

::RAM MANDIR CASE::

ARGUMENT BY MR. SUSHIL KR. JAIN (SR. ADVOCATE)

Mr. Sushil Kr. Jain, Sr. Advocate appearing for Nirmohi Akhara (Plaintiff in Suit No. 3) commenced his argument as follows:

- Mr. Jain made his submissions stating that under order 31 Rule 1 of CPC, I will say that Nirmohi Akhara can independently bring a Suit in absence of deity.
- Regarding Suit 5 Mr. Jain stated that they have to stand on their own legs. If they don't establish their Shebaitship right then they would not be entitled to any relief.

J. Bhushan : Mr. Jain there is no dispute on Shebaitship rights.

Thereafter, Mr. Jain made following submissions:-

- Despite construction of a building like mosque it was worshipped by Hindus.
- After 1855 riots they Ayodhya was noted by Karnegi, Millottee etc.
- I am challenging the finding of joint possession.
- Mahant Raghber Dass/Ram Saran Dass are recorded in possession of place in dispute in the revenue record.
- During 1855 riots there is nothing on record to show the presence of Muslims.
- Indicating one report he argued after 1934 that Keys of Masjid are with Muslims but Muslims used to open it only on Friday for 3-4 Hours.
- On the basis of documents produced it is undisputed that Nirmohi Akhara is in possession.
- Even if we consider that Friday prayers were being offered after 1934, then also it's not a settled possession.

Mr. Jain concluded his argument.

MR. P.N. MISHRA – FOR AKHIL BHARTIYA PUNURUDAR SAMITI HEADED BY SHANKARACHARYA JI

As per their own case Mr. P.N. Mishra came up with a theory that there was no mosque as per the case of Muslims he stated that Babar or Mir Baki not constructed any mosque. If Muslims have any such case then they have to prove such fact with the records and they have to further establish regarding Waqf. He argued that Babar did not even entered in Ayodhya and no person

like Mir Baki is mentioned in Babarnama. Accordingly Mr. Mishra attempting to destroy the very basis of the case pleaded in Suit 4.

- Mr. Mishra referred the Hans bakker and made a reference of a MAP. Copy of MAP are handed over to judges and parties to the case.

Mr. Mishra referred following from the MAP and impugned order and material on record :

- Pindaraka
- Lomash
- Vashist
- He stated that that in western direction to this is installed a very great warrior of excellent heroism called Pindaraka.
- He indicated that from the impugned order that at the other end Sri Rama, who brought delight to the solar race as the sun to the lotus, was busy showing the charming city to the monkeys. "Listen, Sugriva (lord of the monkeys), Angada and Vibhisana (Lord of Lanka), holy is this city and beautiful this land.
- He referred the relevant portion of Scripture Srimad Skandapuramam stating that the devotee shall take his holy bath in the waters of Sarayu and then worship Pindaraka who deludes sinners and bestows good intellect on men of good deeds always. The (annual) festival should be celebrated during Navaratri with great luxury. To the west of it, the devotee should worship Vighnesvara by seeing whom not even the least obstacle remains (in the affairs) of men .Hence Vighnesvara the bestower of all desired benefits, should be worshipped.
- He read the relevant part portion regarding Lomash stating that about the hermitages of sage Lomash and seer Vashishtha in Ayodhya Mahatmya, the birthplace of Rama has been located.
- He argued that as per Ayohya Mahatmya, Ram Janam Sthan is situated west of Lomash Rishi Ashram, east of the Vighneshwar temple and north of Vashishtha Muni Ashram.

Dr. Dhawan raised the objection related to the directions mentioned in the MAP. He stated that as per the arguments of all the parties the Janamsthan was in the North-West portion, however, as per the MAP handed over to us it's in North East.

Thereafter Mr. Mishra read the relevant portion from the evidence of witnesses, the relevant pages of same are mentioned herein below:

11436,

11437,

11439,

11451,

11454,

11511,

11499,

11525

Justice D.Y. Chandrachud : Faith and believe are all together a different things, we have to establish the faith from the evidence. You establish from the evidence as what's the exact location of Birthplace.

Justice Bobde : You show us the evidence of witness who are identifying the birthplace on the basis of Skandpuran or any other religious book / material?

Mr. Mishra referred evidence on page No. 11438, 11439.

Justice Bobde : It does not seems as this witness is referring to any Granth that this is the birthplace.

- Mr. Mishra referred page no. 11435 para 13 and 11436 of DW20/2 Swami Avimukteshwaranand stating that birthplace of Lord Rama is the highest place for them like Mukka for Muslims. He further stated that according to my study and knowledge the disputed site is birthplace of Lord Rama. Mr. Mishra Argued that in Word 'study' it includes everything as his research and everything.
- Thereafter, Mr. Mishra argued regarding pillars found in ASI he stated that 85 pillars were excavated, 84 pillars as per the Vikaramaditya temples and 85th pillars may be Garur.
- Mr. Mishra further emphasized that as per the case Babar / Mir Baki did not construct any mosque.
- He argued that plaintiff should not get advantage of weakness of defendant's case; they have to establish their own case at its independent footing.
- Mr. Mishra read the relevant portion from their W.S. and showcase to the court that they have denied the Suit 4 in entirety they have said in their W.S. that there was no mosque, the structure was being used as temple.
- Since time immemorial the idols were there also from 1949 we are worshipping entire janamsthan as deity.

- By relying upon certain documents he argued that present place in dispute is Kaushalya's House. He argued that entire disputed place was a big hall in which Bhagwan Ram was born.
- Thereafter he read about different part of impugned order from following pages :
- Page 2045-2046 para 3539 and 3540
- Page 2046
- He showcases the relevant portion from impugned order recording his pleading that it was not constructed either by Babar or Mir Baki and this was not being used as mosque.
- He further indicated Babarnama and showcased that different inscriptions and read the translated meaning of it. He showcased that in the inscription it is written that building was erected by Abdul Bank in 1516. Thereafter he argued that regarding construction of disputed structure there are three different theories. One says 923 A.H. another says 930 A.H., and third says 935 A.H. (i.e. 1528 AD)
- He read the different translated version of Arabic and Persian inscription.
- Mr. Mishra vehemently argued that I have gone through the entire Babarnama and as per Babarnama no Mir Baki has constructed a mosque. In fact no person like Mir Baki is mentioned, however banki Tasmadi is mentioned therein.

Justice Bobde : As per your argument Babar did not built it, then he also did not break the temple.

Mr. Mishra : Yes, my Lord is right.

Justice DYC: I can't say but that would be difficult to rely upon such inscription at that point of time. Please show us if you have better line of argument, kindly reveal it.

Mr. Mishra read the following:

Page 984 para 1431 wherein impugned order discussed regarding determination of period as who built the mosque and when.

Justice DYC: Please tell us as where these inscription were found / put up?

Mr. Mishra : At entrance Door, at Mehrab

- Mr. Mishra argued that we find name of Mir Khan in Babarnama, but he died in 1520 in Afganistan much before Baber's visit in India.

- He indicated page 988 para 1442
- Mr. Mishra argued that when Babar won over Sultan of Agra, he distributed a lot of gifts to his soldiers and thereafter his soldiers gave a name to him as 'Kalander'.
- Mr. Mishra argued regarding Alexander composed a book in 1889.
- He read para 1453 on page 996 of impugned order regarding inscription.
- He said that it is almost admitted position that Babar even did not enter in Ayodhya.

Further argument will continue by Mr. P.N. Mishra on Wednesday.

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