

HEARING DATED: 01.10.2019

::RAM MANDIR CASE::

ARGUMENT MADE BY Mr. K. PARASARAN, SR. ADVOCATE

BENCH ASSEMBLED AT AROUND 11.40 AM AS REFERENCE WAS TO BE MADE IN THE MEMORRY OF PASSED AWAY ADVOCATES.

MR. K. PARASARAN, SR. ADVOCATE CONTINUED HIS SUBMISSION AS REJOINER IN SUIT-5 FOLLOWING ARE HIGHLIGHTS OF HIS ARGUMENTS.

- Mr. Parasaran cited Bhagwad Geeta, and read some 'slokas' from it. He said that I am citing it in secular contest. Mr. Parasaran referred chapter 18 of Bhagwad Geeta.
- Mr. Parasaran argued that it is the prayer of worshipper which makes the Ram Janam Bhoomi as "Juridical Person"
- Mr. Parasaran argued about special significance.
- Mr. Parasaran argued that because Lord Rama took birth at this place, and it's the belief of devotees makes the Janamesthan as sanctified, and this belief makes it as 'judicial person'.
- Mr. Parasaran argued on 'Swambhu'

J. DYC: Asked Mr. C.S. Vaidhnathan to convey Mr. Parasaran to argue in a manner to sum up, he said that bench has got the concept of 'judicial person', they are clear on it.

- Mr. Parasaran referred the Madras High Court Madras High Court in Pichai v. Commr. HR&CE AIR 1971 Mad 405 @ 407, para 13 in the said judgment it was discussed that there is a place of worship in South India where no idol or no picture of any deity is kept. But a light is kept burning perpetually, indicating God as "jyothi or "light".

- Mr. Parasaran argued that a deity which is worshipped in a place of public worship has to be protected for the purpose of enabling worshippers to have access and offer their worship, he said any observation against the deity will defeat the very fundamental right of religious freedom viz. belief, faith and worship as guaranteed by Articles 25 and 26 of the Constitution
- The Janmasthan itself, being an object of worship by Hindus, is 'widely' believed to be a deity and offering worship to the land constitutes the religious practice of a substantial and large class of persons who visit Ayodhya to worship Lord Ram.
- Mr. Parasaran argued that two juristic entities can coexist in the same precincts – one in the form of the idol and the other in the form of the janmabhoomi.

J. DYC: When there will be two judicial person "Bhoomi and Idol" how would you define that?

Mr. Parasaran: So far as present case is concerned there is no such case.

J. Bobde: There is pre dominate deity, it might be adequate to call the temple with the name of predominate deity?

Mr. Parasaran: Replied by example. He said that in the present bench there are so many judges, however, the judgment will be called the judgment of Supreme Court or Constitution Bench judgment. It can be 5 judges bench, 7 judges or 11 judges, however, judgment will never be said with the name of 1 judge, it will be called as Supreme Court judgment.

J. DYC: According to you there can be different Idol but the 'judicial person' will be the one. Here in this case since the devotee are invoking the spirit of Lord Ram, by physical manifestation?

J. Bobde: Spirit has to be manifested, and it is to be shown in one juristic personality. It's compendious personality. J. Bobde gave the example of

partnership, he said that partnership runs with one name, however, there may be different partner, he said that number of Idols may be different but the manifestation will be one.

Rajeev Dhawan : Mr. Rajeev Dhawan objected, he said that we are in reply of reply. He said that now he has to argue on this all, lateron said that he will handover a note and take 5 minute more time to explain.

Mr. Parasaran: So far as High Court impugned order is concerned, it's in may favour. It is for him to argue against the judgment of High Court, this Court has jurisdiction to provide a law on it.

Mr. Dhawan again interrupted.

Mr. Parasaran: This is a case of national importance. It will affect the public at large. My Lord is making president which is to be followed in the other cases, it's for the entire future. Am I not allowed to raise my argument, looking the vast impact of the matter, it was objected yesterday also.

Mr. Parasaran further stated that can I restrict myself in such matter by saying as it's reply to reply. He said that I am not able to understand as what kind of objection in it. "My Lord" has the jurisdiction to stop me.

Mr. Parasarn concluded his argument on on :

- * Deity
- * Juristic Personality
- * Swyambhu

Mr. Parasaran read the judgment :

Shirur Mutt, 1954 SCR 1005 @ 1021

Venkataramana Devaru v. State of Mysore, 1958 SCR 895 @ 909

Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan (1964) 1 SCR 561

A consecrated idol is not the only form in which the deity is believed to manifest itself. The deity may be believed to manifest himself in any form – physical or perceived.

Mr. Parasaran vehemently argued that can there be a better manifestation than that as the land where the 'Lord Born'

J. Bobde: Would you apply the principle set by this court to the property in all temples in India.

Mr. Parasarn: Yes, its depend upon case by case. Ultimately it is MyLord who has to balance everything.

J. Bobde: it's class of case, wherein 'Bhoomi' argument will apply, we are quite conscious on that?

J. DYC: How would you define doctrin, the moment we proceed on the basis of birthplace, there may be some other things also, J. DYC gave an example of temple wherein childless couple goes to pray for child. He said that it's belief of devotee, therefore, the importance of this decision will be in reference of juridical personality on the basic of faith.

Mr. Parasaran: Yes, the answer will be the faith. Birth, Marriage and other such occasions are difficult for MyLord to identify, he said that so far as birth is concerned, it's something which is undisputed, anyone can identify that this is birthplace. He said that this is how the development of Hindu Law is.

J. Bhushan: That's ok, but where we can daw the lines, suppose doctorin was framed as this is birthplace of MyLord, as per the faith of devotees, now 'Sai Baba' is also God for their devotees, can we now say his birthplace as 'Juridical Person'.

Mr. Parasaran: This is something which is related to MyLord. In this case we are concerned with Lord Rama, accordingly there can be the such issues:

- * God
 - Manifestation
 - Form or Formless
 - Faith of devotees.

Mr. Parasaran also made submission on Incarnation.

J. Bobde: Can there be an astrological data on place of birth.

Rajeev Dhawan: Mr. Parasaran was about to reply, however, Mr. Dhawan interrupted by stating that there are three kind of astrology based upon Sun, Moon and Time. Do we have exact date and time of birth of Lord Rama, the answer is no. He also said that as per my Astrologer I will die next month.

A discussion on astrology went on.

:: IT'S LUNCH ::

Mr. Parasaran referred *Shiromani Gurdwara Prabandhak Committee v. Som Nath Dass*, (2000) 4 SCC 146 at page 165, para 37.

He said that Idol is not owned by anyone.

Mr. Parasaran referred *Guruvayoor Devaswom Managing Committee v. C.K. Rajan*, (2003) 7 SCC 546 at page 566, para 40 has held that a Hindu Temple is a juristic person, while referring to the decision of the Bombay High Court.

Therafter Mr. Parasaran argued Res-judicata.

Mr. Parasaran said that all these cases are filed after 1908, however, the earlier Suit was filed in 1885, so both will be governed by different acts.

He argued that resjudicata has to be applied, keeping in mind the law prevailing at the time of institution of suit.

He said that private right can be adjudicate if we apply resjudicata, not the public right.

Mr. Rajeev Dhawan interrupted, stated that he is raising new arguments.

CSV bried something to Mr. Parasaran, on which he said that I am getting enough interruption from other side.

Mr. Parasarn said that this suit was filed before amendment, appeal is substantive right which can't be taken away.

J. DYC: 1908 Code of Civil Procedure takes away the right which you had as per earlier code, it has taken away the previous right.

Mr. Parasara: That's one of my argument, the another argument is public right and private right.

J. DYC: This argument will apply in 1908 Code.

Mr. Parasaran: Yes, you are right.

Mr. Parasaran referred a printed portion of CPC note.

By referring Section 91 Mr. Parasaran argued that earlier case was not to enforce public rights.

Mr. Parasaran argued that how can 1885 Suit represent all Hindus.

Mr. Parasaran argued that Janambhumi of Rama can be entire India, Ayodhya, however, Janamesthan is place, where he born. Ram Kot is named as Kot exists there.

Mr. Parasaran argued that Shebait means Sewa, Sewa is service.

Mr. Parasaran concluded by referring his note, stating that I have given everything in written in my W.S.

IT'S 3.10 PM.

MR. C.S. VAIDHANATHAN COMMENCED HIS ARGUMENT

Mr. Parasaran handed over his W.S. (compilation note) to all judges and opposite parties. As soon as Mr. Parasaran started to make his submission, Mr. Dhawan objected, he said that his submission seems personal. He objected the word, 'mischievous', 'unfortunate' used in Notes. He said that they are being personal.

Mr. CSV responded to the submission on Ram Janambhoomi, Res Nullius, and Juristic Personality.

In order to buttress his submission, Mr. CSV referred various citations. He said that in Roman Law Res Scara is also treated res nullius and shown the element of Roman Law.

Mr. CSV stated that a place with such spiritual significance or impressed with divine character is 'res scara' is not disputed. Res scara is inalienable.

He made his submission on the judgment 'Madura Vs alikhan Sahib', he said that question claiming the entirety of the hill was never at issue in this case.

Mr. CSV argued that purpose of object the benefit of devotees and community.

Mr. CSV made his submission based upon judgments of Supreme Court that dedicated property vests in the idol as a juristic person.

By referring his note, Mr. CSV referred several judgments of Supreme Court.

Mr. CSV made his submission on essentiality of Idol.

Mr. CSV argued that concept of Idol was there in Vaidik Period, however, concept of Idol as juristic personality was not there in Vaidik Period.

Mr. CSV made his submission stating that Emperor Babur was a Sunni Muslim, its no one case that mosque was built by demolishing Idgah, however, Muslims parties contended that there was no such structure before the mosque was put up.

Mr. CSV argued that Muslim Parties changed their stand and argued that Structure was only Idgah .

Since Mr. Rajeev Dhawan interrupted several time, and Mr. CSV objected on this interruption, CJI became furious on this hot exchanged between both the parties.

He said that structure was not just a wall but was massive multi pillared pubic place.

Mr. CSV was interrupted several times by Mr. Dhawan and Ms. Meenakshi, Sr. Advocate appearing for Muslims.

An argument took place on

Mr. CSV referred para 3809 from impugned order.

Mr. CSV said that the entire excavation took place before court appointed commissioner, there is video recording of that. The ASI is one of the reputed institution of India, however, the Muslims parties have made submission, as it's carried in prejudice way. Mr. CSV said it's as unfortunate. He said that entire excavation was mutually examined by parties.

HOT EXCHANGED ON WALL 18 (18A AND 18C)

A long discussion and hot conversation took place between both the Parties on Wall 18, it was said by Hindu parties as it was excavated and if it would have been Idgal, there has to be only a single wall, and no other structure or wall can be there apart from that.

A Map was produced by Mr. CSV indicating Wall 18A,B&C parties, which was objected by Muslim Parties.

J. Bobde: Asked Ms. Meenakshi to produce a new map according to her showing existence of Walls.

It was said that presence of other structures and walls (Wall 18A, 18B, and 18C pillar based) shows that it was a big hall not the Idgah, however, it was not excavated as per Muslim parties.

Both 4 parties made their submissions on 'Walls found in excavation' for long time.

Page 2401 para 3925 was referred by Mr. CSV from impugned order.

Mr. CSV made his submissions after referring notes.

Wednesday is off being 2nd October, Gandhi Jayanti.

: Hearing resumed will begin on Thursday::

**Notes Prepared by:
Amit Sharma, Advocate**