

# **M Siddiq (D) Thr Lrs vs Mahant Suresh Das & Ors<sup>1</sup>**

2019 SCC OnLine 1440

(Ayodhya title dispute case)

## **I. Background**

Some Hindus believe that the Mughals destroyed a temple in the 16<sup>th</sup> century that marked the birthplace of Ram,<sup>2</sup> one of the Hindu gods.<sup>3</sup> The Babri Masjid mosque was built on that site in Ayodhya, Uttar Pradesh. Violence over this dispute has been documented in 1856-57, 1934, and 1949.<sup>4</sup> In December 1949, some Hindus placed an idol of Ram in the mosque and began to worship the idol.<sup>5</sup> Muslim worship at the site was discontinued from that day.<sup>6</sup> In 1992, the mosque was illegally destroyed.<sup>7</sup> The Supreme Court of India (“**the Court**”) resolved this dispute in this case. Chief Justice Ranjan Gogoi aptly summed up the breadth of the Court’s challenge in one sentence: “This court is called on to determine the legal consequences arising out of a thousand years of prayer, contest, construction, and destruction at the disputed site.”<sup>8</sup>

## **II. Procedural History**

The judgment addresses different suits that were filed over the disputed site in 1950, 1959, 1961, and 1989.<sup>9</sup> This case reviews a judgment issued on September 30, 2010, by the Allahabad High Court. The High Court held that the Hindus, Muslims and the Nirmohi Akhara were joint holders of the disputed land and apportioned one-third of the land to each party.<sup>10</sup> The Nirmohi Akhara represent a Hindu sect (the “Ramanandi Bairagis”) and claim that that they had previously managed the structure, which was a “temple” until December 1949.<sup>11</sup>

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<sup>1</sup> Summary written by Rahul Srivastava, J.D. Candidate at Cornell Law School. Many thanks to Professors Shireen Moti (O.P. Jindal Global Law School) and Sital Kalantry (Cornell Law School) for their valuable suggestions and feedback.

<sup>2</sup> Omar Rashid & K Venkataramanan, *When did the Dispute over Ram Janmabhoomi Start, and Why Did Take so Long for a Resolution?* THE HINDU (Nov. 10, 2019), <https://www.thehindu.com/news/national/when-did-the-dispute-over-ram-janmabhoomi-start-and-why-did-it-take-so-long-for-a-resolution/article29933375.ece>

<sup>3</sup> <https://www.ancient.eu/Rama/>

<sup>4</sup> *M Siddiq (D) Thr Lrs vs Mahant Suresh Das & Ors*, at 9-11.

<sup>5</sup> *Id.* at 11.

<sup>6</sup> *Id.* at 922.

<sup>7</sup> *Id.* at 923.

<sup>8</sup> *Id.* at 756.

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.* at 24.

<sup>11</sup> *Id.* at 7.

The Court stayed the judgment on May 9, 2011.<sup>12</sup> On November 9, 2019, the Court reversed the Allahabad High Court’s judgment and awarded title to the Hindus.

### III. Issues

While the Court outlined 16 issues for adjudication,<sup>13</sup> we present the most important questions here:

1. Who represents the “Hindu” and “Muslim” interests?
2. Was the Babri Masjid Mosque constructed over a temple?
3. Who possessed the disputed site historically?
4. Who receives title?

### IV. Court’s Analysis

#### 1. *Who represents “Hindu” and “Muslim” interests?*

As the Sunni Central Waqf Board managed the Masjid, they represented Muslim interests.<sup>14</sup>

Multiple parties competed for Hindu interests. A suit, inconspicuously called “Suit 5,” was filed on behalf of the Hindu god Ram and claimed to represent the god through the idol. The Court held that the idol could be conferred separate legal personality and represented Hindu interests.<sup>15</sup> According to the Court, giving religious idols separate legal personality protected the property from mismanagement,<sup>16</sup> particularly when a trust (like in this case) was not left in charge of the property.<sup>17</sup> However, the Court declined to extend legal personality to immovable property like a religious site, reasoning that separate legal personality is a legal fiction arising from necessity and convenience.<sup>18</sup>

#### 2. *Was the Babri Masjid constructed over a temple?*

The Court addressed the inferential nature of archaeological findings<sup>19</sup> and noted that historical accounts were inconclusive.<sup>20</sup> However, answering whether the Babri Masjid was constructed over a temple was not dispositive in determining title.<sup>21</sup> While the Court held that the preponderance of

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<sup>12</sup> *Id.* at 27.

<sup>13</sup> *Id.* at 82-84.

<sup>14</sup> *Id.* at 18.

<sup>15</sup> *Id.* at 167.

<sup>16</sup> *Id.* at 201.

<sup>17</sup> *Id.* at 166.

<sup>18</sup> *Id.* at 201.

<sup>19</sup> *Id.* at 567.

<sup>20</sup> *Id.* at 700.

<sup>21</sup> *Id.* at 767.

probabilities indicated a structure existed before the Babri Masjid<sup>22</sup>, the Court acknowledged the difficulties with gathering archaeological evidence<sup>23</sup> and with witness evidence in an aural tradition.<sup>24</sup>

3. *Who possessed the disputed area historically?*

The Sunni Central Waqf Board did not produce any evidence establishing worship or exclusive possessory control of the inner courtyard from 1528-1857.<sup>25</sup> The Court could not conclude that Muslims had exclusive possession of the disputed site between 1528-1857. A railing separating the area's inner and outer courtyards, and thereby Hindu and Muslim worship, was developed in 1857 to maintain order between the two communities instead of establishing title.<sup>26</sup> However, evidence indicated that Hindus exclusively possessed the Masjid's outer courtyard for worship since 1856-57.<sup>27</sup> Hindus continued praying at the proximity of the railing, which indicated that they continued to believe that "[t]he birth-place of Lord Ram was within the precincts of and under the central dome of the mosque . . . ."<sup>28</sup> In fact, riots in 1934 and the idols placed in the inner courtyard in 1949 indicated that Muslims did not have exclusive possession over the courtyard.<sup>29</sup> Therefore, Hindus held exclusive possession over the outer courtyard and possession over the inner courtyard remained disputed.

4. *Who possesses title over the disputed property?*

A 5-Justice constitutional bench of the Court unanimously granted title over the disputed property to the Hindus.<sup>30</sup> The Court found that because Hindus exclusively possessed the outer courtyard and contested the inner courtyard, they had a stronger possessory claim than the Muslims.<sup>31</sup> Nevertheless, the Court acknowledged that this determination was based on probabilities.<sup>32</sup> The Court also held that the destruction of the Babri Masjid was a violation of the law that warranted restitution.<sup>33</sup> The Court directed the Central Government to create a Trust that would manage the property, including construction of a Ram Temple. While the Nirmohi Akhara's suit was barred by limitation, they were given representation

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<sup>22</sup> *Id.* at 595.

<sup>23</sup> *Id.* at 563.

<sup>24</sup> *Id.* at 606.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 852.

<sup>27</sup> *Id.* at 836-37.

<sup>28</sup> *Id.* at 892.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 915.

<sup>31</sup> *Id.* at 923.

<sup>32</sup> *Id.* at 922.

<sup>33</sup> *Id.* at 923.

in the Trust.<sup>34</sup> The Court directed the Central and State government to allot 5 acres of land in Ayodhya to the Sunni Central Waqf Board for a mosque.<sup>35</sup>

## **VI. Conclusion**

In this case, the Court resolved a property dispute over a religious site that was contested by Hindus and Muslims. The Court conferred the Ram idol (placed in the Masjid in 1949) separate legal personality and held the idol to adequately represent the Hindu interests. The Sunni Waqf Board represented the Muslim interests. The Court considered evidence to conclude that Hindus exclusively possessed the disputed area's outer courtyard since 1857, while the inner courtyard's possession remained contested between Hindus and Muslims. The Court could not conclude who possessed the disputed area from 1528-1857 because of a lack of evidence. Given these conclusions, the Court awarded title over the disputed area to the Hindus and ordered the Government to create a Trust that would construct a new temple. Nevertheless, the Court acknowledged that the Babri Masjid was illegally demolished, and that Muslims deserved restitution. As a result, the Sunni Waqf Board was awarded 5 acres of land in Ayodhya to build a new mosque.

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<sup>34</sup> *Id.* at 927.

<sup>35</sup> *Id.* at 926-27.