

HEARING DATED: 19.09.2019

::RAM MANDIR CASE::

CONTEMPT CASE:

A Contempt Petition was filed by Mr. Rajiv Dhawan against a professor of 88 year in which notice was issued by this Hon'ble Court on earlier occasion was listed today as Item No. 502. In the said petition it was alleged that a letter was sent by said old professor to Mr. Dhawan, cursing him for his appearance before court.

Mr. Kapil Sibal appeared for Mr. Rajiv Dhawan stated that as per the office report, service is complete.

An advocate appeared for the professor (contemnor) undertook to file V/A and reply.

CJI: That's ok (on filing V/A) but why do you do all this, what do you say.

Mr. Sibal said that he doesn't want the old professor to be punished. He doesn't want punishment; he said that such things should not be happened.

CJI: On request of both the counsels, disposed-of the contempt petition, accepting apology.

ARGUMENT MADE BY MR. RAJEEV DHAWAN

- Mr. Dhawan read and finished his yesterday's note on Statement of witness and finished that note. He said that yesterday I was in hurry to finish this.
- A discussion took place between Mr. Dhawan and J. Bobde in reference of different dynasty, emperors. Mr. Dhawan after that discussion said that today we are governed by British Historians.
- Mr. Dhawan read the highlight of OPW10 Dr. K.V. Ramesh, OPW15, M.N. Katti and referred his submission in reference of other witnesses

NOTE ON GRILL WALL

MR. DHAWAN MADE HIS SUBMISSIONS ON GRILL WALL

- Mr. Dhawan handed over a note on grill- wall to all the judges and the opposite parties. According to the said note Hindu worshipped at iron grill wall believing that the birthplace of Lord Ram was under the central dome of the disputed structure is an afterthought as this theory has not been mentioned by any of the Hindu parties in their plaints.
- According to Mr. Dhawan even in the 1855 the entire proceeding was in reference as Ram Chabutara. Ram Chabutara was considered as Birth Place not the Middle dome.
- Mr. Dhawan submitted that present proceedings (Suit 1, 3 & 5) don't make any such mentioning.
- Mr. Dhawan produced the reference of statement of witnesses and abstract from impugned order wherein Ram Chabutara was shown as believed as birthplace.
- Mr. Dhawan made a reference of 1885 Suit, wherein judges rejected the prayer of construction of temple. According to pleading in said 'Suit' Muslims were worshipping in the inner courtyard and Hindus were worshipping outside.
- Mr. Dhawan emphasized that Tieffenthaler stated that he sees the Bedi on the left side as he enters the premises. He said that 'Bedi' was Ram Chabutara.
- Mr. Dhawan stated that their own witness DW3/18 himself stated that the Bedi was Ram Chabutara.

NOTE ON EVIDENCE :

Thereafter, Mr. Dhawan referred a note on Evidence, containing the information as what are the ingredient of evidence, and how to accept it, how to reject it, how to check the credibility of witness. The evidence should be considered as a whole, not in part. Mr. Dhawan read the entire note.

EVIDENCE OF WITNESS IN REFERENCE OF GRILL WALL ISSUE

- In order to discredit the witnesses Mr. Dhawan read the relevant portion of Statement of Witnesses (mentioning dome as Garbh Grah) and then read his own observation to discredit that particular witness for example regarding OPW5, Mr. Dhawan stated that he was shown around 50 photographs but he

was unable relate those pictures with disputed site. In such manner he made an attempt to discredit the evidence of witnesses.

- Mr. Dhawan argued that according to the same, there was no unified belief about the prayer at the grill railing being dedicated to the deity inside the middle dome. He said if any witness says any such thing then it's self contradictory and self explanatory and there was no such practice.
- He said that all witnesses have deposed after 11 year of filing Suit 5, meaning thereby the arguments were afterthought.
- He made a conclusion in his note as accordingly Ram Chabutara was always believed as birthplace.
- The belief as central dome –birthplace was afterthought.
- The plea regarding pray at iron wall was emerged in the witness statement itself, however, never included in any pleading.
- The Statement of Witness are self contradictory and self explanatory.

MR. DHAWAN SAID THAT I CAN SEE AGGRESSION IN MYLORD VOICE TO J. BHUSHAN

While reading the evidence of OPW6, Mr. Dhawan read a portion of his statement in which witness said that he used to have darshan of Idol from outside of iron wall (1934-1949) on which J. Bhushan said that you can't rely one or two line in the entire evidence like this.

J. Bhushan said that the entire evidence has to be read. J. Bhushan shown Mr. Dhawan the relevant portion of said evidence in the impugned order (page 1016) and asked him to read on which Mr. Dhawan said that now he will read the entire evidence.

Mr. Dhawan said that I can see the 'Aggression in MyLord voice'.

Mr. CSV strongly objected on this and said that this is unfortunate as 'Word Aggression' can't be used against MyLord.

Mr. Dhawan apologized to Justice Bhushan as well as Mr. CSV both, said, as 'it was my mistake, I admit and apologize'.

NOTE ON SHEBAIT – REFERRED EARLIER

Mr. Dhawan read a portion of his note on Shebait, which was referred by him earlier.

NOTE ON PROOF OF BELIEF – II (EMPHASISING INSCRIPTION)

Mr. Dhawan said that factum of construction of Babri Masjid may be ascertained from inscription found on the mosque.

He said relied upon inscription at the entrance of mosque.

Mr. Dhawan made his submission stating that such inscriptions were noted by the travelers such as Montgomery Martin, Edward Thornton, P.C. Arnegi, W.C. Benett, A.F. Millet.

Mr. Dhawan referred a Book titled as Babar by Dr. Radhey Shyam published in 1978.

He said that it can be concluded that the mosque was made under the command of Baber and it was built in 935 Bijri.

Mr. Dhawan read the reasoning given by Ld. Judges for rejecting the inscription as holding erroneous. It was mentioned by High Court that no Hindu was present at that time who was capable of reading Persian/Arabic in order to ascertain that the mosque was actually constructed by Babur. Mr. Dhawan submitted that this was frivolous ground on which J. Aggarwal disregards the report of Martin.

Argument took place till Lunch; no hearing took place post Lunch.

:: Hearing resumed will begin next day::

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