

HEARING DATED: 17.09.2019

::RAM MANDIR CASE::

ARGUMENT OF MR. RAJEEV DHAWAN (SR. ADVOCATE) IN SUIT 5

ISSUE WISE CHART:

Mr. Dhawan handed over issue wise chart (issue wise finding of High Court) as per the directions of the court. He made a mention that registry of MyLord is very efficient. (Because the same chart was also made by registry and CJI gave it to Mr. Dhawan to match and improve).

HIGHLIGHT OF ARGUMENTS:

Mr. Dhawan stated that I am projecting different legal regime as they have projected. He stated that what would be the legal consequences if MyLords accept the 'Bhoomi Claim' (Janamesthan as deity), what would be the future possibilities, he said that it's outside the visibility. He further said that my arguments are 'purely juristic'.

J. Bhushan: You want to basically say that 'Janamesthan as deity' is their argument, but you are not accepting it?

Mr. Dhawan: If we accept it, then we don't have any case, adverse possession, Limitation etc will not be applied. I am making my submissions regarding future consequences; there will be large consequences of it.

Mr. Dhawan stated that I am not saying that there can't be a Bhoomi like that. Kailash incarnation is in the form of ice, but it is self manifested, the second kind of incarnation of God is Human created as Idol.

You can't rely upon travelers, you can't rely upon gazetteers to develop the argument of incarnation, and you need something more, something more needs to be shown.

J. Bobde: Is particular form not necessary?

Mr. Dhawan: I am saying as it's necessary.

J. Bobde: Place of earth can't be that form?

Mr. Dhawan: It can be. Self manifested is 1st part to distinguish, 2nd is human created. If it is accepted like that then it will create enormous problems in future.

J. DYC: That's on the belief of worshiper, it is as how the believer perceives it, it's as 'Form' → then 'Belief' → then 'Conversion'. Different believer may perceive it differently. It's a test of Hindu belief. If you don't have belief, there is nothing in it; it's always in the mind of believer.

J. Bhushan: If that piece of land is sacred since long time, then the land is itself divined, if belief is there then birth, Avtar, incarnation are all together different things from that perspective.

Dr. Dhawan: Area may be sacred, sacrality as somewhere in Ayodhya is not is not contested by us, Kumbh Mela, Magh Mela are example of sacrality. Over a period of time, people accept it as Tirthasthan. MyLord is dealing such issue for the first time, this is to be born in mind, to decide the issue merely on the basis of 'sacrality and belief' is not enough.

Kailash Parvat is sacred, but the form of 'ICE look like, 'Lingham' we can't go back in time, but something is to be shown as what came up in 1989 to say as it is a 'juristic personality'.

J. DYC: By making an argument as what compelled you in 1989, are you not questioning belief?

Dr. Dhawan: I am saying as → 'Two Rath Yatras', 'Car Sewa', 'creation of Trust', '1992 demolition', this was the background during 1985-1992. Manifestation is one part, Is the birth is not manifestation, Jesus is born as manifestation.

J. DYC: How can the court draw a line, there are a lot of event related to life of deity, 'marriage', 'birth' etc., you tell us as where and how we can draw a line, it will become very difficult?

Dr.Dhawan: Subjectivity will not itself answer, birth of Lord Krishna is celebrated as Janamastami, it's sacred, it's celebrated, but it doesn't make it as 'juristic personality'

J. Bobde: It's time; continuation of long time makes it.

Dhawan: (Didn't answer to the question) He said that I am arguing on exact place, none of the above test gives the exact place. The religious text from 'Balamiki

Ramayana', 'Skandpuran' doesn't not provide the exact birthplace. 'Hans Bakher provides' but most of the argument based upon it was rejected.

Thereafter, while replying to the query of J. DYC regarding draw a line, Mr. Dhawan said that I want to make the position clear, 'belief' must have some continuity in it, it can't start suddenly from 1985-1992.

IMPORTANT REGARDING TIMELINE:

Justice Bhushan said you may continue now, we have got the answer of our queries, on which Mr. Dhawan said that I am as anxious as MyLord are to write a judgment, I am also worried to finish it on time, I also want a judgment on it.

QUESTION ON JANAMESTHAN AS DEITY:

J. DYC: What would be the consequence, if we declare 'Janamesthan' as deity.

Dr. Dhawan: Limitation and Adverse possession will not be applied. It can't be acquired. Idols can be shifted but 'Janamesthan' can't be shifted. There is nothing to suggest otherwise. Baber built that mosque or Aurangeb built it, it doesn't have title, if we accept such argument then no temple has title, temples have to be gone, there won't be any History.

READ W.S. OF SHIA WAQF BOARD:

Dr. Dhawan read the W.S. filed by Shia Waqf Board. As per the WS filed by Shia--3 places are sacred in Ayodhya where it is said that here Lord Ram is born. It was filed on behalf of Secretary All India Shia Waqf, however, it is a matter of fact that after filing it that secretary never appeared. The some of the Highlights are as follows:

- Nyas has no Locus.
- Present Suit (Suit 5) is barred by Limitation.
- No evidence as Lord Rama was born.
- No authentic book of History was produced.
- Remarks in Gazettes are not authentic.
- There is no dispute between Shia and Sunni, the land vest in almighty.

Mr. Dhawan stated that you can file FIR against the person who changes his instance; we have cases in this year 2019 wherein the FIR is lodged.

SHOWN THE PHOTS FROM ALBUM:

Mr. Dhawan shown the photographs from the Album and stated that after showing the photographs, I will move on to the exhibits.

Mr. Dhawan referred the picture of incarnation of 'Allah'.

Mr. Dhawan referred the picture of Singhdwar, Vaju, Arch, Hanumat Dwar.

Mr. Dhawan stated that these opening were created in 1973-77. He said that we are relying on material which is not from time immemorial.

Mr. Dhawan argued on Kasauti Pillar, he said that someone says that it was built in 'Srilanka', someone says as it was built in 'Nepal', someone says in 'India'. There is no picture of God on it. They are relying upon "Lotus" and their argument is "Lotus belongs to God Vishnu". Flower of art is related to Islam, it's all over in 'Kashmir'.

He said that these 14 Kasauti Pillars are not the 'Supporting Pillars', these are only decorating pillars. We don't accept any finding of judges on this as these pillars are Hindu Pillars. They say that because there are pillars because there is Lotus, therefore, this belongs to a Hindu Temple.

Mr. Dhawan gave an answer of 'Kutub Minar'.

J. Bobde: Is there any evidence on record in this case as 'Lotus' and such images are found in the mosque?

Dr.Dhawan: This is indicated as the pillars are of Hindu Temple; we are not called upon to answer such question.

J. Bobde: We are asking is there any evidence?

Dr. Dhawan: No. If this pillar belongs to Hindu Temple there has to show some image of God, who made it, where it comes from is a mystery.

Mr. Dhawan stated that it was forcefully argued by Mr. Mishra that if something is un-Quranic then it can't be considered. We have to consider all Dharma in this regard. If a King acted un-Quranic, MyLord should go into Quran and Hadis and these all things? According to such argument Ashoka / Kalinga was not a Hindu Ruler.

When you go into mosque to pray then there are no pictures on wall. To say that since 14 Pillars had Lotus, therefore, Islam and Quran are out, is wrong.

J. DYC: In the practice of worship its very big thing simulation of culture and religion.

Dr. Dhawan: As per their argument the mosque is not a valid mosque because there was a temple, it was broken, emblem were used, therefore, mosque is not a mosque. We are talking of implication of their argument; the ultimate question is to take away the focus.

J. Bobde : Evidence of assimilation of mosque?

Dr. Dhawan: Mosque inside, Ram Chabutara inside, it was an eye opening question about pillars, does it a Hindu Temple. Whether Taj Mahal was built by Hindu Labours or Muslim Labours, we need not to go into that.

While showing the picture of Hanumat Dwar, Mr. Dhawan stated that this area was 'Haram' is the purpose of showing this picture.

J. DYC: According to them, this was not a valid mosque, that's the purpose of showing such symbols on Kasauti Pillars.

Dr. Dhawan : They don't say that they brought these pillars, Muslims brought it. 14 pillars are found in it, that negative argument.

J. Bhushan: The purpose of showing this was that a Temple was demolished and mosque was built over it?

Dr. Dhawan: What are these pillars, what's the legal implication, who brought it.

J. Bobde : Let's see what are the argument before High Court on this?

:: IT'S LUNCH ::

Mr. Dhawan stated that I would like to have an off on 'Friday' for my team.

CJI: You sit with your colleagues make a schedule, give it to us, we will consider it.

Mr. Dhawan: I am quite conscious to finish the case as early that's why I am giving papers upon papers. We want a judgment in this.

Mr. Dhawan: I will consult and let MyLord know.

Thereafter Mr. Dhawan read the relevant part of judgment of High Court, evidence of Witness, evidence of 'Mahant Bhaskar Nayyar' on page 8771 volume 51.

Judgment Volume IIInd page 1956, evidence of OPW3. While read the argument on Lotus and peacock he said that we have two figures now.

Mr. Dhawan also read some part of argument from the impugned order regarding characteristic of mosque. He said that issue no. 19F is decided against plaintiff, against which plaintiff was discussed by CJI with brother judges and Mr. Dhawan then CJI said Mr. Dhawan we have got the answer.

Mr. Dhawan handed over note on Exhibits and other Relevant Document filed by Plaintiff's in Suit 5.

As per the first part of same note an Overview was given. The Exhibits are divided in certain categories such as Exhibits which are relied by High Court which are not relied, which were discussed but no finding given.

As per the same note:

Exhibits in Suit 5 – 133 Exhibits were filed by plaintiff and 10 exhibits were filed by defendant in Suit 1. 7 Exhibits were filed by Plaintiff in Suit 3 and 2 exhibits were filed by plaintiff in Suit 4, 52 exhibits were filed by defendants in Suit 4.

Thereafter a description was given about exhibits filed by plaintiff in Suit 5. Against each of the Exhibit finding of judges and comment of plaintiff in Suit 4 is made.

Mr. Dhawan read the long note on exhibit, while reading exhibits (Ex. 13) he said that it's not anyone's case as structure was built by either Babur or Aurangzeb Hindus were forbidden access.

Mr. Dhawan while relying upon report of 4 Historians (Ex. 45) stated that it was not signed by D.N. Jha. However, as per same report, Babri Masjid can't be the site of birthplace of Lord Ram even the plaintiff of Suit 4 has exhibited the same report.

Argument on Exhibits will be continued tomorrow.

:: Hearing resumed will begin on Wednesday::

**Notes Prepared by:
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