

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

# Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

## Day 46 Arguments: 17 September 2019

Today, the Bench comprising of Chief Justice Ranjan Gogoi and Justices Bobde, Chandrachud, Bhushan and Nazeer continue to hear the dispute over the Babri Masjid - Ram Janmabhoomi site. The three primary parties are the Nirmohi Akhara, the Sunni Waqf Board and Bhagwan Shri Ram Virajman. Currently, the Bench is hearing Sr. Adv. Rajeev Dhavan on behalf of the Sunni Waqf Board. Last week, he contested the maintainability of the Nirmohi Akhara's suit, arguing that it was barred by limitation. Today, he disputed claims put forth by the counsels for Shri Ram Virajman (original suit number 5).

*The Bench assembled at 10.39 AM*

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*7.43 Ram Janmasthan is not a juridical entity*

Sr. Adv. Dhavan argued that the counsels for the deity, namely Sr. Advs. K Parasaran and CS Vaidyanathan had failed to establish that the Ram Janmasthan (plaintiff 2 in original suit number 5) is a juristic entity, i.e. a deity with legal personhood. The counsels for the deity had claimed that the land where Ram was born (the Ram Janmasthan) is a deity with legal personhood. Sr. Adv. Rajeev Dhavan argued that if the Bench were to accept their argument, it would set a negative precedent.

#### *7.43.1 Juristic personality through 'manifestation'*

He agreed that deities can gain 'juristic personality' through self-manifestation (*swayambhu*), but submitted that the same had not taken place at Ayodhya. He said *swayambhu* required certain conditions such as 'tangibility' and 'divine form' that the opposing counsels have not shown. He submitted that Hindus have yet to recognise the Ram Janmasthan as a *teerth sthan* (holy sites where *swayambhu* has taken place). Further, he pointed out how *teerth sthans* have precise locations specified in religious texts, and argued that Sr. Adv. PN Misra (appearing for the Ram Mandir Revitalisation Committee) had failed to establish the precise location of Ram Janmasthan using the *Skanda Purana* (ancient religious text).

The Bench inquired whether divine birth is a type of manifestation. Sr. Adv. Dhavan replied in the affirmative, referring to the birth of Jesus Christ, to say that manifestation occurs in some cases. The Bench sought to clarify whether birth can establish a juristic personality. Sr. Adv. Dhavan stressed it would be difficult to draw a line, submitting that the Ram Janmasthan (birth time) is not a juristic person.

#### *7.43.2 Juristic personality through 'continuity in belief'*

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He submitted that the site could also gain juristic personality through belief. However, he argued that mere belief is not sufficient and that 'continuity in belief' is also required. He stated that the deity's counsels must show that continuous prayer took place, for a continuous reason. Further, he argued they must show that a 'consecration' took place.

The Bench thereafter asked Sr. Adv. Dhavan to clarify what would happen to his limitation and adverse possession arguments, if the Ram Janmasthan was dropped from suit number 5 (Ram Lala's suit). Sr. Adv. Dhavan stated his arguments would remain the same and that he would address them at a later date.

#### *7.44 Sharp contrast between Shia Waqf Board's pleadings and oral arguments*

Next, Sr. Adv. Dhavan referred to witness statements relied upon by the Shia Waqf Board to argue that there is a sharp contrast between its pleadings and oral arguments. He sought to establish that the Shia party, in its pleadings, was open to co-existence with the Sunni Waqf Board. He read out excerpts from the pleadings, stating there is no dispute between the Shia and Sunni parties as the mosque is 'vested in the Almighty'. Furthermore, The All India Shia Conference had stated that the site belonged to all Muslims.

#### *7.45 The structure has the features of a mosque and Islamic architecture*

Sr. Adv. Dhavan took the Bench through exhibits to dispute the argument that the structure either lacked the features of a mosque or was somehow 'un-Islamic'. First, he referred to a compilation of photographs to point out Islamic features to the Bench. He referred to several inscriptions of the word 'Allah'. Drawing attention to an arch, he argued that it was typical of Islamic architecture.

He addressed the issue of whether certain un-Islamic features, such as decorative depictions of animals, indicate that the structure was Hindu. He submitted that the Nawab of Oudh had ordered various decorative inscriptions and the installment of 14 Kasauti stone pillars, which borrowed from non-Muslim aesthetics. He stated that while they indicate the Nawab acted 'un-quranically', they cannot indicate the structure in entirety was not a mosque. The Bench appeared sympathetic to this argument.

He disputed that images of lions referred to by Sr. Adv. Vaidyanathan were Hindu, submitting that they were part of the Nawab's emblem.

*The bench rose at 12.52 PM. It re-assembled at 2.21 PM.*

#### *7.46 Disputing witness statements from Ram Lala's suit*

After lunch, Sr. Adv. Dhavan refuted various witness statements relied upon by the plaintiffs in Ram Lala's original suit. He primarily sought to dispute statements that strengthened the plaintiff's argument in that suit that the disputed structure has 'un-Islamic' features. He disputed the reliability of the exhibits filed by Ram Lala (plaintiff) in the suit, including books and travellers' accounts. He divided the exhibits ([https://scobserver-production.s3.amazonaws.com/uploads/ckeditor/attachments/222/suit5\\_PW\\_exhibits2.jpeg](https://scobserver-production.s3.amazonaws.com/uploads/ckeditor/attachments/222/suit5_PW_exhibits2.jpeg)) he was refuting into several categories, including those that were rejected by the High Court, those that were discussed but no specific findings were given, irrelevant exhibits, amongst others. At the same time, he relied upon certain exhibits filed by the plaintiffs to substantiate his own arguments. For example, he pointed to a U.P. district gazette that indicated Hindu prayer was conducted at the *Ram Chabootra* (which is located in the outer courtyard), while namaz was offered in the inner courtyard. The Sunni Waqf Board claims exclusive ownership over the inner courtyard.

Finally, Sr. Adv. Dhavan concluded the day by requesting the bench to reconsider certain witness statements that the Allahabad High Court had held to be irrelevant. He argued that expert opinions should not be rejected as long as the experts had been properly cross-examined.

*The bench rose at 4 PM.*

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