

ISSN: 2582 - 2942



# LEX FORTI

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LEGAL JOURNAL

VOL- I ISSUE- VI

AUGUST 2020

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**M Siddiq (D) The LRS vs. Mahant Suresh Das & Ors**

Yashraj Singh Kanawat

## CASE DETAILS:

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- **Court Name-** Supreme Court of India
- **Case Number-** CA 10866-10867/2010
- **Decided On-** 9 November 2019
- **Hon'ble Judges/ Coram-** Ranjan Gogoi, SA Bobde, Ashok Bhushan, Dy Chandrachud, S Abdul Nazeer
- **Petitioner-** M. Siddiq (Deceased); Maulana Asshad Rashidi; Sunni Central Board of Waqfs;
- **Respondent-** Mahant Suresh Das and Others; Nirmohi Akhara; Bhagwan Shri Ram Virajman; The State of Uttar Pradesh; District Collector (Faizabad); City Magistrate (Faizabad); All India Hindu Mahasabha; Superintendent of Police (Faizabad); Arya Maha Praseshik Sabha; All India Sanathan Dharam Sabha

## FACTS OF THE CASE:

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Babri Masjid was a 16th-century mosque situated in Ayodhya, Uttar Pradesh. The site of the mosque is believed to be the birthplace of Lord Ram (Shri Ram Janmabhoomi) by a large number of Hindus. This has repeatedly led to disputes between Hindus and Muslim communities since the 18<sup>th</sup> Century about who possesses the land.

The current dispute arose out of four regular suits which were instituted between 1950 and 1989. On the night of 22 December, idols of Lord Ram were placed (appeared) under the Babri Masjid dome. A First Information Report ("FIR") was registered in relation to the incident. On 29 December 1949, a Faizabad court placed the site under the custodial responsibility of the state to control rising communal tensions. The Additional Magistrate issued a preliminary order under Section 145 of the Code of Criminal Procedure, 1898<sup>1</sup>. The site was placed under the receivership of the Chairman of the Municipal Board of Faizabad.

Following the order of Additional Magistrate, three key title suits challenging it were filed:

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<sup>1</sup> Section 145, Procedure where dispute concerning land or water is likely to cause breach of peace.

(1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

- A. In 1959, the Nirmohi Akhara filed a title suit (suit no. 3)<sup>2</sup>. They claimed that they were the rightful manager of the Ram Janmabhoomi.
- B. In 1961, the Uttar Pradesh Sunni Central Board of Waqfs (hereafter Sunni Waqf Board) also filed a suit (suit no. 4)<sup>3</sup>. They claimed the possession of the mosque.
- C. In 1989, senior advocate Deoki N Agarwal filed a suit (suit no. 5)<sup>4</sup> on behalf of Shri Ram Virajman in the Allahabad High Court. All prior suits were moved to the High Court.

In an important development in 1992, Babri Masjid was demolished by *kar sevaks* affiliated with the Vishwa Hindu Parishad and other such organizations.

In September 2010, the Allahabad High Court set forth a judgment splitting the Ayodhya title into three equal parts. It bestowed the title to the Nirmohi Akhara, Lord Ram displayed by Triloki Nath Pandey (a RSS volunteer and Vishva Hindu Parishad functionary, replaced Agarwal after his death), and the Sunni Waqf Board.

All the parties filed appeals, professing different rights over the disputed land. In 2011, the Supreme Court stayed the judgment of Allahabad High Court.

On September 27, 2018, a three-judge bench delivered its judgment on the question of whether the matter should be entrusted to a Constitution Bench (comprising 5-judges). The court ruled that a three-judge bench will continue to hear the matter. It refused to refer it to a Constitution Bench on the ground that *Faruqui* did not require revisiting. *Faruqui* had decided that mosques are not an important feature of Islam. Justice Bhushan, on the place of Chief Justice Misra and himself, wrote the majority opinion. Justice Nazeer wrote a dissenting opinion:

- Justice Bhushan's majority opinion
- Justice Nazeer's minority opinion

On 8 January 2019, Chief Justice Gogoi assigned the matter to a five-judge Constitution Bench, making use of his administrative powers as Chief Justice.

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<sup>2</sup> Regular Suit No 26 of 1959 (subsequently renumbered as OOS No. 3 of 1989)

<sup>3</sup> Regular Suit No. 12 of 1961 (subsequently renumbered as OOS No. 4 of 1989)

<sup>4</sup> Regular Suit No. 236 of 1989 (subsequently renumbered as OOS No. 5 of 1989)



On 8 March 2019, the court ordered major parties to attempt mediation over a period of eight weeks. The mediation proceedings started on March 13 and were set to complete in early May. On 10 May, the court extended the mediation period till 15 August, upon the request of parties.

On 9 July one of the parties, Gopal Singh Visharad, visited the court to continue day-to-day court hearings. He contended that no progress was done in the mediation proceedings.

On 6 August, the court started hearing final arguments. It first heard the Nirmohi Akhara, and then, Shri Ram Virajman and various other Hindu parties. Then they heard the arguments for the Sunni Waqf Board.

On 9 November 2019, the court delivered its judgment.

#### **HISTORICAL BACKGROUND AND TIMELINE:**

- I. **1529:** Babri Masjid was constructed by Mir Baqi during the reign of the Mughal emperor, Babur.
- II. **1885:** Mahant Raghbir Das files the first suit in this matter, looking to construct a temple on property attached to the mosque. The Faizabad District Magistrate (DM) refused him for permission. Then, Mahant Raghbir Das filed a title suit in Faizabad Court against the Secretary of State for India, asking for permission to construct a temple on the chabutra (courtyard) of the Babri mosque. Faizabad Court rejected his plea.
- III. **1949:** On the night of 22nd December, a Ram Idol came into sight inside the mosque. Hindus see the emerging of the Idol as a divine revelation, however many contended that the Idol was smuggled inside at night. Hindus start offering prayers.
- IV. **1950:** Suit (suit no. 1) was filed by Gopal Singh Visharad (worshipper) claiming the right to worship Lord Ram.
- V. **1959:** The Nirmohi Akhada filed the title suit(suit no.3) and claimed for management rights and possession of the Janmabhoomi.
- VI. **1961:** The Sunni Waqf Board also filed the suit (suit. 4) and claimed possession of the area.
- VII. **1984:** A committee was formed by the Hindu group which in turn started a movement to build the temple at the disputed site.
- VIII. **1989:** Another suit (suit no. 5) on behalf of Ram Lalla was filed by senior advocate Deoki N Agarwal. A foundation of a new temple was laid adjacent to the disputed structure by Vishwa Hindu Parishad.

- IX. **1992:** On 6th December 1992, the Babri Masjid was demolished by the 2,00,000 Kar sevaks who were associated with the Vishwa Hindu Parishad and other organizations. This demolition led to large communal riots around the country.
- X. **2010:** In the 2: 1 majority, the Allahabad High court ruled that the disputed land must be divided into three parts i.e. between Sunni Waqf Board, Nirmohi Akhada, and Ram Lalla. Where the area of the inner courtyard has gone in the favour of Ram Lalla, next to the area of Sita Rasoi and Ram Chabutra has gone in the favour of Nirmohi Akhada and the rest one-third partition has gone in the favor of Sunni Waqf Board. This portion was divided after the adjustment of the extra land where it goes to the Government.
- XI. **2018:** On 27th September the three-judge bench decided that the bench will continue to hear the dispute on the question of whether the dispute is referred to the larger bench i.e. Constitutional Bench comprising five- judges.
- XII. **2019:** On assuming the post of Chief Justice of India after the retirement of Chief Justice Dipak Mishra, on 8 January Ranjan Gogoi assigned the dispute to the larger Bench (five-judge Constitutional Bench) and started the hearing.

### **ISSUE:**

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1. Is the judgment of Allahabad High Court, splitting the Ayodhya land title between the Sunni Waqf Board, Nirmohi Akhara and Ram Lalla, valid?
  2. Are suits 3 and 4 barred by limitation, under the Limitation Act, 1908?
  3. Is the Ram Janmabhoomi (the birthplace of Ram) a juristic body, independent of the presence of idols? And if so, is it immune from possession claims as a juristic body?

### **JUDGMENT:**

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Answering the issue of limitation, all suits except suit no. 3 all suits are maintainable- It was held that suit no. 3 filed by Nirmohi Akhada is barred by the Limitation Act and shall be dismissed.

It was held that suit no. 4 filed by the Sunni Waqf Board is within the limitation and the judgment of Allahabad declaring it to be barred gets reversed.

It was held that suit no. 5 filed on behalf of Ram Lalla is within limitation and is maintainable. The court also held that the title of the possession is awarded to the deity of Shri Ram Virajman.

The result of the case is based on the archaeological survey which says that proof of massive structure had been found below the remains of demolished Babri Masjid wherein a survey of the presence of wall and pillars of a temple-like structure was also found<sup>5</sup>.

But the possession shall remain with the statutory receiver of the Central Government until further notification comes. The Central Government will be given three months from the date of judgment for formulating a scheme under sections 6 and 7 of the Acquisition of Certain Area at Ayodhya Act, 1993 where the scheme shall focus on the setting up of trust or any other body under section 6.

Sunni Waqf Board is also allotted 5 acres of land for the construction of mosque in Ayodhya.

It was held that Asthan Ram Janmabhoomi is not a juristic body.

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<sup>5</sup> Report of Archeological Survey of India