Sunni Waqf Board's historical narrative.

First, he sought to establish both the original text and the current translation's authenticity. He submitted that the text commences from 1493-94 and covers Babur's 47 year lifespan. He stated that Babur came to India in 1526. Reading from pages 1491-99 of the 2010 judgment, he submitted that the text was originally retained in Turkish and went on to be translated in 1589 by Abu Fazl Khan. He said that it was translated into English in 1922 by the British orientalist Annette Beveridge.

PN Misra noted that the High Court's observations regarding missing pages in Babarnama. He submitted that pages regarding 3 days in 935 Hijri (1528) are missing. He submitted that the inscriptions relied upon by the Sunni Waqf Board indicate that the foundation of the mosque was laid in 1528.

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Justice Chandrachud requested PN Misra to establish whether Babur came to Ayodhya at all. Misra submitted that it was unclear. The text says that Babur reached the banks of the Saryu river on 28 March 1528, roughly 80 miles from Ayodhya. There is a break in the narrative until 2 April.

At 12.00 PM the Bench took a break to sign orders in the Jammu and Kashmir petitions (<https://www.scobserver.in/court-case/article-370/article-370-day-2-arguments>) it had heard earlier in the morning.

At 12.05pm, PN Misra continued to read from pages 1022, 1024 and 1025 of the 2010 judgment to establish Babur's whereabouts. He sought to establish that Babur did not ever order the construction or destruction of anything in Ayodhya. The Bench inquired about a reference to idols being destroyed by Babur (para 1563). Misra responded that this was an account of Babur defeating Ranga Sanga and subsequently ordering the destruction of Ranga Sanga's goblet.

The bench was satisfied that the *Baburnama* did not mention Babur ordering the demolition of a temple at Ayodhya and, further, that the Allahabad High Court had recorded this.

The bench sought to know what PN Misra's positive claim is. Misra clarified why he was focusing on disputing the Sunni claim, submitting that his client is the defendant in the Sunni Waqf Board's suit, which is claiming that the temple at the site should be treated as a mosque. The Bench noted that the site has features of both a temple and a

mosque. The Bench asked PN Misra, 'what happens when the subject of a declaratory suit has been destroyed? What are the reliefs?' It emphasised that he should refer to a specific statute.

Before the court broke for lunch, PN Misra sought to cite a book referred to in the 2010 judgment (p 1624). Rajeev Dhavan interrupted to state that the page of the book Misra was relying on, had not been executed in the High Court. PN Misra referred to section 57 of the Indian Evidence Act, 1872 and stated that the High Court had passed an order stating that all historical books did not need to be executed.

PN Misra submitted that after lunch he would cover the *Ain-i-Akbari* and the *Humayun-nama*. The *Ain-i-Akbari* is a 16th century document recording the administration of the Mughal Empire under Akbar I. The *Humayun-nama* is a 16th century memoir of Humayun's life, authored by his half-sister Gulbadan Begum. The bench requested PN Misra to provide the court with a short summary of his prayers after he had finished taking it through these two documents.

The court broke for lunch at 12.58 PM.

3.9.2 Ain-i-Akbari

The bench reassembled at 2.07 PM. PN Misra took the court through the *Ain-i-Akbari*, in particular reading out excerpts that offer detailed descriptions of Ayodhya (page 1070 of 2010 judgment). He submitted that the text does not mention a mosque at Ayodhya and argued that if there had been mosque present in the 16th century, the

text would have mentioned it. The bench asked whether the *Ain-i-Akbari* details the locations of mosques in general. Misra submitted that the text lists several mosques, but not one in Ayodhya.

PN Misra speculated that Akbar was also not a good candidate for the constructor of the mosque. He argued that Akbar would not have destroyed the Ram Janmabhoomi temple, citing the emperor's generous policies towards Hindu laws mentioned in the *Ain-i-Akbari* (pages 201-03 of text).

3.11 Alternate theory on the origins of the mosque

Next, PN Misra attempted to substantiate his theory that the construction of a mosque on the Ram Janmabhoomi was ordered by Aurangzeb. Relying on textual accounts of the history of Mughals, he submitted that Aurangzeb ordered the destruction of various Hindu temples (paras 1626-1631 of 2010 judgment). He gave examples of the Vishnu Temple in Banaras and the Jagganath Temple in Puri.

Rajeev Dhavan stated that the text relied on by PN Misra had not been placed on the record in the Allahabad High Court. PN Misra rebutted that it had and told the bench that he would find the relevant order.

Subsequently, Misra referenced the remarks of the Faizabad civil judge who visited the site on 18 March 1889, who had observed that the mosque was built on a site considered to be the birthplace of Ram.

PN Misra concluded that he had the following left to cover:

1. The nature and structure of a mosque
2. Islamic Law, specifically Hanafi law
3. 1867 revenue records

The bench rose at 3.54 pm.

Case Documents

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

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