

ADDENDA

Whether disputed structure is the holy birth place of Lord Ram as per the faith, belief and trust of the Hindus?

1. It is necessary to notice the issues framed in all the suits related to the above and findings recorded by the High Court.

In **Suit No.1** following was the relevant issue:

Issue No.1 was "Is the property in suit the site of Janam Bhumi of Sri Ram Chandra Ji ?"

In **Suit No.3** following were the relevant issues:

Issue No.1 : Is there a temple of Janam Bhumi with idols installed therein as alleged in para 3 of the plaint ?

Issue No.5 : Is the property in suit a Mosque made by Emperor Babar known as Babri Masjid ?

In **Suit No.4** relevant issues were:

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

Issue No. 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?

Issue No.11 : Is the property in suit the site of Janam Bhumi of Sri Ram Chandraji?

Issue No.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 ?

In Suit No.5 relevant issue was:

Issue No.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 ?

2. After noticing the issues relevant to the points under consideration, it is necessary to notice the pleadings of the parties in brief in the above respect.

3. In Suit No.1, the plaintiff, follower of Sanatan Dharam is the resident of Ayodhya and as per his religion, he used to worship and have the darshan of the deities and Idols. It was pleaded in paragraph 1 and 2:

"1. That the original Plaintiff, follower of Sanatan Dharm and is the resident of Ayodhya and as per his religion, he used to

worship and have the darshan of the deities and idols and the present plaintiff like his deceased father (original Plaintiff) is the follower of Sanatan Dharma and performs the worship and has the darshan of the deities and holy places etc.

2. That the plaintiff has been worshipping and having darshan of the idol of Lord Shri Ram Chandra Ji and Charan Paduka (foot impressions) etc., in that place of Janambhumi , details whereof has been given hereinbelow and he is entitled to perform worship and have darshan in that place without any obstruction or interference and forever in future also."

4. In the written statement filed by the defendant No.1, Zahoor Ahmed, para 2 of the plaint was replied in following manner:

"2. The corresponding paragraph is denied. The property of which the case has been filed is not Janambhumi but a mosque constructed by emperor of India Babar Shah."

5. In paragraph 9, it was pleaded that Mosque was constructed by emperor Babar Shah through its Minister, Mohammad Mir Baqi in the year 1528.

6. In paragraph 27 it was pleaded that in Ayodhya there was a temple on the place of Janmasthan of Ram Janma Bhumi for quite long and still existing in which there

are Idols of Ramchandrajji etc. It was stated that the present suit claiming as Babri Masjid as the place of Janmasthan against the defendants and other persons is objectionable and is the result of achieving nefarious ends and to take advantage in the coming elections.

7. Plaintiff filed replication denying paragraph 9 of the written statement. It was denied that Mosque is the Babri Mosque. Paragraph 27 of the written statement was also denied. It was stated that temple Janma Asthan mentioned by the defendant is another temple whose boundaries were also mentioned in the replication.

8. Defendant Nos.6, 8 and 9, who were the State-parties also filed their written statement.

9. U.P. Sunni Central Board of Wakf (hereinafter referred to as "Sunni Board"), Defendant No.10, filed written statement pleading that building referred to in paragraph 2 in the plaint is not place of Janma Bhumi of Ram Chandra and plaintiff has no right and no Idols of Ram Chandra were ever installed in the said building. There is no question of any right and claim of the

plaintiff to perform Puja and Darshan. It was pleaded that property in suit known as Babri Masjid and same was constructed in the regime of emperor Babar. In the additional pleas in paragraph 10 following was stated:

"That the property in suit is an old mosque constructed around the year 1528 AD during the regime of Emperor Babar under the supervision of Mir Baqi and the same has always been used as a mosque and it was never used as a temple or as a place of worship for any other community except muslims."

10. Plaintiff of Suit No.3 pleaded that Janma Asthan, now, commonly known as Janma Bhumi, birth place of Ram is situate in Ayodhya belonged to plaintiff No.1. The said Asthan, the Janma Bhumi is of ancient antiquity and has existed since before the living memory of man. The Muslims, Defendant Nos.6 to 8 filed written statement where it was pleaded that property against which plaintiff has filed the suit is Babri Masjid built by Babar Shah constructed in the year 1528 A.D. U.P. Sunni Central Board of Wakf had also filed written statement claiming the suit property as Mosque constructed by emperor Babar in 1528 and existence of any temple was denied.

11. A written statement was also filed by Defendant No.10, Umesh Chandra Pandey. In his written statement he has stated that Janma Asthan is holy place for worshipping the Deity of Ram Lalla Virajman there.

12. In Suit No.4, the plaintiff pleaded that in the town of Ayodhya there exists an ancient historic Mosque commonly known as Babri Masjid built by emperor Babar more than 433 years ago, after his conquest of India and occupation of territories including the town of Ayodhya. In Suit No.4, written statement was filed by Defendant Nos.1 and 2. In paragraph 25 it was pleaded that members of the Hindu community have from time immemorial been worshipping the site as of the Janma Bhumi. A written statement was also filed by Defendant No.3, Nirmohi Akhara and Defendant No.4, Mahant Raghunath Das. The existence of Mosque claimed by the plaintiff was denied. It was further pleaded that the alleged Mosque never existed, nor it exists now. The building which the plaintiffs have been wrongly referring as Babri Masjid is and has always been the temple of Janma Bhumi with Idols of Hindu God installed

therein. In the additional pleas it was pleaded that the temple in question known as Janma Bhumi, the birth place of Lord Ram Chandra, situate in Ayodhya belongs and will always belongs to Defendant No.3.

13. In Suit No.4, written statement was also filed by State, Defendant Nos.5 to 8 in which it was pleaded that the Government is not interested in the property which is in dispute and as such it is not proposed to contest the suit. Defendant No.10 filed a written statement and additional written statement. Few other defendants also filed written statement. In written statement filed by Dharam Das, Defendant No.13, it was pleaded that Mir Baqi, who was a Shia and commanded by Babar, demolished the ancient Hindu temple at the time of Raja Vikramaditya at Sri Ram Janma Bhumi. It was, further, pleaded that originally there was a temple erected. Few of the other defendants filed written statements. Defendant No.20, the convenor of Akhil Bharatiya Shri Ram Janma Bhumi Punrudhar Samiti filed a detailed written statement and additional statement. Plaintiff also filed a replication.

14. In Suit No.5 it was pleaded that premises in dispute is the place where Maryada Purushottam Ram Chandra Ji Maharaj was born. The Hindus worship divine which has no quality or shape or form. In paragraph 19 and 20 following was pleaded:

"19. That is manifestly established by public records of unimpeachable authority that the premises in dispute is the place where Maryada Purushottam Ji Maharaj was born as the son of Maharaja Dashrath of the solar Dynasty, which according to the tradition and the faith of the devotees of Bhagwan Sri Rama is the place where HE manifested HIMSELF in human form as an incarnation of BHAGWAN VISHNU. The place has since ever been called Sri Rama Janma Bhumi by all and sundry through the ages.

20. That the place itself, or the ASTHAN SRI RAMA JANMA BHUMI, as it has come to be known, has been an object of worship as a Deity by the devotees of BHAGWAN SRI RAMA, as it personifies the spirit of the Divine worshipped in the form of SRI RAMA LALA or Lord RAMA the child. The Asthan was thus Deified and has had a juridical personality of its own even before the construction of a Temple building or the installation of the idol of Bhagwan Sri Rama there at."

15. In paragraph 23 of the plaint, plaintiff also relied on '1928 Edition of the Fyzabad Gazetteer published by the Government Press, U.P.

16. It was further pleaded that disputed structure was raised on the land belonging to the plaintiff-Deity after destroying the temple situate there. In paragraph 24(C), it was further pleaded that in spite of all that Mir Baqi tried to do with the Temple, the land always continued to vest in the Plaintiff-Deities. Paragraph 24(C) is as follows:

"24(C) That in spite of all that Mir Baqi tried to do with the Temple, the land always continued to vest in the Plaintiff Deities, and they never surrendered their possession over it. Their possession continued in fact and in law. The ASTHAN never went out of the possession of the Deity and HIS worshippers. They continued to worship HIM through such symbols as the CHARAN and SITA RASOI, and the idol of BHAGWAN SRI RAM LALLA VIRAJMAN on the Chabutra, called the Rama Chabutra, within the enclosed courtyard of the building directly in front of the arched opening of its Southern dome. No one could enter the building except after passing through there can be no Idol worship within the courtyard of a mosque, and the passage to a mosque must be free and unobstructed and open at all times to the 'Faithful'. It can never be through Hindu place of worship. There can be no co-sharing of title or possession with ALLAH in the case of a mosque. His possession must be exclusive."

17. In paragraph 25 it was pleaded that worship of the Plaintiff-Deities has continued since ever throughout the ages at Sri Ram Janma Bhumi. The place belongs to the Deities. No valid Waqf was ever created or could have been created at the place or any part of it, in view of the title and possession of the Plaintiff-Deities thereon.

18. Defendant No.3, Nirmohi Akhara filed a written statement wherein denying paragraphs 19 and 20 following was pleaded:

"19. That the contents of para-19 need no reply except that though the birth place of Bhagwan Ram is place where the temple known as Ram Janma Bhumi Temple is constructed but the dispute is not regarding the place of birth of Lord Rama but regarding the Temple known as Tample Shri Ram Janma Bhumi. The belief that Lord Ram is the son of Raja Dashrath of solar Dynasty is not disputed.

20. That the contents of para-20 of the plaint are denied. They are products of imagination of the so called Next Friend of the plaintiffs 1 and 2. The plaintiffs studiously avoid to mention the subject of dispute as the Ram Janma Bhumi Temple for whose delivery of charge and management the Nirmohi Akhara has filed the suit No.26 of 1959 and maliciously uses the phrase Asthan Sri Ram Janma Bhumi which is meaningless. The said Asthan is not a juridical person."

19. Additional written statements were also filed by defendant No.3. In para-42 of the additional written statement it was pleaded that the outer Sahan carried a little temple of Bhagwan Ram Lallaji along with other Idols which was regularly worshipped according to the customs prevailing amongst Rama Nandi Vairagies. The outer part with temple of Ram Lallaji and other Deities have ever been in management and charge of Nirmohi Akhara as Shebait. It was further pleaded that attachment made in 1949 was only in respect of main building of Garbh Grahya carrying three "Shikher" wherein the Deity of Bhagwan Sri Ram Chandraji is installed by Nirmohi Akhara from time beyond the human memory.

20. The written statement was filed by Sunni Board, Defendant No.4. In para-13, it was pleaded that building in dispute is not the Janam Bhumi of Sri Ram Chandraji and no Idols of Ram Chandraji were ever installed in the said building. In the second part of para-13 following was pleaded:

"13..... It is further submitted that the building in dispute is not the Janam Bhoomi

of Sri Ram Chandraji and no Idols of Sri Ram Chandraji were ever installed in the said building and as such there arises no question of any right or claim of the defendant No.20 or of anyone else to perform Pooja and Darshan over there. The fact is that the property in suit is an old mosque known as Babri Masjid and the same was constructed during the regime of Emperor Babar."

21. It was pleaded in para-19 that neither there is any public record, much less any record of unimpeachable authority showing that the premises in dispute is the place of birth of Sri Ram Chandraji nor there is any historical or judicial record to testify. It was further pleaded in para-19 that Hindu books as well as the writing of Hindu scholars themselves make it very doubtful as to whether the personality of Sri Ram Chandraji is a historical personality. In para-24 it was pleaded that at no point of time there ever existed any temple at the site of the Babri Masjid and it is absolutely incorrect to say that the said Mosque was constructed, after destroying any ancient temple, with the material of the alleged temple. The Mosque in question has always been used as a Mosque since its construction during the regime of Emperor Babar.

22. Defendant No.5 also filed written statement. It was pleaded in para 19 that there is no evidence, historic or otherwise, to indicate that Sri Ram Chandra Ji was born there. Defendant Nos.4 and 5 also filed an additional written statement.

23. The reference of one more written statement is necessary i.e. the written statement filed by Defendant No.24. Defendant No.24 is Prince Anjum, President, All India Shia Conference, Lucknow. In reference to Lord Ram, Defendant No.24 has pleaded that Muslims of India has highest regard for Lord Ram. Pleadings made in para-10 of the written statement in this regard are as follows:

"10. With reference to the statements made in paragraph 18, this defendant at the outset wishes to record the fact that he and the Muslims of India have the highest regard for Lord Rama. These sentiments of the Muslims are best reflected in the poem entitled "Ram" composed by the greatest Muslim thinker of India of the present century Allama Dr.Sir Muhammad Iqbal, who has summed up in just one verse of the long poem what Muslims of India think of Shri Ram Chanerji:

"Hae Ram ke wajood pa Hindostan ko naaz
Ahl-e Nazar Samajht-e hain usko Imam-e-
Hind."

Meaning- India is proud of the existence of Ram. The intelligentsia consider him as the leader of India."

24. It was, however, denied that premises in dispute is the place where Ram Chandraji was born. In paragraph 15 of the written statement he has referred to Maulana Syed Sabahuddin Abdur Rahman who in his treatise "BABRI MASJID" had stated that if it is proved that Babri Masjid has been built after demolishing Ram Janam Bhumi Mandir on its place, then such a Mosque if built on such an usurped land deserves to be destroyed. In paragraph 15 following was pleaded:

"15.....In this connection, the celebrated Muslim historian and scholar Maulana Syed Sabahuddin Abdur Rahman (since expired) in his well-known treatise "BABRI MASJID" wrote at page 5 at the very beginning of his preface thus: (translation from Urdu)

"On behalf of Muslims I also have a right to say that if it is proved that Babri Masjid has been built after demolishing Ram Janam Bhoomi Mandir on its place, then such a mosque if built on such an usurped land deserves to be destroyed. No theologian or Aalim can give Fatwa to hold Namaz in it."

25. To the same effect pleadings were made in para-26 which are as follows:

"26. That as regards the contents of paragraphs 34 and 35 of the Suit Plaintiff, the answering defendant being a representative of the Shia Muslims of India is deadly against any form of sacrilegious actions. He is of the firm view that no place of worship of any religion should be destroyed and no place of worship should be constructed on the ruins of the destroyed one. The Answering defendant firmly believes that the Babri Masjid was certainly not built after destroying the Vikramaditya Mandir or any temple. Yet, at the same time if it is unequivocally proved in this Hon'ble Court in the light of historical archaeological and expert scientific evidence that the Babri Masjid was really built after demolishing any Mandir on the Mandir land, only then this defendant will withdraw his opposition.

As a further concession to the Plaintiff No.3 and to the Hindu community of India whose religious sentiments the said Plaintiff and his party are trying to wrongly arouse since last 3 years, this Defendant is prepared to withdraw his opposition also if it is unequivocally proved, in this Hon'ble Court that the belief, of Ram Janam Asthan being at the presently claimed spot inside the Babri Masjid, existed from before the Babri Masjid was built, existed from before the Babri Masjid was built. And that the Babri Masjid was knowingly built on the Ram Janam Asthan sport."

26. Defendant No.25 also filed written statement. It was pleaded that the area and the places indicated in Annexure NO.1, 2 and 3 of the plaint are neither Ram

Janma Bhumi nor Ram Janma Asthan. It was further stated that it is evident that there exists a Mosque known as Babri Masjid, the existence of this Mosque is established by record, Historic, Judicial and Revenue.

27. The above is the relevant pleading of the parties on the points under consideration.

28. Faith and belief foster and promote the spiritual life of the soul.

29. This Court in **Shastri Yagnapurushadji and others vs. Muldas Bhudardas Vaishya and another, AIR 1966 SC 1119**, explaining the Hindu religion made the following observation in paragraphs 29, 30 and 31:

"29. When we think of the Hindu religion, we find it difficult, if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more.

30. Confronted by this difficulty, Dr. Radhakrishnan realised that "to many Hinduism seems to be a name without any content. Is it a museum of beliefs, a medley of rites, or a mere map, a geographical expression?" Having posed these questions which disturbed foreigners when they think of Hinduism, Dr Radhakrishnan has explained how Hinduism has steadily absorbed the customs and ideas of peoples with whom it has come into contact and has thus been able to maintain its supremacy and its youth. The term "Hindu", according to Dr Radhakrishnan, had originally a territorial and not a credal significance. It implied residence in a well-defined geographical area. Aboriginal tribes, savage and half-civilized people, the cultured Dravidians and the Vedic Aryans were all Hindus as they were the sons of the same mother. The Hindu thinkers reckoned with the striking fact that the men and women dwelling in India belonged to different communities, worshipped different gods, and practised different rites (Kurma Purana)("The Hindu View of Life" by Dr. Radhakrishnan, p.12).

31. Monier Williams has observed that "it must be borne in mind that Hinduism is far more than a mere form of theism resting on Brahmanism. It presents for our investigation a complex congeries of creeds and doctrines which in its gradual accumulation may be compared to the gathering together of the mighty volume of the Ganges, swollen by a continual influx of tributary rivers and rivulets, spreading itself over an ever-increasing area of country and finally resolving itself into an intricate Delta of tortuous streams and jungly marshes... The Hindu religion is a reflection of the composite character of the Hindus, who are not one people but many. It is based on the idea of universal receptivity. It has ever

aimed at accommodating itself to circumstances, and has carried on the process of adaptation through more than three thousand years. It has first borne with and then, so to speak, swallowed, digested, and assimilated something from all creeds". ("Religious Thought & Life in India" by Monier Williams, p.57)"

30. The concept of Hinduism has been defined by great scholars and jurists, but in this case, it is not necessary to dwell upon concept of Hinduism. The core of all religions and faith is one, i.e., quest for truth, quest for knowing more about soul and quest to know more about Supreme, who in one or other form is worshipped in all religions. Every religion, every faith revere and sings the glory of God with whom I all want to relate. Wordsworth in his beautiful poem has also echoed the same thought:-

"Our birth is but a sleep and a forgetting;
The Soul that rises with us, our life's star
Hath had elsewhere its setting,
And cometh from afar ;
Not in entire forgetfulness,
And not in utter nakedness,
But trailing clouds of glory do we come
From god who is our home,"

31. Reverting back to the point which are up for consideration, i.e., whether the disputed structure is holy birthplace of Lord Ram as per the faith, trust and belief of Hindus?

32. Ayodhya, which is associated with Ram is treated a holy city by Hindu scriptures. In Brihad-dharmottara Purana, Ayodhya is referred to one of seven holiest cities in following verse:-

अयोध्या मथुरा माया काशी का ची हवन्तिका ॥
पुरी द्वारावती चैव सप्तैता मोक्षदायिकाः ।

Ayodhya, Mathura, Maya (Haridwar), Kashi, Kanchi, Avantika (Ujjain) and Dvaravati (Dwaraka) are seven most sacred cities.

33. A long span of period, which spread into several centuries fall for consideration. The case of plaintiff of Suit No.4 as noted above is that Babri Mosque was constructed in 1528 by Mir Baqi on the order of Emperor Babar. Dr. Rajeev Dhavan, learned senior counsel appearing for plaintiff in Suit NO. 4 for Muslim Parties as well as Shri Zafaryab Jilani, learned senior counsel have contended that there was no faith

and belief regarding the disputed site being Janma Asthan of Lord Ram at any time before 1989, when Suit No.5 was filed. It is submitted that theory of disputed site being called as Janma Asthan of Lord Ram is of recent origin and there are no evidence of any earlier time that Hindus had faith and belief that where the Mosque was constructed was birth place of Lord Ram. Dr. Dhavan submits that the argument that Ayodhya Mahatmya in Skanda Purana gives the location of Ram Janma Bhumi, which matches with the site of Babri Masjid has not been found correct. In support of his submission, he has relied on "Historian Report to the Nation", which has been exhibited by plaintiff in Suit No.5 (Ext. No.44) as well as plaintiff in Suit No.4 (Ext. No.62). It is submitted that the above report states that location described in the Ayodhya Mahatmya in Skanda Purana does not match with the present-day location of Babri Masjid. It is submitted that no place in Ayodhya is associated with Lord Ram's birth either in Eleventh Century or even six centuries after. When a place is associated with the birthplace of Lord Ram, possibly in the later Eighteenth Century, its

location given in the various Mahatmyas does not tally with the Babri Masjid. The arguments based on book Ayodhya by Hans Bakker has also been refuted by Dr. Dhavan. He submits that no reliance can be placed on the Hans Bakker since (i) Hans Bakker proceeds on the presumption that Ayodhya is not a real city but a figment of the poet's imagination; (ii) Bakker proceeds by equating Ayodhya to the city of Saketa; (iii) Bakker further states that even by mapping the birthplace from Ayodhya Mahatmya and ultimately states that Babri Masjid is built at the birthplace as is confirmed by local belief; (iv) even the impugned judgment records that Hans Bakker proceeds on the basis of conjectures without assigning any reason.

34. With regard to the statement recorded in various travelogues, Dr. Dhavan submits that statement in travelogues are all hearsay and those travellers were only story tellers on which no reliance can be placed. Insofar as Gazetteers are concerned, Dr. Dhavan submits that Gazetteers which were prepared during the period of East India Company were the Gazetteers prepared to

place before the Britishers and they being not under governmental authority cannot be relied. He submits that Gazettes prepared after 1858 when the British assumes sovereignty on the area in question, can be looked into, but those Gazettes cannot be stand alone evidence and needs corroboration by any other intrinsic evidence. He submits that the site of Babri Masjid was constructed in 1528 A.D. being not the birthplace of Lord Ram, there is no question of treating construction of Babri Mosque on birthplace of Lord Ram.

35. Above submission has been refuted by learned senior counsel, Shri K.Parasaran, Shri C.S. Vaidyanathan, Shri P.N. Mishra and Shri P.S. Narsimha. Shri C.S. Vaidyanathan, learned senior counsel refuting the submissions of Dr. Dhavan contends that faith and belief of the Hindus in respect of place where disputed structure was put up during the Mughal period was the birthplace of Lord Ram and has been since ages worshipped as such the place being divine and of sacred character. It is submitted that scriptures and sacred writings, which are of much earlier period than 1528

appropriately describes the Janma Asthan of Lord Ram at Ayodhya. Reliance has been placed on Skanda Purana, Vaisnavakhanda, Ayodhya Mahatmya specifically. It is submitted that Valmiki Ramayana, which is composition Before Christ also refers to Ayodhya as birthplace of Lord Ram, according to which Lord Ram was born at the palace of King Dasratha at Ayodhya. 'Ramcharit Manasa' by Tulsidas has also been referred to wherein the birth of Lord Ram at Ayodhya is mentioned, which is being celebrated on Chaitra Navami, Shukla Paksha every year. Learned counsel appearing for the Hindu parties also submits that travellers' account, which relates to the period prior to 1858 as well as after 1858, which are in form of published books are relevant and can be relied by the Court under Section 57 of Indian Evidence Act, 1872. Coming to the Gazetteers, learned counsel submits that Gazetteers are published work by Government authorities, which has substantial evidentiary value. It is submitted that Gazetteers have been relied by this Court in several cases and statements recorded in Gazetteers has to be considered as substantial evidence and looked into. Shri P.S.

Narsimha elaborating his submission submits that the test, which has to be applied for marshalling the evidence is the standard of preponderance of probability. Referring to Section 3 of Evidence Act, he submits that proof of fact depends upon the belief or probability of the fact looking to the circumstances of the particular case. It is submitted that oral and documentary evidence submitted on behalf of the Hindu parties proves the faith and belief of Hindus that disputed site is birthplace of Lord Ram. He submits that Valmiki Ramayana refers to birth of Shri Ram in Ayodhya, which is the epic of the East and considered to have become the foundation of the culture and tradition of our country. Skanda Purana is of Eighth Century A.D., which provides ample proof of faith that is instilled in the heart of Hindus, i.e., visit to birthplace of Lord Ram, which is of extreme merit which, for Hindus, is nothing but Moksha. It is further submitted that repeated assertions and right to worship by the Hindus in the disputed premises and the various fights by Hindus is ample proof of their undying faith that disputed site is the birthplace of Lord Ram. Shri

P.N. Mishra elaborating his submission has placed reliance on Holy Scriptures Shrimad Valmiki Ramayana and Srimad Skandpuranam, Rudrayamala, Sri Ramacharitamanasa and other scriptures like Srimad Narashingha Puranam. Reliance has been placed on Verse 15 to 17 and 18 to 25 and particular pages of Ayodhya Mahatmya of Skanda Purana, he submits that the above verses gives the geographical situation of birthplace of Lord Ram, which is still verifiable. Shri Mishra took us to the oral evidence of witnesses where according to him witnesses have proved the locations as mentioned in the Skanda Purana with respect to birthplace of Lord Ram. Referring to map prepared by Hans Bakker and the site plan prepared by Shiv Shankar Lal in Suit No.2 of 1950, he submits that several marks mentioned in Skanda Purana are still present, which certifies the location of birthplace as the disputed site.

36. The faith and belief that disputed site is birthplace of Lord Ram has to be established since before 1528 when disputed structure is said to have

been constructed by Babar. The oral evidence, which has been led by the parties to support their respective cases can at best be the oral evidence of that which has been seen by the witnesses, who depose before the Court, which can at best be of things as existed in the Twentieth Century only. There are some Exhibits filed by the parties, which relates to Nineteenth Century. The Holy Scriptures relied by Hindu Parties being of older period, the accounts of travelogues and Gazetteers belonging to different period, some before Nineteenth Century, the period of consideration have to be divided in three parts. First period before 1528, second period from 1528 to 1858 and the third period after 1858 to 1949. Although in the written statement filed by Muslim Parties, Sunni Central Board under Suit No.5 pleaded that as a matter of fact, the religious books as well as the writings of Hindu Scholars makes it very difficult as to whether personality of Shri Ram Chandra Ji is a historical personality, but by making statements under Order X Rule 2 of the Civil Procedure Code, which statements have been recorded by the High Court and has been

referred by the High Court in its judgment, the stand of Muslim parties have been clarified. It is necessary to refer the above statements made under Order X Rule II C.P.C. The statement of Shri Zafaryab Jilani, counsel for plaintiff in Suit No.4 was recorded by the Full Bench of the High Court on 22.04.2009, which is to the following effect:-

"STATEMENT OF SRI ZAFARYAB ZILANI, COUNSEL FOR PLAINTIFF IN O.O.S. 4 OF 1989 MADE UNDER ORDER X RULE 2 C.P.C. ON 22.04.2009.

For the purpose of this case there is no dispute about the faith of Hindu devotees of Lord Rama regarding the birth of Lord Rama at Ayodhya as described in Balmiki Ramayana or as existing today. It is, however, disputed and denied that the site of Babri Masjid was the place of birth of Lord Rama. It is also denied that there was any Ram Janam Bhoomi Temple at the site of Babri Masjid at any time whatsoever.

The existence of Nirmohi Akhara from the second half of Nineteenth Century onwards is also not disputed. It is, however, denied and disputed that Nirmohi Akhara was in existence and specially in Ayodhya in 16th Century A.D. or in 1528 A.D. and it is also denied that any idols were there in the building of the Babri Masjid up to 22nd December, 1949.

Sd/-
Z. Jilani, Adv.
22.04.2009"

To the same effect was statement made by another learned counsel Shri Mustaq Ahmad Siddiqui, who

appeared for plaintiff in Suit No.4 and Shri Syed Irfan Ahmad, counsel for defendant No.6/1 and 6/2 in Suit No.

3. All the three statement in identical words is extracted below:-

"STATEMENT OF SRI MUSAQ AHMAD SIDDIQUI, COUNSEL FOR PLAINTIFF IN O.O.S. 4 OF 1989 MADE UNDER ORDER X RULE 2 C.P.C. ON 22.04.2009.

For the purpose of this case there is no dispute about the faith of Hindu devotees of Lord Rama regarding the birth of Lord Rama at Ayodhya as described in Balmiki Ramayana or as existing today. It is, however, disputed and denied that the site of Babri Masjid was the place of birth of Lord Rama. It is also denied that there was any Ram Janam Bhoomi Temple at the site of Babri Masjid at any time whatsoever.

The existence of Nirmohi Akhara from the second half of Nineteenth Century onwards is also not disputed. It is, however, denied and disputed that Nirmohi Akhara was in existence and specially in Ayodhya in 16th Century A.D. or in 1528 A.D. and it is also denied that any idols were there in the building of the Babri Masjid up to 22nd December, 1949.

Sd/-
M.A. Siddiqui, Adv.
22.04.2009

STATEMENT OF SRI SYED IRFAN AHMAD, COUNSEL FOR DEFENDANTS No.6/1 and 6/2 IN O.O.S.NO.34 OF 1989 MADE UNDER ORDER X RULE 2 C.P.C. ON 22.04.2009.

For the purpose of this case there is no dispute about the faith of Hindu devotees of Lord Rama regarding the birth of Lord Rama at Ayodhya as described in

Balmiki Ramayana or as existing today. It is, however, disputed and denied that the site of Babri Masjid was the place of birth of Lord Rama. It is also denied that there was any Ram Janam Bhoomi Temple at the site of Babri Masjid at any time whatsoever.

The existence of Nirmohi Akhara from the second half of Nineteenth Century onwards is also not disputed. It is, however, denied and disputed that Nirmohi Akhara was in existence and specially in Ayodhya in 16th Century A.D. or in 1528 A.D. and it is also denied that any idols were there in the building of the Babri Masjid up to 22nd December, 1949.

Sd/-

S. Irfan Ahmad, Adv.

22.04.2009"

37. The stand of plaintiff of Suit No.4 with regard to faith and belief of Hindus regarding birth of Lord Ram at Ayodhya having been made clear and it having been accepted that there is no dispute about the faith of Hindu devotees that Lord Ram was born at Ayodhya, our consideration is confined to only a limited submission as to whether site of disputed structure where Babri Masjid was constructed is the place of birth of Lord Ram or not. It will be necessary to consider the evidence led by the parties in respect of above aspect only.

Period earlier to 1528 A.D.

38. Religious faith of a person is formed on traditions, religious scriptures and practices. Constitution Bench of this Court speaking through Justice B.K. Mukherjea in **The Commissioner, Hindu Religious Endowments, Madras Vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282** held that religion is certainly a matter of faith with individuals or communities, in paragraph 17, following has been observed:-

"17. XXXXXXXXXXXXXXXXXXXX

Religion is certainly a matter of faith with individuals or communities and it is not necessarily theistic. There are well known religions in India like Buddhism and Jainism which do not believe in God or in any Intelligent First Cause. A religion undoubtedly has its basis in a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well being, but it would not be correct to say that religion is nothing else but a doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept, it might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral parts of religion, and these forms and observances might extend even to matters of food and dress."

39. Religious scriptures, which are main source of Hinduism are the foundation on which faith of Hindus is concretised. The epic Valmiki Ramayana is the main source of knowledge of Lord Ram and his deeds. The composition of Valmiki Ramayana dates back in the period Before Christ (BC). The Valmiki Ramayana is of period earlier to Mahabharata and Srimad Bhagwadgita. The period in which Valmiki Ramayana was composed is much prior to beginning of Christian era. For the purposes of this case, it is sufficient to notice the statement of Suvira Jaiswal (PW-18), a witness produced by plaintiff of Suit No.4 as historian. She in her statement states "the period of Valmiki Ramayana is recorded as 300 BC - 200 BC". Various scholars and others date the Valmiki Ramayana to much older period but it is not necessary to dwell in the said question since for our purpose, it is sufficient that Valmiki Ramayana was composed in an era Before Christ.

40. Valmiki Ramayan, Balakand, Canto XVIII Shlokas 8 to 12 refers to birth of Lord Ram with planetary

situation. The above Shlokas depict that Lord of the Universe, **"Vishnu"** was born as son of Kaushalya. Valmiki Ramayana contains ample description of birth of Lord Ram as incarnation of Vishnu, as son of Dasratha and Kaushalya at Ayodhya. Shlok 10 tells about birth of Lord Ram as son of Kaushalya, which is extracted as below:-

प्रोद्यमाने जगन्नाथं सर्वलोकनमस्कृतम्।
कौसल्याजनयद् रामं दिव्यलक्षणसंयुतम्॥
(Balakanda 18.10)

Kaushalya gave birth to a son who was the Lord of the whole world. He was a person adored by all the people. He was invested with divine symptoms.

It was not birth of an ordinary man. Ayodhya was blessed with the arrival of the Lord of the whole world, even then Aligarh Historians say that Ayodhya was never sacrosanct because of the birth of Rama.

41. The Epic, thus, associate the birth of Lord Ram with Ayodhya. It is, however, true that Valmiki Ramayana does not gives any description of place of birth except that Lord Ram was born to Kaushalya at Ayodhya in the Palace of King Dasratha. The next religious text, which is referred to and relied by plaintiff of Suit No.5 and other Hindu Parties is

Skanda Purana. In Skanda Purana, reliance has been placed on Ayodhya Mahatmya of Vaisnavakhanda. The above Ayodhya Mahatmya of Vaisnavakhanda of Skanda Purana has been filed as Ext. 93 in Suit No.5. The Skanda Purana has been translated into English by Dr. G.V. Tagare published from Motilal Banarasidass Publishers Private Limited, Delhi, which shall also be referred to while considering the relevant versus of Skanda Purana. Book II of Skanda Purana is Vaisnavakhanda. Different sections of Vaisnavakhanda deals with Mahatmya of different subjects. Section VII deals with Vaisakhamasa-Mahatmya, Section VIII deals with Ayodhya-Mahatmya and Section IX deals with Vasudeva-Mahatmya. Skandamahapuram was published by Khemraj Shrikrishnadas. (Ext. 93) published by Shri Venkateshwar Steam Press, Mumbai. Translation of Dr. G.V. Tagare is of the published Skanda Purana from Shri Venkateshwar Steam Press, Mumbai. Chapter X of Ayodhya-Mahatmya contains 87 Shlokas. M/s. Khemraj Shrikrishnadas, proprietor, Shri Venkateshwar Steam Press, Mumbai reprinted by Nag Publishers, New Delhi. Shlokas 18 to 25, which are relevant are as follows:-

तस्मात् स्थानत ऐशाने रामजन्म प्रवर्तते।
जन्मस्थानमिदं प्रोक्तं मोक्षादिफलसाधनम्॥18॥
विघ्नेश्वरात् पूर्वभागे वासिष्ठादुत्तरे तथा।
लौमशात् पश्चिमे भागे जन्मस्थानं ततः स्मृतम्॥19॥

To the north-east of that spot is the place of the birth of Rama. This holy spot of the birth is said to be the means of achieving salvation etc. It is said that the place of birth is situated to the east of Vighnesvara, the north of Vasistha and to the west of Laumasa.

यद् दृष्ट्वा च मनुष्यस्य गर्भवासजयो भवेत्।
विना दानेन तपसा विना तीर्थैर्विना मखैः॥20॥
नवमीदिवसे प्राप्ते व्रतधारी हि मानवः।
स्नानदानप्रभावेण मुच्यते जन्मबन्धनात्॥21॥

Only by visiting it a man can get rid of staying (frequently) in a womb (i.e. rebirth). There is no need for making charitable gifts, performing penance or sacrifices or undertaking pilgrimages to holy spots. On the Navami day the man should observe the holy vow. By the power of the holy bath and charitable gifts, he is liberated from the bondage of births.

कपिलागोसहस्राणि यो ददाति दिने दिने।
तत्फलं समवाप्नोति जन्मभूमेः प्रदर्शनात्॥22॥
आश्रमे वसतां पुंसां तापसानां च यत् फलम्।
राजसूयसहस्राणि प्रतिवर्षाग्निहोत्रतः॥23॥

By visiting the place of birth, one attains that benefit which is obtained by

the person who gives thousands of tawny-coloured cows everyday. By seeing the place of birth, one attains the merit of ascetics performing penance in hermitage, of thousands of Rajasuya sacrifices and Agnihotra sacrifices performed every year.

नियमस्थं नरं दृष्ट्वा जन्मस्थाने विशेषतः।

मातापित्रोर्गुरुणाञ्च भक्तिमुद्वहतां सताम्॥24॥

तत्फलं समवाप्नोति जन्मभूमेः प्रदर्शनात्॥25॥

(Adhyaya 10, p.293^R.)

By observing sacred rites, particularly at the place of birth, he obtains the merit of the holy men endowed with devotion to their mother and father as well as preceptors."

42. The above Shlokas describes the location of Ram Janma Asthan. Legends to identify the Ram Janma Asthan is mentioned in the Shlokas, which is situated to the east of Vighnesvara to the north of Vasistha and to the west of Laumasa. During arguments, Shri P.N. Mishra, learned counsel had referred to Srimad Skandapuram, whether the above legends mentioned in the Ayodhya Mahatmya can lead to verification of Ram Janma Bhumi is a contention between parties where both the parties have taken divergent stand. Learned counsel appearing for Hindu Parties submits that the present place where Ram Janma Bhumi is claimed is the same as has been

described in Ayodhya Mahatmya, which is the faith and belief carried by lakhs of Hindus from ancient time till date. In the oral evidence led by both the parties, the witnesses have deposed proving the legends mentioned in Ayodhya Mahatmya and they deposed that the place which is claimed as Ram Janma Bhumi by the Hindus is Ram Janma Asthan as per description given in Ayodhya Mahatmya. The belief and faith of Hindus that place of Ram Janma Bhumi as is worshipped on date is the place of worship, which is being spoken through ancient scriptures and lakhs of Hindus are carrying that belief from ancient period. O.P.W.1 Mahant Ram Chandra Das Digamber, appeared as witness for plaintiff in Suit No.5, he stated that birth of Lord Ram at Ayodhya is proved by the descriptions in our Vedas, Upnishads, Smhitas, Smritis etc. The witnesses specifically referred to Ayodhya-Mahatmya of Skanda Purana and state that birth place of Lord Ram is the sanctum sanctorum, i.e., the disputed site where Ram Lalla is sitting at present. The statement of O.P.W.1 has been referred to and has been extensively relied by Justice Sudhir Agarwal in his judgment. Following is his statement

where he relied on Ayodhya-Mahatmya of Skanda Purana:-

"It is the same Ayodhya, which is the present site. Lord Rama was born at this place. While giving the boundary in its behalf, there is clear reference in all the above mentioned Hindu treatises. The paper No.107C/75 is before me. It contains clear mention in this behalf in the Ayodhya Mahatmya under the Skanda Purana. The birthplace of Lord Rama and the sanctum sanctorum are the disputed site, where Ramlala is present at present." (E.T.C.)

43. O.P.W.16 Jagadguru Ramanandacharya Swami Rambhadracharya states in his statement that disputed site is a Ram Janma Bhumi, which is being so believed from time immemorial by faith and tradition of Hindus. In his statement, he states:-

"According to my studies and knowledge, the Ayodhya situated disputed site is Sri Ramjanmbhumi, which has been recognised as the birthplace of Lord Rama by followers of Hinduism from time immemorial on basis of faith, tradition and belief and the said place has been continuously worshiped. "(E.T.C.)

44. In his examination-in-chief Jagadguru Ramanandacharya Swami Rambhadracharya has also stated that in Ayodhya-Mahatmya birthplace of Lord Shri Ram has been clearly described. Paragraph 25 of the

examination-in chief is as follows:-

"25. I am familiar with the Ayodhya Mahatmya of the Vaishnav Khand of Skand Puran published in 1966 in the press established by Shri Krishnadasatmaj Kshemraj Shresthi in which the birthplace of Lord Shri Rama has been clearly described. The photocopy of the cover page and the photocopy of Shloka Nos. 1 to 25 on page No.292 of chapter 10 of this book is enclosed with this affidavit as enclosure-1 which is the true photocopy of the original book."

45. The witness was not put to any cross-examination regarding non-existence of legends to identify Ram Janma Bhumi. Mahant Ram Vilas Das Vedanti, DW-2/3 in his examination-in-chief has also relied on Ayodhya Mahatmya, Vaisnavakhanda, Skanda Purana in paragraph

24. He states as under:-

"24. That, Ayodhya Mahatmya has been described in Vaishnav-volume of Skand Puran, famous book of Hindus. Disputed land has been explicitly described as a birthplace of God Sri Rama in it. Relevant lines of Vaishnav Volume of Ayodhya Mahatamiya are as under:-

"Vedvyas describing the importance of Ayodhya has written in Vaishnav Volume of Skand Puran that one should make darshan of Ayodhya with respect - devotion for the fulfilment of all desire. One should, visit the Ayodhya on the

third Navratra, chanting bhazans in the month of Chaitra. Yatra of Shri Ram Navami in Ayodhya commence from the third Navratra of Chaitra month. This yatra is recognized for obtaining divine and progeny and pleasure. The scene with various types of music and dance is alluring and one is protected by it, there is no doubt in it. High ascetic, devotee person lives in the western side of Ramjanambhoomi, the land known as Pindarak. The land worshipable with flowers etc. Men get skill from this pooja. People perform pooja with due procedure. Worship of Pindarak should be done after taking bath in Saryu River. Sinful person should do its pooja for keeping the lust of the world away during holy nakshtra of Navratras. Worship of God Ganesh is performed in the western side for removing obstacles. Ramjanambhoomi is situated at northeastern corner. This land which provides salvation is called Janambhoomi or Janamsthan. Vashishta Kund is in the east of Vigneshwari. Ramjanambhoomi is in the north side of Vasistha Kund and it becomes clear from the word that Ramjanambhoomi is in the north of Vasistha Kund. One should meditate Janamsthan in the western part of Lomas Ashram."

46. Swami Avimuktswaranand Sarswati, DW20/2 in his statement has referred to and relied on Ayodhya Mahatmya of Skanda Purana in his examination-in-chief

in paragraph 35. He stated that **"Ayodhya is a holy place as was described in the Book Ayodhya Mahatmya"**. This book contains "the details about the Ram Janma Bhumi, but did not mention about any mosque". The witness was cross-examined with regard to his statement made in paragraph 35. He in his cross-examination has said that he has seen Bara Sthan, Nageshwar Nath Temple, Lomash Rishi hermitage, Vighnesh Pindarak and Vashishta Kund. In his cross-examination, he states:-

"Learned advocate cross examining the witness draw the attention of witness towards Para-35 of his examination in chief affidavit. Witness in reply to a question said that darshan of Shri RamJanam Bhoomi Temple was referred therein. From "Other Temples" referred in this para. I mean Hnaumangarhi and Kanak Bhawan. Besides I have seen Bara Sthan, Nageshwar Nath Temple, Lomash Rishi hermitage, Vighnesh Pindarak and Vashishta Kund. Vighnesh and Pindarak are not temples. These are the name of places. Only a large piece of stones are there. I have in Para-35 of my examination in chief affidavit stated that I have visited Ayodhya on a number of times. During these visits, I had taken darshan for a number of times, but not during every visit."

47. In his examination-in-chief, he has stated about visit to Ayodhya following the procedure given in

Skanda Purana and having darshan accordingly. He also referred in his examination-in-chief that he got great assistance from the stone boards fixed by Shri Edward during the time of British Rule. In paragraph 36 of the examination-in-chief, he stated as follows:-

"36. That, I have also once visited Ayodhya following the procedure given in Skand Puran and took darshan of Shri RamJanam Bhoomi. During that visit, I got great assistance from the stone boards fixed by a higher officer Shri Edward, during the time of British Rule, which were fixed in accordance with the serial prescribed in Skand Puran and proves the then geographical situation."

48. With regard to paragraph 36 of his examination-in-chief witness was cross-examined in which cross-examination, he stated that he had darshan of Ram Janma Bhumi following the legends in Ayodhya Mahatmya. Referring to stone fixing by Shri Edward in British Rule (1901-1902), he submits that he has seen stone fixed by legends at Bara Sthan, Ram Janma Bhumi, Pindarak, Lomash, Vighnesh and Vashishtkund. He further had stated that the stone at Lomash Ashram was fixed in the east of Ram Janma Bhumi Mandir. In his cross-examination, he states following:-

"I have seen five-six stone boards. These stone boards were fixed at "Bara Sthan", Ram Janam Bhoomi, Pindarak, Lomash, Vighnesh and Vashishtkund and Vighneshwara respectively. I have seen these stone in 2001 or 2002. I have seen these stones together in 2001 or 2002. I have seen these stones regularly whenever I visited there. Stone at Lomash Ashram was fixed in the east of east north corner of the Mandir. This stone was in the eastern side on the way back from Janam Bhoomi. Stone at Pindarak, is in the northern side of the Janam Bhoomi. There is a Sharma Ka Mandir located near this stone. Stone at Vighnesh was adjacent to Pindarak. This stone was at a height of four to five feet from the ground level and buried in to ground up to two to two and half feet in depth. These stones were two to four feet in thickness. I do not remember as which number written on which stones. Stone at Vighneswara was in the western side of Janam Bhoomi and at some distance from Vashishta Kund. I have visited the Vashishta Kund. It is, perhaps at the south west corner of Janam Bhoomi. It is at a distance of about two to two and half hundred yards. I have seen this stone during my first visit and also during my last visit. The material engraved thereon was in both the languages i.e., English and Hindi."

49. Witnesses, thus, clearly proves the location of Ram Janma Bhumi as per legends given in Ayodhya Mahatmya of Skanda Purana. Another witness DW3/7, Mahant Ramji Das in his cross-examination has relied on Ayodhya Mahatmya, which mentioned about the birthplace. He

testifies the situation of Ram Janma Asthan as per Ayodhya Mahatmya. DW3/14 Jagat Guru Ramanandacharya Swami Haryacharya. In his examination-in-chief, he placed reliance on Ayodhya Mahatmya of Skanda Purana. In his examination-in-chief, he states that Lomas Rishi Ashram is in the east of the present Shri Ram Janma Bhumi. He further states that at place of Lomas Rishi Ashram, now, there is a Ramgulella Mandir and a stone in the name of Shri Lomasji. In paragraph 31 of the examination-in-chief, he states:-

"31. Lomas Rishi Ashram is in the east of the present Shri Ramjanm Bhoomi Mandir, about which a case is subjudice. Where there is a Ramgulella Mandir, there is a stone in the name of Shri Lomasji. Bighneshwar Bhagwan is in the west side of Ram Janm Bhoomi Mandir, which is in the west side of Vasisth Bhawan Mandir. The proof is enclosed at list 'A' of an affidavit."

50. It is further relevant to notice that witness who appeared on behalf of the plaintiff of Suit No.4 were also cross-examined in reference to Ayodhya Mahatmya of Skanda Purana. PW13, Suresh Chandra Mishra, appeared on behalf of plaintiff of Suit No.4 is a historian. PW15, Sushil Srivastav appeared as historian

on behalf of Muslim Parties, plaintiff of Suit No.4 in his cross-examination with regard to Ayodhya Mahatmya, he shows his agreement about what is mentioned in the Ayodhya Mahatmya about birthplace of Lord Ram. In his cross-examination, he states, following:-

"It is written about birth of Rama in Ayodhya Mahatmya. I agree with what is mentioned in Ayodhya Mahatmya about the birth place of Rama. The hermitage of sage Lomash has found mention in this book, that is, it is described therein. It also describes Vighneshwar sthan. The hermitage of seer Vashishtha has also found description in Ayodhya Mahatmya". (ETC)

From references about the hermitages of sage Lomash and seer Vashishtha in Ayodhya Mahatmya, the birthplace of Rama has been located. As per Ayodhya Mahatmya, Ram Janam Sthan is situated West of Lomash Rishi Ashram, east of the Vighneshwar temple and north of Vashishtha Muni Ashram. I did not come across the Vighneshwar temple; rather, I saw a pillar with the word "Vighneshwar" engraved thereon. I did not come across the hermitage of sage Lomash. I also did not see the hermitage of seer Vashishtha, but people told me about him". (ETC)

51. One Dr. Sita Ram Rai, PW-28 also appeared for plaintiff in Suit No.4, who was cross-examined with regard to Skanda Purana. In his statement, he states that it will not be correct to say that in Ayodhya

Mahatmya, the boundary of Ram Janma Bhumi and its position has been given. He, however, states that it is true that legends Pindarak, Vighneshwar, Vashishth and Lomesh are present. He stated in his statement that Couplets in Ayodhya Mahatmya indicates about the visit towards Janma Asthan and not the clarity of its boundaries. He stated following in his cross-examination:-

"In my view it will not be correct to say that in Ayodhya Mahatmya Chapter the boundary of Ram Janam Bhoomi and its position has been given. On this point the learned advocate drew attention of the witness to couplet 14 to 25 of Paper No.107-C 1/75 (On this the advocate of Plaintiff Shri Zaffaryab Jilani raised objection that the paper has not been proved and, as such permission to ask question thereon should not be given. (Reply to it will be given later on). After reading the above couplet the witness said that I have understood its contents and said that boundary of Ram Janam Bhoomi has not been clearly demarcated in it and afterwards said that boundary has not been given in it. The learned advocate again made the witness to read line 18-19 of the couplet and after reading it the witness said that the boundary of Ram Janam Bhoomi has not been clearly demarcated. There is no mention of all the four directions, which is necessary for the boundary. It is true that in the couplets Pindarak, Vighneshwar, Vashishth and Lomesh are mentioned in the above couplets. After listening first line of

the 18th couplet from the learned advocate cross-examining, the witness replied that from this place one has to go towards, Eshan direction for Janam Bhoomi. The meaning of "Pravartate" is that one who goes. The meaning of 'Vighneshwar purva bhage' is that on the eastern side of Vighneshwar. 'Vashishthth uttare' means on the Northern side of Vashishth. 'Lomsath Paschime' means on the Western side of Lomesh. 'Janmasthanam tathati" means from there to Janmasthan. What I have said above indicates about the visit towards Janamasthan and not the clarity of its boundary."

52. According to the above witness, clear boundaries have not been given of the Ram Janma Bhumi but indications have been given about the legends situated on eastern, western and northern side and how to reach the Ram Janma Bhumi. Accordingly, the above are sufficient indication to locate the Ram Janma Bhumi. Boundaries as required to refer in a sale or lease documents were not contemplated to be given in such ancient Text as Ayodhya Mahatmya of Skanda Purana. As noted above, Dr. Rajeev Dhavan refuting the identification, the marks given in Ayodhya Mahatmya of Skanda Purana has placed heavy reliance on the Historian's reports to the Nation dated 13.05.1991.

Dr. Rajeev Dhavan refuting the arguments based on the locations of Ram Janma Bhumi as given in Ayodhya Mahatmya of Skanda Purana rely on the Historian Reports to Nation. Arguments made by Shri P.N. Mishra, relying on book Ayodhya by Hans Bakker has been refuted by making following submissions:-

- (a) Hans Bakker proceeds on the presumption that Ayodhya is not a real city but a figment of the poet's imagination;
- (b) He proceeds by equating Ayodhya to the city of Saketa;
- (c) Even while mapping the birthplace from Ayodhya Mahatmya, he cites considerable difficulties and ultimately states that Babri Masjid is built at the birthplace as is confirmed by local belief.
- (d) Even the impugned judgment records that Hans Bakker proceeds on the basis of conjectures without assigning any reason."

53. The Historian's Report to Nation, which is Ext. No.62 in Suit No.4 may be first considered. Report referred to as a Historian Report to the Nation was their comments on the stand of Vishva Hindu Parishad

in the Ayodhya dispute. The four Historian in their letter to the Government of India opined "Our study shows neither any evidence of the existence of a temple on the site of Babri Masjid nor of the destruction of any other structure there prior to the construction of the mosque."

54. The above observations in the report that the absence of any such reference to ancient Sanskrit text makes it very doubtful that belief in Ram Janma Asthan is of such respectable antiquity as is being made out. The epic Valmiki Ramayana as noticed above which was a composition before the start of Christian era states Ayodhya as birth of Lord Ram at Ayodhya at King Dasratha's palace. The report jumped to the conclusion that it is even doubtful that belief is earlier than the late Eighteenth Century. Further observations were made in the report regarding period of composition of Skanda Purana, the report comes to the conclusion that Ayodhya Mahatmya has to be of period towards the end of Eighteenth Century or the beginning of Nineteenth Century. It is necessary to consider as to whether

observations made in the report that Ayodhya Mahatmya of the Skanda Purana is composition of end of Eighteenth Century or the beginning of Nineteenth Century or it belongs to an earlier period.

55. P.V. Kane in History of Dharmasastra, Volume 5, Part II published by Bhandarkar Oriental Research Institute, Poona (1962) has elaborately dealt with Puranas and their date or period. P.V. Kane has also referred to Skanda Purana in VII Khand as published from Venkateshwar Press, referred to above. After elaborate discussion P.V. Kane arrives at the conclusion that Skanda Purana cannot be placed earlier than Seventh Century and not later than Ninth Century A.D. Following is the discussion on Skanda Purana and its dating by **P.V. Kane in "History of Dharmasastra"**:-

"Skanda – This is the most extensive of Puranas and poses perplexing problems. It is found in two forms, one being divided into seven khandas, viz. Mahesvara, Vaisnava, Brahma, Kasi, Avantya, Nagara and Prabhasa, the other being divided into six samhitas, viz. Sanatkumara, Suta, Sankari, Vaisnavi, Brahmi and Saura. The Skanda in seven khandas has been published by the Venk. Press and the Sutasamhita with the commentary of Madhavacarya has been

published by the Anan. Press, Poona. The extent of the Skanda is variously given as 81000 slokas, at 100000 slokas (vide PRHR p. 158), at 86000 (in PRHR p. 159). The god Skanda does not figure prominently in this Purana named after him. The Skanda is named in the Padma V. 59. 2 Skanda I. 2. 6. 79 is almost in the same words as Kiratarjuniya (II. 30 'sahasa vidadhita na kriyam'). Skanda, Kasikhanda 24 (8 ff) is full of Slesa and Parisankhya in the style of Bana as in 'yatra ksa-panaka eva drsyante maladharinah' (verse 21) or 'vibhramoyatra narlsu na vidvatsu ca karhicit' (verse 9). Natyaveda and Artha-sastras are mentioned in Kasikhanda (Purvardha 7. 4-5), Dhanvantari and Caraka on medicine are mentioned in Kasikhanda (Purvardha 1.71); the word Jhotinga occurs in Kasikhanda 72.74 (Jhotinga raksasah krurah). Skanda is quoted on topics of Dharmasastra in early commentaries and digests. The Mit. on Yaj. II. 290 mentions it in connection with the status of vesyas (courtezans). Kalpataru on vrata quotes only 15 verses from it, Kalpataru on tirtha (pp. 36-39, 32, 46, 130-135) quotes 92 verses from it, on dana only 44, on niyatakala 63 verses, 18 verses on Rajadharma (on Kaumudimahotsava), only 4 in sraddhakanda and 3 in grhasthakanda. Apararka quotes only 19 verses from it; one quotation indicates Tantrik influence (vide note). The Danasagara cites 48 verses on dana from it and the Sm. C. only 23 in all. Considering the colossal figure of slokas in the Skanda it must be said that it is rather sparingly quoted in the Dharmasastra works. A verse in it seems to echo the very words of Kalidasa and quotes the view of Devala. In such a huge work interpolations could easily be made. So it is difficult to assign a definite date to it. A ms. of the Skanda in the Nepal Durbar Library is

written in characters which belong to the 7th century A.D. according to Haraprasad Shastri (vide Cat. of Nepal Palm-leaf mss. p. LII.)

It would be not far from the truth to say that the Skanda cannot be placed earlier than the 7th century A.D. and not later than 9th century A.D. on the evidence so far available."

56. There is no need of any further discussion regarding period of composition of Skanda Purana in view of evidence, which was led on behalf of plaintiff of Suit No.4 itself. PW20 Prof. Shirin Musavi in her statement has stated that geographical local of Ramkot found description in the Skanda Purana. She clearly stated that Skanda Purana belongs to Ninth Century A.D. Following is her statement in above regard:-

"I have read about a place called Ramkot in Ayodhya. The geographical location of Ramkot finds description in Skanda Purana. But it is not clear. It is true that a certain place in Ayodhya is known by the name of Ramkot from the end of 16th century. Skanda Purana is attributed to, that is, stated to be belonging to the 9th century." (E.T.C.)

57. In above view of the matter, the opinion of four Historians in their report that Ayodhya Mahatmya of Skanda Purana was prepared towards the end of Eighteenth Century or the beginning of Nineteenth Century cannot be accepted. It is further relevant to notice that Ayodhya Mahatmya of the Skanda Purana, the witnesses examined in Suit No.5 on behalf of the Hindu Parties as well as other witnesses examined on behalf of the Hindu parties were cross-examined on various Shlokas of Ayodhya Mahatmya of Skanda purana but not even a suggestion was made to any of the witnesses that Ayodhya Mahatmya in Skanda Purana was composed in end of Eighteenth Century or beginning of Nineteenth Century. Thus, the opinion of the Historian's report that Skanda Purana does not give support to any belief in Ram Janma Asthan extending since long is unacceptable.

58. Another mistake which has crept in the Historian's report is that while recording the legends mentioned in the Ayodhya Mahatmya, the report refers to "Laumasa" with present Rin Mochan Ghat. With regard to above

report states following:-

"According to local Hindus beliefs Laumasa or the place of Laumasa is identical with the Rin Mochan Ghat."

59. The above conclusion was drawn by the report referring to local Hindus beliefs whereas existence of Laumasa and its situation and identification is well established since the year 1901-02, where stone pillar has been placed, has been proved by the witnesses, who appeared on behalf of plaintiff in Suit No.5. The statement of Swami Avimuktswaranand Saraswati has already been referred to. Due to the above error, the placement of Ram Janma Bhumi by the Four Historian has been faulted. The identification of Lomas by four Historians as Rin Mochan Ghat is palpably wrong. In Suit No. 2 of 1950, a site plan & map were prepared by Shiv Shankar Lal, the Court Commissioner on 01.04.1950, which has been relied by the High Court and not questioned by anyone. In the above site plan, which has been printed in the judgment of Justice S.U. Khan at Page 30 of Volume I and as Appendix 2C of judgment of Justice Sudhir Agarwal mentions that 'Lomas' as

South Eastern corner of Janma Bhumi, which clearly negate the placement of Lomas by four Historians as Rin Mochan Ghat on the bank of Saryu. There are few other observations, which have been made in the report, which cannot be approved. The report mentioned that Skanda Purana refers to Swargdwar Tirth on which 100 verses have been devoted to the description of Swargdwar whereas only 8 verses have been devoted to Janma Asthan, which means that Swargdwar Tirth was more important than Janma Asthan. Whether describing Janma Asthan in 8 verses, its description and location shall lose its importance? Answer is obviously no. It may be further noticed that whole report is nothing but objection to the case of the Vishwa Hindu Parishad as has been mentioned in the report in very beginning. The report, thus, has been prepared as the counter to the Vishwa Hindu Parishad case, which itself suggests that the four Historians had not treated the entire subject dispassionately and objectively.

60. Justice Sudhir Agarwal in the impugned judgment has elaborately dealt with the above reports by four

Historians and found it unworthy of reliance. Very strong observations have also been made with regard to the report of Historian as well as of some witnesses in following words:-

"**3622.** We may mention here that though the said report claims to have been written by four persons but in fact it was not signed by Sri D.N.Jha. The opinion of an alleged expert, which is not based on her own study and research work but reflection of other's opinion, in our view, shall not qualify to be considered relevant under Section 45 of the Evidence Act as well as the law laid down by the Apex Court in State of Himachal Pradesh Vs. Jai Lal (supra).

3623. Normally, the Court does not make adverse comments on the deposition of witness and suffice it to consider whether it is credible or not but we find it difficult to resist ourselves in this particular case considering the sensitivity and the nature of dispute and also the reckless and irresponsible kind of statements, and the material got published by the persons claiming to be Expert Historian, Archaeologist etc. without making any proper investigation, research or study in the subject.

3624. This is really startling. It not only surprises us but we are puzzled. Such kind of statements to public at large causes more confusion than clear the things. Instead of helping in making a cordial atmosphere it tends to create more complications, conflict and controversy. Such people should refrain from making such statements or written work. They must be

extremely careful and cautious before making any statement in public on such issues.

3625. The people believe that something, which has been said by a learned, well studied person, would not be without any basis. Normally they accept it as a correct statement of fact and affairs. Normally, these persons do not find a stage where their statement can be scrutinized by other experts like a cross-examination in a Court of law. In legal terminology, we can say that these statements are normally ex parte and unilateral. But that does not give a license to such persons to make statements whatsoever without shouldering responsibility and accountability for its authenticity. One cannot say that though I had made a statement but I am not responsible for its authenticity since it is not based on my study or research but what I have learnt from others that I have uttered. No one, particularly when he claims to be an expert on the subject, a proclaimed or self styled expert in a History etc. or the facts or events can express some opinion unless he/she is fully satisfied after his/her own research and study that he/she is also of the same view and intend to make the same statement with reasons."

61. One more aspect of the report needs to be noticed. In the report, the reference to excavation made by Prof. B.B. Lal (of Archaeological Survey of India) to identify sites of Ramayana have been made. The said excavation was conducted by Shri B.B. Lal in 1975-76.

Towards south of the disputed structure, certain trench were excavated and Shri B.B. Lal opined that certain pillar bases were found sustaining pillars and show a structure in the south of Babri Masjid. In the report, after referring to excavation by Shri B.B. Lal, the report concludes:-

“Finally, there is nothing to show that the pillar bases existing at a distance of about 60 ft to the south of the Baburi Masjid structure are in alignment with the pillars used in the Baburi Masjid. In fact no importance can be attached to the structure postulated on the strength of the pillar bases. It could be a small verandah, which may have been used either as an animal shed, or just for living purposes. Such structures are found in that area even now.”

62. The excavation of disputed site leaving the area on which makeshift structure was situate was carried by Archaeological Survey of India (A.S.I.) under the orders of the High Court dated 05.03.2003. The detailed report by A.S.I. has been submitted which shall be separately considered. The opinion formed by four Historians on the basis of certain excavation made by Shri B.B. Lal in the year 1975-76 has now become not much relevant in view of elaborate exercises conducted

by A.S.I. under the orders of High Court. Hence the Historian's report cannot be relied due to above subsequent massive excavation conducted by A.S.I.

63. The submissions have been made by Dr. Dhavan in reference to book on Ayodhya by Hans Bakker. The book Ayodhya by Hans Bakker is a thesis submitted to University of Groningen by Dutch Scholar H.T. Bakker in 1984. The book has been published in 1986, which contains details which is in three parts. Three maps were also prepared of the Ayodhya including place like Ram Janma Bhumi, Babri Masjid and other legends of importance. Hans Bakker in his book has elaborately considered the Ayodhya Mahatmya, which includes consideration of Ayodhya Mahatmya published by Venkateshwar Press, Mumbai as noted above as well as few manuscripts of Ayodhya Mahatmya received from different sources. He has compared the manuscripts, one received from Bodleian Library, Oxford, London, Vrindawan Research Institute, Oriental Institute Baroda and Research Institute, Jodhpur. After elaborate comparison and considering all relevant

aspects, Hans Bakker in Chapter XXI has opined that original location of the Janma Asthan is comparatively certain since it seems to be attested by the location.

Following statement is made by Bakker:-

“Notwithstanding all the difficulties discussed above, the original location of the Janmasthan temple is comparatively certain since it seems to be attested by the location of the mosque built by Babur, in the building of which materials of a previous Hindu temple were used and are still visible. The mosque is believed by general consensus to occupy the site of the Janmasthan.

After the destruction of the original temple a new Janmasthan temple was built on the north side of the mosque separated from it by a street.”

64. As far as maps prepared after discussing the locations given in Ayodhya Mahatmya, different versions of Ayodhya Mahatmya including one contained in the published version from Venkateshwar Press, Mumbai, at the end, Hans Bakker concludes that the five maps containing the sacred topography of Ayodhya and its ksetra according to the tradition of Ayodhya Mahatmya based on survey carried out in the autumn of 1980 and spring of 1983. In the end, he states following:-

"The five maps enclosed present the sacred topography of Ayodhya and its ksetra according to the tradition of the Ayodhyamahatmya based on surveys carried out in the autumn of 1980 and spring of 1983. It was necessary to make a thorough revision of sheet 63 J/1 of the 1 : 50,000 series with regard to the topography of Ayodhya town (Map III, scale 1 : 10,000)."

65. To support his submission that Ayodhya is not a real city but a figment of the poet's imagination as was observed by Hans Bakker himself, following passage from the book is referred by Dr. Dhavan:-

"If it has thus become clear that the town of Ayodhya only figures in literature that is predominantly legendary in character, the question of the historicity of this town may well be raised. To settle this question we should first concentrate on the early historical period, say up to the second century of the Christian era. The name 'Ayodhya' is not attested by any archaeological or epigraphical evidence relating to this period."

66. The above observation occurs in Chapter dealing with the subject on "History of Saketa/Ayodhya from 600 BC to AD 1000". After making the aforesaid remarks, the conclusion which was drawn by Hans Bakker is as follows:-

"Hence we conclude that the information

about Ayodhya in early Epic literature does not furnish us with historical data concerning an old city of that name, let alone of the site AY."

67. Hans Bakker, however, when proceeded to examine the history, Bakker also considered the Jains and Baudh's Scriptures. Bakker subsequently held that identity of Ayodhya and Saketa was started and completed in the age of Guptas. The further observations made in the book, which is to the following effect:-

"The reification of the realm of saga finally resulted in a general acknowledgment of the identity of Ayodhya and Saketa, that is the site AY, a process which was completed in the age of the Guptas. That the identification was not yet universally acknowledged during the rule of the early Guptas seems to follow from some Purana texts in which the Gupta rulers are credited with sovereignty over the real Saketa rather than over the marvelous Ayodhya.

The identification of Ayodhya with Saketa during this period is not only attested in the Jaina sources but also in Sanskrit saga to wit the Brahmandapurana 3.54.54 (Cp. Op.cit.3.54.5), and most consistently in Kalidasa's Raghuvamsa. It is only from the period when the name Ayodhya was used to denote an existing township that we may expect to find corroborative archaeological evidence. Such testimony is indeed found among the inscriptions of the later Guptas (5th century): an inscription dealing from AD

436 describes the donees of a gift as 'Brahmins hailing from Ayodhya'. A Gupta inscription of AD 533/4 mentions a nobleman from Ayodhya. The spurious Gaya copperplate inscription of Samudragupta, probably a fabrication of the beginning of the 8th century, describes Ayodhya as a garrison town."

68. Thus, identity of Ayodhya has been attested and corroborated by Sanskrit Scriptures and the corroboration from the later Gupta period. Thus, the earlier observation made was only to the effect that Ayodhya is not attested by any epic literature, but once it was identified by author himself, the earlier observation loses its importance. As far as observation of Bakker in which he equated the Ayodhya to the city of Saketa, no exception can be taken. Saketa and Ayodhya has been used as synonyms in other scriptures as well as historians. With regard to map of birthplace after considering the entire materials, Hans Bakker attests the location of birthplace. The conclusions arrived by Hans Bakker cannot be said to be based on surmises or conjectures.

69. One more aspect relevant for the period in question

may be considered. DW2/1-1, Rajinder Singh, appeared as a witness for defendant No.2 in Suit No.4, as a person having interest in the study of religious, cultural and Historical books of Sikh Cult. In examination-in-chief, he has referred to several books about Sikh Cult and history. He also stated in his examination-in-chief that Guru Nanak Devji had sought darshan of Shri Ram Janma Bhumi Temple at Ayodhya. The period during which Guru Nanak Devji went to Ayodhya and had darshan stated to be is 1510-1511 A.D. In paragraph 11 of examination-in-chief, he states:-

"11. Guru Nanak Devji, after getting the appearance of God on the auspicious day, Bhadrapad Poornima, 1564-Vikrami = 1507 c.e. prepared him for going on pilgrimage. Then he went to Ayodhya via Delhi, Haridwar, Sultanpur etc. Almost 3-4 years have passed in this journey. Similarly Guru Nanak Dev went on pilgrimage to see Shri Ram Janam Bhoomi Mandir in 1567-1568 Vikrami = 1510-11 Christian era. It is mentioned here that invader Babar has not invaded India by that time."

70. Alongwith his statement, he has annexed various Janma Sakhies, which records visit of Guru Nanak Devji at Ayodhya and Darshan of Ram Janma Bhumi. Justice Sudhir Agarwal in his judgment has also referred to

various Janma Sakhies, which were referred to and relied by the witnesses. Detailed reference of Janma Sakhies, which have been referred and relied by the witness is mentioned in paragraph 5 of the affidavit.

In paragraph 5 of examination-in-chief, he states:-

"5. I had studied a number of ancient books in the form of edited and published books about Sikh Cult and history which include "Aadhi Sakhies (1758 Vikrami 1701 Christian era), Puratan Janam Sakhi Guru Nanak Devji Ki (1791 Vikrami = 1734 Christian era), creation of Bhai Mani Singh (Life-time 1701-1791 Vikrami 1644-1734 Christian era) "Pothi Janamsakhi: Gyan Ratnawali", Bhai Bale Wali" (Shri Guru Nanak Dev) Janamsakhi" (1940-Vikrami = 1883 Christian era) creation of Sodhi ManoharDas Meharban (Life time 1637-1697 Vikrami = 1580-1640 Christian era) "Sachkhand Pothi:Janamsakhi Shri Guru Nanak Devji, creation of Babu Sukhbasi Ram vedi (Eighth descendant of Shri Laxmi Chand younger son of Guru Nanak Devji) "Guru Nanak Vansh Prakash (1886 Vikrami = 1829 Christian era), creation of Shri Tara Hari Narotam (Life-time 1879-1948 Vikrami = 1822-1891 Christian era) "Shri Guru Tirath Sangrahi" and famous creation of Gyani Gyan Sigh "Tawarikh Guru Khaira: Part-I (1948 Vikrami 1891 Christian era) etc. It is fully evident from the information gained from these books that disputed land is a birth place of Shri Ramchanderji and Guru Nanak Dev had sought the darshan of Shri Ram Janam Bhoomi Temple at Ayodhya it is also proved from these books that with the passage of time Shri Guru Teg Bahadur and his son Shri Guru Govind Singh have also sought the darshan

of Shri Ram Janam Bhoomi Mandir at Ayodhya.”

71. Janma Sakhies, which have been brought on the record contains a description of visit of Guru Nanak Devji to Ayodhya, where he had darshan of birthplace of Lord Ram. It is true that from the extracts of Janma Sakhies, which have been brought on the record, there is no material to identify the exact place of Ram Janma Bhumi but the visit of Guru Nanak Devji to Ayodhya for darshan of Janma Bhumi of Ram is an event, which depicted that pilgrims were visiting Ayodhya and were having darshan of Janma Bhumi even before 1528 A.D. The visit of Guru Nanak Devji in 1510-11 A.D. and to have darshan of Janma Bhumi of Lord Ram do support the faith and beliefs of the Hindus.

72. It can, therefore, be held that the faith and belief of Hindus regarding location of birthplace of Lord Ram is from scriptures and sacred religious books including Valmiki Ramayana and Skanda Purana, which faith and beliefs, cannot be held to be groundless. Thus, it is found that in the period prior to 1528 A.D., there was

sufficient religious texts, which led the Hindus to believe the present site of Ram Janma Bhumi as the birthplace of Lord Ram.

Faith and belief regarding Janma Asthan during the period 1528 A.D. to 31.10.1858.

73. During this period, "Sri Ramacharitmanasa" of Gosvami Tulasidasa was composed in Samvat 1631 (1574-75 A.D.). The Ramacharitmanasa enjoys a unique place and like Valmiki Ramayana is revered, read and respected by Hindus, which has acquired the status of an Epic in Hindu faith. Gosvami Tulasidasa in Bala-Kanda has composed verses, which are spoken through Lord Vishnu. When Brahma appealed to Vishnu to relieve the Devas, Sages, Gandharvas and earth from the terror of Demon Ravana (Raavan), Lord Vishnu said that I will take a human form and born to Dasaratha and Kausalya in Kosalapuri. After Doha 186, Bala-Kanda in following three chaupaiyas (Verses), Lord Vishnu says:-

जनि डरपहु मुनि सिद्ध सुरेसा । तुम्हहि लागि धरिहउँ नर बेसा ॥
अंसन्ह सहित मनुज अवतारा । लेहउँ दिनकर बंस उदारा ॥ १ ॥

"Fear not, O sages, Siddhas and Indra (the chief of gods); for your sake I will assume the form of a human being. In the glorious solar race I shall be born as a

human being alongwith My part
manifestations."

कस्यप अदिति महातप कीन्हा । तिन्ह कहूँ मैं पूरब बर दीन्हा ॥
ते दसरथ कौसल्या रूपा । कोसलपुरीं प्रगट नरभूपा ॥ २ ॥

"The sage Kasyapa and his wife Aditi did severe penance; to them I have already vouchsafed a boon. They have appeared in the city of Ayodhya as rulers of men in the form of Dasaratha and Kausalya."

तिन्ह केँ गृह अवतरिहउँ जाई । रघुकुल तिलक सो चारिउ भाई ॥
नारद बचन सत्य सब करिहउँ । परम सक्ति समेत अवतरिहउँ ॥ ३ ॥

"In their house I shall take birth in the form of four brothers, the ornament of Raghu's line. I shall prove the veracity of all that was uttered by Narada and shall descend with my Supreme Energy (पराशक्ति)."

74. The above chaupaiyas does not only refer to Vishnu taking human form in Avadh-puri, i.e., Ayodhya but the verse specifically mentions that he will take human form at the house of Dasaratha and Kausalya. The above verses do not only refer to birth of Ram at Ayodhya but points out to "a place", where he will take human form, which is clearly depicted in the words "tinha ke grha" (in their house of Dasaratha and Kausalya).

75. Contesting parties have referred to and relied on various Gazetteers, travelogues books relating to this period. According to Hindu parties' relevant books and Gazetteers during the relevant period amply proves the faith and belief of Hindus in the Janma Asthan of Lord Ram, which was worshipped by Hindus throughout. Dr. Rajeev Dhavan on the other hand contends that Gazetteers of period prior to 1858 cannot be looked into and Gazetteers prepared under the British Government after 1858 can be of some assistance. He submits that Gazetteers prepared during the regime of East India Company cannot be relied nor can be called Gazetteers. With regard to all travelogues account published in different books, Dr. Dhavan submits that no reliance can be placed on the said accounts given by travellers, since they are only all hearsay and they were only by their account telling stories. It is necessary to first consider as to whether Gazetteers and travelogues books can be treated as an evidence by Court for considering the issue, which had arisen before the Court in the suit giving rise to appeals in question. The Evidence Act, 1872 consolidated, defined

and amend the law of evidence. The evidence is defined in interpretation clause, i.e., Section 3. The definition of evidence as amended by Act 21 of 2000 is as follows:-

"Evidence".- "Evidence" means and includes-

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry,

such statements are called oral evidence;

(2) all documents including electronic records produced for the inspection of the Court,

such documents are called documentary evidence."

76. Section 57 of the Evidence Act, enumerate the facts of which the Court must take judicial notice. Section 57 insofar as it is relevant for the present case is as follows:-

"57. Facts of which Court must take judicial notice.-The Court shall take judicial notice of the following facts:-

(1) All laws in force in the territory of India;

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In all these cases, and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.

If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so, unless and until such person produces any such book or document as it may consider necessary to enable it to do so."

77. The definition of facts, which Court must take judicial notice is not an exhaustive definition. Phrase "on all matters of public history, literature, science or art" are wide enough to empower the court to take into consideration Gazetteers, travelogues and books. Gazetteers are nothing but record of public history. The above provision is with a rider that if the Court is called upon by any person to take judicial notice of any fact, the Court may refuse to do so until and unless, such person produces such book or any document. Both the parties have cited several judgments of this Court, where this Court had occasion to consider admissibility of Gazetteers and other books in evidence and the value, which is to be attached on statements contained in Gazetteers, travelogues and

books. In **Sukhdev Singh Vs. Maharaja Bahadur of Gidhaur, AIR 1951 SC 288**, this Court held that Gazetteer is an official document of some value as it is compiled by experienced officials with great care. Following observations were made in paragraph 10:-

"10. XXXXXXXXXXXXXXXXXXXXXXX

The statement in the District Gazetteer is not necessarily conclusive, but the Gazetteer is an official document of some value, as it is compiled by experienced officials with great care after obtaining the facts from official records. As Dawson Miller, C.J. has pointed out in *Fulbati case, AIR 1923 Patna 423*, there are a few inaccuracies in the latter part of the statement quoted above, but so far as the earlier part of it is concerned, it seems to derive considerable support from the documents to which reference has been made."

78. In **Gopal Krishnaji Ketkar Vs. Mahomed Jaffar Mahomed Hussein, AIR 1954 SC 5**, this Court had referred to and relied on the Gazetteer of Bombay. In paragraph 4, the Court was examining nature of a tomb which belong to Eighteenth Century. In paragraph 4, this Court Stated:-

"4. The shrine has a curious, and in some respects legendary, history. Its origin is lost in antiquity but the Gazetteer of the

Bombay Presidency tells us that the tomb is that of a Muslim saint who came to India as an Arab missionary in the thirteenth century. His fame was still at its height when the English made their appearance at Kalyan, near where the tomb is situate, in the year 1780. As they only stayed for two years, their departure in the year 1782 was ascribed to the power of the dead saint."

79. A Constitution Bench of this Court in **Mahant Shri Srinivas Ramanuj Das Vs. Surjanarayan Das and Another, AIR 1967 SC 256** had occasion to consider Puri Gazetteer of O'Malley of 1908. In the Gazetteer, the history of Emar Math was addressed. It was contended by the appellant before this Court that Gazetteer cannot be treated as an evidence. The Court held that Gazetteer can be consulted on matters of public history. In paragraph 26, following was laid down:-

"26. It is urged for the appellant that what is stated in the Gazetteer cannot be treated as evidence. These statements in the Gazetteer are not relied on as evidence of title but as providing historical material and the practice followed by the Math and its head. The Gazetteer can be consulted on matters of public history."

80. This Court in **Bala Shankar Maha Shanker Bhattjee and Others Vs. Charity Commissioner, Gujarat State,**

1995 Supp. (1) SCC 485 had occasion to consider Gazetteer of the Bombay presidency, Vol. III published in 1879. This Court held that Gazette is admissible under Section 35 read with Section 81 of the Evidence Act, 1872. It was held that the Court may in conjunction with the other evidence may take into consideration in adjudging the dispute in question though it may not be treated as conclusive evidence. The recitals in the Gazette with regard to location of temple of Kalika Mataji on the top of the hill was relied. In paragraph 22, following was laid down:-

"22.It is seen that the Gazette of the Bombay Presidency, Vol. III published in 1879 is admissible under Section 35 read with Section 81 of the Evidence Act, 1872. The Gazette is admissible being official record evidencing public affairs and the court may presume their contents as genuine. The statement contained therein can be taken into account to discover the historical material contained therein and the facts stated therein is evidence under Section 45 and the court may in conjunction with other evidence and circumstance take into consideration in adjudging the dispute in question, though may not be treated as conclusive evidence. The recitals in the Gazette do establish that Kalika Mataji is on the top of the hill, Mahakali temple and Bachra Mataji on the right and left to the Kalika Mataji. During Mughal rule another

Syed Sadar Peer was also installed there, but Kalika Mataji was the chief temple. Hollies and Bills are the main worshippers. On full moon of *Chaitra* (April) and Dussehra (in the month of October), large number of Hindus of all classes gather there and worship Kalika Mataji, Mahakali etc....."

81. In view of the above discussions, the law as noted above clearly establish that Court can take into consideration the Gazetteers under the Evidence Act, 1872, even though, the statement in Gazetteers will not be treated as conclusive evidence but the presumption of correctness of that statement is attached to it. The admissibility of books and travelogues cannot be denied in view of Section 57. Section 81 of the Evidence Act also contemplate for a presumption of genuineness of every document purporting to be any official Gazette or the Government Gazette. Section 81 of the Evidence Act is as follows:-

"81. Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.—The Court shall presume the genuineness of every document purporting to be the London Gazette, or any Official Gazette, or the Government Gazette of any colony, dependency of possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act

of Parliament of the United Kingdom printed by the Queen's Printer, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody."

82. Now, remains the next contention of Dr. Dhavan that Gazetteers prior to 1858, when the sovereignty of the area was not under direct control of British, during the regime of East India Company, cannot be relied. In the present case, the Gazetteers, which have been relied are of the Gazetteers of Nineteenth Century. The East India company by Charter from Queen Elizabeth on 31.12.1600 were permitted to trade in the East Indies. The Company initially setup a factory at Surat (State of Gujarat) in 1619. The jurisdiction and power of East India Company were enlarged by various charters issued by the Queen and subsequently by enactments made by the British Parliament. By 1805, several functions in Oudh area were also entrusted to the East Indies Company including establishment of Sudder Court in Oudh area. East India Company, by beginning of Nineteenth Century, was not only a trading company but had

statutory and governmental power as entrusted by Charters and Acts of the British Parliament with agreement of Nawab of Avadh in 1801. In any view of the matter, the Gazetteers, which were prepared during the regime of the East India Company in the Nineteenth Century contains a record of public history and they are clearly admissible under Section 57 of the Evidence Act. Therefore, there is no substance in the submission of Dr. Dhavan that Gazetteers prior to 1858 should not be looked into.

83. During the relevant period, the first important historical book, which contains the minutest details of administration in the regime of the Akbar is A-in-i-Akbari, which was completed in Sixteenth Century. The A-in-i-Akbari was work of Abul-Fazl Allami, who was one of the Ministers in the Akbar's Court. The A-in-i-Akbari was translated by H. Blochmann from persian to English. Col. H.S. Jarrett translated Vol. No.II. Shri Jadunath Sarkar, a Historian of repute corrected and further annotated Vol.II translated into English by Col. H.S. Jarrett. Shri Jadunath Sarkar in his

Editor's introduction has observed that Second volume was designated to serve as a Gazetteer of the Mughal Empire under Akbar. Jadunath Sarkar says that Third volume of the A-in-i-Akbari was encyclopedia of the religion, philosophy and sciences of the Hindus. The above was stated by Jadunath Shankar in following words:-

"The third volume of the Ain-i-Akbari is an encyclopedia of the religion, philosophy and sciences of the Hindus, preceded by the chronology and cosmography of the Muslims, as required by literary convention, for comparison with the Hindu ideas on the same subjects. The second volume was designed to serve as a Gazetteer of the Mughal Empire under Akbar. Its value lies in its minute topographical descriptions and statistics about numberless small places and its survey of the Empire's finances, trade and industry, castes and tribes."

84. In second volume of the A-in-i-Akbari details have been given regarding "The Subah of Oudh", a description of Awadh (Ayodhya) mentioned that Awadh (Ayodhya) is one of the largest cities of India. The description refers to Oudh as residence of Ramchandra following is the description given at page 182 Vol.2:-

"Awadh (Ajodhya) is one of the largest cities of India. In is situated in

longitude 118° 6', and latitude 27°, 22. It ancient times its populous site covered an extent of 148 kos in length and 36 in breadth, and it is esteemed one of the holiest places of antiquity. Around the environs of the city, they sift the earth and gold is obtained. It was the residence of Ramachandra who in the Treta age combined in his own person both the spiritual supremacy and the kingly office."

85. Further Volume III, Chapter VI contains a heading "The Eighteen Sciences". The description refers to Vedas and 18 Puranas and other religious texts. The book also refers to Avatars (incarnation of the Deity) in the following words:-

"Avataras
or
Incarnations of the Deity

They believe that the Supreme Being in the wisdom of His counsel, assumes an elementary form of a special character for the good of the creation, and many of the wisest of the Hindus accept this doctrine. Such a complete incarnation is called Purnavatara, and that principle which in some created forms is scintillant with the rays of the divinity and bestows extraordinary powers is called Ansavatara or partial incarnation. These latter will not be here considered.

Of the first kind they say that in the whole four Yugas, ten manifestations will take place, and that nine have up to the present time appeared."

86. The book have details of 9 avatars of Supreme Being (Lord Vishnu) Ram Avatar or Ram incarnation has also been mentioned in following words:-

"Ramavatara,
or
Rama-Incarnation.

They relate that Ravana one of the Rakshasas two generations in descent from Brahma, had ten heads and twenty hands. He underwent austerities for a period of ten thousand years in the Kailasa mountain and devoted his heads, one after another in this penance in the hope of obtaining the sovereignty of the three worlds. The Deity appeared to him and granted his prayer. The gods were afflicted by his rule and as in the former instances, solicited his dethronement which was vouchsafed, and Rama was appointed to accomplish this end. **He was accordingly born during the Treta Yuga on the ninth of the light half of the month of Chaitra (March-April) in the city of Ayodhya, of Kausalya wife of Raja Dasaratha.** At the first dawn of intelligence, he acquired much learning and withdrawing from all worldly pursuits, set out journeying through wilds and gave a fresh beauty to his life by visiting holy shrines. He became lord of the earth and slew Ravana. He ruled for eleven thousand years and Introduced just laws of administration."

(Highlighted by us)

87. The A-in-i-Akbari is attestation of the faith and beliefs held by Hindus in the period of Emperor Akbar. Ayodhya was mentioned as residence of Ramachandra, who was further described as Avatar, i.e., incarnation of Vishnu. Specific statement has been made that during the Treta Yuga on the ninth of the light half of the month of Chaitra in the city of Ayodhya, of Kausalya wife of Raja Dasaratha, Lord Ram was born. The A-in-i-Akbari unmistakably refers Ayodhya as one of the holiest places of antiquity. The above statement in A-in-e-Akbari clearly indicate that faith and belief of Hindus was that Ayodhya is a holiest place and birthplace of Lord Ram, the incarnation of Vishnu, which belief was continuing since before period of Akbar and still continues as on date.

88. William Finch visited India from 1607 to 1611 A.D., his travel account has been published by William Foster in his book "Early Travels in India".

89. William Finch mentioned about ruins of the Ramachandra's castle and houses. The travel accounts also noticed the belief of Indians that Ramchandra was

born, who took flesh upon him.

90. Father Joseph Tieffenthaler visited India between 1766-1771 A.D. He wrote historical and geographical description of India in latin. All the latin work was translated in French. English translation of the work was filed before the High Court as Ext. 133 (Suit-5) and has been extensively relied on. In the description of the Province of Oudh, following is stated:-

"But a place especially famous is the one called Sitha Rassoï i.e. the table of Sita, wife of Ram, adjoining to the city in the South, and is situated on a mud hill.

Emperor Aurengzebe got the fortress called Ramcot demolished and got a Muslim temple, with triple domes, constructed at the same place. Others say that it was constructed by 'Babor'. Fourteen black stone pillars of 5 span high, which had existed at the site of the fortress, are seen there. Twelve of these pillars now support the interior arcades of the mosque. Two (of these 12) are placed at the entrance of the cloister. The two others are part of the tomb of some 'Moor'. It is narrated that these pillars, or rather this debris of the pillars skillfully made, were brought from the island of Lance or Selendip (called Ceylan by the Europeans) by Hanuman, King of Monkeys.

On the left is seen a square box raised 5 inches above the ground, with borders made of lime, with a length of more than 5

ells and a maximum width of about 4 ells. The Hindus call it Bedi i.e. 'the cradle'. The reason for this is that once upon a time, here was a house where Beschana was born in the form of Ram. It is said that his three brothers too were born here. Subsequently, Aurengzebe or Babor, according to others, got this place razed in order to deny the noble people, the opportunity of practicing their superstitions. However, there still exists some superstitious cult in some place or other. For example, in the place where the native house of Ram existed, they go around 3 times and prostrate on the floor. The two spots are surrounded by a low wall constructed with battlements. One enters the front hall through a low semi-circular door."

91. The three important statements contained in the account need to be noted:-

First, that Emperor Aurengzebe got the fortress called Ramcot demolished and got a Muslim temple, with triple domes, constructed at the same place. It further states that fourteen black stone pillars of 5 span high, which had existed at the site of the fortress, are seen there. Twelve of these pillars now support the interior arcades of the mosque. Two (of these 12) are placed at the entrance of the cloister.

Second that, on the left is seen a square box raised 5 inches above the ground, with borders made of lime, with a length of more than 5 ells and a maximum width of about 4 ells, which is called Bedi (i.e. the "cradle") by the Hindus. The reason for the faith and belief was also that there was a house where Beschana (Vishnu) was born in the form of Ram.

Third, that Aurengzebe or Babar got this place razed in order to deny the noble people, the opportunity of practicing their superstitions. However, there still exists some superstitious cult in some place or other. Since in the place where the native house of Ram existed, the Hindus go around 3 times and prostrate on the floor.

92. The first Gazetteer relied is East India Gazetteer of Walter Hamilton, first published in 1828. The Gazetteer contained particular descriptions of the Empires, Kingdoms, Principalities, provinces, cities, towns, districts, fortresses, harbours, rivers and lakes of Hindostan.

93. The Gazetteer mentioned reputed site of temples dedicated to Ram, Sita, Lakshman and Hanuman. The Gazetteer further noticed that pilgrimage to Oudh are chiefly of the Ramata sect, who walk round the temples and Idols, bathe in the holy pools, and perform the customary ceremonies.

94. The next Gazette relied is History, Antiquities, Topography and Statistics of Eastern India (1838). While noticing the history and topography of Gorukhpoor, Montgomery Martin mentioned about Ayodhya and its glory.

95. A Gazetteer was published by Edward Thornton "Gazetteer of India" (1854). In 1858, Edward Thornton published another Gazetteer namely "Gazetteer of the Territories under the Government of the East Indies Company of the native States on the Continent of India", in which, a fairly large description of Oudh is contained.

96. Reference of one more book which was filed as an exhibit needs a reference. The book Hadith-e-Sehba was written by Mirza Jaan in the year 1856. In the book it was mentioned that the place of worship called as birthplace of Lord Ram which was adjacent to 'Sita-Ki-Rasoi', the Mosque was constructed by Babar in the year 923 Hijri. The translated copy of the book as exhibit 17. The following extract from the book is relevant to be noticed:-

"The above mentioned place is called seat of father of Lord Rama. Places of Idol worshipping situated here were demolished and even a single piece of any Idol of Hindu religion was left there un-demolished. The place where was big temple of Hindu people, big Masjid was constructed and the place where was small temple of Hindu people, there small Masjid was constructed. The place of worship is called birthplace of Lord Rama and the place which is adjacent to it, is called "Sita Ki Rasoi" and Sita is called wife of Lord Rama. At that place Babar Shah got constructed a very big Masjid under the supervision of Sayyad Musha Ashiqan in the year 923 Hijri and its history is still maintained. Today the above-mentioned "Sita Ki Rasoi" is called the Masjid."

97. The book is relevant since it was written in the year 1856 which was the period of dissension between

Hindus and Muslims with regard to issue of Idol worship at Ayodhya. The book candidly accepts that at the janamsthan of Lord Ram, Mosque was constructed by Babar.

Faith and belief of Hindus regarding Janma Asthan of Lord Ram during the period 1858 to 1949.

98. During this period, there are several Gazetteers, reports of A.S.I., books and other documentary evidence, which have been exhibited in the Suits. Apart from documentary evidence, a lot of oral evidence has been led by the parties.

99. At first, Firstly, notice may be had of the Gazetteers published during the relevant period by the Government. All Gazettes, which were published during the relevant period were under the full governmental authority since the British had directly taken control over the area of Oudh w.e.f. 01.11.1958 by Government of India Act, 1858.

100. At this juncture notice may be taken of one more relevant aspect, which is, that after the British Government took over the area w.e.f. 01.11.1858, in the official reports, correspondences and orders issued by officers of British Government, the "Mosque" was always referred to as "Mosque Janma Sthan", which clearly indicates that Government officers at that time always treated the mosque as situated at Janma Sthan. Sufficient materials brought on record evidences the above aspect; which may be referred to. Sheetal Dubey, Thanedar Oudh has submitted a report on 01.12.1858, which is Ext. 21 of Suit No.1, which report also refers to "Masjid" as "Masjid Janma Sthan". Report dated 01.12.1858 is already extracted.

101. Similarly in his report dated 06.12.1858, Thanedar, Oudh, Sheetal Dubey, has again referred the "Masjid" as "Masjid Janam Sthan". An order was passed on the application of Thanedar Sheetal Dubey on 10.12.1858, in which order, "Masjid" was referred as "Masjid Janam Sthan". The said order is brought on record is Ext. A-69 (Suit No.1), already extracted.

102. Another important document, which has been much relied by Dr. Rajeev Dhavan in his submissions is Ext. A-14 (Suit-1), which is a copy of the letter dated 25.08.1863 sent by the Secretary, Chief Commissioner of Oudh to the Commissioner, Faizabad Division, where "Mosque" was referred as "Janam Sthan Mosque". The letter has already been extracted.

103. The above also clearly proves that even the Government officers referred the Mosque as Janam Sthan Mosque, which is fully corroborates the statements in Gazetteers as noted and extracted above that Babri Mosque was constructed at the Janam Sthan of Lord Ram.

104. The next work to be noticed is Historical Sketch of Tehsil Fyzabad, Zilah Fyzabad, published by the Government in 1870. The Historical Sketch was prepared by P. Carnegy, Officiating Commissioner and Settlement Officer of Ayodhya and Fyzabad. P. Carnegy in his sketch states that **Ayodhya is to Hindu what Macca is to the Mohamedan and Jerusalem to the Jews.** P. Carnegy

description has been extracted.

105. P. Carnegy has further referred to Janmasthan and other temples and has categorically stated that at the place of Janmasthan Emperor Babar built a Mosque, which still bears his name in A.D. 1528.

106. P. Carnegy has also noticed under the heading Hindu and Musalman differences about great rupture, which took place between the Hindus and Mahomedans, where Hindus were said to have taken control of Janmasthan after fierce fight. It further noticed that up to that time the Hindus and Mahomedans alike used to worship in the Mosque-Temple and since British rule a railing has been put up to prevent the dispute.

107. Another Gazetteer published in 1877 is Gazetteer of the Province of Oudh. The Ayodhya has been elaborately dealt in the Gazette. In above Gazetteer, a description with regard to Janamasthan and other temples, is mentioned as extracted.

108. Under heading "Babar's Mosque" and "Hindu and Musalman Differences", the same contents have been repeated under the Gazetteer, which I have already extracted while noticing the Historical Sketch of Tahsil Fyzabad, Zillah Fyzabad by P. Carnegy, which are not being repeated for brevity.

109. In 1880, A.F. Millitt prepared his "Report on Settlement of Land Revenue of the Faizabad" which is extracted above.

110. Next to be noticed is Report of A.S.I. of North West Provinces and Oudh, published in 1889, which states that "The old temple of Ramachandra at Janmasthanam must have been a very fine one, for many of its columns have been used by the Musalmans in the construction of Babar's masjid, extracted earlier.

111. One more report published by Archaeological Survey of India published in 1889 needs to be noted, with heading "The Sharqi Architecture of Jaunpur; with Notes on Zafarabad, Sahet-Mahet and other places in the

North-Western Provinces and Oudh" by A. Fuhrer (extracted earlier).

112. The A.S.I., thus, clearly state that **Babar's Masjid at Ayodhya was built on the very spot where the old temple Janmasthan of Ramchandra was standing.**

113. Another Report was published by A.S.I. on the Monumental Antiquities and Inscriptions in the North-Western Provinces and Oudh by A. Fuhrer. Referring to Ramachandra, it mentioned that Lord Ram was born there. The Report refers that Janmasthanam Temple was demolished and a Masjid was constructed in 930 Hijri.

114. The next Gazetteer, which has been referred and relied is Gazetteer of Fyzabad, Vol. XLIII published in 1905 by the Government of the United Provinces of Agra and Oudh (extracted earlier).

115. In the "Imperial Gazetteer of India" published in 1908 with respect to Faizabad Division, extracted earlier.

116. In 1928, publication of Faizabad, Gazetteer was undertaken by H.R. Nevill, extracted earlier.

117. Archaeological Survey of India in volume "The Monumental Antiquities and Inscriptions in the North-Western Provinces and Oudh" in the year 1891 while describing Faizabad district, dealing city of Ayodhya noted that in place of important Hindu temple namely 'Janmasthan', a 'Mosque' was built during the reign of Babur which still bears his name. It was further mentioned that old temple must have been a very fine one, for many of its column have been utilised by the Musalmans in the construction of Babri Masjid.

118. The Gazetteer of "Bara Banki", volume 48(1921), of the District Gazetteers of the United Provinces of Agra and Oudh mentioned about a dispute which took place in the year 1853 between Hindu priests and Musalmans of Ayodhya with regard to the ground on which formerly stood the Janmasthan temple, which was destroyed by Babar and replaced by a Mosque. Following

has been stated at page 169 of the Gazette under the heading 'History' in chapter 5:-

"...It would appear that the event happened in the year 1853. The cause of the occurrence was one of the numerous disputes that have sprung up from time to time between Hindu Priests and the Musalmans of Ajodhya with regard to the ground on which formerly stood the Janamsthan temple, which was destroyed by Babar and replaced by a mosque. Other mosques had been built there by Aurangzeb and others and some of them had fallen into decay. The ground, being peculiarly sacred to the Hindus, was at once seized by the Bairagis and others, thus affording a fertile source of friction..."

119. The Gazetteer has further narrated details of a march by Amir Ali under whom large number of Muslims marched towards Ayodhya but were intercepted by Colonel Barlow of First Regiment of Oudh in which large number of persons were slain and first infantry was almost destroyed. The Gazetteer reports that Amir Ali was also killed. In February 1856, the kingdom of Oudh was annexed by British government.

120. Apart from Gazetteers and books as referred above, there are other documentary evidences brought on record by the parties of the suits in question. Reference can

be made to certain exhibits, certified copies obtained from public record which are submitted in the suit. An Application dated 28.11.1858 by Sheetal Dubey, Thanedaar Oudh is filed as exhibit-19 in the Suit No. 1, extracted earlier.

121. Next documentary evidence brought on record is an application dated 30.11.1858 submitted by *Syed Mohammed Khatib Moazzim Masjid Babri Sites in Oudh*. In the complaint submitted by *Mohammed Khatib Moazzim* of the Babri Mosque, it was mentioned that a Nihang Singh is creating a riot at janamsthan Masjid situated in Oudh. Complaint mentioned that near mehrab and mimber, he has constructed an earth chabutra inside the Mosque, 'Puja' and 'Home' is continuing there and in whole of Masjid, "Ram Ram" is written. The request in the complaint was to oust the Hindus from the Mosque (extracted earlier).

122. Another document filed as exhibit 21 dated 31.12.1828 which is the report submitted by Sheetal Dubey, Thanedar, Oudh. In the report, Sheetal Dubey has referred the 'Mosque' as 'Mosque Janmasthan' (extracted earlier).

123. Next exhibit relied is exhibit 31 of Suit No.1 which is an application filed by Mir Rajjabali khatib Masjid for removal of Chabutra which was built in the Mosque(extracted earlier).

124. The above Application itself is an evidence of Chabutra of Hindus in the premise of Mosque and puja being performed by blowing conch.

125. Another application was made by one Mohammed Asghar on 12th February 1861 seeking removal of Chabutra and hut of the Hindus from the Mosque premises. The application was filed as exhibit 54 in suit 4.

126. The application was given on behalf of Mohammed Asghar, Mir Rajjab Ali and *muhammed Afzal, Khateeb and Muezzin of Babri Masjid situated at Janmasthan, Ayodhya.* The application dated 12th March 1861 is extracted earlier.

127. One important fact which may be noted from the

above application and some earlier applications which were made on behalf of khateeb and muezzin of Babri Mosque is that description of **Babri Mosque is always mentioned as "Babri Masjid situated at Janmasthan, Ayodhya"**.

128. Exhibit A-55 filed in Suit No. 4 is report of Khem Singh subedar dated 16.03.1861 regarding demolition of Kutiya of Inkani Singh.

129. Exhibit A-30 filed in Suit No. 4, application dated 25.09.1866 submitted by muhammed Afzal complaint mentioned that Tulsidas etc. Bairagis had placed an Idol inside the premises in 3 hours. Public complaint was made (extracted earlier).

130. Evidence has been brought on the record to the fact that Deputy Commissioner, Ayodhya by an order dated 03.04.1877 has granted permission to Khem Das, Mahant, janamsthan to open the door in the Northern wall in the premises of Mosque. An appeal was filed by Syed mohammed Asghar against the said order. Grounds of the appeal have been brought on the record as exhibit

30 in Suit No. 1. The appeal also noticed that Idols on the premises have not yet been removed. The appeal also admits small Chulha in the premises. Ground 6 of the appeal(exhibit-30) is as follows:-

"Section 6. That there has been old controversy between the respondent and the appellant and the Hon'ble Court has ordered that the respondent should not do anything new on that place. But because of Baldeo Dass bairagis being underground, the order dated November 7, 1873 would not be served upon him. That is to say, idol has not yet been removed as per orders. The respondent with the intention of occupying it continues to indulge in several activities on the wall and on being restraint by someone, he becomes aggressive and is bent upon to fight with him. So he has made a chulha within the said compound which has never been done before. In the past, there was near a small chulha(kitchen) for Puja which he has got extended."

131. In the above appeal, report of Deputy Commissioner, Faizabad was submitted. In the report, Deputy Commissioner mentioned that opening of the door was necessary to give a separate route on fair days to the visitors to the Janmasthan.

132. The above report by Deputy Commissioner clearly proves that Hindus were visiting the janamsthan which

was within the Mosque premises. The Commissioner had ultimately dismissed the appeal of Muhammed Asghar on 13.04.1877.

133. Another important fact to be noticed is filing of suit by Mahant Raghubar Das being case number 61 of 280 of 1885 before sub-judge Faizabad where plaintiff has sought permission to construct a temple on Chabutra existing inside the Mosque premises. The permission to construct the temple was denied by dismissing the suit on 24.12.1885. An appeal was filed by Mahant Raghubar Das before District Judge Faizabad. The District judge dismissed the appeal on 18.12.1886.

134. The second appeal against the said judgement was dismissed by Judicial Commissioner, Oudh.

135. There is further evidence which have been brought on record to prove that in the year 1934 there was Hindu Muslim riot in Ayodhya in which riot the Dome of Babri Mosque was damaged by Hindus which was got constructed by Administration through a Muslim

contractor. Documents pertaining to repair of the Mosque by a Muslim contractor, application for payment of his bills have been brought on the record by plaintiff of Suit No. 4 which are testimony of differences and dispute between the parties which took place in 1934 damaging the Mosque which could be repaired after several months. The documentary evidence referred above amply proves that within the premises of Mosque which premises is bounded by boundary wall the Hindus were visiting and worshipping in the period in question. The application submitted by Khateeb and muezzin of Babri Mosque as noted above clearly admits the worship and Puja by the Hindus, construction of Chabutra by the Hindus, putting the Idols by the Hindus in the Mosque premises. The reference of Babri Mosque as janamsthan Masjid in several application also indicates that Mosque was situated at the janamsthan of Lord Ram. The above documentary evidence are testimonial of faith and belief of the Hindus that the Mosque was on the janamsthan of Lord Ram. Their protest, persistence and actions to worship within the

Mosque is testimony of their continued faith and belief that premises of the Mosque is Janmasthan of Lord Ram.

ORAL EVIDENCES:-

136. The parties led substantial amount of the oral evidence in the suits. Plaintiff of Suit No. 4 produced 32 witnesses which are described as PWs. Plaintiff of Suit No.5 produced 19 witnesses which are described as OPWs. Plaintiff of Suit No.3 also produced 20 witnesses who are described as DWs. In Suit No.4, defendant No. 2/1 produced 3 witnesses. Other defendants in Suit No.4 have also produced certain witnesses.

137. The oral evidences of the witnesses need to be examined with regard to the aspect of faith and belief of Hindus about the Janmasthan of Ram Janma Bhumi as well as evidence of worship and Puja there at.

327. Mahant Paramhans Ramchandra Das OPW-1, aged about 90 years (as on 23.12.1999), was examined by plaintiff of suit No.5. Mahant Ram chander Das is resident of Panch Ramanandi Akhil Bharti Anni and Digambar Akhara, Ayodhya. He came to Ayodhya at the age of 14-15 years.

In his examination in chief, Mahant Paramhans Ram

Chander Das states:-

"...Since the time I came to Ayodhya, I have always seen people going for Darshan(glimpse) at seven places at Ram Janambhumi, Hanuman Garhi, Nageshwarnath, Saryu, Chhoti Devkali, Badi Devkali, Laxman Ghat, Sapt Sagar situated near Chhoti Devkali and kanak Bhawan temple. The seven places are unchangeable and their location cannot be changed, which means that one place cannot be built at the place of other one. Mani Parvat is a famous place, bit is different from the seven places. There was an idol of Lord Ram at Ram Janam Bhoomi. There was Sita's kitchen also. As per customs there was a special hall by the name of Ram Janam Bhoomi and on all the pictures and statues of many Gods and Goddesses here engraved their own. Apart from statues. That place was also worshipped, which was said to be the birthplace of Lord Ram and where the Lord Ram has appeared. There was a platform also, known as the platform (chabutra) of Ram Lala and a hut of straws, in which priests of Nirmohi Akhada used to do worship and offer food, etc. To the deity of Lord Ram... "

138. In his cross examination he states:-

"...The place, which i describe as 'Garbh Griha', is according to my belief and according to the belief of all Hindus, birthplace of Ramchandra ji. I consider that place, where on 23rd December 1949 idol was installed after removing it from the chabutra, as birth place and I used to

consider that place as birth place before the installation of Idol there.

Question:- Can that place, which you described as birthplace according to your belief, be 10-15 hands away on either side of the middle dome place?

Answer:- No. The place where the order is placed, authentic place and the whole Hindu community believes in that very place. There is no scope of any doubt. There cannot be a distance of even two-four feet from the location of this place.

The basis of this belief is that Hindus have been having Darshan of this place as janambhoomi Since centuries..." "

139. Next statement to be noticed is of OPW-4, Shri Harihar Prasad Tiwari. He was aged 85 years (as on 01.08.2002). He claims to have lived in Ayodhya from 1934 to 1938 at Ram Niwas Mandir which was only 250-300 steps from Ram Janma Bhumi. He has referred to faith and belief of people that Bhagwan Vishnu has

incarnated as Bhagwan Shri Ram at that very place. In

para 3 of his examination-in-chief, he states:-

"3. Ayodhya is an ancient and The holiest Pilgrimage for Hindus where Parambharma Parmeshwar Bhagwan Vishnu incarnated as Shri Ram, son of king Dashratha. The followers of Hinduism have the faith from the time immemorial that bhagwan Vishnu incarnated at Ayodhya as Lord Shri Ram. This place is adorable. Owing to this trust and faith people used to visit for Darshan and Parikrama(taking round) of Shri Ram Janm Bhoomi. My family members, my grandfather and elderly people, saints and hermits of Ayodhya, during my study there from 1934 to 1938, used to say that Bhagwan Vishnu had incarnated as Bhagwan Shri Ram at this very place and this is Shri Ram Janam Bhoomi. Based on this faith and belief I have been going to Shri Ram Janam Bhoomi for Darshan. After completing my study, whenever I came to Ayodhya I used to go there for Darshan invariably. I mostly live in Sugreev Quila, ram kot, ayodhya for about last 8-9 years and usually go to the Ram Janmabhoomi for having Darshan. "

140. Further in his cross examination he states: -

"6..... The building having domEs was the holy sanctum sanctorum, where, it is believed that bhagwan Shri Ram had taken birth. Hindu pilgrims and Darshanarthies (viewers) you used to offer fruits, flowers and money there also, owing to their faith..... "

141. Reiterating his faith in Ram Janam Bhumi in cross examination he further states: -

"... It is right that in my above statement I had stated that the disputed site is the Janam Bhoomi of Ram. This faith of mine is not by reading any religious book but is based on what I have heard from old and aged persons. I am having this faith well before I came to Ayodhya. That is to say when I gained consciousness I have such faith and this was by hearing from the people. In between 1934 to 38 when I was at Ayodhya, possibly I would have gone to the janambhumi i.e. the disputed site thousands of times. During my studies I used to go to the Janam Bhoomi... "

142. He in his statement also stated that there was Parikrama marg outside the west side wall of the disputed building and he used to do Parikrama.

"....Outside the west side wall of the disputed building there was a Parikrama Marg(route) close to the wall and walking on this route I used to perform Parikrama(religious round). This route was made walk able and some old brick were laid on it....."

143. In his statement he also stated that he used to perform Parikrama through the Parikrama Marg.

144. Next statement to be noticed is the statement of OPW-5 Ram Nath Mishra who was aged 91 years(as on 06.08.2006). He claimed to have come to Ayodhya in the Baisakh month of 1932. He used to work as "Teerth Purohit". In his cross-examination he states:-

".... According to elderly people, it was under the central dome the Lord Rama was born as the son of king Dashrath. It was on the basis of this faith and belief that I and all the Hindu devotees of Lord Rama used to have the darshan of Shri Ram Janam Bhoomi. It was considered to be sacrosanct place and a place worth worshipping....."

145. He further states: -

"... All the Hindus have this old traditional belief that Lord Vishnu was born as the son of king Dashrath at this place only and that is why this place is so sacred and worthy of worship. It is on the basis of this faith and belief that lakhs of pilgrims have been coming to Ayodhya for the 'Darshan' and 'Parikrama' of Lord Rama's birth place and continue to do it till date. There is a stone of the times of the Britishers outside the main entry gate, on which is written 'Janambhoomi Nitya Yatra' and the digit one of Hindi('ek')..... "

146. OPW-6, Housila Prasad Tripathi aged 80 years(as on 13.08.2002) claims to have come to Ayodhya in December 1935. In his examination-in-chief, he states:-

"7. We have this faith and believe that lord Shri Ram was born at Ayodhya and that place is famous as Shri Ram Janam Bhoomi where people in lakhs come from every nook and corner of the country and after having Darshan shri Ram Janmabhoomi do its Parikrama. It is on the basis of this faith and believe that we also come to Shri Ram janam bhumi three to four times a year and make it a point to have darshan of Shri Ram janam bhoomi and then have its Parikrama.

8. I am also of the firm faith and believe that Lord Shri Ram was born at the same very place at Ayodhya where thousands of Hindu pilgrims come for Darshan and Parikrama. It was on the basis of this belief that since 1935, I also went to Ayodhya three to four times every year and after a bath in the Saryu river had darshans of Kanak bhawan, Hanumangarhi and of Shri Ram Janam Bhoomi and had the Parikrama of Shri Ram Janam Bhoomi."

147. He further states:-

"10.....There was a building of 3 shikhars to the west of the wall with iron-bars in which the place of the central Shikhar portion is Shri Ram Janmabhoomi which is called Sanctum-Sanctorum, according to Hindu tradition, faith and belief. On the basis of this faith and belief, I also used to go for Darshan and Parikrama of the Shri Ram Janam Bhoomi."

148. Further he states: -

"12. All the pilgrims - darshnarthees would enter the Sri Ram Janam Bhoomi premises from the entry gate to the east and have

darshans of the idols placed at Ram chabootra, of the idols placed under the neem and peepal tree located to its south-east corner and Sita Rasoi and the foot prints etc., there and also have darshan of the sacrosanct Sri Ram Janam Bhoomi located inside the barred wall which is considered to be the Sanctum-Sanctorum. The pilgrims and those coming for darshans and we used to make offerings like fruit and cash according to our shardha. At the Sanctum-Sanctorum also, the pilgrims and we after the darshan of this used to make offerings through the barred wall as per our belief."

149. In his cross-examination, he denied the fact that public opinion regarding Ram Janam Bhumi is of twentieth century. He states it to be since long as per tradition.

"...However, the public opinion is that the birth place of Ramji is the same i.e. Ram Janam Bhoomi about which a dispute is going on. It is wrong to say that this public opinion is of the twentieth century. As a matter of fact, it has been there since long as per tradition..."

150. OPW-7, Ram Surat Tiwari, 73 years of age(as on 19.09.2002), claims to have gone to Ayodhya for the first time in the year 1932 and thereafter has been going regularly. In his examination-in-chief, he states: -

".....My elder brother told me that this was the birth place of Lord rama (this is Ram Janam Bhoomi) and from the very ancient times Hindus have trust, confidence and a popular faith that Lord Vishnu had incarnated in the name of Shri Ram son of Raja Dashrath below the middle dome and this is why it has been called 'garbh griha'. After having the darshan of Ram Chabootra, the pilgrims and visitors used to go through doors of lattice wall to the three domed building and from there they got the darshan of 'Garbh Griha' and they offered flowers, prasad and coins towards the 'Garbh Griha'.

151. He further stated in his cross-examination about his faith and belief regarding Ram Janam Bhumi in following words:-

"so far as 3-dome building is concerned, I had a faith which I maintained even today that it was the janam bhoomi of Ram Ji."

152. Further in his cross-examination, he stated that he after offering flowers and prasad prostrated himself on the ground below the dome from outside.

"...Before reaching the eastern gate, my brother from outside the wall fitted with iron bars offered flowers at the building with three domes and gave it to me also which I also offered. I offered the flowers through the iron bars from outside only. At the time when I offered flowers, prasad and

money offered by others were also lying there. I prostrated myself on the ground below the dome from outside only. I had asked my brother why was he offering flowers at that place, on which he told that Lord Rama was born at the place under the middle dome of this building. The place which I had visited was the one below the middle dome..."

153. OPW-12, Sri Kaushal Kishore Mishra, aged 75 years(as on 16.12.2002) stated to have perform worship in Ram Janam Bhumi at the age of 14-15 years. In his examination-in-chief he states:-

"6. When I started to go to Ram Janam Bhoomi with my grandfather and father, I noticed that the pilgrims, devotees etc, who came to Ayodhya, used to visit Shri Ram Janam Bhoomi without fail. During the main festivals the gathering was very high, say more than lakhs and they used to worship and visit Ram Chabootra, Sita Rasoi, Shiv Chabootra and Sanctum-Sanactorum(where Lord Ram was born) below the middle dome of three domed building and make round of the premises (Parikrama) outside the walls only."

154. He further states: -

"12. I had been told by my grandfather and father that according to the faith and belief of Hindus since time immemorial, Lord Ram was born as a son of King Dashrath in Treta Era in this Sanctum-Sanactorum situated under the building having three domes. This is the traditional belief and

firm faith which makes the people of this country and the numerous pilgrims from outside to visit this birth place of Lord Shri Ram to pray and do parikrama of this place."

155. In his cross-examination, he maintain "it is by belief that he got his birth at the place where Babri Masjid was established."

156. Next witness OPW-13, Narad Saran, age 76 years(as on 27.01.2003) claims to have come to Ayodhya with a desire to become a Sadhu. In his examination-in-chief, he states:-

"When entering through the eastern gate there was a building with three domes west, just below the middle dome, there was sanctum-sanctorum which was worshipped. My preceptor had told me about this place that it was always the most worshipped as the birth place of Lord Ram since time immemorial. I have also worshipped this place and found that it was thronged by thousands of pilgrims who paid their obeisance to this holy shrine. They also visited and worshipped Sita Kitchen, Ram chabutara etc., and made a full round of the entire premises after coming out of Hanumatdwar."

157. In his cross-examination he states:-

"...Ayodhya is the Janam bhoomi of Lord Ram and we take the place below middle dome of

the disputed structure as his Janamsthan. Janamsthan and Janambhoomi have the same meaning...."

158. DW-3/14, Jagad Guru Ramanand Acharya Swami Haryacharya, aged 69 years(as on 23.07.2004) stated in his cross-examination:-

"...I used to go to three domes Bhawan for darshan, earlier. I have also taken the darshan of Shri Ram Lalla. I took darshan because I believe that one could get salvation by doing the darshan..."

159. DW-3/1, Mahant Bhaskar Das, aged 75 years(as on 29.08.2003). In his examination-in-chief, he states: -

"..During my tenure from 1946 to 1949 till the date of attachment no Muslim ever visited the disputed site to offer Namaz and no Namaz was recited there. Hindu devotees used to offer money, sweets, fruits and other items to the deities seated within and out of the disputed site which were received by the Nirmohi Akhara through the priest.."

160. The witnesses who were examined by plaintiffs of Suit No.4 also in their statement have admitted that what they call 'Babri Masjid' is called by Hindus as 'Janmasthan'.

161. Mohd. Hashim who appeared as PW-1 was aged 75 years(as on 24.07.1996). In his cross-examination he admits that the place which was attached on 22nd/ 23rd December, 1949 is called Ram Janam Bhumi by Hindus and Babri Masjid by Muslims.

"...The place which was attached on 22nd/23rd December, 1949 is called Ram janambhoomi by Hindus and Babri Masjid by Muslims. In the suit of Gopal Singh visharad also it has been called Ram Janam Bhoomi by Hindus and Babri Masjid by Muslims...."

162. He further states that "as Mecca is important for Muslims so is Ayodhya for Hindus due to Lord Ram."

163. PW-2 Haji Mehboob Ahmed aged 58 years, resident of Tedhi Bazar, Ayodhya, states in his cross-examination:-

"...The grilled wall adjoined the wall of the mosque to the south. We call it a Masjid and the other party calls it a Mandir. The height of the entire boundary was the same. This was a fully constructed building to the west of the courtyard. This was a mosque to which others called a Mandir..."

164. Mohd. Yaseen PW-4, aged 66 years (as on 07.10.1996) also states following: -

"...I live in Ayodhya, so I often meet some Hindus and Priests also. We also meet them in marriage ceremonies. They believe that this is the birth place of Lord Rama. (Then said they have their own faith). Hindus consider it a sacred place and worship here..."

165. PW-23, Mohd. Qasim, aged 74 years, admits in his cross-examination that what he call 'Babri Masjid' is called 'Janamsthan by Hindus'. He states : "after that there is Babri Masjid on its one side. It is true that the place I call 'Babri Masjid' is called 'Janamsthan' by Hindus."

166. The oral evidence as noticed above of the witnesses examined on behalf of plaintiffs of Suit No.5, plaintiffs of Suit No.3 and even witness examined on behalf of plaintiffs of Suit No.4 clearly proves faith and belief of Hindus that Janmasthan of Lord Ram is the place where Babri Mosque has been constructed. Three-dome structure was treated as Birthplace of Lord Ram. People worship of the three-dome structure, parikrama of the entire premises by the devotees have been amply proved by oral evidences led in the Suit.

167. The statements noted in all Gazetteers as noticed above published under authority of government categorically and unanimously state that at Janmasthan of Lord Ram, Babri Mosque was constructed in 1528 by Babar. It is true that statements recorded in Gazette is not conclusive evidence but presumption of correctness of statements recorded have to be raised subject to being disproved by leading appropriate evidences. All Gazettes published by the Government authority repeats the same statement that Babri Mosque was constructed at the Janmasthan of Lord Ram. There is no evidence worth name led of the plaintiffs of Suit No.4 to disprove the above statement and further, oral evidence as noticed above clearly supports the faith and belief of Hindus that Lord Ram was born at the place where Babri Mosque has been constructed. The conclusion that place of birth of Lord Ram is the three-dome structure can, therefore, be reached.

168. Dr. Rajeev Dhawan, learned senior counsel submits that although in oral statements it was stated by the

witnesses that birthplace of Lord Ram is below the middle dome but infact Ram Chabutra which was outside the three-dome structure on the left side in outer courtyard was the birthplace of Lord Ram. He submits that in the judgment of the suit filed in 1885 by Mahant Raghubar Das also the Janmasthan was treated to be Ram Chabutra.

169. The sequence of the events as noticed above clearly indicate that faith and belief of Hindus was that birth place of Lord Ram was in the three-dome structure Mosque which was constructed at the janamasthan. It was only during the British period that grilled wall was constructed dividing the walled premises of the Mosque into inner courtyard and outer courtyard. Grilled iron wall was constructed to keep Hindus outside the grilled iron wall in the outer courtyard. In view of the construction of the iron wall, the worship and puja started in Ram Chabutra in the outer courtyard. Suit of 1885 was filed seeking permission to construct temple on the said Chabutra where worship was permitted by the British Authority.

Faith and belief of the Hindus as depicted by the evidence on record clearly establish that the Hindu belief that at the birth place of Lord Ram, the Mosque was constructed and three-dome structure is the birth place of Lord Ram. The fact that Hindus were by constructing iron wall, dividing Mosque premises, kept outside the three-dome structure cannot be said to alter their faith and belief regarding the birth place of Lord Ram. The worship on the Ram Chabutra in the outer courtyard was symbolic worship of Lord Ram who was believed to be born in the premises.

170. It is thus concluded on the conclusion that faith and belief of Hindus since prior to construction of Mosque and subsequent thereto has always been that Janmaasthan of Lord Ram is the place where Babri Mosque has been constructed which faith and belief is proved by documentary and oral evidence discussed above.