

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

Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

Day 44 Arguments: 13 September 2019

The Supreme Court is hearing a set of appeals to the 2010 Allahabad High Court judgment that equally divided the disputed title among the Nirmohi Akhara (original suit number 3), the Sunni Waqf Board (original suit number 4) and Ram Lala (original suit number 5). The legal dispute arose in 1949, when the Faizabad magistrate placed the land under the custody of the state under Sections 145 and 146 of the Code of Criminal Procedure, 1898 (http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75). The dispute shifted to the Allahabad High Court in 1989, when late Sr. Adv. DN Agarwal filed a suit in the High Court on behalf of Ram Lala and the matters were combined.

Yesterday (<https://www.scobserver.in/court-case/ayodhya-title-dispute/ayodhya-day-43-arguments>), Sr. Adv. Dhavan argued that the Nirmohi Akhara had not suffered a 'continuous wrong', rendering its suit barred by limitation. Today, Sr. Adv. Zafaryab Jilani, representing the Sunni Waqf Board, commenced his arguments. He focused on late Sr. Adv. D.N. Agarwal's suit (original suit number 5).

7.32 Evidence of mosque's existence

Sr. Adv. Jilani commenced arguments by refuting the claim that there was no mosque in existence at the disputed site from 1874 to 1949. He relied on some of Nirmohi Akhara's exhibits as part of suit number 4. He relied on a decree in a suit filed between two Nirmohis containing references to the Babri Masjid to state that it indeed existed.

Sr. Adv. Jilani stated that since the Nirmohi Akhara has not recognised the existence of mosque in the disputed property, his arguments would affect the Akhara's case. He pointed out how Muslims were permitted to offer prayers inside the inner courtyard after an application to that effect was made. He stated that Muslims were allowed to enter the inner premises of the Nirmohi Akhara. Sr. Adv. Jilani then relied on records relating to a dispute over payment of salary to the Imam in the year 1936 after the mosque's restoration. Sr. Adv. Jilani stated that details of the dispute were obtained from public documents. Nevertheless, the Allahabad HC rejected the as not being admissible as a 'public document' under S.74 of Indian Evidence Act, 1872. Sr. Adv. Jilani argued that the document filed in the HC was a certified copy of the original, disputing its inadmissibility.

Sr. Adv. Jilani pointed to documents which evidenced offering of prayers from 1934 to 1949 and the appointment of Imam and Mosin to receive *azan* and offer *namaz*.

Sr. Adv. Jilani thereafter responded to the Court's query whether, in 1943, prayers were being offered only on Friday. He submitted that prayers were taking place daily, and to this effect, he pointed out accounts of mats getting stolen from the mosque and how on the day of *Juma*, more mats were taken out to cater to a larger congregation. He also read out numerous witness statements, consistently testifying to the offering of *namaz*.

The Bench rose for lunch.

7.33 Right of shebait to represent deity versus 'next friend'

In the afternoon session, Sr. Adv. Rajeev Dhavan continued his arguments from the previous day. One issue he emphasised was the right of shebait to represent a deity in a suit. He stressed upon how allowing the 'next friend' of the deity to represent it will have wide ramifications in India, given the existence of multiple religions and endowments. He further pointed out that giving locus standi to the next friend would end up taking away ownership and possession from people who are otherwise administering a deity. Moreover, he asserted that shebait would not lose their shebaitship even if their suit is barred by limitation. The only way they can be removed from shebaitship is if they act against the interest of the deity, established in a court of law.

7.34 Janmasthan's 'juristic personality'

The Bench raised questions on whether a religious belief vis a vis the existence of Janmasthan can be challenged, and if Janamsthan itself can be treated as a juristic person. To these questions, Sr. Adv. Dhavan responded that it was usual for natural bodies like rivers and mountains to be worshipped. Although one can still pray to these natural forces, no claim of ownership can be made.

7.35 Summary of issues in Ram Lala's suit

Sr. Adv. Dhavan concluded his arguments for the day by summarizing the main issues involved in the said suit, some of which were:

1. Whether Shri Ram Virajman (plaintiff 1) and Ram Janmasthan (plaintiff 2) are juristic persons
2. Whether a suit filed by the 'next friend' of the deity is maintainable
3. Whether the disputed property in question was properly identified and described
4. Whether the disputed structure was known as Babri Masjid.

With this, Sr. Adv. Dhavan closed his arguments for the day. He is expected to continue his arguments pertaining to Ram Lala's suit on Monday.

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