

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [C] NO.597/2020

Satish Chindhuji Shambharkar & Ors.

... Petitioner(s)

vs.

Union of India & Ors.

... Respondent(s)

WITH

WRIT PETITION [C] No.544/2020

**ORDER**

**1.** In WP [C] No.597/2020, a prayer has been made that digging of land allotted for the purpose of Ram temple should be done and those artefacts and antiquities which are recovered be examined and protected under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (for short 'the Act of 1958'). The said 'site is protected' under the Act of 1958 as per section 23 thereof. The Archaeological Officer has to examine such activities and submit a report to the Central Government. On the site allotted for construction of the Ram temple, the work has begun as per the judgment rendered by this Court. The site is protected one and owing to the ongoing digging work, the artefacts and monuments are under a grave fear of being damaged and destroyed at the site itself, it is alleged. In order to preserve the rich Indian cultural heritage, those are required to be protected. The artefacts are being projected as Shivling and the remains of Hindu culture and religion *sans* any scientific archaeological research or study. Remnants may have a close link with our pristine

culture and literature. Moreover, there is a duty cast upon the State to 'preserve every monument' or place or object of artistic or historic interest of national importance from spoliation, disfigurement, destruction, removal, disposal or export in view of Article 49, which necessitates that such artefacts are required to be protected and preserved. The Archaeological Survey of India (for short, 'the ASI') is duty-bound to protect the monuments and antiquities. It is stated that the respondents are not preserving and protecting the monuments which is in utter violation of Article 29(1) of the Constitution of India. Accordingly, writ petition has been filed.

**2.** In yet another writ petition, i.e. WP [C] No.544/2020 filed by Dr. Ambedkar Bodhi Kunja Foundation, details of earlier excavation done in the year 2003 by the ASI have been given in extenso, and the judgment of the Allahabad High Court and the findings of ASI have also been quoted in detail. Various levels of digging done in 2003 and results thereof have been quoted. The anomalies found in different trenches at the time of digging done earlier in the year 2003 during the pendency of litigation to find out existence of the Ram temple have also been quoted. It is averred that there are certain grey areas left in the final judgment dated 9.11.2019 of this Court in Ram Janambhoomi case which need to be clarified by this Court with respect to Act of 1958, as prayed in the PIL.

**3.** It has been prayed that some trenches out of 90 trenches were not excavated due to disputed situation prevalent at that time. The unexcavated trenches are: Trench Nos. 23 to 25, 28 to 32, 34 to 36, 38, 40 to 42, 45, 47 to 55, 58, 60 to 62, 66, 67, 70 to 72, 75, 76, 79 and 82, were not earlier completely excavated as required. Whatever

remains, is required to be protected as *Dharohar* or national legacy. In view of the grey areas left by this Court in the judgment dated 9.11.2019, the Public Interest Litigation (PIL) has been filed with a prayer to direct further digging of aforesaid trenches.

**4.** What is intended by the petitions is to reopen the issue that has been given a quietus by this Court. After long drawn litigation, digging of all trenches of allotted area of site of Ram Temple is sought for. This is nothing but a sheer attempt to reopen the issue to scuttle the judgment rendered by this Court on 9.11.2019. The petitions are absolutely bereft of merits and with frivolous prayers. Shri Tushar Mehta, learned Solicitor General of India, has categorically stated that whatever has been found, will be preserved. However, we find that the kind of prayer made in the petitions virtually tantamounts to seeking reconsideration of the matter under the guise of grey areas, to do further digging of the entire site of various trenches which is nothing but a vain bid to get rid of the judgment of this Court and to start litigation *de novo* under the guise of the Act of 1958 and to preserve site and artefacts under the Act of 1958. Thus, we find the petitions to be wholly frivolous, perverse and without merit. Such petitions ought not to be filed with the ulterior purpose of starting a litigation afresh, praying for entire digging of various trenches. The petitioners intend that whatever monument at the Temple site and artefacts unearthed need preservation, is nothing but an attempt to dilute the judgment rendered by this Court.

5. We dismiss the petitions with costs of Rs. one lakh on each of the petitioners, to be deposited with the Supreme Court Employees' Mutual Welfare Fund within one month from today.

.....J.  
(Arun Mishra)

.....J.  
(B.R. Gavai)

New Delhi;  
July 20, 2020.

.....J.  
(Krishna Murari)

ITEM NO.11 + 22

Virtual Court 3

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 597/2020

SATISH CHINDHUJI SHAMBHARKAR & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.56991/2020-APPLICATION FOR EXEMPTION FROM  
FILING ORIGINAL VAKALATNAMA/OTHER DOCUMENT )

WITH

W.P. (C) No. 544/2020

(For Admission and IA No.57369/2020 - Permission to file additional  
documents/facts/annexures)

Date : 20-07-2020 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Dr. Menaka guruswami, Sr. Adv.  
Mr. Prashant Dahat, Adv.  
Ms. Deepali Dwivedi, Adv.  
Ms. Manju Jetley, AOR

Mr. B.P. Singh Dhakray, Adv.  
Mr. Shakti Singh Dhakray, Adv.  
Mr. Kumar Dushyant Singh, AOR

For Respondent(s)

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

The writ petitions are dismissed with costs of Rs. One lakh on  
each of the petitioners, to be deposited with the Supreme Court  
Employees' Mutual Welfare Fund within one month from today in terms  
of the signed order.

(GULSHAN KUMAR ARORA)  
AR-CUM-PS

(R.S. NARAYANAN)  
COURT MASTER

(Signed order is placed on the file)