

Mr. S.P. Singh  
Sr. Advocate

15/4/2015

9/4

Case Item - 2  
16/10/2015

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL No. 10866-67 of 2010.

[Arising out of final impugned judgment, order and decree dated 30.09.2010 passed by Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in O.O.S. NO.4/1989 (Regular Suit No.12 of 1981), O.O.S. NO.5/1989 (Regular Suit No.236 of 1989).]

IN THE MATTER OF:

Mohammad Siddiq @ Hafiz Mohammad Siddiq

APPELLANT

Vc:sus

Mahant Suresh Das & Ors. etc. etc.

RESPONDENTS

WITH

L. NO. .... OF 2010  
APPLICATION FOR STAY

&

U. NO. .... OF 2010

APPLICATION FOR SUBSTITUTION OF LEGAL HEIR OF  
DECEASED IN C. O. NO. 4/1989 (Regular Suit No. 12 of 1981) & NO. 5/1989 (Regular Suit No. 236 of 1989) in O.O.S. NO. 5/1989

&

U. NO. .... OF 2010

APPLICATION FOR CONDONATION OF DELAY IN FILING THE  
APPLICATION FOR SUBSTITUTION WITH AFFIDAVIT.

&

I.A. NO. .... OF 2010

APPLICATION SEEING REASONABLE CAUSE FOR GRANTING  
DATES & EVENTS

&

L.A. NO. .... OF 2010

APPLICATION FOR REVIEW OF THE  
IMPUGNED ORDER

&

I.A. NO. .... OF 2010

APPLICATION FOR RECONSIDERATION FROM THE  
TRANSLATION

PAPER - BOOK

(FOR INDEX, KINDLY SEE INSIDE)

VOLUME - I

SYNOPSIS & LIST OF DATES & EVENTS

ADVOCATE FOR APPELLANT: ANIS SUHRAWARDY

ITEM NO.3

COURT NO.9

SECTION XI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
I.A. NOS.5-6 & 7-8  
**IN**  
CIVIL APPEAL NOS. 10866-10867 OF 2010

**M.SIDDIQ (D) THR. LR. MAULANA ASSHAD ETC.**

Appellant (s)

VERSUS

**MAHANT SURESH DAS & ORS.ETC.ETC.**

Respondent (s)

(For substitution and c/delay in filing substitution appln. and office report)

Date: 29/07/2013 These applications were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For parties:

Mr. Mohd.Irshad Hanif, Adv.

Mr. Manoj V. George, Adv.

Mr. Arif Ali Khan, Adv.

Mr. R.C. Gubrele, Adv.

Mr. Ashok K. Srivastava, Adv.

Mr. Somabrata Mandal, Adv.

Ms. Sangeeta Mandal, Adv.

Mr. Arpit Shukla, Adv.

for M/s Fox Mandal & Co.

Mr. Shakil Ahmed Syed, Adv.

Mr. Yash Pal Dhingra, Adv.

Mr. B.K.Satija, Adv.

Mr. Anoop George Chaudhary, Sr. Adv.

Ms. June Chaudhary, Sr. Adv.

Mr. Syed Shahid Hussain Rizvi, Adv.

Mr. Dharmendra Kumar Sinha, Adv.

Mr. Anish Kumar Gupta, Adv.

Mr. Amit Pawan, Adv.

Ms. Manjusha Wadhwa, Adv.

Md. Shahid Anwar, Adv.

Mr. M.R. Shamshad, Adv.

Mr. Ahmad S. Azhar, Adv.

Mr. Shashank, Adv.

Mr. Ravi Shankar Prasad, Sr. Adv.

Mr. S.S. Shamsheery, Adv.

Mr. P.V. Yogeswaran, Adv.

Mr. D. Bharat Kumar, Adv.

Mr. Vikramjit Banerjee, Adv.

Mr. Sambeet Das, Adv.

UPON hearing counsel the Court made the following  
O R D E R

In view of letter, dated 26<sup>th</sup> July, 2013,  
circulated by learned counsel for the appellants,  
the matters are adjourned by four weeks for  
filing rejoinder affidavit.

(VINOD LAKHINA)  
COURT MASTER

(INDU BALA KAPUR)  
COURT MASTER

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### SYNOPSIS/LIST OF DATES & EVENTS

(1) Some of the issues raised in the instant batch of cases involve questions of fact and law of great importance affecting the two largest communities in the country, namely Hindus and Muslims. The problem started in the night of 22<sup>nd</sup> - 23<sup>rd</sup> December, 1949 when under the cover of darkness certain idols were brought from Ram Chabutra which was outside the premises known as Babri Masjid and installed under the central dome of the mosque built in the year 1528 A.D. where admittedly Muslims were offering prayers regularly. It resulted in instantaneous tension and dispute between the two communities, immediate intervention of police, registration of FIR, attachment of property by the Magistrate under S. 146 r/w S. 145 Cr.P.C., appointment of Receiver and institution of civil suits by both communities and orders of injunction passed therein by the Courts.

(2) Under the interim arrangement, only offering of puja and bhog to the deities by a couple of priests was permitted but entry of devotees and visitors was barred. Muslims stopped worshipping there. The property remained custodia legis since installation of deities at the dead of night on 22<sup>nd</sup> - 23<sup>rd</sup> December, 1949. This arrangement

continued till the demolition of Babri Masjid in broad daylight on 6<sup>th</sup> December, 1992 which led to unprecedented communal strife and disruption of communal harmony since the trauma of partition of the country in 1947. It was a severe blow to the unity and integrity of India. It is a matter of record of this Hon'ble Court that the State Government led by Shri Kalyan Singh, leader of the BJP failed to protect the ancient monument and thereby committed breach of undertakings given to the highest Court in addition to the National Integration Council for which this Hon'ble Court found him guilty of contempt and punished him vide *Mohd. Aslam Vs. UOI* (1994) 6 SCC 442. Besides loss of precious human lives, property worth crores of rupees was destroyed in the communal flare up that followed in different parts of the country. The report of Justice Srikrishna Commission appointed under the Commissions of Inquiry Act, 1952 reveals what happened in the city of Mumbai and in the State of Maharashtra.

(3) In all, five suits were instituted after 23<sup>rd</sup> December, 1949:

Suit No. 1 by Gopal Singh Visharad asserting his right of worship of the deities placed stealthily under the central

dome of the mosque in the night of 22<sup>nd</sup> – 23<sup>rd</sup> December, 1949.

Suit No. 2 of 1989 was filed by Paramhans Ramchandra Das against Zahoor Ahmad and seven others. The plaint in the suit No. 2 was almost *verbatim* reproduction of the plaint in suit No. 1. However, suit No. 2 was dismissed and withdrawn on 23.8.1990.

Suit No. 3 of 1989 was filed by Nirmohi Akhara (organisation of sadhus) through its Mahant, which was in possession of two small portions of land in the courtyard, praying for a decree for removal of the Receiver (Defendant No. 1) from the management and charge of the temple of Ram Janambhoomi and for delivery of the management to the Plaintiff through its Mahant.

Suit No. 4 of 1989 was filed by the Sunni Central Waqf Board, U.P. and nine Muslims out of whom the Appellant herein was Plaintiff No. 2/1. In this suit, the Plaintiffs prayed for a declaration that the property indicated in the map attached to the plaint is a public mosque, commonly known as Babri Masjid and for delivery of the possession of the mosque in the suit by removal of idols etc.

Suit No. 5 of 1989 was filed by Bhagwan Sri Ram Birajman and Asthan Sri Ram Janambhumi Ayodhya represented by next friend Devki Nandan Aggarwal (since deceased) and represented by Triloki Nath praying for a decree of declaration that the entire premises of Shri Ram Janam Bhoomi at Ayodhya as described in the annexures to the plaint belongs to the Plaintiffs and for a perpetual injunction against the Defendants prohibiting them from interfering with the construction of a new temple at the site after demolishing and removing the existing structures etc.

- (4) The suits were withdrawn to the High Court at Allahabad (Lucknow Bench) and decided by a Bench of three Hon'ble Judges who pronounced three separate judgments on 30<sup>th</sup> September, 2010.

The majority view emerges from the judgements of S.U. Khan and Sudhir Aggarwal, JJ. The third judge, Dharam Veer Sharma, J., wrote a dissenting judgment.

- (5) The High Court dismissed the suit No. 3 filed by Nirmohi Akhara which is in possession of Ram Chabutra and Sita Ki Rasoi which are small portions of land in the courtyard

outside Babri Masjid and suit No. 4 of 1989 filed by the Appellant alongwith Sunni Central Waqf Board, U.P. and others while partly allowing and decreeing suit No. 1 filed by Gopal Singh Visharad asserting his right of worship and suit No. 5 of 1989 filed by Bhagwan Sri Ram Birajman and Asthan Sri Ram Janambhumi Ayodhya represented by next friend Devki Nandan Aggarwal (since deceased) and represented by T. P. Verma.

(6) The common operative portion of the orders passed by S.U. Khan and Sudhir Aggarwal, JJ., is to the effect:

- (i) That the Muslims, Hindus and Nirmohi Akhara are declared joint title holders of the premises in dispute each entitled to the extent of  $1/3^{\text{rd}}$  share. A preliminary decree to this effect has been passed.
- (ii) In the final allotment of shares and partition by metes and bounds, the area under the central dome of the mosque where the idols were kept in the night between  $22^{\text{nd}}$  -  $23^{\text{rd}}$  December, 1949 shall be allotted to the Hindus in the final decree. The areas known as Ram Chabutra and Sita Ki Rasoi likewise will be allotted to the Nirmohi Akhara in the final decree.

- (iii) Certain consequential directions have been given regarding adjustments to be made in the allocation of shares and if necessary, a portion of the land acquired by the Central Government for effectuating partition by metes and bounds was allowed.
- (iv) Status quo prevailing as on the date of the impugned judgment shall be maintained for a period of three months unless the order is modified.
- (7) Soon after the pronouncement of the three judgments, a prayer was made on behalf of some of the parties for a certificate of fitness to an appeal to this Hon'ble Court under Articles 132 and 134-A which the High Court did not entertain being of the view that an appeal is maintainable under S. 96 of the Civil Procedure Code in the Supreme Court. However a copy of the said order for ready reference and kind perusal of this Hon'ble Court is annexed herewith and marked as ANNEXURE "A" (Pages 8162) immediately after the pronouncement of the impugned judgment and order dated 30<sup>th</sup> September 2010.



(8.1) The Appellant respectfully submits that the core finding in the judgment as regards the alleged place of birth of Lord Shri Ram is based on the professed belief of Hindus and not on evidence.

(8.2) The High Court failed to appreciate that admittedly there was Babri Masjid constructed in 1528 A.D. wherein admittedly Muslims were offering prayers regularly till the idols were brought from the courtyard and installed there at the dead of night on 22<sup>nd</sup> -23<sup>rd</sup> December, 1949 and worship started thereafter. On these admitted facts, the proper relief to be granted was to restore the status quo ante prior to the 22<sup>nd</sup> December, 1949, but this has not been done.

(8.3) It was nobody's case in the High Court that the Muslims, Hindus and Nirmohi Akhara were in joint possession of the disputed premises, much less that they were joint title holders. The claims of the three sets of plaintiffs were mutually exclusive in the sense each set of plaintiffs claimed the entire property as its own and no one sought a decree for partition of the property. The relief granted by the Hon'ble High Court is outside the scope of pleadings and prayers in the suits.

(8.4) The High Court failed to appreciate that when the possession of the disputed premises was taken by the police on 23<sup>rd</sup> December, 1949 itself and shortly thereafter it was attached under S. 145 and 146 of the Cr. Procedure Code by the Magistrate and handed over to the Receiver, which arrangement was continued by the Civil Courts after the suits were filed, there was no question of any bar of limitation for the suit filed by the Appellant herein alongwith Sunni Central Waqf Board, U.P. and eight others.

(8.5) The impugned judgment suffers from an apparent error on the face of the record in as much as it treated Nirmohi Akhara as a party different from Hindus and allotted a separate 1/3<sup>rd</sup> share notwithstanding the evidence on record that this organisation of sadhus was only in possession of two small bits of land called Ram Chabutra measuring 39.6 sq. yards and Sita Ki Rasoi which is much smaller than the area covered by Ram Chabutra while the total area of the disputed premises is about 1500 sq. yards.

(8.6) The suit No. 5 of 1989 filed by the deities through next friend ought to have been dismissed having regard to the

fact that the deities never asserted their title to or possession over the disputed land after 1528 A.D. till 1989 for 461 years. It was by a strange logic that the High Court partly decreed suit No. 5 in their favour.

(8.7) The High Court failed to appreciate having regard to the nature and dimensions of the issues affecting two major communities, it was no appropriate to dismiss suit No. 4 of 1989 on technical grounds. The High Court ought to have decided the suit on merits.

The Appellant respectfully submits that suit No. 4 of 1989 deserves to be decreed in terms of the prayers.

(8.8) The present Appeals are confined to the findings rendered by the High Court and the orders and decrees passed against the Appellant who is the Plaintiff No. 2/1 in Suit No. 4 of 1989 and defendant No. 26 in suit No. 5 of 1989 as well as Suit No.1/1989.

#### LIST OF DATES & EVENTS

1493-1528	Emperor Babar started writing Babarnama giving account of his day to day life. Part III Hindustan (India and Pakistan) AH 932-5 Jamadi Awal AH 97 18 <sup>th</sup> October AD 1525 --
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25<sup>th</sup> August AD 1530 is annexed hereto and marked as ANNEXURE A-1 (Pages 8261 to 8371). The mosque popularly known as Babri Masjid situated at Ayodhya was built.

1529

A secret Will of emperor Babar to Prince Nasiruddin Mohammad Humayun was written which has been extracted in a book "India Divided" by Dr. Rajendra Prasad, the then President of India and a well known educationist. For ready reference the contents whereof are quoted as hereunder:

"It is worthwhile reproducing the secret will of Zahiruddin Mohammad Badshah Ghazi (Babar) to Prince Nasiruddin Muhammad Humayun:

"Oh Son! the Kingdom of India is full of different religions. Praised the God that He bestowed upon thee its sovereignty. It is incumbent on thee to wipe all religious prejudices off the tablet of thy heart, administer justice according to the ways of every religion. Avoid especially the sacrifice of the cow by which thou

canst capture the hearts of the people of India and subjects of this country may be bound up with royal obligations.

'Do not ruin the temples and shrines of any community which is obeying the laws of government. Administer justice in such a manner that the King be pleased with the subjects and the subjects with the King. The cause of Islam can be promoted more by the sword of obligation than by the sword of tyranny.

'Overlook the dissensions of the Shias and Sunnis, else the weakness of Islam is manifest.

'And let the subjects of different beliefs harmonize in conformity with the four elements (of which the human body is harmoniously composed) so that the body of the Kingdom may be free from different dimensions. The memoirs of Timur, the master of conjunctions, (the fortunate,) should always be before thine eyes so that thou mayest become

experienced in the affairs of administration. First Jamaidiulawal 935 A.H."

The copy of the extracts are annexed hereto and marked as ANNEXURE A-2 (Pages 8372 to 8374)

Dec.1531

Babar died. During the period there is no whisper of the mosque by the name Babri Masjid.

1575

Ram Charita Manas was written by renowned Saint Tulsidas in the year 1575. But there is no whisper of birth place of Sri Ram at Ayodhya or demolition of temple or construction of mosque in place of temple of Sri Ram.

1852

The first riots took place in between Hindus & Muslims regarding Babri Masjid – Ram Janam Bhumi Dispute.

1856

As per the averment it was alleged that from 1528 to 1856 there was no chabutra within the precincts of the mosque "Babri Masjid".

- 1857                      The chabutra was alleged to have been constructed on a portion of the site in question.
- 1859                      The British Government keeping in view the intensity of the dispute directed to erect a boundary wall at the disputed site in question.
- 19.01.1883              The Faizabad Judge Pt. Harikishan refused to construct the temple on chabutra admeasuring 17' X 21' at the Babri Masjid premises.
- 1885                      A riot took place between Hindus and Muslims. To resolve the disputes, the Muslims were required to worship inside the wall and Hindus outside the wall.
- 24.01.1885              Sub-Judge Faizabad dismissed the suit.
- 29.01.1885              Suit No.61/280 of 1885 was filed by Mahant Raghubar Das seeking permission to construct temple over chabutra 17' X 21', it was contested by Mohd. Asgar on behalf of Muslims.

29.01.1885 Suit No. 16/280 of 1885 was filed by Mahant Raghuvardas Mahant Janamsthan Ayodhya Versus Secretary for States in India in Council.

1886 Against the said decree a Civil Appeal No.27/1886 was filed before then Learned District Judge.

13.03.1886 The Learned District Judge passed an order to visit the spot on 17.03.1886 to look into disputed property.

17.03.1886 The District Judge Col. E.A. Chemiar visited the spot and after visiting the site in question refused to give the permission for construction of the temple.

18.03.1886 The Learned District Judge was pleased to dismiss the Civil Appeal No.27/1886.

25.05.1886 Against the said judgment a Second Appeal No. 122 of 1886 was preferred by Plaintiff



before the Judicial Commissioner Awadh. His powers were equivalent to High Court of Oudh.

01.11.1886      The court of Judicial Commissioner Oudh dismissed the Second Appeal No.122/1886 with the following Order:-

"The matter is simply that the Hindus of Ajodhya want to create a new temple or marble baldacchino over the supposed holy spot in Ajodhya said to be the birthplace of Shri Ram Chandar. Now this spot is situated within the precinct of the grounds surrounding a mosque erected some 350 years ago owing to the bigotry and tyranny of the Emperor Babur, who purposely chose this holy spot according to Hindu legend as the site of his mosque. The Hindus seem to have got very limited rights of access to certain spots within the precincts adjoining the mosque and they have for a series of years been persistently trying to increase those rights and to erect buildings on two spots in the enclosure:

(1) Sita ki Rasoi

(b) Ram Chandar ki Janam Bhumi.

The Executive authorities have persistently refused these encroachments and absolutely forbid any alteration of the 'status quo'.

I think this is a very wise and proper procedure on their part and I am further of opinion that the Civil Courts have properly dismissed the Plaintiff's claim."

15.08.1947 India attained freedom from the British Rule and vowed to adopt for secular democracy with equal rights and freedom of Religion to all citizens of the country.

12.11.1949 A police picket was posted outside the Babri Mosque.

26.11.1949      Consequent upon ceasing of the dominion status of the country the country adopts a Constitution with the following Preamble:

"We, the people of India, having solemnly resolved to constitute India into a [Sovereign Socialist Secular Democratic Republic] and to secure to all its citizens:

Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity;

and to promote among them all

Fraternity assuring the dignity of the individual and the [unity and integrity of the Nation];

In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby Adopt, Enact and Give to Ourselves this Constitution."

29.11.1949 There was some apprehension of breach of peace therefore the S.P. Faizabad Shri Kripal Singh had written a letter to (1) Shri Nair, Deputy Commissioner (2) District Magistrate, Faizabad which is reproduced as hereunder:-

"My dear Nayar,

I visited the premises of Babri Mosque and the Janm Asthan in Ajodhya this evening. I noticed that several 'Hawan Kunds' have been constructed all around the mosque. Some of them have been built on old constructions already existing there.

There is a place known as Kuber Qila situated on a high mound about 2 furlongs from the Janm Asthan. Several graves have been dismantled there. Inside an enclosure near the Kuber Qila, where probably there was a grave, deity of Mahadeoji has been installed. This place is quite distant from the place

where the police guard is posted and could not have been noticed by them. I found bricks and lime also lying near the Janm Asthan. They have a proposal to construct a very big Havan Kund where Kirtan and Yagna on Purnamashi will be performed on a very large scale. Several thousand Hindus, Bairagis and Sadhus from outside will also participate. They also intend to continue the present Kirtan till Purnamashi. The plan appears to be to surround the mosque in such a way that entry for the Muslims will be very difficult and ultimately they might be forced to abandon the mosque. There is a strong rumour, that on purnamashi the Hindus will try to force entry into the mosque with the object of installing a deity."

30.11.1949

Again apprehensions were expressed by Local Administration that Hindus would attempt to install deity in the mosque on full moon which was to fall on the said day.

08.12.1949 That a wireless message was sent by Shri Nair to the Home Secretary. In which it had been stated that the Muslims had offered the Friday prayers in the mosque concerned.

16.12.1949 Another letter was addressed by Shri Nair to Shri Govind Narayan, the then Home Secretary, Govt. of U.P., Lucknow.

16.12.1949 The letter of District Magistrate was also recorded in the diary.

20.12.1949 It was stated in the entry that pooja and bhog was offered as usual.

22/23.12.1949 A group of undesirable person entered in the mosque by ladders and put idols by use of criminal act at 4 A.M.

23.12.1949 The report was given by the District Magistrate at 7 A.M. suggesting that idols were placed inside the mosque at about 4 a.m. and

thereafter an F.I.R. was also lodged to this effect.

23.12.1949 At 7 P.M. Shri Ram Dev Dubey Sub Inspector, Incharge Thana Ayodhya lodged F.I.R. mentioning that an information was received that a crowd of undesirable elements consisting about 50 – 60 persons had broken the locks which were put on the compound of Babri Mosque and by climbing the walls by ladders have illegally entered in the mosque have defiled it by placing the idols of Shri Bhagwan and had written on the wall inside and outside "Sitaram" etc.

23.12.1949 Tension between both the two communities increased on placement of the idols, as a result thereof Late Pt. Jawahar Lal Nehru expressed his displeasure on the order of the Learned Magistrate, where the Learned Magistrate refused to give any orders for the removal of the idols.

26/27.12.1949 The District Magistrate/Deputy Commissioner Faizabad wrote two letters to Bhagwan Sahay, Chief Secretary, Govt. of U.P. for summoning certain documents and insisted that the incidence of 23.12.1949 was unpredictable and irreversible.

27.12.1949 The District Magistrate refused to abide by the directions of the Government to remove the idols and wrote as follows:

"and that if government still insisted that the removal should be carried out in the face of these facts, I would request to replace me by another officer."

29.12.1949 Preliminary Order under Section 145 Cr.P.C. was drawn by the Additional City Magistrate. Simultaneously an order of attachment U/s 146 Cr.P.C. was issued by which the property was attached and was given under the receivership to Shri Priya Dutt Ram.



- 30.12.1949      The Chief Secretary visited the spot he was surrounded by crowd which uttered loud cries of "Bhagwan Ka Phatak Khol Do".
- 16.01.1950      Gopal Singh Visharad filed (O.O. Suit No.1 of 1989), (O.O.Suit No.3/1950 in which he sought following reliefs:-
- "The reliefs sought in Suit-1 (duly amended pursuant to the Court's order dated 7.1.1989) are: a declaration that the plaintiff is entitled to offer worship without any obstruction according to rites and tenets of his religion at the birth place of Lord Shri Ram Chandra, described at the foot of the plaint and defendants no. 1 to 10 and their substitutes have no authority to create any hindrance/obstruction in the aforesaid right of the plaintiff, a permanent prohibitory injunction against defendants no. 1 to 10 and their substitutes not to remove the idols of Lord Shri Ram Chandra situated at the place of birth described at the foot of the plaint, neither

obstruct ingress and egress to the aforesaid place or at the entry point nor create any obstruction in worship and Darshan (Pooja and Darshan). The cost of suit and any other relief which may justifiably be granted are also prayed."

The issues framed in the aforesaid suit are as follows:

**Issues No. 1**

1. Is the property in suit the site of Janam Bhumi of Shri Ram Chandra Ji?

**Finding:-**

1. Issue 1 (Suit-1)-It is held that the place of birth, as believed and worshipped by Hindus, is the area covered under the central dome of the three domed structure, i.e., the disputed structure in the inner courtyard in the premises of dispute.

**Issue No.2**

2. Are there any idols of Bhagwan Ram Chandra Ji and are His Charan Paduka' situated in the site in suit?

**Finding:-**

2. Issue 2 (Suit-1)- It is held that the idols were kept under the central dome of the disputed structure within inner courtyard in the night of 22nd/23rd December, 1949 and prior thereto the same existed in the outer courtyard. Therefore, on 16.01.1950 when Suit-1 was filed the said idol existed in the inner courtyard under the central dome of the disputed structure, i.e., prior to the filing of the suit. So far as the Charan Paduka is concerned the said premises existed in the outer courtyard. Since Suit-1 is confined only to the inner courtyard, question of existence of Charan Paduka on the site in suit does not arise.

**Issue No.6**

6. Is the property in suit a mosque constructed by Shansha Babar commonly known as Babri mosque, in 1528A.D.?

**Finding:-**

Issue 6 (Suit-1) is answered in negative. The defendants have failed to prove that the property in dispute was constructed by Shahanshah/Emperor Babar in 1528 AD.

**Issue No. 3**

3. Has the plaintiff any right to worship the 'Charan Paduka' and the idols situated in the place in suit?

**Issue No.4**

4. Has the plaintiff the right to have Darshan of the place in suit?

**Findings:**

Issues 3 and 4 (Suit-1)-It is held that plaintiffs have right to worship. The place in suit to the extent it has been held by this Court to be the birthplace of Lord Rama and if an idol is also placed in such a place the same can also be worshipped, but this is subject to

reasonable restrictions like security, safety, maintenance etc.

**Issue No.7**

7. Have the Muslims been in possession of the property in suit from 1528A.D.?

**Findings:**

Issue 7 (Suit-1) is decided in negative, i.e., against the defendants Muslim parties.

**Issues No. 9**

9. Is the suit barred by provision of section (5) (3) of the Muslim Waqfs Act (U.P. Act 13 of 1936);?

**Findings:**

Issue 9 (Suit-1) is decided in favour of plaintiffs (Suit-1).

**Issue No.9(a)**

- (a) Has the said act no application to the right of Hindus in general and plaintiff of the present suit, in particular to his right of worship?

**Findings:**

Issue 9(a) (Suit-1) is answered in favour of plaintiffs (Suit-1).

**Issue No. 9(b)**

- (b) Were the proceedings under the said act referred to in written statement para 15 collusive? If so, its effect?

**Findings:**

Issue 9(b) (Suit-1) is answered against the plaintiffs.

**Issue No.9(c)**

- (c) Are the said provisions of the U.P. Act 13 of 1936 ultra-vires for reasons given in the statement of plaintiff's counsel dated 9.3.62 recorded on paper No.454-A-?

**Findings:**

Issue No.9(c) is answered in negative

**Issue No.5(a)**

- 5(a) Was the property in suit involved in original suit no.61/280 of 1885 in the court of sub-judge, Faizabad Raghubar Das Mahant Vs. Secretary of State for India & others.?

**Findings:**

Issue No.5(a) is answered in negative.

**Issue No.5(b)**

5(b) Was it decided against the plaintiff?

**Findings**

Issue 5(b) (Suit-1)-Held, the Suit 1885 was decided against Mahant Raghubar Das and he was not granted any relief by the respective courts, and, no more.

**Issue No.5(c)**

5(c) Was that suit within the knowledge of Hindus in general and were all Hindus interest in the same?

**Findings:**

Issue No.5(c) is answered in negative.

**Issue No.5(d)**

5(d) Does the decision in same bar the present suit by principles of Resjudicata and in any other way?

**Findings:**

Issue No.5(d) is answered in negative.

**Issue No. 13**

13. Is the suit No.2 of 50 Shri Gopal Singh Visharad Vs. Zahoor Ahmad bad for want of notice under section 80 C.P.C.?

**Findings:**

Issue No.13 is answered in negative i.e. in favour of the Plaintiffs (Suit-1).

**Issue No. 8**

8. Is the suit barred by proviso to section 42 Specific Relief Act?

**Findings:**

Issue 8 (Suit-1) is answered in negative. Suit is not barred by proviso to Section 42 of Specific Relief Act, 1963.

**Issues No. 11(a)**

- 11(a) Are the provisions of section 91 C.P.C. applicable to present suit? If so is the suit bad for want of consent in writing by the advocate general?

**Findings:**

Issue No.11(a) is answered in negative.

**11(b) Issue No.11 (b)**



11(b) Are the rights set up by the plaintiff in this suit independent of the provisions of section 91 C.P.C. ? if not its effect?

**Findings**

Issue 11(b) (Suit-1) is answered in affirmative.

**Issue No. 12**

12. Is the suit bad for want of steps and notices under order 1 Rule 8 C.P.C. ? If so its effect. ?

**Findings:**

Issue No.12 is answered in negative i.e. in favour of the Plaintiffs (Suit-1)

**Issue No. 14**

14. Is the suit no.25 of 50 Param Hans Ram Chandra Vs. Zahoor Ahmad bad for want of valid notice under section 80 C.P.C.?

**Findings**

Issue 14 (Suit-1) has become redundant after dismissal of Suit No. 25 of 1950 as withdrawn.

**Issue No. 15**

15. Is the suit bad for non-joinder of defendants.? NO

**Findings:**

Issue No.15 is answered in negative i.e. in favour of the Plaintiffs (Suit-1)

**Issue No. 10**

10. Is the present suit barred by time ? NO

**Findings:**

Issue 10 (Suit-1) is answered in negative, i.e., in favour of plaintiffs of Suit-1.

**Issue No. 16**

16. Are the defendants or any of them entitled to special costs under section 35-A C.P.C.?

**Findings:-**

Issue No.16 is answered in negative i.e. in favour of the Plaintiffs (Suit-1)

**Issue No.17**

17. To what reliefs, if any, is the plaintiff entitled?

**Findings:-**

Issue 17 (suit-1)-The plaintiffs is declared to have right of worship at the site in

dispute including the part of the land which is held by this Court to be the place of birth of Lord Rama according to the faith and belief of Hindus but this right is subject to such restrictions as may be necessary by authorities concerned in regard to law and order, i.e., safety, security and also for the maintenance of place of worship etc. The plaintiffs are not entitled to any other relief.

The suit has partly been allowed but has been dismissed for the reasons (i) no valid notice was given, (ii) the plaintiff has no legal character and (iii) the State Government can impose reasonable restrictions in public interest to control the crowd and to enable everybody to have the Darshan of the deity.

26.01.1950      Constitution of India came into force and India became a Sovereign Republic.

02.02.1950      In a letter written to the D.I.G., the District Magistrate expressed that the incidence of 23.12.1949 could not be predicted.

21.02.1950      Written Statement filed by Defendants No.1 to 5 was filed to the aforesaid Suit No.2 of 1950.

25.04.1950      Written Statement filed by Defendant No.6 in the said Suit.

19.10.1950      An order of injunction was granted in suit but for not to remove idol and not to interfere in Pooja.

05.12.1950      O.O.S. No.2 of 1989 (O.S. No.25 of 1950) was filed by Param Hans Ram Chandra Das which was withdrawn and as such was dismissed.

05.12.1952      Replication was filed by the Plaintiff to the Written Statement filed by Defendants Nos.1 to 5.

26.04.1955      F.A.F.O. No. 154 of 1951 filed by Defendants against interim order dated 19.01.1950 in O.S. 2 of 1950 was dismissed by High Court.

17.12.1959 O.O.S. No.3/1989 (Regular Suit No.26/1959)  
titled Nirmohi Akhara Versus Shri Jamna  
Prasad Singh & Ors.

The brief summary are as follows:

The suit was filed by Nirmohi Akhara, alleging that right from times immemorial, they are worshipping the deities. Accordingly the management of the temple may be handed over to the plaintiff by defendant-State Government.

The defendants have contested the claim and the Hon'ble High Court found the suit barred by time and also on merits that the plaintiff failed to prove the case.

The prayer in the said suit are as follows:

The plaintiffs have sought relief of grant of a decree for removal of defendant no. 1 from the management and withdrawal of charge of the

temple of Janam Bhumi and to deliver the same to the plaintiffs through Mahant and Sarbarahkar Mahant Jagannath Das.

The issues framed in the suit are as follows:

**Issues No. 1**

1. Is there a temple of Janam Bhumi with idols installed therein as alleged in para 3 of the plaint?

**Findings:**

Issue No.1 is answered in negative.

**Issue No.5**

5. Is the property in suit a mosque made by Emperor Babar Known as Babari masjid?

**Findings:**

Issue 5 (Suit-3) is answered in negative.

The defendants have failed to prove that the property in dispute was constructed by Shahanshah/Emperor Babar in 1528 AD.

**Issue No.6**

6. Was the alleged mosque dedicated by Emperor Babar for worship by Muslims in general and made a public waqf property?

**Findings:**

Issue 6 (Suit-3) is not proved hence answered in negative.

**Issues No. 2, 3 and 4**

2. Does the property in suit belong to the plaintiff No.1?
3. Have plaintiffs acquired title by adverse possession for over 12 years?
4. Are plaintiffs entitled to get management and charge of the said temple?

**Findings:**

Issues Nos. 2, 3 and 4 (Suit-3) are answered in negative, i.e., against the plaintiffs.

**Issue No.8**

8. Have the rights of the plaintiffs extinguished for want of possession for over 12 years prior to the suit?
- Connected with Issues No. 1B(c), 2, 4,

10, 11, 12, 13, 14, 15, 19(a), 19(b), 19(c),  
27 & 28 of O.O.S. No. 4 of 1989.

**Findings:**

Issue 8 (Suit-3) is decided in negative.

**Issues No. 7(a) & 7(b)**

7(a) Has there been a notification under  
Muslim Waqf Act (Act no.13 of 1936)  
declaring this property in suit as a Sunni  
Waqf?

7(b) Is the said notification final and binding?  
Its effect.

**Findings:**

Issues Nos. 7(a) and 7(b) (Suit-3) are  
answered in negative, i.e., in favour of  
plaintiffs and against the defendants in  
Suit-3.

**Issue No. 16**

16. Is the suit bad for want of notice u/s 83 of  
U.P. Act 13 of 1936? Connected with  
issues no. 5(a), 5(b), 5(c), 5(d), 5(e), 5(f),  
7(b), 17, 18, 20(a), 20(b), 23, 24, 25 and  
26 in O.O.S No. 4 of 1989, wherein these



issues have been decided against the plaintiffs.

**Findings:**

Issue No.16 is answered in negative.

**Issue No. 9**

9. Is the suit within time? Connected with issues no. 3 decided in O.O.S. No. 4 of 1989.

**Findings:**

Issue No.9 is answered in negative i.e. against the Plaintiffs.

**Issues No. 10(a) & 10(b)**

- 10(a) Is the suit bad for want of notice u/s 80 C.P.C.?

- 10(b) Is the above plea available to contesting defendants?

**Findings:**

Issue 10 (Suit-3) is decided in favour of plaintiff. It is also held that a private defendant cannot raise objection of maintainability of suit for want of notice under Section 80 CPC.

**Issue No. 11**

11. Is the suit bad for non-joinder of necessary defendants? Connected with Issue No. 21 of O.O.S. No. 4 of 1989.

**Findings:-**

Issue No.11 is decided in negative i.e. in favour of Plaintiffs.

**Issue No.12**

12. Are defendants entitled to special costs u/s 35 C.P.C. ? No.

**Findings:**

Issue No.12 (Suit-3) is decided in negative i.e. in favour of Plaintiffs.

**Issue No.13**

13. To what relief, if any, is the plaintiff entitled?

**Findings:-**

Issue 13 (Suit-3)-The plaintiff is not entitled to any relief in view of the findings in respect of issues 2, 3, 4, 14 and 19.

**Issue No. 14**

14. Is the suit not maintainable as framed ?

**Findings:-**

Issue 14 (Suit-3) is answered in affirmative. It is held that the suit as framed is not maintainable.

**Issue No. 15**

15. Is the suit properly valued and Court-Fee paid sufficient? (Already decided)

**Findings:-**

Issue 15 (Suit-3) is answered in affirmative, i.e., in favour of plaintiffs (Suit-3).

**Issue No. 17**

17. (Added by the Hon'ble High Court by order dated 23.2.96) "Whether Nirmohi Akhara, Plaintiff, is Panchayati Math of Rama Nandi sect of Bairagies and as such is a religious denomination following its religious faith and per suit according to its own custom."

**Findings:-**

Issue 17 (Suit-3) is decided in favour of plaintiffs. Nirmohi Akhara is held a

Panchayati Math of Ramanandi Sect of Bairagi, is a religious denomination following its religious faith and pursuit according to its own customs. However, its continuance at Ayodhya is found sometime after 1734 AD and not earlier thereto.

The said suit by Judgment and Order dated 30.09.2010 has been partly decreed.

28.03.1960 Written Statement filed by Defendants Nos.6 to 8 in Suit No.3.

26.07.1961 Intelligence report which states "It is reliably learnt that Baba Ram Lakhan Sharan gets legal advice in this respect from Sri K.K. Nayar (Ex-D.C. Faizabad) who is his supporter also."

1961 O.O.S. 4 of 1989 (O.S. No.12 of 1961) was filed by U.P. Sunni Central Waqf Board and 9 Muslims impleading Plaintiffs of earlier suit and other were also impleaded.

That suit O.O.S. No.4/1989 (Regular Suit No.12/1961) titled as The Sunni Central Board of Wakf, U.P. Versus Gopal Singh Visharad & Ors. was taken up as the lead case. The instant suit was filed for declaration in the year 1961 and thereafter in the year 1995 an amendment relief for possession was added. The Plaintiff's case in brief is that about 443 years ago Babar built a mosque at Ayodhya and also granted cash grant from the royal treasury for maintenance of Babri Mosque. The mosque was damaged in the year 1934 during communal riots thereafter the mosque was restored. On 23.12.1949 large crowd of Hindus desecrated the mosque by placing idols inside the mosque. The disputed property was attached under Section 146 Cr.P.C. and thereafter the suit was filed for declaration and for delivery of possession.

On behalf of the defendants separate written statements were filed alleging that structure is not a mosque and it was constructed after demolishing the temple against the tenets of

Islam. The A.S.I. report was obtained which could not prove conclusively whether the earlier construction was a temple or not? or of a religious nature or the character, it also could not be proved whether the alleged site was infact the birth place of Lord Rama or not?

Therefore as per the alleged report of the Archeological Survey of India some ruins claimed to be of historical significance were flushed from beneath the structure which even otherwise could conclusively prove it to be the site of place of birth of Lord Rama. Needless to say that the structure which was demolished was since itself was of a historical character and as such was required to be maintained as national monument under the Ancient Monument Archeological Site and Remains Act, 1958. The Apex Court in *Rajiv Mankotia Vs. Secretary to the President of India and others*, AIR 1997 Supreme Court page 2766 at para 21 directed the Government of India to maintain such national monuments. Thus, it is mandatory on the part of the Central

Government to comply with the provisions of Act No. 24 of 1958 and ensure to maintain the dignity and cultural heritage of the country.

On behalf of some of the defendants, it was alleged that not only in the outer courtyard but also in the inner courtyard people used to worship at the alleged place as a birth place of deity from times immemorial. Which submissions are not supported by History or any document on record excepting the placement of the idol in the year 1949.

The prayer in the said suit is quoted as hereunder:

"(a) A declaration to the effect that the property indicated by letters A B C D in the sketch map attached to the plaint is public mosque commonly known as 'Babari Masjid' and that the land adjoining the mosque shown in the sketch map by letters E F G H is a public Muslim grave

yard as specified in para 2 of the plaint may be decreed.

✓ (b) That in case in the opinion of the Court delivery of possession is deemed to be the proper remedy, a decree for delivery of possession of the mosque and graveyard in suit by removal of the idols and other articles which the Hindus may have placed in the mosque as objects of their worship be passed in plaintiff's favour, against the defendants.

✓ (bb) That the statutory Receiver be commanded to hand over the property in dispute described in the Schedule 'A' of the Plaint by removing the unauthorised structures erected thereon.

(c) Costs of the Suit be decreed in favour of the plaintiffs.



- (d) Any other or further relief which the Hon'ble Court considers proper may be granted."

The issues framed in the said suit are as under:

**ISSUE NO.1**

1. Whether the building in question described as mosque in the sketch map attached to the plaint (hereinafter referred to as the building) was a mosque as claimed by the plaintiffs? If the answer is in the affirmative?

**FINDING:**

Issue 1 (Suit-4) is answered in favour of plaintiffs interalia holding that the demolished structure was a "Mosque".

**Issue No.1(a)**

- 1(a) When was it built and by whom-whether by Babar as alleged by the plaintiffs or by Meer Baqi as alleged by Defendant No. 13?

**Findings:**

Issue 1(a) (Suit-4) is answered in negative. The plaintiffs have failed to

prove that the building in dispute was built by Babar or by Mir Baqi.

**Issue No.1(b)**

1(b) Whether the building had been constructed on the site of an alleged Hindu temple after demolishing the same as alleged by defendant No. 13? If so, its effect?

**Findings:**

Issue No.1(b) is answered in affirmative.

**Issue No.1(A)**

1(A) Whether the land adjoining the building on the east, north and south sides, denoted by letters EFGH on the sketch map, was an ancient graveyard and mosque as alleged in para 2 of the plaint? If so, its effect?

Deleted vide courts order dated 23.2.96.

**Issue No.1(B)(a)**

1(B)(a) Whether the building existed at Nazul plot no. 583 of the Khasra of the year 1931 of Mohalla Kot Ram Chandra

known as Ram Kot, city Ahodhya (Nazul estate of Ayodhya? If so its effect thereon)"

**Findings:-**

Issue 1-(B)(a) (Suit-4) is answered in affirmative and it is held that the fact that the land in dispute entered in the records of the authorities as Nazul plot would make things different.

**Issues No. 1(B)(b)**

1(B)(b) Whether the building stood dedicated to almighty God as alleged by the plaintiffs?

**Findings:-**

Issue 1(B)(b) (Suit-4) is not answered being irrelevant.

**Issues No. 1(B)(c)**

1(B)(c) Whether the building had been used by the members of the Muslim community for offering prayers from times immemorial? If so, its effect?

**Findings:-**

Issue 1-B(c) (Suit-4)-It is held that building in question was not exclusively used by the members of Muslim

community. After 1856-57 outer courtyard exclusively used by Hindu and inner courtyard had been visited for the purpose of worship by the members of both the communities.

**Issues No. 1(B)(d)**

1(B)(d) Whether the alleged graveyard has been used by the members of Muslim community for burying the dead bodies of the members of the Muslim community? If so, its effect?

**Findings:-**

Issue No.1-B(d) is deleted vide order dated 23.02.1996 by the Hon'ble High Court.

Issues No. 2, 4, 10, 15 & 28 were connected for the purposes of decision which are as follows:

**Issue No.2**

2: Whether the plaintiffs were in possession of the property in suit up to 1949 and

were dispossessed from the same in 1949 as alleged in the plaint?

**Findings:**

Issue 2 (Suit-4) is answered in negative, i.e., against the plaintiffs.

**Issue No.4**

4. Whether the Hindus in general and the devotees of Bhagwan Sri Ram in particular have perfected right of prayers at the site by adverse and continuous possession as of right for more than the statutory period of time by way of prescription as alleged by the defendants?

**Findings**

Issue 4 (Suit-4)-At least since 1856-57, i.e., after the erection of partition wall the premises in outer courtyard has not been shown to be used/possessed by Muslim parties but so far as the inner courtyard is concerned it has been used by both the parties.

**Issue No.10**

10. Whether the plaintiffs have perfected their rights by adverse possession as alleged in the plaint?

**Findings:**

Issue No.10 (Suit-4) is answered in negative i.e. against the Plaintiffs and Muslims in general.

**Issue No.15**

15. Have the Muslims been in possession of the property in suit from 1528 A.D. Continuously, openly and to the knowledge of the defendants and Hindus in general? If so, its effect?

**Findings:**

Issue No.15 (Suit-4) is answered in negative i.e. against the Plaintiffs and Muslims in general.

**Issue No.28**

28. "Whether the defendant No. 3 has ever been in possession of the disputed site

and the plaintiffs were never in its possession?"

**Findings:-**

Issue 28 (Suit-4)-It is held that plaintiffs have failed to prove their possession of the disputed premises, i.e., outer and inner courtyard including the disputed building ever.

**Issue No.3**

3. Is the suit within time?

**Findings:-**

Issue 3 (Suit-4) is answered in negative, i.e., against the plaintiffs. It is held that Suit-4 is barred by limitation.

**Issues No. 5(a)**

- 5(a) Are the defendants estopped from challenging the character of property in suit as a waqf under the administration of plaintiff No. 1 in view of the provision of 5(3) of U.P. Act 13 of 1936?

**Findings:-**

Issue 5(a) (Suit-4) is answered against the Plaintiffs.

**Issues No. 5(b)**

5(b) Has the said Act no application to the right of Hindus in general and defendants in particular, to the right of their worship?

**Findings:-**

Issue 5(b) (Suit-4) is answered in favour of defendants and Hindu parties in general.

**Issues No. 5(c)**

5(c) Were the proceedings under the said Act conclusive?

**Findings:-**

Issue 5(c) (Suit-4) is answered in negative.

**Issues No. 5(d)**

5(d) Are the said provision of Act XIII of 1936 ultra-vires as alleged in written statement?



**Findings**

Issue 5(d) (Suit-4) not pressed by the defendants, hence not answered.

**Issues No. 5(e)**

5(e) Whether in view of the findings recorded by the learned Civil Judge on 21.4.1966 on issue no. 17 to the effect that, "No valid notification under section 5(1) of the Muslim Waqf Act (No. XIII of 1936) was ever made in respect of the property in dispute", the plaintiff Sunni Central Board of Waqf has no right to maintain the present suit?

**Findings:-**

Issue 5(e) (Suit-4) is decided in favour of plaintiffs subject to that issue 6 (Suit-3) is also decided in favour of defendants (Suit-3).

**Issue No.5(f)**

5(f) Whether in view of the aforesaid finding, the suit is barred on account of lack of jurisdiction and limitation as it was filed

after the commencement of the U.P. Muslim Waqf Act, 1960?

**Findings:-**

Issue 5(f) (Suit-4) is answered in negative, i.e., in favour of plaintiffs and against the defendants.

**Issue No.6**

6. Whether the present suit is a representative suit, plaintiffs representing the interest of the Muslims and defendants representing the interest of the Hindus?

**Findings:-**

Issue No.6 are answered in affirmative.

**Issue No. 7(a)**

- 7(a) Whether Mahant Raghubar Dass, plaintiff of Suit No. 61/280 of 1885 had sued on behalf of Janma-Sthan and whole body of persons interested in Janma-Sthan?

**Findings:-**

Issue 7(a) (Suit-4) is answered in negative. It is held that there is nothing to

show that Mahant Raghubar Das filed Suit-1885 on behalf of Janamsthan and whole body of persons interested in Janamsthan.

**Issue No. 7(b)**

7(b) Whether Mohammad Asghar was the Mutwalli of alleged Babri Masjid and did he contest the suit for and on behalf of any such mosque?

**Findings:-**

Issue 7(b) (Suit-4) answered in affirmative, i.e., in favour of plaintiffs (Suit-4).

**Issue No. 7(c)**

7(c) Whether in view of the judgment in the said suit, the members of the Hindu community, including the contesting defendants, are estopped from denying the title of the Muslim community, including the plaintiffs of the present suit, to the property in dispute? If so, its effect?

**Findings:-**

Issue No.7(c) is answered in negative.

**Issue No. 7(d)**

7(d) Whether in the aforesaid suit, title of the Muslims to the property in dispute or any portion thereof was admitted by plaintiff of that suit? If so, its effect?

**Findings:-**

Issue 7(d) (Suit-4) is answered in negative to the extent that there is no admission by Mahant Raghubar Das plaintiff of Suit-1885 about the title of Muslims to the property in dispute or any portion thereof. Consequently, the question of considering its effect does not arise.

**Issue No. 8**

8: Does the judgment of Case No. 61/281 of 1885, Mahant Raghubar Dass Vs. Secretary of State and others, operate as res judicate against the defendants in suit?

**Findings:-**

Issue No.8 is answered in negative.

**Issue No.9**

9. Whether the plaintiffs served valid notices under Sec. 80 C.P.C.?

**Findings:-**

Issue No.9 of Suit No.4 relating to service of valid notice under Section 80, C.P.C. has been deleted through order of Court dated 22/25.05.1990.

**Issues No.11**

11. Is the property in suit the site of Janam Bhumi of Sri Ram Chandraji?

**Findings:-**

Issue 11 (Suit-4)-It is held that the place of birth as believed and worshipped by Hindus is the area covered under the central dome of the three domed structure, i.e., the disputed structure in the inner courtyard in the premises of dispute.

**Issue No.13**

13. Whether the Hindus in general and defendants in particular had the right to worship the Charans and 'Sita Rasoi' and other idols and other objects of worship, if any, existing in or upon the property in suit?

**Findings:-**

Issue No.13 is answered in affirmative.

**Issue No.14**

14. Have the Hindus been worshipping the place in dispute as Sri Ram Janam Bhumi or Janam Asthan and have been visiting it as a sacred place of pilgrimage as of right since times immemorial? If so, its effect?

**Findings:-**

Issue No.14 is answered in affirmative.

**Issue No.19(a)**

- 19(a) Whether even after construction of the building in suit deities of Bhagwan Sri Ram Virajman and the Asthan Sri Ram

Janam Bhumi continued to exist on the property in suit as alleged on behalf of defendant No. 13 and the said places continued to be visited by devotees for purposes of worship? If so, whether the property in dispute continued to vest in the said deities?

**Findings:-**

Issue 19(a) (Suit-4)-It is held that the premises which is believed to be the place of birth of Lord Rama continue to vest in the deity but the Hindu religious structures in the outer courtyard cannot be said to be the property of plaintiffs (Suit-5).

**Issue No.19(c)**

19(c) Whether any portion of the property in suit was used as a place of worship by the Hindus immediately prior to the construction of the building in question? If the finding is in the affirmative, whether no mosque could come into existence in

view of the Islamic tenets, at the place in dispute?

**Findings:-**

Issue 19(c) (Suit-4)-It is held that Hindus were worshipping at the place in dispute before construction of the disputed structure but that would not make any difference to the status of the building in dispute which came to be constructed at the command of the sole monarch having supreme power which cannot be adjudicated by a Court of Law, came to be constituted or formed much after, and according to the law which was not applicable at that time.

**Issue No.12**

12. Whether idols and objects of worship were placed inside the building in the night intervening 22nd and 23rd December, 1949 as alleged in paragraph 11 of the plaint or they have been in existence there since before? In either case, effect?



**Findings:-**

Issue No.12 is answered in negative.

**Issue No.17**

17. Whether a valid notification under Section 5(1) of the U.P. Muslim Waqf Act No. XIII of 1936 relating to the property in suit was ever done? If so, its effect?

**Findings:-**

Issue 17 (Suit-4) answered in negative holding that no valid notification under Section 5(3) of U.P. Act No. 13 of 1936 was issued.

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**Issue No.18**

18. What is the effect of the judgment of their lordships of the Supreme Court in Ghulam Abbas and others Vs. State of U.P. and others, A.I.R. 1981 Supreme Court 2198 on the finding of the learned Civil Judge recorded on 21st April, 1966 on issue no. 17?

**Findings:-**

Issue 18 (Suit-4)-it is held that the decision of the Apex Court in Ghulam

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Abbas Vs. State of U.P. and others, AIR 1981 SC 2199 does not affect findings on issue 17 (Suit-4) and on the contrary the same stand supported and strengthened by the said judgment.

**Issue No.19(b)**

19(b) Whether the building was land-locked and cannot be reached except by passing through places of Hindu worship? If so, its effect?

**Findings:-**

Issue 19(b) (Suit-4) is answered in affirmative to the extent that the building was land locked and could not be reached except of passing through the passage of Hindu worship. However, this by itself was of no consequence.

**Issue No.19(d)**

19(d) Whether the building in question could not be a mosque under the Islamic Law in

view of the admitted position that it did not have minarets?

**Findings:-**

Issue No.19(d) (Suit-4) is answered in favour of the Plaintiffs.

**Issue No. 19(e)**

19(e) Whether the building in question could not legally be a mosque as on plaintiffs own showing it was surrounded by a graveyard on three sides.

**Findings:-**

Issue No.19(e) is answered in favour of the plaintiffs.

**Issues No.19(F)**

19(F) Whether the pillars inside and outside the building in question contain images of Hindu Gods and Goddesses? If the finding is in the affirmative, whether on that account the building in question cannot have the character of Mosque under the tenets of Islam?

**Findings:-**

Issue 19(f) (Suit-4)-In so far as the first part is concerned, is answered in affirmative. The second part is left unanswered being redundant. In the ultimate result the issue is answered in favour of plaintiffs (Suit-4).

**Issue No.20(a)**

20(a) Whether the Waqf in question cannot be a Sunni Waqf as the building was not allegedly constructed by a Sunni Mohammedan but was allegedly constructed by Meer Baqi who was allegedly a Shia Muslim and the alleged Mutwalis were allegedly Shia Mohammedans? If so, its effect?

**Findings:-**

Issue No.20(a) being irrelevant not answered.

**Issue No.20(b)**

20(b) Whether there was a Mutwalli of the alleged Waqf and whether the alleged

Mutwalli not having joined in the suit, the suit is not maintainable so far as it relates to relief for possession?

**Findings:-**

Issue 20(b) (Suit-4)-It is held that at the time of attachment of the building there was a Mutawalli, i.e., one Sri Javvad Hussain and in the absence of Mutawalli relief of possession cannot be allowed to plaintiffs who are before the Court in the capacity of worshippers.

**Issue No.21**

21. Whether the suit is bad for non-joinder of alleged deities?

**Findings:-**

Issue 21 (Suit-4) decided in negative, i.e., in favour of the plaintiffs. The suit is not bad for non-joinder of deities.

**Issues Nos. 23 & 24**

23. If the wakf Board is an instrumentality of state? If so, whether the said Board can file a suit against the state itself?

24. If the wakf Board is state under Article 12 of the constitution? If so, the said Board being the state can file any suit in representative capacity sponsering the case of particular community and against the interest of another community)".

**Findings:-**

Issues 23 and 24 (Suit-4) are held that neither the Waqf Board is an instrumentality of State nor there is any bar in filing a suit by the Board against the State. It is also not a 'State' under Article 12 of the Constitution and can very well represent the interest of one community without infringing any provision of the Constitution.

**Issues No. 25 & 26**

25. "Whether demolition of the disputed structure as claimed by the plaintiff, it can still be called a mosque and if not whether the claim of the plaintiffs is liable to be dismissed as no longer maintainable?"

26. "Whether Muslims can use the open site as mosque to offer prayer when structure which stood thereon has been demolished?"

**Findings:-**

Issues 25 and 26 (Suit-4)-Held that as a result of demolition of the disputed structure it cannot be said that the suit has rendered not maintainable. Nothing further needs to be answered.

**Issue No.27**

27. "Whether the outer court yard contained Ram Chabutra, Bhandar and Sita Rasoi? If so whether they were also demolished on 6.12.1992 along with the main temple?"

**Findings:-**

Issue No.27 is answered in affirmative.

**Issue No.16**

16. To what relief, if any, are the plaintiffs or any of them, entitled?

**Findings:-**

Issue 16 (Suit-4)-No relief since the suit is liable to be dismissed being barred by limitation.

**Issue No.22**

22. Whether the suit is liable to be dismissed with special costs?

Issue No.22 is answered in negative.

The High Court by its order dated 30.09.2010 has dismissed the above suit.

12.03.1962 Written Statement filed by Defendant No.1 in Suit No.4

21.04.1962/

28.05.1962 Application filed by Defendant Nos.5 to 8 in Suit No.4

27-28.07.1962 Written Statement filed by Defendant No.9 in Suit No.4.

22/24.08.1962 Written Statement filed by Defendant Nos.3 and 4 in Suit No. 4



- 31.10.1962 Additional Written Statement filed by Defendant No.1 in Suit No.4
- 22.12.1962 Plaintiff was amended by the Plaintiffs.
- 25.01.1963 Written Statement filed by Defendant No.2 in Suit No.4 and Additional Written Statement filed by Defendant Nos.3 and 4 in Suit No.4.
- 11.09.1963 Replications filed by Plaintiff to Written Statement filed by Defendant Nos.1, 2, 3 and 4 in Suit No.4
- 28-29.11.1963 II Additional Written Statement filed by Defendant Nos.3 and 4 in Suit No.4.
- 20.07.1968 Written Statement filed by Defendant Nos. 13 and 14 in Suit No.4
- 18-19.07.1969 Written Statement filed by Defendant No. 18 in Suit No.4.

- 17.10.1970 Civil Court appointed Receiver who continue till Union of India took over as receiver by the Supreme Court Judgment in M. Ismail Farooqui.
- 05.08.1985 (Late) Maulana Asad Madani, Member of Parliament the then President of Jamiat Ulama-i-Hind while giving a speech in parliament on Babri Masjid. The resolution was adopted in the Parliament. The copy of the same for ready reference and kind perusal of this Hon'ble Court is annexed hereto and marked as **ANNEXURE A-3** (Pages 8375 to 8378) published by Manak Publications Parliamentary Speeches of Maulana Asad Madani.
- 24.12.1985 The trial court / Special Judge Faizabad decided the suit inter alia holding regarding measurement in consonance with Amin's report that Charans (feet) were engrossed on the chabutra and an idol of Thakorji was also installed which were being worshipped.

- 25.01.1986 One Umesh Chandra Pandey who was not party in any suit as he filed an application to open locks of Babri Mosque.
- 28.01.1986 The Civil Court passed order that since filing of O.O.S. 4 of 1989 (O.S. 12 of 1961) was summoned by High Court in F.A.F.O. No.180 of 1975 against one of order of appointment of Receiver by Civil Court, therefore he passed an order to put up said application in that date fixed.
- 01.02.1986 The District Judge ordered the opening of the lock placed on the grill leading to the centorum of the shrine in the disputed structure and he permitted puja by Hindu deities.
- 22.02.1986 Original Plaintiff Gopal Singh Visharad in original suit died and Raghubir Singh was substituted in his place.
- 27.02.1986 The issues respecting Babri Masjid were taken up in the Parliamentary Debates. The copy of which for ready reference and kind perusal of

this Hon'ble Court is annexed hereto and marked as ANNEXURE A-4 (Pages 8379 to 8386).

1987 Application by State of U.P. U/s 24 C.P.C. for withdrawal of suit and transfer to High Court.

24.02.1989 Written Statement filed by Defendant No.10 in Suit No.1.

01.07.1989 O.O.S. No.5/1989 (Regular Suit No.236/1989) titled Bhagwan Shri Ram Virajman through next friend (Mr. Deoki Nandan deceased) substituted by Shri Triloki Nath & Anr. Versus Shri Rajendra Singh & Ors.

The brief summary are as follows:

The instant suit was filed on behalf of the deities and Sri Ram Janam Bhumi through the

next friend, praying that the defendants be restrained not to interfere in the construction of the temple of plaintiff Nos. 1 and 2 on the ground that the deities are perpetual minors and against them Limitation Laws do not run.

The High Court was of the view that the place of birth i.e. Ram Janam Bhumi is a juristic person. The deity also attained the divinity like Agni, Vayu, Kedarnath. Asthan is personified as the spirit of divine worshipped as the birth place of Ram Lala or Lord Ram as a child . Spirit of divine ever remains present every where at all times for any one to invoke at any shape or form in accordance with his own aspirations and it can be shapeless and formless also. Case has been decided on the basis of decision of Hon'ble the Apex Court specially the law as laid down in 1999(5) SCC page 50, Ram Janki Deity Vs. State of Bihar, Gokul Nath Ji Mahraj Vs. Nathji Bhogilal AIR 1953 Allahabad 552, AIR 1967 Supreme Court 1044 Bishwanath and another Vs. Shri Thakur

Radhabhallabhji and others & other decisions of Privy Council and of different High Courts.

The prayer of the suit are as follows:

- (a) a declaration that the entire premises of Shri Ramjanambhumi at Ayodhya, as described by Annexures I, II and III belong to plaintiff Deities and (b) a permanent injunction against the defendants prohibiting them from interfering with or raising any objection to, or placing any obstruction in the construction of the new Temple building at Shri Ramjanambhumi, Ayodhya.

The issues framed in the suit are as follows:

**ISSUES NO. 1**

1. Whether the plaintiffs 1 and 2 are juridical persons?

**Findings:-**

Issue 1 (Suit-5) is answered in affirmative. Plaintiffs 1 and 2 both are juridical persons.

**Issue No.2**

2. Whether the suit in the name of deities described in the plaint as plaintiffs 1 and 2 is not maintainable through plaintiff no. 3 as next friend?

**Findings:-**

Issue 2 (Suit-5) is not answered as it is not necessary for the dispute in the case.

**Issue No.6**

6. Is the plaintiff No. 3 not entitled to represent the plaintiffs 1 and 2 as their next friend and is the suit not competent on this account?

**Findings:-**

Issue 6 (Suit-5) is decided in negative, i.e. in favour of plaintiffs (Suit-5).

**Issue No.9**

9. Was the disputed structure a mosque known as Babri Masjid?

**Findings:-**

Issue 9 (Suit-5) is answered against the plaintiffs.

**Issue No.10**

10. Whether the disputed structure could be treated to be a mosque on the allegations, contained in paragraph-24 of the plaint ?

**Findings:-**

Issue No.10 (Suit-5) is answered in affirmative.

**Issue No.14**

14. Whether the disputed structure claimed to be Babri Masjid was erected after demolishing Janma-Sthan temple at its site?

**Findings:-**

Issue No.14 (Suit-5) is answered in affirmative.



**Issue No.22**

22. Whether the premises in question or any part thereof is by tradition, belief and faith the birth place of Lord Rama as alleged in paragraphs 19 and 20 of the plaint ? If so, its effect?

**Findings:-**

Issue 22 (Suit-5)-It is held that the place of birth as believed and worshipped by Hindus is the area covered under the central dome of the three domed structure, i.e., the disputed structure in the inner courtyard in the premises of dispute.

**Issue No.15**

15. Whether the disputed structure claimed to be Babri Masjid was always used by the Muslims only, regularly for offering Namaz ever since its alleged construction in 1528 A.D. To 22nd December 1949 as alleged by the defendants 4 and 5?

**Findings:-**

Issue 15 (Suit-5)-It is held that the Muslims at least from 1860 and onwards have visited the inner courtyard in the premises in dispute and have offered Namaj thereat. The last Namaj was offered on 16th December, 1949.

**Issue No.16**

16. Whether the title of plaintiffs 1 & 2, if any, was extinguished as alleged in paragraph 25 of the written statement of defendant no. 4? If yes, have plaintiffs 1 & 2 reacquired title by adverse possession as alleged in paragraph 29 of the plaint?

**Findings:-**

Issue 16 (Suit-5)-Neither the title of plaintiffs 1 and 2 ever extinguished nor the question of reacquisition thereof ever arise.

**Issue No.24**

24. Whether worship has been done of the alleged plaintiff deity on the premises in

suit since time immemorial as alleged in paragraph 25 of the plaint?

**Findings:-**

Issue No.24 (Suit-5) is answered in affirmative.

**Issue No.17**

17. Whether on any part of the land surrounding the structure in dispute there are graves and is any part of that land was a Muslim Waqf for a graveyard?

**Findings:-**

Issue No.17 of Suit No.5) was deleted by order of the Hon'ble High Court dated 23.02.1996.

**Issue No.23**

23. Whether the judgment in Suit No. 61/280 of 1885 filed by Mahant Raghuber Das in the Court of Special Judge, Faizabad is binding upon the plaintiffs by application of the principles of estoppel and res judicata, as alleged by the defendants 4 and 5?

**Findings:-**

Issue No.23 (Suit-5) is answered in negative.

**Issue No.5**

- (5) Is the property in question properly identified and described in the plaint?

**Findings:-**

Issue No.5 (Suit-5) is answered in affirmative.

**Issue No.7**

- (7) Whether the defendant no. 3, alone is entitled to represent plaintiffs 1 and 2, and is the suit not competent on that account as alleged in paragraph 49 of the additional written statement of defendant no. 3?

**Findings:-**

Issue No.7 (Suit-5) is answered in negative.

**Issue No.8**

- (8) Is the defendant Nirmohi Akhara the "Shebait" of Bhagwan Sri Rama installed in the disputed structure?

**Findings:-**

Issue 8 (Suit-5) is answered against the Defendant No.3, Nirmohi Akhara.

**Issues No.19**

19. Whether the suit is bad for non-joinder of necessary parties, as pleaded in paragraph 43 of the additional written statement of Defendant No.3?

**Findings:-**

Issue No.19 (Suit-5) is answered in negative.

**Issue No.20**

20. Whether the alleged Trust, creating the Nyas defendant no.21, is void on the facts and grounds, stated in paragraph 47 of the written statement of Defendant No. 3?

**Findings:-**

Issue 20 (Suit-5) is not answered being unnecessary for the dispute in the case in hand.

**Issue No.21**

21. Whether the idols in question cannot be treated as deities as alleged in paragraphs 1, 11, 12, 21, 22, 27 and 41 of the written statement of defendant no. 4 and in paragraph 1 of the written statement of defendant no. 5?

**Findings:-**

Issue 21 (Suit-5) is answered in negative, i.e. against the Defendants Nos.4 and 5.

**Issues No. 26**

26. Whether the suit is bad for want of notice under Section 80 C.P.C. as alleged by the defendants 4 and 5?

**Issue No.27**

27. Whether the plea of suit being bad for want of notice under Section 80 C.P.C. can be raised by defendants 4 and 5?

**Findings:-**

Issues 26 and 27 (Suit-5) are answered in negative, i.e., in favour of Plaintiffs (Suit-5).

**Issue No.25**

25. Whether the judgment and decree dated 30th March 1946 passed in suit no. 29 of 1945 is not binding upon the plaintiffs as alleged by the plaintiffs?

**Findings:-**

Issue 25 (Suit-5) is answered in affirmative. It is held that the judgment dated 30.03.1946 in Suit No. 29 of 1949 is not binding upon the plaintiffs (suit-5).

**Issue No.29**

29. Whether the plaintiffs are precluded from bringing the present suit on account of dismissal of suit no. 57 of 1978 (Bhagwan

Sri Ram Lala Vs. state) of the Court of  
Munsif Sadar, Faizabad?

**Findings:-**

Issue 29 (Suit-5) is answered in negative,  
i.e. in favour of Plaintiffs.

**Issue No.28**

28. Whether the suit is bad for want of notice  
under Section 65 of the U.P. Muslim  
Waqfs Act, 1960 as alleged by  
defendants 4 and 5? If so, its effect?

**Findings:-**

Issue No.28 (Suit-5) is answered in  
negative.

**Issue No.18**

18. Whether the suit is barred by Section 34  
of the Specific Relief Act as alleged in  
paragraph 42 of the additional written  
statement of defendant no. 3 and also as  
alleged in paragraph 47 of the written  
statement of defendant no. 4 and  
paragraph 62 of the written statement of  
defendant no. 5?



**Findings:-**

Issue 18 (Suit-5) is answered in negative, i.e., against the Defendants Nos.3, 4 and 5.

**Issues No. 3(a)**

3(a) Whether the idol in question was installed under the central dome of the disputed building (since demolished) in the early hours of December 23, 1949 as alleged by the plaintiff in paragraph 27 of the plaint as clarified on 30.4.92 in their statement under order 10 Rule 2 C.P.C. ?

**Findings:-**

Issue 3(a) (Suit-5) is answered in affirmative. The idols were installed under the central dome of the disputed building in the early hours of 23rd December, 1949.

**Issue No.3(b)**

3(b) Whether the same idol was reinstalled at the same place on a chabutra under the canopy?

**Findings:-**

Issue 3(b) (Suit-5) is answered in affirmative.

**Issue No.3(c)**

3(c) "Whether the idols were placed at the disputed site on or after 6.12.92 in violation of the courts order dated 14.8.1989, 7.11.1989 and 15.11. 91?

**Findings:-**

Issue 3(c) (Suit-5) is answered in negative.

**Issue No.3(d)**

3(d) If the aforesaid issue is answered in the affirmative, whether the idols so placed still acquire the status of a deity?"

**Findings:-**

Issue 3(d) (Suit-5) is answered in affirmative.

**Issue No.4**

(4) Whether the idols in question had been in existence under the "Shikhar" prior to

6.12.92 from time immemorial as alleged in paragraph-44 of the additional written statement of defendant no. 3?

**Findings:-**

Issue 4 (Suit-5) is answered in negative. The idol in question kept under the Shikhar existed there prior to 6<sup>th</sup> December, 1992 but not from time immemorial and instead kept there<sup>at</sup> in the night of 22nd/23rd December, 1949.

**Issue No.11**

(11) Whether on the averments made in paragraph-25 of the plaint, no valid waqf was created in respect of the structure in dispute to constitute it as a mosque?

**Findings:-**

Issue 11 (Suit-5) is answered in affirmative.

**Issue No.12**

(12) If the structure in question is held to be mosque, can the same be shifted as

pleaded in paragraphs 34 and 35 of the  
plaint?

**Findings:-**

Issue No.12 (Suit-5) was deleted vide  
order dated 23.02.1996 by the Hon'ble  
High Court.

**Issue No.13**

(13) Whether the suit is barred by limitation ?

**Findings:-**

Issue 13 (Suit-5) is answered in negative,  
i.e., in favour of plaintiffs. It is held that  
suit is not barred by limitation.

**Issue No.30**

30. To what relief, if any, are plaintiffs or any  
of them entitled?

**Findings:-**

Issue 30 (Suit-5)-The suit is partly  
decreed in the manner the directions are  
issued in para 4566.

That the above suit by Judgment and order dated 30.09.2010 has been partly decreed by the Hon'ble High Court.

01.07.1989 Application seeking permission to file said suit as next friend which was allowed exparte on the same date on 01.07.1989. Application to recall of said order was rejected. The suit is barred under Order 1 Rule 8 C.P.C.

21.07.1989 A special bench was constituted comprising Justice K.C. Agarwal, Justice U. Srivastava & Justice Syed Abbas Raza.

14.08.1989 Written Statement filed by Defendant No.3 in Suit No.5.

14.08.1989 The High Court ordered maintenance of Status quo in respect of the disputed structure.

08.1989 Written Statement filed by Defendant No.11 in Suit No.5.

14.08.1989 Written Statement filed by Defendant No.17 in  
Suit No.5.

14-21.08.1989 Written Statement filed by Defendant No.5 in  
Suit No.5.

21-22.08.1989 Written Statement filed by Defendant No.6 in  
Suit No.5.

26-29.08.1989 Written Statement filed by Defendant No.4 in  
Suit No.5.

04.09.1989 Written Statement filed by Defendant No.24 in  
Suit No.5.

16-18.09.1989 Written Statement filed by Defendant No.25 in  
Suit No.5.

18.09.1989 Written Statement filed by Defendant No.23 in  
Suit No.5.

05.11.1989 Written Statement filed by Defendant No.20 in  
Suit No.4.

- 04.12.1989      Written Statement filed by Defendant No.13 in Suit No.4.
- 16.02.1990      Written Statement filed by Defendant No.10 in Suit No.4.
- 23.08.1990      O.O.S. No.2/1989 titled Shri Gopal Singh Visharad Versus Zahoor Ahmad & Ors. was withdrawn and dismissed.
- 27.08.1990      A paper was read by (Late) Maulana Syed Asad Madani, Member of Parliament, Rajya Sabha the then President of Jamiat Ulama-i-Hind at a conference on Babri Masjid held at London. The true translated copy of the same for ready reference and kind perusal of this Hon'ble Court is annexed hereto and marked as **ANNEXURE A-5 (Pages 8387 to 8408)**
- 1990              Shri Lal Krishna Advani to add fuel in fire started his Rath Yatra from Somnath Temple to Ayodhya. As a result and consequence riot took place at several places and finally at Samastipur (Bihar) he was arrested.

- 19.07.1991 Famous speech was given by (Late) Maulana Syed Asad Madani in the parliamentary "Protection of Religious Places and the issues of Babri Masjid". The copy of which for ready reference and kind perusal of this Hon'ble Court is annexed hereto and marked as **ANNEXURE A-6 (Pages 8409 to 8415)**. (Title Parliamentary speeches of Maulana Syed Asad Madani).
- 07.10.1991 The notification for acquisition was issued under Section 4 of the Land Acquisition Act was interalia proposing to acquire 277 acres of land.
- 21.10.1991 Written Statement filed by Defendant No.10 in Suit No.3.
- 08.11.1991 Replication filed by Plaintiffs to Written Statement of Defendant No.10 in Suit No.3.



- 18.11.1991      Replication filed by Plaintiff to Written Statement filed by Defendant No.10 in Suit No.4.
- 27.11.1991-
- 03.12.1991      Supplementary Replication filed by Plaintiff to the amended Written Statement filed by Defendant No.10 in Suit No.4.
- 20.04.1992      Additional written statement filed by Defendant No.3 in Suit No.5.
- 18.07.1992      The District Magistrate and Senior Superintendent of Police gave a report to the Chief Secretary interalia highlighting the nature and extent of construction suggesting that a massive construction work on the disputed site on which the orders directing maintenance of status quo was in progress is being continued.
- 26.07.1992      The Government of U.P. admitted that the work on the disputed site had been stopped.

August 1992      The Expert Committee headed by Shri S.S. Rai, Registrar General, gave its report interalia suggesting that the massive work was undertaken and is being executed in violation of the Court's Order.

05.08.1992      Shri K.K. Venugopal, learned senior counsel made a statement having been incorporated in the judgment and order reported in (1994) 6 SCC 442 as follows:-

"Shri K.K. Venugopal, learned counsel appearing for the respondents in both the contempt cases submitted that the respondents are placed in a disadvantageous position as to the sufficiency of opportunity to traverse the allegations made from time to time in these contempt proceedings. He submitted that the two contempt petitions had been filed in the months of February and April 1992 respectively and the notices issued to the State of Uttar Pradesh and other respondents confined themselves to certain specific acts of contempt specifically alleged in the petitions as originally

lodged. Learned counsel says that later on, from time to time, the State and other respondents are called upon to meet a shifting and entirely different set of allegations, said to arise out of certain events that occurred subsequent to the filing of the contempt petitions, particularly in the month of July, 1992.

Shri Venugopal stated that without being understood to be insistent upon a technicality that a further notice on the initiation of contempt is required to be issued on the new set of allegations, his clients' stand is that they be afforded a reasonable opportunity to traverse, in a comprehensive way, and cumulatively all the allegations contained in the affidavits filed from time to time by both the petitioners, as also traverse the material such as photographs etc, relied upon in support of the allegations.

3. We think that this prayer is reasonable and the respondents should have such an

opportunity. They shall meet the ease as presented in the affidavits filed by the petitioners in the month of July, 1992 in the pending contempt petitions in regard to the allegations of continued violation of the orders of the Courts, said to have occurred during the month of July, 1992;"

05-06.12.1992 Large congregation of Sadhus, Sages and Kar Sewaks gathered as a result and consequence of which a construction of Babri Mosque was raised to the ground.

06.12.1992 The structure known as Babri Mosque was demolished and raised to the ground.

06.12.1992 The President of India issued a proclamation under Article 356 of the Constitution of India consequent upon the demolition of Babri Mosque in utter violation of the solemn undertaking given to this Hon'ble Court.

07.12.1992 It was urged that the Central Government after the Prime Minister Statement had vowed to rebuilt the structure.

December 1992 The Contempt Petition No. 97 of 1992 in Writ Petition Nos.977 and 972 of 1991 and Contempt Petition No.102/1992 in W.P. (Civil) No.1000/1991 for initiating contempt of courts were filed interalia submitting that the orders have deliberately and willfully flouted and disobeyed by the State of U.P.

16.12.1992 Justice Librahan was appointed as a Commissioner with respect to the cause of the demolition of the Babri Masjid.

07.01.1993 An Ordinance namely acquisition of certain areas at Ayodhya was issued acquiring 67.703 of land in Ram Janam Bhoomi – Babri Masjid Complex.

07.01.1993 The Special Reference was made under Article 143 (1) of the Constitution of India. The

statement of objects and reasons were as follows:-

"Whether a Hindu temple or any Hindu religious structure existed prior to the construction of the Ram Janam Bhoomi and Babari Masjid (including the premises of the inner and outer courtyards on such structure) in the area on which the structure stands or not?"

07.01.1993 This Hon'ble Court was of the view that the best solution in the circumstances on rival contentions in the suits is to maintain status quo in between the communities that as a result and consequence all suits in between the parties had abated.

13.05.1994 II Additional Written Statement filed by Defendant No.3 in Suit No.5.

06.10.1994 Civil Judge Faizabad had adjudicated all suits and O.O.S. 4 of 1989 (O.S. No.12 / 1961) under the leading case.

24.10.1994 Acquisition was set aside. The Special Reference was written to the President unanswered by Judgment reported in Ismail Farooqui Versus Union of India (1994) 6 SCC 360 while allowing the transfer petition the suits were transferred to be reviewed and tried by the Hon'ble High Court.

24.10.1994 This Hon'ble Court was gracious enough to hold that the undertaking given to this Hon'ble Court by Shri Kalyan Singh the then Chief Minister was both in his personal capacity as well as on behalf of the government and as such there was a willful violation and for this violation he was convicted.

21.08.1995 III Additional Written Statement filed by Defendant No.3 in Suit No.4.

22.08.1995 Additional Written Statement filed by Defendant Nos.4 and 5 in Suit No.5.

24.08.1995 Additional Written Statement filed by Defendant No.9 in Suit No.3.

29.08.1995 Additional Written Statement filed by Defendant  
No.13 in Suit No.4

12.09.1995 Additional Written Statement filed by Defendant  
No.10 in Suit No.4

14.09.1995 Additional written statement filed by Defendant  
No. 17 in Suit No.4

17.10.1995 Additional Written Statement filed by Defendant  
No.20 in Suit No.4

July 1996 –

28.11.1996 Examination-in-Chief of P.W.1 to P.W.6 in Suit  
No.4 was conducted.

05.12.1996 Examination-in-Chief of P.W.7 in Suit No.4 was  
conducted.

20.01.1997/

18.02.1997 Examination-in-Chief of P.W.8 and P.W.9 in  
Suit No.4 was conducted.



28.02.1997 –

16.09.1997 Examination-in-Chief of PW 10 Mohd. Idris & PW 11 Mohd. Burhanuddin was conducted in Suit No.4 regarding characteristics of Mosque.

20.01.1998 &

13.07.1998 Examination-in-Chief of PW 12 Ram Shankar Upadhyay & P.W.13 Suresh Chandra Mishra regarding Temple (Existence & Demolition) in Suit No.4 was conducted.

16.02.1999 Examination-in-Chief of P.W.14 Jalil Ahmad in Suit No.4 was conducted.

15.04.1999 Examination-in-Chief of PW 15 Sushil Srivastava regarding Temple (Existence & Demolition) in Suit No.4 was conducted.

23.12.1999 Examination-in-Chief of O.P.W-1 Mahant Ram Chandra Das Digambar in Suit No.4 regarding birth place of Lord Rama, Continuous worship by Hindus and demolition of temple was conducted.

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- 22.02.2000 Examination-in-Chief of PW 16 Prof. Suraj Bhan regarding Temple (Existence & Demolition) in Suit No.4 was conducted.
- 20.10.2000 Examination-in-chief of PW 17 Zafar Ali Siddiqui was conducted regarding Commissioner/ Survey Report.
- 19.02.2001 Examination-in-Chief of PW 18 Suvira Jaiswal regarding Temple (Existence & Demolition) in Suit No.4 was conducted.
- 21.05.2001 Examination-in-Chief of PW 19 Maulana Atiq Ahmed was conducted in Suit No.4 regarding characteristics of Mosque.
- 16-20.06.2001 Examination-in-Chief of O.P.W-2 Deoki Nandan Agarwal in Suit No.4 regarding birth place of Lord Rama, Continuous worship by Hindus and demolition of temple was conducted.

- 28.06.2001 Examination-in-Chief of OPW 3 Dr. S.P. Gupta regarding Temple (Existence & Demolition) in Suit No.4 was conducted.
- 24.07.2001 Examination-in-Chief of PW 20 Prof. Shirin Musavi regarding Temple (Existence & Demolition) in Suit No.4 was conducted.
- 31.10.2001 Examination-in-Chief of OPW 9 Dr. Thakur Prasad Verma regarding Temple (Existence & Demolition) in Suit No.4 was conducted.
- 22.11.2001 Examination-in-Chief of P.W.21 Dr. M. Hashim Quidwai in Suit No.4 was conducted.
- 09-10.01.2002 –
- 05/06.03.2002 Examination-in-Chief of P.W.22, 23 and 25 in Suit No.4 was conducted. On 25.02.2002 Examination-in-Chief of PW 24 Prof. Dhaneshwar Mandal regarding Temple (Existence & Demolition) in Suit No.4 was conducted. And Examination –in-Chief of PW 22 Mohd. Khalid Nadvi and PW-25 Sibte

Mohammad Naqvi was conducted regarding characteristics of Mosque.

02-03.04.2002 Examination-in-Chief of PW 26 Kalbe Jawwad was conducted in Suit No.4 regarding characteristics of Mosque.

08.04.2002 –

22/23.04.2002 Examination-in-Chief of PW 27 and 28 regarding Temple (Existence & Demolition) in Suit No.4 was conducted.

06.08.2002 –

16.12.2002 Examination-in-Chief of OPWs 4, 5, 6, 7, 12 in Suit No.4 regarding birth place of Lord Rama, Continuous worship by Hindus and demolition of temple was conducted. On 25.11.2002 Examination-in-Chief of OPW 11 Satish Chandra Mittal regarding Temple (Existence & Demolition) in Suit No.4 was conducted. That on 03.10.2002 Examination-in-chief of OPW 8 Ashok Chandra Chaterjee and on 11.11.2002 Examination-in-chief of OPW 10 Dr. Koluvyl

Vyassrayasastrri Ramesh was conducted regarding Sanskrit Inscriptions found in 1992.

April 2002 The High Court of judicature at Allahabad, Lucknow Bench, Lucknow commenced the hearing of the cases comprising three Hon'ble Judges of the Lucknow Bench.

2003 Shri L.K. Advani including seven Hindu leaders held responsible for demolition of the Babri Mosque and consequently they were directed to be prosecuted.

On the direction of the Hon'ble High Court the Archaeological Survey of India started its investigation.

27.01.2003 -

04.08.2003 Examination-in-Chief of OPW 13, DW 1/1, 1/2 and 1/3 in Suit No.4 regarding birth place of Lord Rama, Continuous worship by Hindus and demolition of temple was conducted. On 15.07.2003 Examination-in-Chief of OPW 16 Jagadguru Ramanandacharya Swami Rambhadracharya regarding Temple

2004 The Hon'ble High Court gave a clean chit to Mr. L.K. Advani in demolition of Babri Masjid.

06.01.2004 -

01.12.2004 Examination-in-Chief of DW 3/6, 3/7, 3/8, 3/9, 3/11, 3/12, 3/13, 3/14, 3/15, 3/16, 3/17, 3/18, 3/19, 3/20, 2/1 in Suit No.4 regarding birth place of Lord Rama, Continuous worship by Hindus and demolition of temple was conducted. That on 23.03.2004 Examination-in-Chief of DW 3/10 Shri Pateshwari Dutt Pandey was conducted regarding Commissioner/ Survey Report.

20.01.2005 -

18.07.2005 Examination-in-Chief of DW 3/1 Mahant Bhaskar Das, DW 2/1-2, 2/1-3, 13/1-1, 17/1, 20/1, 20/2, 20/3, in Suit No.4 regarding birth place of Lord Rama, Continuous worship by Hindus and demolition of temple was conducted. And on 07.04.2005 Examination-in-Chief of DW 13/1-3 Dr. Bishan Bahadur and on 16.05.2005 Examination-in-Chief of DW 20/4 Madan Mohan Gupta regarding Temple

(Existence & Demolition) in Suit No.4 was conducted. That on 31.03.2003 Examination-in-chief of OPW 15 Dr. M.N. Katti was conducted regarding Sanskrit Inscriptions found in 1992 and on 07.02.2003 Examination-in-chief of OPW 14 Dr. Rakesh Tiwari was conducted regarding Artifacts in debris.

22.08.2003

Extract of the ASI Report was filed.

29.08.2003

22.09.2003

30.10.2003

14.11.2003

18.11.2003

Examination-in-Chief of DW 3/1 Mahant Bhaskar Das, DW 3/2 Raja Ram Pandey, DW 3/3 Satya Narayan Tripathi, DW 3/4 Shiv Saran Das, DW 3/5 Raghunath Prasad Pandey, DW 3/6 Sita Ram Yadav, DW 3/7 Mahant Ramji Das, DW 3/8 Pt. Shyam Sundar Mishra, in Suit No.4 regarding birth place of Lord Rama, Continuous worship by Hindus and demolition of temple was conducted.

(Existence & Demolition) in Suit No.4 was conducted.

29.08.2005 –

12.09.2005 Examination in chief of DW 6/1-1 Hazi Mahmood Ahmad and DW 6/1-2 Mohd. Abid in Suit No.4 was conducted regarding ASI Report

28.09.2005 –

07.11.2005 Examination in chief of PW 29 Dr. Jaya Menon and PW 30 Dr. R.C. Thakran in Suit No.4 was conducted regarding ASI Report.

20.01.2006 –

03.10.2006 Examination in chief of PW 31, 32, OPW 17, 18, 19, in Suit No.4 was conducted regarding ASI Report.

2007

The Supreme Court refused to give their verdict on review petition.

15.01.2007

Examination in chief of DW 20/5 Jayanti Prasad Srivastava in Suit No.4 was conducted regarding ASI Report.



- 30.06.2009 Hon'ble Mr. Justice Librahan submitted his report to the Central Government.
- 26.07.2010 The Hon'ble High Court of judicature at Allahabad, Lucknow Bench, Lucknow fixed the date for pronouncement of the judgment on 24.09.2010.
- Sept. 2010 Subsequently an application under Section 89 of C.P.C. was filed by Ramesh Chandra Tripathi, Defendant No.17 in O.O.S. No.4/1989 to refer the matter for mediation.
- 18.09.2010 The aforesaid application was dismissed by Hon'ble High Court imposing the cost of Rs.50,000/- upon the applicant.
- Sept. 2010 Against the aforesaid Order dated 18.09.2010, Ramesh Chandra Tripathi filed the S.L.P. (Civil) No.27466-27467/2010 before this Hon'ble Court for stay of the pronouncement of the Judgment.

23.09.2010 This Hon'ble Court issued notice to the parties returnable within a week till date stayed the pronouncement of the judgment.

28.09.2010 This Hon'ble Court after hearing the parties dismissed the Special Leave Petition filed by Ramesh Chandra Tripathi.

30.09.2010 The Hon'ble High Court decided all suits.

That in all the above noted suits, 120 issues including sub issues were decided as stated hereinabove.

That ultimate and overall finding while considering various issues by the High Court decided were as follows:

- (i) It is declared that the area covered by the central dome of the three domed structure, i.e., the disputed structure being the deity of Bhagwan Ram Janamsthan and place of birth of Lord Rama as per faith and belief of the

Hindus, belong to plaintiffs (Suit-5) and shall not be obstructed or interfered in any manner by the defendants. This area is shown by letters AA BB CC DD in Appendix 7 to this judgment.

- (ii) The area within the inner courtyard denoted by letters B C D L K J H G in Appendix 7 (excluding (i) above) belong to members of both the communities, i.e., Hindus (here plaintiffs, Suit-5) and Muslims since it was being used by both since decades and centuries. It is, however, made clear that for the purpose of share of plaintiffs, Suit-5 under this direction the area which is covered by (i) above shall also be included.

- (iii) The area covered by the structures, namely, Ram Chabutra, (EE FF GG HH in Appendix 7) Sita Rasoi (MM NN OO PP in Appendix 7) and Bhandar (II JJ KK LL in Appendix 7) in the outer courtyard is declared in the share of Nirmohi Akhara

(defendant no. 3) and they shall be entitled to possession thereof in the absence of any person with better title.

- (iv) The open area within the outer courtyard (A G H J K L E F in Appendix 7) (except that covered by (iii) above) shall be shared by Nirmohi Akhara (defendant no. 3) and plaintiffs (Suit-5) since it has been generally used by the Hindu people for worship at both places.

(iv-a) It is however made clear that the share of Muslim parties shall not be less than one third ( $1/3$ ) of the total area of the premises and if necessary it may be given some area of outer courtyard. It is also made clear that while making partition by metes and bounds, if some minor adjustments are to be made with respect to the share of different parties, the affected party may be compensated by allotting the requisite land from the

area which is under acquisition of the Government of India.

- (v) The land which is available with the Government of India acquired under Ayodhya Act 1993 for providing it to the parties who are successful in the suit for better enjoyment of the property shall be made available to the above concerned parties in such manner so that all the three parties may utilise the area to which they are entitled to, by having separate entry for egress and ingress of the people without disturbing each other's rights. For this purpose the concerned parties may approach the Government of India who shall act in accordance with the above directions and also as contained in the judgment of Apex Court in Dr. Ismail Farooqi (Supra).

- (vi) A decree, partly preliminary and partly final, to the effect as said above (i to v) is passed. Suit-5 is decreed in part to the

above extent. The parties are at liberty to file their suggestions for actual partition of the property in dispute in the manner as directed above by metes and bounds by submitting an application to this effect to the Officer on Special Duty, Ayodhya Bench at Lucknow or the Registrar, Lucknow Bench, Lucknow, as the case may be.

- (vii) For a period of three months or unless directed otherwise, whichever is earlier, the parties shall maintain status quo as on today in respect of property in dispute.

15.11.2010

Aggrieved by the impugned judgments and preliminary decrees, the Appellant prefers the present petitions of Appeal under Section 96(1) of the Code of Civil Procedure, 1908 being the First Appeal against the preliminary decrees passed by the High Court of judicature at Allahabad, Lucknow Bench, Lucknow exercising original jurisdiction. Hence this Appeal.

IMPUGNED ORDER DATED 30.09.2010 PASSED BY  
HON'BLE HIGH COURT OF JUDICATRE AT ALLAHABAD,  
LUCKNOW BENCH, LUCKNOW

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