

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

Ayodhya Title Dispute

M Siddiq v. Mahant Suresh Das

Day 50 Arguments: 23 September 2019

The Supreme Court continued to hear the set of appeals to the 2010 Allahabad High Court judgment that divided the disputed land among the Nirmohi Akhara, the Sunni Waqf Board and Shri Ram Virajman (suit filed by 'next friend' D.N. Agarwal).

Today, Sr. Adv. Rajeev Dhavan for the Sunni Waqf Board concluded his response to original suit number 5 - Shri Ram Virajman's suit.

The bench assembled at 11.53 am.

7.59 Shri Ram Virajman and Ram Janmabhoomi at odds

Sr. Adv. Dhavan argued that Shri Ram Virajman (plaintiff 1 in suit number 5) and Ram Janmabhoomi (plaintiff 2 in suit number 5) make incompatible claims. He contended that while plaintiff 1 (physical idol) could be considered to have juristic personality, plaintiff 2 (birthplace) could not. Further, he said that they pray for entirely different reliefs, which cannot be construed together simply because they both seek the destruction of the old temple.

7.61 Ram Janmabhoomi lacks juristic personality

Sr. Adv. Dhavan argued that the Ram Janmabhoomi (plaintiff 2 in suit number 5) lacks juristic personality (legal personhood). The Ram Janmabhoomi is the alleged birthplace of Lord Ram. Sr. Adv. Dhavan argued that a deity must be physically manifested in order to be granted legal rights. He submitted that the Hindu Dharmashastras establish only two types of endowments that can have juristic personality: (a) self-revealed, (b) artificial revelation (human-made). He argued that the Ram Janmabhoomi falls into neither of these types.

7.61.1 Belief alone cannot establish juristic personality

He clarified that belief alone cannot establish a deity's juristic personality. He reiterated his arguments from last week, that juristic personality requires consecration, following which continuous and consistent prayer must be offered. He said that the Janmabhoomi could not be granted legal personhood on the basis of a future consecration.

7.61.2 Insufficient evidence to show that Janmabhoomi is Lord Ram's birthplace

Further, he argued that the belief that the Janmabhoomi is the true birthplace of Lord Ram lacks credibility. Referring to historical accounts relied upon by the plaintiffs, he said that prior to the late-19th century there is not sufficient evidence to infer a uniform Hindu belief in the site being Lord's Ram birthplace.

He added that there exists no substantive proof that the site is Lord Ram's birthplace. He questioned how the site could be granted juristic personality, if there was a lack of certainty as to whether it was truly the deity's birthplace. The Bench took note of his submission, but observed that the site is of special significance to Hindus and offered Mecca as an analogy. Sr. Adv. Dhavan responded that regardless of whether the site is of special significance, it does not follow that it should be recognized as a juristic entity.

Next, Sr. Adv. Dhavan argued that the plaintiffs in suit number 5, had failed to establish the precise area of Lord Ram's birthplace. He argued that a divine juristic personality must have a defined manifestation. Rhetorically, he asked whether the whole of India could be granted legal personhood as Lord Ram's birthplace. Then he disputed the argument that the path of parikrama (circumambulation) followed by worshippers established the deity's birthplace. He said that witness statements contradict each other with regards to the path of the parikrama.

He concluded that under Hindu law the burden of proof to establish 'ownership and dedication' rests on the plaintiffs in suit number 5.

.

The Bench rose at 1 PM. The court reassembled at 2.17 PM.

Sr. Adv. Dhawan began the afternoon session by stating that he sought to conclude his arguments on suit 5 today.

He concluded his submissions on juristic personality by reiterating that deities require consecration in order to be manifested. He argued that none of the Hindu parties prove that a consecration had occurred. The Bench asked him about non-invisible manifestations, like the one at Chidambaram temple. Sr. Adv. Dhawan he said that he could not go into theological questions, but reiterated that consecration must be established in total.

Finally, he went through various judgments relied upon by the plaintiffs to establish the Ram Janmabhoomi's juristic personality and negated the plaintiff's conclusions.

7.62 Hindus do not have a right to pray in the inner dome

Sr. Adv. Dhawan argued that Hindus never had the right to pray in the inner dome. He reiterated his argument from last week that Muslims had been in continuous exclusive possession of the inner dome, until it was placed under the receivership in 1949.

7.63 Shri Ram Virajman's suit is not maintainable

Sr. Adv. Dhawan argued that suit number 5 is not maintainable.

7.63.1 Barred by limitation

First, he argued that it was barred by limitation. He disputed Sr. Adv. K. Parasaran's argument that the suit falls within the limitation period under Section 10 (<https://indiankanoon.org/doc/541605/>) of the Limitation Act, 1963. Section 10 states that no suit against 'a person in whom property has become vested in trust' can be barred by limitation.

7.63.2 Not proved that Nirmohi Akhara acted against the interests of the deity

In addition, he argued that the suit was not maintainable because it never established that the shebait (Nirmohi Akhara) had acted against the interest of the deity. Previously, Sr. Adv. Dhavan had argued that the shebait is the only entity which should file a suit on behalf of a deity, unless it has been demonstrated that the shebait has acted against the deity's interests.

The Bench rose for a break at 3.57 PM and again reconvened at 4.17 PM.

7.64 Summary of arguments against Shri Ram Virajman's suit

At the end of the day, Sr. Adv. Dhavan summarised his arguments on original suit number 5. He framed the suit as a 'vehicle to promote political interests.' He said that the Ram Janmabhoomi Nyas (of which D.N. Agarwal was a trustee and the proposed new temple will be under) was created merely to defy adverse possession claims and issues of limitation.

He re-iterated his responses to the arguments put forth by Sr. Adv. P.N. Mishra (for the Ram Revitalisation Committee), Adv. H.S. Jain (for Hindu Mahasabha party 1), Sr. Adv. R. Kumar (for Gopal Singh Visharad) and Sr. Adv. M.C. Dhingra (for the Shia Waqf Board)

Framing India as a secular and inclusive nation-state, he concluded by quoting Urdu writer Firaq Gorakhpuri:

‘Sar zamin-e—hind par aqwaam-e-alam ke firaq

Kafila guzarte gae Hindustan banta gaya’

(‘In the land of Hind, the Caravans of the peoples of

The world kept coming in and India kept getting formed’.)

The Bench finally rose for the day at 5.08 PM.

(Court reporting by Sanya Talwar)

Case Documents

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

About Us (/about-us)

Events (/events)

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

Also Visit



Supported By



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

2017-20 © Center for Law and Policy Research

www.vadaprativada.in

www.vadaprativada.in