

SYNOPSIS

The Petitioner is filing this review petition under Article 137 of the Constitution of India r/w Order XLVII of the Supreme Court Rules, 2013 seeking limited review of the judgment dated 9.11.2019 (reported in 2019 SCC online SC 1440) passed in Civil Appeal No.4739 of 2011 connected with leading Civil Appeal Nos.10866-10867/2010 (arising out of from the judgment passed by Allahabad High Court on 30.09.2010 in O.O.S.No.1,3,4 & 5 of 1989, reported in 2010 ADJ1 (Special F.B.) to the extent ordering to Central/ U.P.State Government to allot 5 acres land to Sunni Waqf Board, even though there was no such prayer, in exercise of the powers under Article 142 of the Constitution of India and to delete the finding declaring disputed structure as mosque as there was no legal basis for such declaration and also to clarify certain observations relating to Places of Worship Act, 1991 and some other observations relating to the concept of secularism which are creating misconception in the mind of general public.

The Hon'ble Court has given finding of fact that Hindus have been worshipping the birth place of Lord Ram under three domed structure from ancient times. At the same time the Hon'ble Court without any evidence or material on record has termed the structure as mosque simply on the basis that in the plaint Muslims have alleged that a mosque has been constructed by and under the orders of Babar in 1528 and in Suit No.5 Plaintiff has also pleaded that the mosque was made by Mir Baqui a commander of Babar Army and in para 68 it has been held that there was essentially no dispute about the fact that the mosque was raised in 1528 A.D. by or at the behest of Babar.

The Hon'ble Court in para 67 has referred para 23 of the suit No.5. In said para Plaintiff has no where averred that a mosque had been constructed at the place in question. It is remarkable to mention here that it has been mentioned in para 23 that-

“temple was destroyed partly and an attempt was made to raise a mosque thereat, force of arms, by Mir Baqui a commander of Babar’s hordes”.

IN paragraph 24(c) of Suit No.5 it has been averred that:-
“That in spite of all that Mir Baqui tried to do with the temple, the land always continued to vest in the Plaintiff-Deities, they never surrendered their possession over it. Their possession continued in fact in law. The Asthan never went out of the possession of the deity and His worshippers. They continued to worship Him through such symbol as the CHARAN and SITA RASOI and the idol of Bhagwan Shri Ramlala Virajman on the Chabutara called “Ram Chabutara” within the enclosed courtyard of the building directly in front of the arched opening of its southern dome...”.

In paragraph 25 of the suit No.5 it was further pleaded that the worship of the Plaintiff deities has continued since ever throughout the ages at Shri Ramjanmabhumi. The place belongs to the Deities. No valid waqf was aver 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.

It is apparent on record that Plaintiff of Suit No.5 has nowhere admitted that a mosque had been constructed thereat. In substance it has been the case of all the Hindu parties that the worship of Lord Ram was going on at birth place, the property in dispute and the temple never lost its sanctity.

Therefore, the finding recorded by the Hon’ble Court terming the disputed structure as mosque is apparently not correct and against the evidence and material on record and such mistake may be corrected in exercise of the power of review conferred by the Constitution in larger public interest.

On the basis of Sikh literature it has been proved in evidence that Shri Guru Nankdevji had performed puja and Darshan at Janmabhumi Mandir in 1510-11 A.D. In para 70 and 71 of the addenda it has been held that Janma Shakies have

been brought on record which contains description of visit of Gurunanak Devji at Ayodhya where he had darshan of birth place of Lord Ram. The said literature proves the faith and belief of Hindus in birth place of Lord Ram at Ayodhya before invasion of Babar.

It is further relevant to mention that the anchor sheet for Muslims claim in favour of construction of mosque is that some inscriptions were found inscribed in the building. There are four different versions regarding alleged inscriptions. All the three judges of the High Court disbelieved the truthfulness, authenticity and validity of the inscription. The Hon'ble Court has dealt with the issue of inscription from paragraph 53 to 68 in the judgment. The Hon'ble Court has not recorded any separate finding relating to authenticity and validity of the alleged inscriptions. Therefore the finding recorded by the Hon'ble High Court on the point of inscription is final. The alleged inscription is the only anchor sheet for the Muslims to claim the building as mosque and in absence of the same there is no other oral or documentary evidence to presume that any mosque was ever raised at the place in question. There is no evidence that any waqf was created, land was dedicated to almighty and any mosque was constructed. Therefore, there is no fact, ground or basis to declare the building in question as mosque or treating that Muslims have any religious right over any part of the disputed building complex.

That the Hon'ble Court has discussed the report of Archeological Survey of India (ASI) under heading 'N' from para no.447 to 532 of the judgment. In paragraph 531 of the judgment the Hon'ble Court has analyzed the evidence produced by Hindu and Muslims in support of their case. The Hon'ble Court has come to the conclusion that Hindus have faith and belief from ancient times that Lord Ram was born under the central dome of the three domed structure, which was sanctum sanctorum or 'Garb Grih', what Muslims call the Babari mosque and Hindus

consider the place as the Ram Janmabhumi or birth place of Lord Ram.

In paragraph 511 of the judgment the Hon'ble Court has held that-

"the report deducing 17 rows of pillar basis (a total of 85 of which 50 were exposed in sections, in parts or whole). The report concludes on the basis of architectural fragments found at the site and nature of structure that it was a Hindu Religious origin... but ASI report has left unanswered a critical part of the remit which was made to it, namely, a determination of whether a Hindu temple had been demolished to pave way for the construction of mosque".

From the above finding it is clear that Hindu religious structure was there and at the same place the construction of the disputed structure was raised. Therefore, the property belongs to Hindu deity and no construction at the property or religious place of Hindus can be raised by a person of another faith. It is undisputed that the property once vested in the deity continues to vest in Him, it is never destroyed or finished and after lifting of obstacles, hindrance the deities property reverse back to the deity and puja, worship may be continued. This legal position has also been affirmed by the Hon'ble Court.

In view of the above there would be no justification to term the structure in question as mosque or Babri mosque.

It is undisputed that the Plaintiff has to prove its case. The Muslims have failed to prove that the construction in question was mosque, while on the other hand Hindus have proved that the place in question is being worshipped as birth place of Lord Ram and therefore, there is no material on record to declare the disputed structure as mosque.

In paragraph 786 (i) the Hon'ble Court has held that:-

"though the case of the Plaintiffs in Suit No.4 is that mosque was constructed in 1528 by or at the behest of Babar, there is no account by them of possession, use or

offer of Namaz in the mosque between the date of construction and 1856-7. For a period of over 325 years which elapsed since the date of construction of mosque until the setting up of a grill-brick wall by the British the Muslims have not adduced evidence to establish the exercise of possessory control over the disputed site. Nor is there any account in the evidence of the offering of Namaz in the mosque over this period”.

Thus it is clear that after the Oudh came under British the Muslims started claiming the structure as mosque sometime after 1856-57. It is respectfully submitted that in view of the fact and finding the structure in question cannot be construed as mosque.

In paragraph 786 the Hon’ble Court has further held that:-

1. The foundation of mosque is based on the walls of a large pre-existing structure.
2. The pre-existing structure dates back to the twelfth century and
3. The underlying structure which provided the foundation of the mosque together with its architectural fixtures and recoveries are suggestive of a Hindu religious origin comparable to temple excavation in region and pertaining to the area.
4. While ASI report has found the existence of ruins of a pre-existing structure, the report does not provide:-
 - a. The reason for the destruction of a pre-existing structure and
 - b. Whether the earlier structure was demolished for the purpose of the construction.

In paragraph 787 the Hon’ble Court has held that Muslim account of worship prior to 1856 is conspicuously silent as opposed to the account of worship being offered by the Hindus.

The question as to “whether the disputed structure is the birth place of Lord Ram according to faith and belief of Hindu devotees” has been dealt with by one of the Hon’ble Judges and

the same has been made part of the judgment by way of Addenda. In para 72 of addenda it has been held that faith and belief of Hindus regarding location of birth place of Lord Ram is proved from scriptures and sacred religious books including Valmiki Ramayan and Skand Puraan, which faith and belief cannot be held to be groundless. Thus it is found that in the period prior to 1528 AD there was sufficient religious texts, which lead the Hindus to belief the present site of Ram Janmabhumi as birth place of Lord Ram. In paragraph 83 to 97 of addenda the evidence emerging from various gazetteers, travellers account and scriptures have been referred to and considered. It has also been found that during time of British Government in records the Masjid was referred as Masjid Janmasthan. In paragraph 126 it has been mentioned that an application signed by Mohd. Asgar, Mir Rajjabali and Mohd. Afzal, Khateeb and Muezzin of Babari Masjid situated at Janmashatn at Ayodhya was submitted on 12.03.1861 for removal of Chabutra and hut of the Hindus from the mosque premises, which has been placed on record as Ext.54 in Suit No.4.

In paragraph 127 of Addenda it has been observed that "one important fact which may be noted from the above application and some earlier applications which were made on behalf Khatif Muzzin of Babri mosque is that description of Babri mosque is always mentioned as "Babri Masjid situated at Janmashtan, Ayodhya". On the basis of these facts the Hon'ble Judge in paragraph 135 has further held that:-

The reference of Babari as Janmashtan Masjid in several applications also indicates that Mosque was situated at Janmashtan of Lord Ram. The above documentary evidence are testimonial of faith and belief of the Hindus that the Mosque was on the Janmasthan 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."

It is further submitted that from the material on record and as has been appreciated by the Hon'ble Court that it was faith and belief of Hindus that birth place of Lord Ram was under three domed structure. After annexation of Oudh to East India Company under the orders of British Government a grided wall was constructed dividing the wall premises of the structure in between inner and outer court yards. The Hindu Puja continued at chabutra at outer court yard and they continued to worship the birth place of Lord Ram in the inner court yard. The faith of Hindus relating to birth place of Lord Ram remained unaffected even after raising of grided wall. 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.

In paragraph 170 of the addenda it has been held that:-

"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 Janmashtan 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".

From the material on record and the finding arrived at by the Hon'ble Court it is crystal clear that Hindus from the time immemorial have been worshipping the birth place of Lord Ram even after construction of disputed structure which termed by Muslims as mosque. Even if by use of force and taking advantage of the might any construction was raised at the religious place of Hindus that will not confer any right to Muslims to exercise right to religion over the religious and sacred place of Hindus.

Since it is clear that the construction i.e. alleged mosque was constructed at the place of worship of Hindus taking advantage of the situation the members of Muslim community cannot assert right to religion at the said place and they cannot be awarded for the wrong committed by them at any point of time in the past. Even if it is found that after 1856-57 the Muslims started prayers in the inner courtyard occasionally or on

Fridays, same will not alter the position and they cannot be given benefit for such illegal act. Their action is in gross violation of the principles of secularism as they tried to usurp on sacred land and the place of worship of Hindus. Those who have trampled the religious place of Hindus cannot be given prize for such illegal action and they cannot be allotted 5 acres of land to console them on the ground that Hindus have committed some wrong in 1934, 1949 and in 1992. Actually it was the anxiety of the Hindu community to liberate Shri Ram Janmabhumi and it was their plight to get justice from the historical wrong.

It is relevant to mention that after independence without any further delay Hindus asserted their right and took complete charge of inner courtyard and that cannot be said to be any unwarranted or unlawful action.

It is further submitted that U.P. Government vide notification dated 10.10.1991 issued under Section 6 of Land Acquisition Act had acquired 2.7744 acre land for development of tourism and providing amenities to pilgrimage at Ayodhya. It is relevant to mention that within 2.77 acre land there were only Hindu place of worship and there was no Muslim religious place. This acquisition was challenged by Muslim parties by filing Writ Petition No.3540(MB) of 1991 and other connected petitions. It is relevant to mention that outside the disputed structure on 9.11.1989 Shilanyas for construction of a temple had taken place. It was the feeling of the devotees that they could start construction of Shri Ram temple at the land outside the disputed structure. It had been declared that they would start symbolic Karsewa from 6.12.1992 on the land under the ownership of Hindu community on which they had every right to worship and raise any religious construction. A request was made to the Hon'ble High Court by the Government for deciding the writ petitions challenging acquisition before 6.12.1992 so that the law and order situation could be controlled by allowing Karsewaks to perform symbolic Karsewa on 6.12.1992 and their feelings could be satisfied. Arguments in writ petitions in acquisition matter was

concluded on 4.11.1992. It was expected that judgment will be pronounced before 6.12.1992. In these circumstances the State Government gave an undertaking that the structure will be protected. However, the judgment could not be pronounced before 6.12.1992 and same was pronounced on 11.12.1992. In these circumstances when lacks of devotees assembled their patience broke and instead of symbolic Karsewa they climbed on the dome and the same was demolished.

It is relevant to mention that Hon'ble Court has not called upon Hindus to clarify their position for the actions taken in the year 1949 and in 1992. In these circumstances the observations made against Hindu community may be expunged.

The Hon'ble Court has not taken into consideration all these facts before condemning the action of devotees and has ordered to allot 5 acres land to Muslims for which they are not entitled to.

In the view of above proposition of fact and law the building in dispute could not be termed as mosque or masjid or Babari Masjid. In view of the fact and law concerning the case it would be desirable that the Hon'ble Court may delete the word Babri mosque/ Babri Masjid/mosque/masjid in paragraph 788(XVIII) and wherever occurs in the judgment and same may be substituted by the word "disputed structure".

The Hon'ble Court may also set aside the finding mentioned in paragraph 788 (XVIII) of the judgment to the extent that the damage was caused to the mosque in 1934, mosque was desecrated in 1949 and mosque was demolished on 6.12.1992.

It is further submitted that there are criminal cases pending against a number of accused persons for demolishing the disputed structure on 6.12.1992. Therefore, the use of word mosque may prejudice the trial to the detriment of accused persons.

In paragraph 800 the Hon'ble Court while ordering to allot 5 acres land to Muslims have held that:-

"...The allotment of land to the Muslims is necessary because though on a balance of probabilities, the evidence in respect of possessory claim of Hindus to the composite whole of the disputed property stands on a better footing than the evidence adduced by the Muslims, the Muslims were dispossessed upon the desecration of the mosque on 22/23.12.1949 which was ultimately destroyed on 6.12.1992. There was no abandonment of the mosque by the Muslims. The court in the exercise of the power under Article 142 of the Constitution must ensure that a wrong committed must be remedied. Justice would not prevail if the Court were to overlook the entitlement of the Muslims who have been deprived of the structure of the mosque through means which should not have been employed in a secular nation committed to the rule of law. The Constitution postulates the equality of all faiths. Tolerance and mutual co-existence nourish the secular commitment of our nation and its people".

In paragraph 801 it has been further held that:-

"..the area of the composite site admeasures about 1500 square yards. While determining the area of land to be allotted, it is necessary to provide restitution to the Muslim community for the unlawful destruction of their place of worship. Having weighed the nature of the relief which should be granted to the Muslims, we direct that land admeasuring 5 acres to be allotted to the Sunni Central Waqf Board either by the Central Government out of the acquired land or by the Government of Uttar Pradesh within the city of Ayodhya..."

From the above it is clear that Hon'ble Court has directed to allot 5 acres land to the Muslims on the ground that there was a mosque whereas there was no mosque in view of the material on record and finding recorded by the Hon'ble Court in the judgment itself.

It is relevant to mention that the State cannot allot any land to construct mosque. A mosque can be constructed on the land which is dedicated to almighty and for which waqf has been created. No mosque can be constructed on the land on which State is the owner. The construction of mosque at the land owned by the Government will also be against the principles of secularism and part-III of the Constitution of India.

It is further submitted that the Hon'ble Court while favoring to enforce secular principles must take into consideration the entire historical facts of the country right from 712 till 1947. The Hon'ble Court may also take into consideration the atrocities committed on Hindus in Kashmir in 1990 and the fact that a number of Hindus were made refugees in their own country and a number of temples were demolished by Muslims in free India. The secular ethos cannot be one sided and Hindus cannot always be put to disadvantageous position.

It is further submitted that the secular character of the Constitution means only that Government will not favour any religion or it will not be governed by any religion. The citizens have fundamental right to worship according to their faith and belief subject to public order and morality. The question is as to how the citizens can be asked to be secular. The only thing is that one may not take law into hands and should not disturb the religious feeling of other religion.

It is historical fact that Hindus have suffered for the last more than 800 years and they had to face the dark days of slavery, firstly the atrocities committed by Muslim Rulers and thereafter by British Rulers. Now country is being governed by written Constitution. Equality and rule of law must prevail and the rights of Hindus curtailed in the past must be remedied so that they may take breath in the new constitutional era.

In view of the fact that finding recorded by the Hon'ble Court relating to mosque is contradictory and against the material on record and same may create further complications in the society, it would be desirable that the Hon'ble Court may

review such part of the judgment and may also appreciate that in fact Muslims have no right or title over the dispute structure and as such the 5 acres land cannot be allotted to them.

It is further submitted that the Places of Worship Act, 1991 is not involved in the case and as such no argument was raised from the side of Hindus in favour or against the provisions of the said Act. The provisions of said Act are not applicable in the instant case. Therefore, the observations made concerning the said Act may be declared as not a binding precedent.

That the criminal trial for demolishing the disputed structure on 6.12.1992 is going on before the Ld. Sessions Judge. Therefore, the Hon'ble Court may clarify that any observation made in the judgment will not affect the criminal trial.

LIST OF DATES

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| TretaYug | Lord of Lords Vishnu took incarnation in the form of Shri Ram Lala and manifested himself in human form in Avadh puri, in the place of King Dashrath of Solar Dynasty as in found in Valmik Ramayan which was composed in Treta Yug. Valmik Ji is considered contemporary of Lord Ram. |
| 23.10.1093 | King Chandra Dev of Gaharwal Dynasty visited Ayodhya and after bathing in Sarayu performed rituals and took Darshan of Shri Vishnu Hari and SwargDwar Temple at Ayodhya. |
| 1114-54 | King of Gaharwal Dynasty renovated/constructed Shri Vishnu Hari (Rama) Temple at Ayodhya which was existing at the time of invasion of Babur in 1528. |
| 1510-11 | According to Sikh Literature Guru Nanak Dev Ji visited Ayodhya at Shri Ram Janam Bhoomi took Darshan and performed worship in the temple thereon. |

- 28.03.1528 According to Babur Nama Babur encamped at river Saryu with his army which is at a distance of about 6-7 kms from Ramkot, the place in question.
- 1574-1577 Tulsi Das Ji composed Shri Ram CharitraManas and thereafter other literary work, Kavitawali, TulsiShatak etc. In the aforesaid literary work Tulsi Das Ji has expressed his pain against the Barbarous action of Babur and his general svis a vis Shri Ram Temple at Janam Bhoomi in Ayodhya and also that Avadhपुरी was a sacred place for devotees in view of the 'Sarman' of Lord Ram as reflected in Uttar Kand.
- 1580-90 Abul Fazal Almi a minister of Akhbar wrote a Gazetteer in the form of a book known as Ain-e-Akhbari in Persian language which was later on translated in English. Abdul Fazal has clearly mentioned about the performance of worship and puja at Ram Janamstan in Ayodhya and also the celebration Birth Day of Lord Ram on the Ram Navami Day in Chaitra. There is no mention of any mosque at the place in question.
- 1608-1611 William Finch travelled Ayodhya and his travel account has been composed by William Foster in the book 'Early Travels in India'. Finch has clearly mentioned that Rama Castle constructed about 400 years ago at the birth place was in ruins and that devotees of Lord Ram were performing puja worship at the said place. There is no reference of any Mosque/BaburiMusque or any muslim worship in the said travelers account.
- 1786 Trifenthellor an Australian Priest travelled Ayodhya between 1765 to 1775 and the book of his travels account in French was published in 1786. In the

said book there is clear mention that the Hindus were performing puja, worship etc. at the place in question and further that the Temple standing thereon was demolished either by Aurangzeb or by Babur. He has also confirmed the existence of Bedi i.e. Cradle, Sita Rasoi etc. at that time and also that Ram Navami day was being celebrated. There is no mention of any Muslim worship or offering Namaz at the place in question.

- 1807-1814 Doctor Francis Hamilton Buchanan under the authority of East India Company visited Ayodhya, and after visiting the place in question noticed an inspection in the disputed structure. The work of Buchanan has been preserved by British Library at London from where Plaintiff No.3 of suit No. 5 after obtaining copy placed before the court as has been quoted from para No.1602 to 1607 in judgment of Mr. Justice Sudhir Agarwal. The document establishes the demolition of a Hindu temple before construction of a structure.
- 1828 Under the authority of East India Company Walter Hamilton published the Gazetteer in respect of Indian Subcontinent which includes Avadh. The gazetteer proves the worship on Lord Rama being performed by devotees in Ayodhya and the sanctity of Ayodhya as a religious place.
- 1838 Mont Gomery Martin published a report under the caption 'The History, antiquities, topography and statistics of Eastern India'. In volume ii of the said book under the Chapter of Gorakhpur of situation of Ayodhya has been described mentioning that Babur an invader after demolishing a Hindu temple constructed a Mosque through his general.

20.05.1845. Board of revenue issued an order in reference to Nazul land mentioning that Government is the proprietor of the lands and no valid title to them can be derived but from the government.

1848 The Governor of North Eastern Provinces issued orders in respect of Nazul property using for the word Nazul in English as "Escheats to the Government".

1854 Edward Thompston's Gazetteer of the 'East India Company' and the natives State of subcontinent of India was published in 1858 mentioning about Avadh according to which Ayodhya is closely connected with Ram and that Babur had constructed the Mosque after demolishing a Hindu Temple and That both Hindu and Muslims were performing worship in the inner courtyard and by putting a railing structure was divided permitting the Muslims to offer Namaz within inner courtyard and Hindus to perform puja in the outer courtyard.

1855 Muslims tried to oust the Hindus from the structure in question and riot took place which flared up to a great extent.

Thereafter the British Government with a view to pacify Muslims orally permitted them to offer Namaz in the inner Courtyard directing the Hindus to worship in the outer Courtyard and a iron railing was also put between inner and outer courtyard. This fact has been narrated in some gazetteers but no written order if any passed by British Government has been quoted in any of the Gazetteer or in any book. There is no proof of such an order in existence.

- 1856 Mirza Jaan published an Article written by Grand daughter of Aurangzeb and daughter of Bahdur Shah Zafar in between 17th – 18th Century under the title Sahifa-i-Chihal-Naaih-Bahadur-Sahifourty advices were published in 1816 A.D. with a library at Rampur. In the said work the wrier has clearly mentioned that Mosque in question had been raised on the same spot of demolishing a Hindu temple by Babur.
- 1856 the area of Avadh was annexed with East India Company.
- 15.05.1858 Governor General Lord Cnning issued a proclamation confiscating proprietary rights in the soil with the exception of five or six persons who have been supporting of British Government at the time of 185 revolt.
- 01.11.1858 Under the Government of India Act the entire Indian Territory under the control of East India Company was placed under the crown including the area of Avadh.
- 1861 The first Land Settlement Operations were initiated. Khasra Plot No. 163 was shown as 'Abadi' and the word 'Janamsthan/JNanambhoomi' was mentioned, but latter on by way of interpolation of the word 'va Masjid', or 'va Masjid Shah Babur' was introduced.
- 1862-65 A. Cunningham CSI published report relating to Archaeological Survey of India containing in part XVII the report relating to 'Saket or Ajudhia'. The report confirms the Hindu Puja, worshp at Ram JanamSthan and also the sanctity of the place for Hindus.

- 1870 P. Carnegi officiating Commissioner and Settlement officer Faizabad published historical sketch of Tehsil Faizabad mentioning that at the Mohammedan conquest out of the three Hindu shrines the Janamsthan temple was demolished by Babur and other two namely 'SwargDwar and Tretake Thakur' temples were demolished by Aurangzeb.
- 1877 W.C. Benett CS/ Assistant Commissioner published Gazeetter reiterating in substance the report published by P.Carnegi and earlier gazetteers.
- 1880 A.F. Millet CS/Officiating Settlement officer also published a report on the Settlement of the Land Revenue of District Faizabad reiterating and confirming the report of P.Carnegi.
- 1885/1886 The suit filed by Mahant Raghubar Das in his individual capacity seeking permission on construction of a Temple over Chabutra/plaitform was rejected by Trial Court on 24.12.1885. In the said case Gopal Sahai Amin was also directed to submit report after inspecting the spot and from his report it is clear that every sign of a Temple was found at the place in question.
- Appeal was preferred by Mahant Bahubar Das which was dismissed by District Judge holding that it was true that Babur after demolishing a Hindu Temple had got constructed a Mosque at the same very place but it was too late to undone the wrong. It appears that permission to construct a Temple was refused on the ground of law and order situation. Second Appeal filed against the Appellate judgment also failed.
- 1891 The Archeological Survey of India published a report in respect of monumental antiquities and

inscriptions prepared by A. Fuhrer containing the report relating to Ayodhya. In the said report the fact of demolishing a Hindu Temple at the place in question and the construction of Mosque over it as narrated in previous Gazetteers and reports have been reiterated and confirmed on examination of relevant facts and Archeological Evidence and also the words occurring on the inscription found at the walls of the disputed structure.

1893 The Second Land Settlement Operations were initiated. Khasra No. 163 with sub plots were shown as Abadi and over such plots the word 'Janmsthan/ Janambhoomi' was mentioned, but latter on by way of interpolation of word 'va Masjid' was introduced.

1904/1905/
1908/1928 Gazetteer relating to Ayodhya were published. In each Gazetteer after verifying the facts relating to demotion of a temple and construction of a Mosque over it existing at the place in question was confirmed. In preparing the gazetteer the facts have been mentioned each time after verifying the same on the basis of record and local belief and sayings of the people of the place in question.

1931 The Nazul Department prepared its own amendment Khasra Records on the Abadi of the "Abadi Settlements" were in Mahant Charan Das and thereafter mahant Raghunath Das have been declared under proprietor of the entire plot of Khasra Plot No. 583 where disputed structure according to Muslims excised.

26.03.1394 A riot took place between Hindus and Muslims and disputed structure was badly damaged. The British Government appointed a Muslim contractor for

repair of the damaged structure. It was the Muslim contractor who while carrying out repair works constructed the dome of the structure giving Islamic outlook for the first time.

However, the muslims could not enter into the structure after repairs.

- 1936 U.P. Waqf Act No. 13 of 1936 was passed. Under the Act the waqf Board was required to notify the property if it was a Waqf Property making provision the the waqf Board was competent to file and defend the suit relating to the waqf property.
- 26.02.1944 The waqf Board has issued a notification under Act 1936 notifying a property at Village Sahanava which was at distance of about 5 Kms from Ramkot the property in question. The Notification was vague and it did not include the property in question.
- 30.30.1946 In suit Shia Central Board of Waqf vs. Sunni Central Board of Waqf it was held by the Civil Judge that it was proved on record that Babur was a Sunni Muslim and under his order the Mosque was constructed and relying the Gazetteer's held that the mosque was constructed and relying the Gazetteer's held that the mosque was constructed after demolishing a Hindu Temple at the same site.
- 22/23.12.1949 The Idol place under the Central Dom of the disputed structure known as "Sanctum Sanctorum".
- 6.01.1950 One Gopal Singh Visharad filed Civil suit no. 2/19520 as a devotee of Lord Ram for restraining the defendants from interfering in his right to worship and from removing the Idol from the place

in question. Injunction was granted protecting the puja and worship.

- 1950 Paramhans Ram Chandra Das filed Civil suit no. 25/1950 with a same prayer as was made in the earlier suit with an exception that notice u.s. 80 of the C.P.C. was given before filing the suit.
- 1959 Nirmohi Akhara filed a Civil Suit no. 26/1959 praying for handing over the management of the Temple to the receiver.
- 1960 A Gazetteer was published under the authority of the U.P. Government giving facts concerning Ayodhya and the property in dispute of material it has been pointed out that at the time of annexation of Oudh Hindus were strong enough to control atleast over one of the holiest places of worship i.e. Shri Ram JanamSthan at Ayodhya.
- 1960 The U.P. Legislature passed the Muslims Waqf Act repealing 1936 Act.
- 18.12.1961 U.P. Sunni Central Board of Waqf along with some Muslims filed a suit seeking declaration of the disputed structure as Baburi Mosque with alternative prayer for possession.
- 20.03.1963 Under the order of the Civil Judge three more defendants including Hindu Mahasabha were impleaded in the representative suit to defend the Hindu community.
- 06.01.1964 All the pending suits were clubbed and Muslims suit was made the leading suit.
- 1965 The Superintendent of Persian and Arabic Inscriptions under the authority of the Archaeological Survey of India published a report

captioned 'Epigraphia Indica' with a report prepared by Maulvi M. Ashraf Hussain which indicates that the writer was claiming to have installed the inscription in the structure after 1943 riot and further confirming that the mosque had been constructed at the same very place constructing a Temple at the Janamsthan of Ram Chandra Ji.

- 21.04.1966 The Civil Judge declared notification dated 26.02.1944 and ultra vires holding that Notification was vague and it does not include the property in question.
- 01.07.1989 Shri Ram Lala Virjman and Asthan Shri Ram Janambhoomi through his next friend filed suit no. 236/1989 praying that the entire property mentioned in Annexure No. 1 to 3 attached to the plaint be declared the property belonging to the plaintiff deity and the defendant be restrained from interfering in construction of a new Temple after demolishing the old structure.
- 10.07.1989 The high Court while allowing an application filed under Section 24 of CPC directed to transfer all suit from the Court of Civil Judge Faizabad to the High Court to be tried by a three Judge Bench.
- 1990 Under the order of the High Court Black/White Coloured photographs were taken and videography was done by Shri Rakesh Tiwari Director U.P. Archaeology. And the albums and videography report has been placed in Court and the same has been proved by Shri Tiwari.
- 1991 U.P. Government acquired 2.77 acres of land outside the without including the property in suit for development of the area for pilgrimage. The said acquisition was challenge by Muslims.

06.12.1992 A Karsewa was organized over acquired land.

Which was outside the property in suit. Till then the judgment could not be pronounced. The patience of the Karsewaks busted and they demolished the disputed structure even Sita Rasoi, Charans, Ram Chabutra etc. over which Hindu puja was going on uninterruptedly.

After demolition of the structure artifacts were recovered in which a number of Hindu Idols images and articles of worship have been found including a ShilaLekh with inscription of the Temple of Shri Hari Vishnu. Under the orders of the Court there materials were kept under the custody of the government in Ram Katha Kunj. A list has been prepared under the direction and supervision of the Archaeological organization of U.P. and Shri Rakesh Tiwari and Director in his statement made before the Court as a witness has proved the artifacts as mentioned above. It has been proved that those articles belong to Hindu worship and that they were part of the demolished structure confirming the stand of the Hindus that the disputed structure has been raised after demolishing a Hindu temple employing the material of such temple.

1.08.2002/
05.03.2003

The High Court directed the Archaeological Survey of India to make Survey beneath the disputed structure and report on the basis of such Survey. The High Court required an ASI report to resolve the paramount question regarding the fact as to whether the structure had been raised after demolishing a Hindu Temple at the same very site.

22.08.2003 The ASI has submitted its report and with the opinion that the structure in disputed did not have

its foundation but it was raised on the existing walls. The floor of the disputed building was just over the floor of the earlier building. The existence of several pillar bases all show another earlier existence of a sufficiently bigger structure.

From the report it is also clear that the ASI team has also got a number of Hindus Structures cellular shrines and proof of habitation starting from the Stone Age.

30.09.2010 On the basis of overwhelming evidence i.e. historical, religious, archaeological reports by majority judgment of High Court has held that disputed structure had been constructed after demolishing a Hindu temple at the same very site.

It has also been held that there was no proof that any Waqf created in respect of the property in suit and that Waqf Board could not file a suit as the disputed property has not been notified by the Waqf Board. Mutawalli of the alleged Waqf also did not come forward to file/contest the suit. But despite all these findings High Court has granted one third of Deity's land to the Muslims.

It is well established proposition of law that any property in the name of the Mosque cannot be possessed by any private individual and as such decree in favour of the Muslims is in violation of law and is not sustainable.

In any case after independence the Hindus of the country are entitled for restoration of Birth place and Temple standing at Asthan Shri Ram Janam Bhoomi at Ayodhya and the invaders action cannot be endorsed and cannot be allowed to continue.

The Courts are under constitutional obligation to protect the cultural heritage of India and to restore back the Ram Janam Bhoomi which was trampled by Mughals and Hindus right to religion was abridged. Thus, the judgment of the High Court decreeing one third of the disputed land to the Muslims is not only erroneous but against the spirit of the constitution and also violative of the right of the Hindus to pay homage and to do worship of the Deity Asthan Shri Ram Janam Bhoomi.

22.12.2010 Being aggrieved from the aforesaid judgment passed by the Hon'ble High Court, the present Petitioner filed Special Leave Petition (C) No.15152/2011.

9.05.2011 The aforesaid Special Leave Petition (C) No.15152/2011 was listed alongwith other Civil Appeals and SLPs arising out of the impugned judgment passed by the Hon'ble Court. The leave was granted (now converted to C.A.No.4739/2011) and appeals were admitted and Civil Appal No.10866-10867/2010 is the leading case. The Hon'ble Court also passed interim order staying the operation and implementation of judgment and decree passed by Hon'ble High Court.

09.11.2019 The instant appeal alongwith leading Civil Appeal No.10866-10867/2010 had been decided by common judgment and final order passed by this Hon'ble Court on 9.11.2019 has decreed Suit No.5 filed by Ram Lala Viraajman and has also partly decreed Suit No.4 filed by Sunni Waqf Board. The present review petition is being filed for limited review of the judgment to the extent 5 acre land have been directed to be allotted to Sunni Waqf Board, to expunge some observations made

against Hindu community, the findings recorded on the points not in issue in appeal and for deleting the 'word mosque' and for substitution of the 'dispute structure' in its place.

09.12.2019 Hence, the present Review Petition.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (C) NO. OF 2019

IN
CIVIL APPEAL No.4739 of 2011

(Arising out from SLP (C) No.15152/2011)

IN THE MATTER OF:-

Akhil Bharat Hindu Mahasabha
(A Registered Society)
Through its President
Shishir Chaturvedi,
Aged about 46 years,
S/o. late J.K.Chaturvedi
Registered Office at 215/460,
Munnu Lal Dharmshala Road,
P.S.Naka, District-Lucknow,
Uttar Pradesh.

Petitioner

Versus

1. Bhagwan Sri Ram Lala Virajman
At Sri Rama Janam Bhumi,
Ayodhya also called Bhagwan
Sri Rama Lala Virajman,
Represented by next friend
Deoki Nandan Agarwal (dead),
And his place
Sri Triloki Nath Pandey
Karsewapuram, Ayodhya,
District-Ayodhya, U.P.
2. Asthan Sri Rama Janma Bhumi,
Ayodhya Through
Deoki Nandan Agarwal (died)
And his place Sri Triloki Nath Pandey
Karsewapuram, Ayodhya,
District-Ayodhya, U.P.
3. Deoki Nandan Agarwal(dead)
Through L.R.
Sri Triloki Nath Pandey
S/o late Ashkrut Pandey
R/o. Karsewapuram, Ayodhya,
District-Ayodhya, U.P.
4. Rajendra Singh
S/D/W/Thru:-Late Gopal Singh Visharad
Gonda, Care of State Bank of India,
Gonda Branch, District: Gonda,
Gonda,Uttar Pradesh

5. Mahant Suresh Das
Chela Late Mahant
Ram Chandra Das
Digambar Akhara,
District: Ayodhya,
Uttar Pradesh.
6. Nirmohi Akhara
Mohalla Ram Ghat
Through its President
Mahant Dinendra Das
Chela Mahant Bhairo Das
Naga Chela Mahant Raja
Ramachandracharya,
Resident of Shri Panch Ramanandi
Nirmohi Akhara, Ram Ghat Ghat,
Kotwali& District Ayodhya,
Uttar Pradesh
7. Sunni Central Board of Waqfs
Through its Secretary
Office at J.C.Bose Road ,
District: Lucknow,Lucknow,
Uttar Pradesh
8. Mohanned Hasim (died)
Through his L.R.
Mohammad Iqbal Ansari
S/o Late Mohammad Hashim
4/318, Mohalla Kotia, Jalwanpur,
Pargana Haveli Awadh,
Tehsil Sadar, Ayodhya Dist. Ayodhya
Uttar Pradesh.
9. Mohammed Ahmed(died)
Through his L.R.
Dr. Faiz Ahmad S/o Late Anwar Ahmad
Grandson of Late Mohd. Ahmad
R/O Shifa Dental Clinic,
Mohalla Rakabganj, Pargana-Haveli Awadh,
City and District Ayodhya
Uttar Pradesh.
10. The State of Uttar Pradesh
Home Department
Through its Secretary
Civil Secretariat, District: Lucknow,
Uttar Pradesh.
11. The Collector/District Magistrate
District: Ayodhya,
Uttar Pradesh.

12. City Magistrate,
District: Ayodhya,
Uttar Pradesh.
13. Senior Superintendent of Police,
District Ayodhya,
Uttar Pradesh.
14. The President,
All India Arya Samaj
Dewan Hall, Delhi,
Delhi-100006.
15. The President,
All India
Sanatan Dharma Sabha
Delhi-100006.
16. Dharam Das
Chela Baba Abhiram Das
Hanuman Garhi, District: Ayodhya,
Uttar Pradesh.
17. Pundarik Mishra
S/o. Raj Narain Mishra
Bhampur Sarai, District: Ayodhya,
Uttar Pradesh.
18. Ram Dayal Saran
Chela Ram Lakhan Saran
Ram CharitManas Bhawan,
Mohalla Ram Kot, District: Ayodhya,
Uttar Pradesh.
19. Ramesh Chandra Tripathi
S/D/W/Thru:-Parash Ram Tripathi
Village Bhagwan Patti,
Pargana Minijhaura, Tehsil Akbarpur,
District: Ambedkar Nagar,
Uttar Pradesh.
20. Umesh Chandra Pandey
S/o Shri Uma Shankar Pandey
RanoPali ,District: Ayodhya,
Uttar Pradesh.
21. Ram Janam Bhumi Nyas
A Trust having its office at
Sankatmochan Ashram,
Sri Hanuman Mandir, R.K.Puram,
Sector VI, New Delhi.
Through its Trustee
Shri Champat Rai

22. Shia Central Board of Waqfs
U.P. Lucknow,
Through its Chairman
Uttar Pradesh.
 23. Prince Anjum Quder,
President, All India
Shia Conference Quami Ghar
All India SHIA CONFERENCE QAOMI GHAR,
Nadan Mahal Road, District: Lucknow,
Uttar Pradesh.
 24. All India Shia Conference
Through S. Mohammed Hasnain Abidi,
Honory General Secretary
All India Shia Conference Qaomi Ghar,
Nadan Mahal Road, District: Lucknow,
Uttar Pradesh.
 25. Hafiz Mohammed Siddiqui (died)
Through L.R.
Maulana Rshiduddin (Major)
Committee of Jummiat Ulama-I-Hind,
Subhash Marg, Ahata Shaukati Ali,
Lucknow, Uttar Pradesh.
 26. Vakiluddin (died)
Through his legal heirs
Maulana Mahfooz Rahman
S/o late Vakiluddin
R/o. Madarpur, Pargan and
Tehsil Tanda,
District: Ambedkarnagar,
Uttar Pradesh.
- Respondents

AND IN THE CIVIL APPEAL No.4739 of 2011

IN THE MATTER OF:

Akhil Bharat Hindu Mahasabha
Through Kamlesh Tiwari
S/o Shri Deoki Nandan Tiwari,
R/o. 26 Kurshebag Hindu
Mahasabha Bhawan,
Lucknow, Uttar Pradesh.
Chairman, High
Level Committee

Appellant

Versus

1. Bhagwan Sri Ram Lala Virajman
At Sri Rama Janam Bhumi,
Ayodhya also called Bhagwan

Sri Rama Lala Virajman,
Represented by next friend
Deoki Nandan Agarwal (dead),
And his place
Sri Triloki Nath Pandey
Karsewapuram, Ayodhya,
District-Ayodhya, U.P.

2. Asthan Sri Rama Janma Bhumi,
Ayodhya Through
Deoki Nandan Agarwal
56, Dilkusha, Allahabad,
District: Allahabad,Allahabad,
Uttar Pradesh.
3. Deoki Nandan Agarwal(dead)
56, Dilkusha, Allahabad,
District: Allahabad ,Allahabad,
Uttar Pradesh
4. Rajendra Singh
S/D/W/Thru:-Late Gopal Singh Visharad
Gonda, Care of State Bank of India,
Gonda Branch, District: Gonda,
Gonda,Uttar Pradesh
5. Mahant Suresh Das
Chela Late Mahant
Ram Chandra Das
Digambar Akhara,
District: Ayodhya,
Uttar Pradesh.
6. Nirmohi Akhara
Mohalla Ram Ghat
Through its President
Mahant Dinendra Das
Chela Mahant Bhairo Das
Naga Chela Mahant Raja
Ramachandracharya,
Resident of Shri PanchRamanandi
Nirmohi Akhara, Ram GhatGhat,
Kotwali& District Ayodhya,
Uttar Pradesh
7. Sunni Central Board of Waqfs
Through its Secretary
Office at J.C.Bose Road ,
District: Lucknow,Lucknow,
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S/o Late Mohammad Hashim
4/318, Mohalla Kotia, Jalwanpur,
Pargana Haveli Awadh,
Tehsil Sadar, Ayodhya Dist. Ayodhya
Uttar Pradesh.
9. Mohammed Ahmed(died)
Through his L.R.
Dr. Faiz Ahmad
S/o Late Anwar Ahmad
Grandson of Late Mohd. Ahmad
R/O Shifa Dental Clinic,
Mohalla Rakabganj, Pargana-Haveli Awadh,
City and District Ayodhya
Uttar Pradesh.
10. The State of Uttar Pradesh
Home Department
Through its Secretary
Civil Secretariat, District: Lucknow,
Uttar Pradesh.
11. The Collector/District Magistrate
District: Ayodhya,
Uttar Pradesh.
12. City Magistrate,
District: Ayodhya,
Uttar Pradesh.
13. Senior Superintendent of Police,
District Ayodhya,
Uttar Pradesh.
14. The President,
All India Arya Samaj
Dewan Hall, Delhi,
Delhi-100006.
15. The President,
All India
Sanatan Dharma Sabha
Delhi-100006.
16. Dharam Das
Chela Baba Abhiram Das
Hanuman Garhi, District: Ayodhya,
Uttar Pradesh.

17. Pundarik Mishra
S/o. Raj Narain Mishra
Bhampur Sarai, District: Ayodhya,
Uttar Pradesh.
18. Ram Dayal Saran
Chela Ram Lakhan Saran
Ram CharitManas Bhawan,
Mohalla Ram Kot, District: Ayodhya,
Uttar Pradesh.
19. Ramesh Chandra Tripathi
S/D/W/Thru:-Parash Ram Tripathi
Village Bhagwan Patti,
Pargana Minijhaura, Tehsil Akbarpur,
District: Ambedkar Nagar,
Uttar Pradesh.
20. Umesh Chandra Pandey
S/o Shri Uma Shankar Pandey
RanoPali ,District: Ayodhya,
Uttar Pradesh.
21. Ram Janam Bhumi Nyas
A Trust having its office at
Sankatmochan Ashram,
Sri Hanuman Mandir,
Rama Krishan Puram,
Sector VI, New Delhi
Through Ashok Singhal,
Managing Trustee
22. Shia Central Board of Waqfs
U.P. Lucknow,
Through its Chairman
Uttar Pradesh.
23. Prince Anjum Quder,
President, All India
Shia Conference Quami Ghar
All India SHIA CONFERENCE QAOMI GHAR,
Nadan Mahal Road, District: Lucknow,
Uttar Pradesh.
24. All India Shia Conference
Through S. Mohammed Hasnain Abidi,
Honory General Secretary
All India Shia Conference Qaomi Ghar,
Nadan Mahal Road, District: Lucknow,
Uttar Pradesh.

Proforma

25. Hafiz Mohammed Siddiqui (died)
Through L.R.
Maulana Rshiduddin (Major)
Committee of Jummiat Ulama-I-Hind,
Subhash Marg, Ahata Shaukati Ali,
Lucknow, Uttar Pradesh.

26. Wakiluddin
S/o.Ismail Madarpur,
Pargan and Tehsil Tanda,
District: Ambedkarnagar,
Uttar Pradesh.

Respondents

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is filing this review petition under Article 137 of the Constitution of India r/w Order XLVII of the Supreme Court Rules,2013 seeking limited review of the judgment to clarify the findings and observations recorded by the Hon'ble Court as same are creating misconception in the mind of public at large and those may create further complications in future and further the judgment to the extent of ordering to give 5 acres land to Sunni Waqf Board in exercise of the powers under Article 142 of the Constitution of India requires to be reviewed as there was no pleading or any submission by any party for allotting such land to Muslims.

1a. That the appeal was filed by the Appellant-Akhil Bharat Hindu Mahasabha through Kamlesh Tiwari who was then Chairman of High Power Committee. He had executed power of attorney in favour of Shri Shishir Chaturvedi to do pairvy of the case before this Hon'ble Court. Shri Kamlesh Tiwari has been brutally murdered on 18.10.2019. Thereafter, the Organization has been re-organized and the same has been registered under Society Registration Act, on 7.11.2019 with registration LUC/07053/2019/2020 at Lucknow, U.P.

2. **QUESTION OF LAW:**

A. Whether the property belonging to deity continues to be deity property even if for some time same is usurped or desecrated by follower of other religion?

- B. Whether Court of law can confer legal rights to the construction of any structure as mosque if same is found to have been erected over a temple site or over the ruins of a temple or religious structure of Hindus, Bauddhs, Sikhs or Jains?
- C. Whether once it is established that Hindus have been worshipping the birth place of Lord Ram since ages, any sanctity to any structure raised at such place in the name of mosque can be recognized?
- D. Whether the disputed structure can be treated as mosque in absence of any proof for creation of any waqf or dedication of land to almighty or any evidence that same was constructed in the year 1528 and any Namaz was offered before 1857-58?
- E. Whether the Muslims can be allotted 5 acres land by way of compensation for offering Namaz at a place which belong to Hindus and never belong to them or no mosque could have been raised at the religious site of Hindus (including Bauddhs, Sikhs and Jains) or on the remains of a non Islamic religious structure?
- F. Whether the Supreme Court in exercise of the powers under Article 142 of the Constitution of India can direct to allot 5 acres land to the Central/State Government for construction of mosque?
- G. Whether in absence of a definite finding regarding creation of waqf and dedication of the land to almighty the construction in question could be considered as mosque for any purpose?
- H. Whether any observation relating to Places of Worship Act,1991 is called for in this case?
- I. Whether the principle of secularism is limited to the Governmental function and the citizens are not bound to follow the principle of secularism in their affairs?
- J. Whether the Principles of secularism can be applied only against Hindu community or same is one sided or the

incidence of the past and also after independence should also be taken into consideration?

- K. Whether the observations made against Hindus relating to incident occurred in 1934, 1949 and 1992 is uncalled for?
- L. Whether Hindus even after establishing right to worship in the inner courtyard in the disputed structure, can be penalized/criticized for their actions committed in 1934, 1949, 1992?
- M. Whether any observation made by the Hon'ble Court in the judgment will affect the trial going on for demolishing the disputed structure?

3. That the facts leading to the filing of the present review petition are as under:

- 3.1 It most respectfully submitted that in Treta Yug Lord of Lords Vishnu took incarnation in the form of Shri Ram Lala and manifested himself in human form in Avadh puri, in the place of King Dashrath of Solar Dynasty as in found in Valmik Ramayan which was composed in Treta Yug. Valmik Ji is considered contemporary of Lord Ram.
- 3.2 It most respectfully submitted that on 23.10.1093 kind Chandra Dev of Gaharwal Dynasty visited Ayodhya and after bathing in Saryu performed rituals and took Darshan of Shri Vishnu Hari and Swarg Dwar Temple at Ayodhya.
- 3.3 It most respectfully submitted that in 1114-54 King of Gaharwal Dynasty renovated/constructed Shri Vishnu Hari (Rama) Temple at Ayodhya which was existing at the time of invasion of Babur in 1528.
- 3.4 It most respectfully submitted that in 1510-11 According to Sikh Literature Guru Nanak Dev Ji visited Ayodhya at Shri Ram Janam Bhoomi took Darshan and performed worship in the temple thereon.
- 3.5 It most respectfully submitted that on 28.03.1528 according to Babur Nama Babur encamped at river Saryu

with his army which is at a distance of about 6-7 kms from Ramkot, the place in question.

- 3.6 It most respectfully submitted that in 1574-1577 Tulsi Das Ji composed Shri Ram CharitraManas and thereafter other literary work, Kavitawali, TulsiShatak etc. In the aforesaid literary work Tulsi Das Ji has expressed his pain against the Barbarous action of Babur and his general sviv a vis Shri Ram Temple at Janam Bhoomi in Ayodhya and also that Avadhपुरi was a sacred place for devotees in view of the 'Sarman' of Lord Ram as reflected in Uttar Kand.
- 3.7 It most respectfully submitted that in 1580-90 Abul Fazal Almi a minister of Akhbar wrote a Gazetteer in the form of a book known as Ain-e-Akhbari in Persian language which was later on translated in English. Abdul Fazal has clearly mentioned about the performance of worship and puja at Ram Janamstan in Ayodhya and also the celebration Birth Day of Lord Ram on the Ram Navami Day in Chaitra. There is no mention of any mosque at the place in question.
- 3.8 It most respectfully submitted that in 1608-1611 William Finch travelled Ayodhya and his travel account has been composed by William Foster in the book 'Early Travels in India'. Finch has clearly mentioned that Rama Castle constructed about 400 years ago at the birth place was in ruins and that devotees of Lord Ram were performing puja worship at the said place. There is no reference of any Mosque/BaburiMusque or any muslim worship in the said travelers account.
- 3.9 It most respectfully submitted that in 1786 Trifenthellor an Australian Priest travelled Ayodhya between 1765 to 1775 and the book of his travels account in French was published in 1786. In the said book there is clear mention that the Hindus were performing puja, worship etc. at the place in question and further that the Temple standing

thereon was demolished either by Aurangzeb or by Babur. He has also confirmed the existence of Bedi i.e. Cradle, Sita Rasoi etc. at that time and also that Ram Navami day was being celebrated. There is no mention of any Muslim worship or offering Namaz at the place in question.

3.10 It most respectfully submitted that in 1807-1814 Doctor Francis Hamilton Buchanan under the authority of East India Company visited Ayodhya, and after visiting the place in question noticed an inspection in the disputed structure. The work of Buchanan has been preserved by British Library at London from where Plaintiff No.3 of suit No. 5 after obtaining copy placed before the court as has been quoted from para No.1602 to 1607 in judgment of Mr. Justice Sudhir Agarwal. The document establishes the demolition of a Hindu temple before construction of a structure.

3.11 It most respectfully submitted that in 1828 under the authority of East India Company Walter Hamilton published the Gazetteer in respect of Indian Subcontinent which includes Avadh. The gazetteer proves the worship on Lord Rama being performed by devotees in Ayodhya and the sanctity of Ayodhya as a religious place.

3.12 It most respectfully submitted that on 1838 Mont Gomery Martin published a report under the caption 'The History, antiquities, topography and statistics of Eastern India'. In volume ii of the said book under the Chapter of Gorakhpur of situation of Ayodhya has been described mentioning that Babur an invader after demolishing a Hindu temple constructed a Mosque through his general.

3.13 It most respectfully submitted that on 20.05.1845. Board of revenue issued an order in reference to Nazul land mentioning that Government is the proprietor of the lands

and no valid title to them can be derived but from the government.

- 3.14 It most respectfully submitted that on 1848 the Governor of North Eastern Provinces issued orders in respect of Nazul property using for the word Nazul in English as "Escheats to the Government".
- 3.15 It most respectfully submitted that in 1854 Edward Thompton's Gazetteer of the 'East India Company' and the natives State of subcontinent of India was published in 1858 mentioning about Avadh according to which Ayodhya is closely connected with Ram and that Babur had constructed the Mosque after demolishing a Hindu Temple and That both Hindu and Muslims were performing worship in the inner courtyard and by putting a railing structure was divided permitting the Muslims to offer Namaz within inner courtyard and Hindus to perform puja in the outer courtyard.
- 3.16 It most respectfully submitted that in 1855 Muslims tried to oust the Hindus from the structure in question and riot took place which flared up to a great extent.

Thereafter the British Government with a view to pacify Muslims orally permitted them to offer Namaz in the inner Courtyard directing the Hindus to worship in the outer Courtyard and a iron railing was also put between inner and outer courtyard. This fact has been narrated in some gazetteers but no written order if any passed by British Government has been quoted in any of the Gazetteer or in any book. There is no proof of such an order in existence.

- 3.17 It most respectfully submitted that in 1856 Mirza Jaan published an Article written by Granddaughter of Aurangzeb and daughter of Bahdur Shah Zafar in between 17th-18th Century under the title Sahifa-i-Chihal-Naaih-Bahadur-Sahifourty advices were published in 1816 A.D.

with a library at Rampur. In the said work the wrier has clearly mentioned that Mosque in question had been raised on the same spot of demolishing a Hindu temple by Babur.

- 3.18 It most respectfully submitted that in 1856 the area of Avadh was annexed with East India Company.
- 3.19 It most respectfully submitted that on 15.05.1858 Governor General Lord Cnning issued a proclamation confiscating proprietary rights in the soil with the exception of five or six persons who have been supporting of British Government at the time of 185 revolt.
- 3.20 It most respectfully submitted that on 01.11.1858 under the Government of India Act the entire Indian Territory under the control of East India Company was placed under the crown including the area of Avadh.
- 3.21 It most respectfully submitted that in 1861 the first Land Settlement Operations were initiated. Khasra Plot No. 163 was shown as 'Abadi' and the word 'Janamsthan/JNanambhoomi' was mentioned, but latter on by way of interpolation of the word 'va Masjid', or 'va Masjid Shah Babur' was introduced.
- 3.22 It most respectfully submitted that in 1862-65 A. Cunningham CSI published report relating to Archaeological Survey of India containing in part XVII the report relating to 'Saket or Ajudhia'. The report confirms the Hindu Puja, worshp at Ram JanamSthan and also the sanctity of the place for Hindus.
- 3.23 It most respectfully submitted that in 1870 P. Carnegi officiating Commissioner and Settlement officer Faizabad published historical sketch of Tehsil Faizabad mentioning that at the Mohammedan conquest out of the three Hindu shrines the Janamsthan temple was demolished by Babur

and other two namely 'SwargDwar and Tretake Thakur' temples were demolished by Aurangzeb.

- 3.24 It most respectfully submitted that in 1877 W.C. Benett CS/ Assistant Commissioner published Gazeetter reiterating in substance the report published by P.Carnegi and earlier gazetteers.
- 3.25 It most respectfully submitted that in 1880 A.F. Millet CS/Officiating Settlement officer also published a report on the Settlement of the Land Revenue of District Faizabad reiterating and confirming the report of P.Carnegi.
- 3.26 It most respectfully submitted that 1885/1886 the suit filed by Mahant Raghubar Das in his individual capacity seeking permission on construction of a Temple over Chabutra/plaitform was rejected by Trail Court on 24.12.1885. In the said case Gopal Sahai Amin was also directed to submit report after inspecting the spot and from his report it is clear that every sign of a Temple was found at the place in question.

Appeal was preferred by Mahant Bahubar Das which was dismissed by District Judge holding that it was true that Babur after demolishing a Hindu Temple had got constructed a Mosque at the same very place but it was too late to undone the wrong. It appears that permission to construct a Temple was refused on the ground of law and order situation. Second Appeal filed against the Appellate judgment also failed.

- 3.27 It most respectfully submitted that in 1891 the Archeological Survey of India published a report in respect of monumental antiquities and inscriptions prepared by A. Fuhrer containing the report relating to Ayodhya. In the said report the fact of demolishing a Hindu Temple at the place in question and the construction of Mosque over it as narrated in previous Gazetteers and reports have been

reiterated and confirmed on examination of relevant facts and Archeological Evidence and also the words occurring on the inscription found at the walls of the disputed structure.

- 3.28 It most respectfully submitted that in 1893 the Second Land Settlement Operations were initiated. Khasra No. 163 with sub plots were shown as Abadi and over such plots the word 'Janmsthan/ Janambhoomi' was mentioned, but latter on by way of interpolation of word 'va Masjid' was introduced.
- 3.29 It most respectfully submitted that in 1904/1905/ 1908/ 1928 Gazetteer relating to Ayodhya were published. In each Gazetteer after verifying the facts relating to demotion of a temple and construction of a Mosque over it existing at the place in question was confirmed. In preparing the gazetteer the facts have been mentioned each time after verifying the same on the basis of record and local belief and sayings of the people of the place in question.
- 3.30 It most respectfully submitted that in 1931 the Nazul Department prepared its own amendment Khasra Records on the Abadi of the "Abadi Settlements" were in Mahant Charan Das and thereafter mahant Raghunath Das have been declared under proprietor of the entire plot of Khasra Plot No. 583 where disputed structure according to Muslims excised.
- 3.31 It most respectfully submitted that on 26.03.1394 a riot took place between Hindus and Muslims and disputed structure was badly damaged. The British Government appointed a Muslim contractor for repair of the damaged structure. It was the Muslim contractor who while carrying out repair works constructed the dome of the structure giving Islamic outlook for the first time.

However, the muslims could not enter into the structure after repairs.

- 3.32 It most respectfully submitted that in 1936 U.P. Waqf Act No.13 of 1936 was passed. Under the Act the waqf Board was required to notify the property if it was a Waqf Property making provision the the waqf Board was competent to file and defend the suit relating to the waqf property.
- 3.33 It most respectfully submitted that on 26.02.1944 the waqf Board has issued a notification under Act 1936 notifying a property at Village Sahanava which was at distance of about 5 Kms from Ramkot the property in question. The Notification was vague and it did not include the property in question.
- 3.34 It most respectfully submitted that on 30.30.1946 in suit Shia Central Board of Waqf vs. Sunni Central Board of Waqf it was held by the Civil Judge that it was proved on record that Babur was a Sunni Muslim and under his order the Mosque was constructed and relying the Gazetteer's held that the mosque was constructed and relying the Gazetteer's held that the mosque was constructed after demolishing a Hindu Temple at the same site.
- 3.35 It most respectfully submitted that on 22/23.12.1949 The Idol place under the Central Dom of the disputed structure known as "Sanctum Sanctorum".
- 3.36 It most respectfully submitted that on 6.01.1950 one Gopal Singh Visharad filed Civil suit no.2/19520 as a devotee of Lord Ram for restraining the defendants from interfering in his right to worship and from removing the Idol from the place in question. Injunction was granted protecting the puja and worship.

- 3.37 It most respectfully submitted that in 1950 Paramhans Ram Chandra Das filed Civil suit no. 25/1950 with a same prayer as was made in the earlier suit with an exception that notice u.s. 80 of the C.P.C. was given before filing the suit.
- 3.38 It most respectfully submitted that in 1959 Nirmohi Akhara filed a Civil Suit no. 26/1959 praying for handing over the management of the Temple to the receiver.
- 3.39 It most respectfully submitted that in 1960 A Gazetteer was published under the authority of the U.P. Government giving facts concerning Ayodhya and the property in dispute of material it has been pointed out that at the time of annexation of Oudh Hindus were strong enough to control atleast over one of the holiest places of worship i.e. Shri Ram JanamSthan at Ayodhya.
- 3.40 It most respectfully submitted that 1960 the U.P. Legislature passed the Muslims Waqf Act repealing 1936 Act.
- 3.41 It most respectfully submitted that on 18.12.1961 U.P.Sunni Central Board of Waqf along with some Muslims filed a suit seeking declaration of the disputed structure as Baburi Mosque with alternative prayer for possession.
- 3.42 It most respectfully submitted that on 20.03.1963 under the order of the Civil Judge three more defendants including Hindu Mahasabha were impleaded in the representative suit to defend the Hindu community.
- 3.43 It most respectfully submitted that on 06.01.1964 all the pending suits were clubbed and Muslims suit was made the leading suit.
- 3.44 It most respectfully submitted that in 1965 the Superintendent of Persian and Arabic Inscriptions under

the authority of the Archaeological Survey of India published a report captioned 'Epigraphia Indica' with a report prepared by Maulvi M. Ashraf Hussain which indicates that the writer was claiming to have installed the inscription in the structure after 1943 riot and further confirming that the mosque had been constructed at the same very place constructing a Temple at the Janamsthan of Ram Chandra Ji.

3.45 It most respectfully submitted that on 21.04.1966 the Civil Judge declared notification dated 26.02.1944 as ultra vires holding that Notification was vague and it does not include the property in question.

3.46 It most respectfully submitted that on 01.07.1989 Shri Ram Lala Virjman and Asthan Shri Ram Janambhoomi through his next friend filed suit no. 236/1989 praying that the entire property mentioned in Annexure No. 1 to 3 attached to the plaint be declared the property belonging to the plaintiff deity and the defendant be restrained from interfering in construction of a new Temple after demolishing the old structure.

3.47 It most respectfully submitted that on 10.07.1989 the high Court while allowing an application filed under Section 24 of CPC directed to transfer all suit from the Court of Civil Judge Faizabad to the High Court to be tried by a three Judge Bench.

3.48 It most respectfully submitted that in 1990 under the order of the High Court Black/White Coloured photographs were taken and videography was done by Shri Rakesh Tiwari Director U.P. Archaeology. And the albums and videography report has been placed in Court and the same has been proved by Shri Tiwari.

3.49 It most respectfully submitted that in 1991 U.P.Government acquired 2.77 acres of land outside the without including the property in suit for development of the area for pilgrimage. The said acquisition was challenge by Muslims.

3.50 It most respectfully submitted that on 06.12.1992 a Karsewa was organized over acquired land which was outside the property in suit. Till then the judgment could not be pronounced. The patience of the Karsewaks busted and they demolished the disputed structure even Sita Rasoi, Charans, Ram Chabutra etc. over which Hindu puja was going on uninterruptedly.

After demolition of the structure artifacts were recovered in which a number of Hindu Idols images and articles of worship have been found including a ShilaLekh with inscription of the Temple of Shri Hari Vishnu. Under the orders of the Court there materials were kept under the custody of the government in Ram Katha Kunj. A list has been prepared under the direction and supervision of the Archaeological organization of U.P. and Shri Rakesh Tiwari and Director in his statement made before the Court as a witness has proved the artifacts as mentioned above. It has been proved that those articles belong to Hindu worship and that they were part of the demolished structure confirming the stand of the Hindus that the disputed structure has been raised after demolishing a Hindu temple employing the material of such temple.

3.51 It most respectfully submitted that on 1.08.2002/05.03.2003 the High Court directed the Archaeological Survey of India to make Survey beneath the disputed structure and report on the basis of such Survey. The High Court required an ASI report to resolve the paramount question regarding the fact as to whether the structure had

been raised after demolishing a Hindu Temple at the same very site.

3.52 It most respectfully submitted that on 22.08.2003 the ASI has submitted its report and with the opinion that the structure in disputed did not have its foundation but it was raised on the existing walls. The floor of the disputed building was just over the floor of the earlier building. The existence of several pillar bases all show another earlier existence of a sufficiently bigger structure.

From the report it is also clear that the ASI team has also got a number of Hindus Structures cellular shrines and proof of habitation starting from the stone age.

3.53 It most respectfully submitted that on 30.09.2010 on the basis of overwhelming evidence i.e. historical, religious, archaeological reports by majority judgment of High Court has held that disputed structure had been constructed after demolishing a Hindu temple at the same very site.

It has also been held that there was no proof that any Waqf created in respect of the property in suit and that Waqf Board could not file a suit as the disputed property has not been notified by the Waqf Board. Mutawalli of the alleged Waqf also did not come forward to file/contest the suit. But despite all these findings High Court has granted one third of Deity's land to the Muslims.

It is well established proposition of law that any property in the name of the Mosque cannot be possessed by any private individual and as such decree in favour of the Muslims is in violation of law and is not sustainable.

In any case after independence the Hindus of the country are entitled for restoration of Birth place and Temple standing at Asthan Shri Ram Janam Bhoomi at

Ayodhya and the invaders action cannot be endorsed and cannot be allowed to continue.

The Courts are under constitutional obligation to protect the cultural heritage of India and to restore back the Ram Janam Bhoomi which was trampled by Mughals and Hindus right to religion was abridged. Thus, the judgment of the High Court decreeing one third of the disputed land to the Muslims is not only erroneous but against the spirit of the constitution and also violative of the right of the Hindus to pay homage and to do worship of the Deity Asthan Shri Ram Janam Bhoomi.

- 3.54 It most respectfully submitted that on 22.12.2010 being aggrieved from the aforesaid judgment passed by the Hon'ble High Court, the present Petitioner filed Special Leave Petition (C) No.15152/2011.
- 3.55 It most respectfully submitted that 9.05.2011 the aforesaid Special Leave Petition (C) No.15152/2011 was listed alongwith other Civil Appeals and SLPs arising out of the impugned judgment passed by the Hon'ble Court. The leave was granted (now converted to C.A.No.4739/2011) and appeals were admitted and Civil Appal No.10866-10867/2010 is the leading case. The Hon'ble Court also passed interim order staying the operation and implementation of judgment and decree passed by Hon'ble High Court.
- 3.56 It most respectfully submitted that 09.11.2019 the instant appeal alongwith leading Civil Appeal No.10866-10867/2010 had been decided by common judgment and final order passed by this Hon'ble Court on 9.11.2019 has decreed Suit No.5 filed by Ram Lala Viraajman and has also partly decreed Suit No.4 filed by Sunni Waqf Board. The present review petition is being filed for limited review of the judgment to the extent 5 acre land have been directed

to be allotted to Sunni Waqf Board, to expunge some observations made against Hindu community, the findings recorded on the points not in issue in appeal and for deleting the 'word mosque' and for substitution of the 'dispute structure' in its place.

Hence, the present Review Petition.

3.57 The Review Petitioner is seeking review of the impugned judgment and final order dated 9.11.2019 passed by this Hon'ble Court in Civil Appeal No.4739/2011, on the following, amongst other grounds, which are without prejudice to each other:

4. GROUNDS

4.1. Because the Hon'ble Court has given finding of fact that Hindus have been worshipping the birth place of Lord Ram under three domed structure from ancient times but at the same time the Hon'ble Court without any evidence or material on record has termed the structure as mosque simply on the basis that in the plaint Muslims have alleged that a mosque has been constructed by and under the orders of Babar in 1528 and in Suit No.5 Plaintiff has also pleaded that the mosque was made by Mir Baqui a commander of Babar Army and in para 68 it has been held that there was essentially no dispute about the fact that the mosque was raised in 1528 A.D. by or at the behest of Babar.

4.2 Because the Hon'ble Court in para 67 has referred para 23 of the suit No.5. In said para Plaintiff has no where averred that a mosque had been constructed at the place in question.

4.3 Because in paragraph 25 of the suit No.5 it was further pleaded that the worship of the Plaintiff deities has continued since ever throughout the ages at Shri Ramjanmabhumi. 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.

- 4.4 Because it is apparent on record that Plaintiff of Suit No.5 has nowhere admitted that a mosque had been constructed thereat. In substance it has been the case of all the Hindu parties that the worship of Lord Ram was going on at birth place, the property in dispute and the temple never lost its sanctity.
- 4.5 Because therefore, the finding recorded by the Hon'ble Court terming the disputed structure as mosque is apparently not correct and against the evidence and material on record and such mistake may be corrected in exercise of the power of review conferred by the Constitution in larger public interest.
- 4.6 Because on the basis of Sikh literature it has been proved in evidence that Shri Guru Nankdevji had performed puja and Darshan at Janmabhumi Mandir in 1510-11 A.D. In para 70 and 71 of the addenda it has been held that Janma Shakies have been brought on record which contains description of visit of Gurunanak Devji at Ayodhya where he had darshan of birth place of Lord Ram. The said literature proves the faith and belief of Hindus in birth place of Lord Ram at Ayodhya before invasion of Babar.
- 4.7 Because the anchor sheet for Muslims claim in favour of construction of mosque is that some inscriptions were found inscribed in the building. There are four different versions regarding alleged inscriptions. All the three judges of the High Court disbelieved the truthfulness, authenticity and validity of the inscription. The Hon'ble Court has dealt with the issue of inscription from paragraph 53 to 68 in the judgment.
- 4.8 Because the Hon'ble Court has not recorded any separate finding relating to authenticity and validity of the alleged inscriptions. Therefore the finding recorded by the Hon'ble High Court on the point of inscription is final. The alleged

inscription is the only anchor sheet for the Muslims to claim the building as mosque and in absence of the same there is no other oral or documentary evidence to presume that any mosque was ever raised at the place in question. There is no evidence that any waqf was created, land was dedicated to almighty and any mosque was constructed. Therefore, there is no fact, ground or basis to declare the building in question as mosque or treating that Muslims have any religious right over any part of the disputed building complex.

- 4.9 Because the Hon'ble Court has discussed the report of Archeological Survey of India (ASI) under heading 'N' from para no.447 to 532 of the judgment. In paragraph 531 of the judgment the Hon'ble Court has analyzed the evidence produced by Hindu and Muslims in support of their case. The Hon'ble Court has come to the conclusion that Hindus have faith and belief from ancient times that Lord Ram was born under the central dome of the three domed structure, which was sanctum sanctorum or 'Garb Grih', what Muslims call the Babari mosque and Hindus consider the place as the Ram Janmabhumi or birth place of Lord Ram.
- 4.10 Because it is clear that Hindu religious structure was there and at the same place the construction of the disputed structure was raised. Therefore, the property belongs to Hindu deity and no construction at the property or religious place of Hindus can be raised by a person of another faith. It is undisputed that the property once vested in the deity continues to vest in Him, it is never destroyed or finished and after lifting of obstacles, hindrance the deities property reverse back to the deity and puja, worship may be continued. This legal position has also been affirmed by the Hon'ble Court.
- 4.11 Because it is undisputed that the Plaintiff has to prove its case. The Muslims have failed to prove that the construction in question was mosque, while on the other

hand Hindus have proved that the place in question is being worshipped as birth place of Lord Ram and therefore, there is no material on record to declare the disputed structure as mosque.

- 4.12 Because after the Oudh came under British the Muslims started claiming the structure as mosque sometime after 1856-57. It is respectfully submitted that in view of the fact and finding the structure in question cannot be construed as mosque.
- 4.13 Because in paragraph 787 the Hon'ble Court has held that Muslim account of worship prior to 1856 is conspicuously silent as opposed to the account of worship being offered by the Hindus.
- 4.14 Because the question as to "whether the disputed structure is the birth place of Lord Ram according to faith and belief of Hindu devotees" has been dealt with by one of the Hon'ble Judges and the same has been made part of the judgment by way of Addenda. In para 72 of addenda it has been held that faith and belief of Hindus regarding location of birth place of Lord Ram is proved from scriptures and sacred religious books including Valmiki Ramayan and Skand Puraan, which faith and belief cannot be held to be groundless.
- 4.15 Because it has been found that in the period prior to 1528 AD there was sufficient religious texts, which lead the Hindus to belief the present site of Ram Janmabhumi as birth place of Lord Ram. In paragraph 83 to 97 of addenda the evidence emerging from various gazetteers, travellers account and scriptures have been referred to and considered. It has also been found that during time of British Government in records the Masjid was referred as Masjid Janmasthan. In paragraph 126 it has been mentioned that an application signed by Mohd. Asgar, Mir Rajjabali and Mohd. Afzal, Khateeb and Muezzin of Babari Masjid situated at Janmashatn at Ayodhya was submitted

on 12.03.1861 for removal of Chabutra and hut of the Hindus from the mosque premises, which has been placed on record as Ext.54 in Suit No.4.

- 4.16 Because in paragraph 127 of Addenda it has been observed that "one important fact which may be noted from the above application and some earlier applications which were made on behalf Khatif Muzzin of Babri mosque is that description of Babri mosque is always mentioned as "Babri Masjid situated at Janmashthan, Ayodhya".
- 4.17 Because from the material on record and as has been appreciated by the Hon'ble Court that it was faith and belief of Hindus that birth place of Lord Ram was under three domed structure. After annexation of Oudh to East India Company under the orders of British Government a grilled wall was constructed dividing the wall premises of the structure in between inner and outer court yards. The Hindu Puja continued at chabutra at outer court yard and they continued to worship the birth place of Lord Ram in the inner court yard.
- 4.18 Because the faith of Hindus relating to birth place of Lord Ram remained unaffected even after raising of grilled wall. 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.
- 4.19 Because from the material on record and the finding arrived at by the Hon'ble Court it is crystal clear that Hindus from the time immemorial have been worshipping the birth place of Lord Ram even after construction of disputed structure which termed by Muslims as mosque. Even if by use of force and taking advantage of the might any construction was raised at the religious place of Hindus that will not confer any right to Muslims to exercise right to religion over the religious and sacred place of Hindus.
- 4.20 Because since it is clear that the construction i.e. alleged mosque was constructed at the place of worship of Hindus

taking advantage of the situation. The members of Muslim community cannot assert right to religion at the said place and they cannot be awarded for the wrong committed by them at any point of time in the past.

4.21 Because even if it is found that after 1856-57 the Muslims started prayers in the inner courtyard occasionally or on Fridays, same will not alter the position and they cannot be given benefit for such illegal act. Their action is in gross violation of the principles of secularism as they tried to usurp on sacred land and the place of worship of Hindus. Those who have trampled the religious place of Hindus cannot be given prize for such illegal action and they cannot be allotted 5 acres of land to console them on the ground that Hindus have committed some wrong in 1934, 1949 and in 1992. Actually it was the anxiety of the Hindu community to liberate Shri Ram Janmabhumi and it was their plight to get justice from the historical wrong.

4.22 Because after independence without any further delay Hindus asserted their right and took complete charge of inner courtyard and that cannot be said to be any unwarranted or unlawful action.

4.23 Because the U.P. Government vide notification dated 10.10.1991 issued under Section 6 of Land Acquisition Act had acquired 2.7744 acre land for development of tourism and providing amenities to pilgrimage at Ayodhya. It is relevant to mention that within 2.77 acre land there were only Hindu place of worship and there was no Muslim religious place. This acquisition was challenged by Muslim parties by filing Writ Petition No.3540 (MB) of 1991 and other connected petitions.

4.24 Because outside the disputed structure on 9.11.1989 Shilanyas for construction of a temple had taken place. It was the feeling of the devotees that they could start construction of Shri Ram temple at the land outside the disputed structure. It had been declared that they would

start symbolic Karsewa from 6.12.1992 on the land under the ownership of Hindu community on which they had every right to worship and raise any religious construction.

- 4.25 Because a request was made to the Hon'ble High Court by the Government for deciding the writ petitions challenging acquisition before 6.12.1992 so that the law and order situation could be controlled by allowing Karsewaks to perform symbolic Karsewa on 6.12.1992 and their feelings could be satisfied. Arguments in writ petitions in acquisition matter was concluded on 4.11.1992.
- 4.26 Because it was expected that judgment will be pronounced before 6.12.1992. In these circumstances the State Government gave an undertaking that the structure will be protected. However, the judgment could not be pronounced before 6.12.1992 and same was pronounced on 11.12.1992. In these circumstances when lacks of devotees assembled their patience broke and instead of symbolic Karsewa they climbed on the dome and the same was demolished.
- 4.27 Because the Hon'ble Court has not called upon Hindus to clarify their position for the actions taken in the year 1949 and in 1992. In these circumstances the observations made against Hindu community may be expunged.
- 4.28 Because the Hon'ble Court has not taken into consideration all these facts before condemning the action of devotees and has ordered to allot 5 acres land to Muslims for which they are not entitled to.
- 4.29 Because the building in dispute could not be termed as mosque or masjid or Babari Masjid. In view of the fact and law concerning the case it would be desirable that the Hon'ble Court may delete the word Babri mosque/ Babri Masjid/mosque/masjid in paragraph 788(XVIII) and wherever occurs in the judgment and same may be substituted by the word "disputed structure".
- 4.30 Because the Hon'ble Court may also set aside the finding mentioned in paragraph 788 (XVIII) of the judgment to the

extent that the damage was caused to the mosque in 1934, mosque was desecrated in 1949 and mosque was demolished on 6.12.1992.

- 4.31 Because there are criminal cases pending against a number of accused persons for demolishing the disputed structure on 6.12.1992. Therefore, the use of word mosque may prejudice the trial to the detriment of accused persons.
- 4.32 Because the Hon'ble Court has directed to allot 5 acres land to the Muslims on the ground that there was a mosque whereas there was no mosque in view of the material on record and finding recorded by the Hon'ble Court in the judgment itself.
- 4.33 Because the State cannot allot any land to construct mosque. A mosque can be constructed on the land which is dedicated to almighty and for which waqf has been created. No mosque can be constructed on the land on which State is the owner. The construction of mosque at the land owned by the Government will also be against the principles of secularism and part-III of the Constitution of India.
- 4.34 Because the Hon'ble Court while favoring to enforce secular principles must take into consideration the entire historical facts of the country right from 712 till 1947. The Hon'ble Court may also take into consideration the atrocities committed on Hindus in Kashmir in 1990 and the fact that a number of Hindus were made refugees in their own country and a number of temples were demolished by Muslims in free India. The secular ethos cannot be one sided and Hindus cannot always be put to disadvantageous position.
- 4.35 Because the secular character of the Constitution means only that Government will not favour any religion or it will not be governed by any religion. The citizens have fundamental right to worship according to their faith and belief subject to public order and morality. The question is as to how the citizens can be asked to be secular. The only

thing is that one may not take law into hands and should not disturb the religious feeling of other religion.

- 4.36 Because the Hindus have suffered for the last more than 800 years and they had to face the dark days of slavery, firstly the atrocities committed by Muslim Rulers and thereafter by British Rulers. Now country is being governed by written Constitution. Equality and rule of law must prevail and the rights of Hindus curtailed in the past must be remedied so that they may take breath in the new constitutional era.
- 4.37 Because the finding recorded by the Hon'ble Court relating to mosque is contradictory and against the material on record and same may create further complications in the society, it would be desirable that the Hon'ble Court may review such part of the judgment and may also appreciate that in fact Muslims have no right or title over the dispute structure and as such the 5 acres land cannot be allotted to them.
- 4.38 Because the Places of Worship Act,1991 is not involved in the case and as such no argument was raised from the side of Hindus infavour or against the provisions of the said Act. The provisions of said Act are not applicable in the instant case. Therefore, the observations made concerning the said Act may be declared as not a binding precedent.
- 4.39 Because the criminal trial for demolishing the disputed structure on 6.12.1992 is going on before the Ld. Sessions Judge. Therefore, the Hon'ble Court may clarify that any observation made in the judgment will not affect the criminal trial.
- 4.40 Because in view of the facts and proposition of law involved in the case it is necessary in the interest of justice that the Hon'ble Court may review limited part of the judgment to the extent Central/ U.P.State Government have been directed to allot 5 acres land to Sunni Waqf Board.

- 4.41 Because the power under Article 142 of the Constitution of India is subject to the other provisions of the Constitution. The order directing to allot 5 acre lands to Muslims is beyond the scope of Article 142 of the Constitution of India for the reason that no party had claimed for such a relief and there is no ground or basis for allotting such land by the Government to the Sunnil Waqf Board.
- 4.42 Because the finding declaring disputed structure as mosque is liable to be deleted as there was no legal basis for such declaration.
- 4.43 Because the Places of Worship Act,1991 is not involved in the case and the same is also not part of pleading of either side. The Hindu Parties have not advanced submissions concerning the said Act. Therefore, it may be clarified that any observation made relating to said Act is not a binding precedent.
- 4.44 Because in this case the right of Hindus and Muslims to worship at the place in question is involved. The concept of secularism cannot be applied when two parties are litigating for establishing their religious rights. The observations made by the Hon'ble Court relating to secularism visa vis. with reference to this case is liable to be withdrawn.

5. It is most respectfully submitted that the Petitioner has not filed any other Review Petition before this Hon'ble Court against the impugned judgment and final order dated 9.11.2019 passed by this Hon'ble Court in Civil Appeal No.4739/2011.

P R A Y E R:

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Allow the review petition seeking limited review of the impugned judgment and final order dated 9.11.2019 passed by this Hon'ble Court in Civil Appeal No.4739/2011 connected with leading C.A.No.10866-867 of 2010; and/or

(b) pass such other and further order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case as also in the interest of justice.

AND FOR WHICH ACT OF KINDNESS THE PETITIONER SHALL AS IN DUTY BOUND EVER PRAY

DRAWN BY

FILED BY

HARI SHANKAR JAIN,
Advocate
NEW DELHI
DRAWN ON: 07.12.2019
FILED ON: 09.12.2019

VISHNU SHANKAR JAIN
Advocate for the Petitioner

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