

GIST OF THE FINDINGS by S.U.Khan J.

1. The disputed structure was constructed as mosque by or under orders of Babar.
2. It is not proved by direct evidence that premises in dispute including constructed portion belonged to Babar or the person who constructed the mosque or under whose orders it was constructed.
3. No temple was demolished for constructing the mosque.
4. Mosque was constructed over the ruins of temples which were lying in utter ruins since a very long time before the construction of mosque and some material thereof was used in construction of the mosque.
5. That for a very long time till the construction of the mosque it was treated/believed by Hindus that some where in a very large area of which premises in dispute is a very small part birth place of Lord Ram was situated, however, the belief did not relate to any specified small area within that bigger area specifically the premises in dispute.
6. That after some time of construction of the mosque Hindus started identifying the premises in dispute as exact birth place of Lord Ram or a place wherein exact birth place was situated.
7. That much before 1855 Ram Chabutra and Seeta Rasoi had come into existence and Hindus were worshipping in the same. It was very very unique and absolutely unprecedented situation that in side the boundary wall and compound of the mosque Hindu religious places were there which were actually being worshipped along with offerings of Namaz by Muslims in the mosque.
8. That in view of the above gist of the finding at serial no.7 both the parties Muslims as well as Hindus are held to be in joint possession of the entire premises in dispute.
9. That even though for the sake of convenience both the parties i.e. Muslims and Hindus were using and occupying different portions of the premises in dispute still it did not amount to formal partition and both continued to be in joint possession of the entire premises in dispute.
10. That both the parties have failed to prove commencement of their title hence by virtue of Section 110 Evidence Act both are held to be joint title holders on the basis of joint possession.
11. That for some decades before 1949 Hindus started treating/believing the place beneath the Central dome of mosque (where at present make sift temple stands) to be exact birth place of Lord Ram.
12. That idol was placed for the first time beneath the Central dome of the mosque in the early hours of 23.12.1949.
13. That in view of the above both the parties are declared to be joint title holders in possession of the entire premises in dispute and a preliminary decree to that effect is passed with the condition that at the time of actual partition by meets and bounds at the stage of preparation of final decree the portion beneath the Central dome where at present make sift temple stands will be allotted to the share of the Hindus.

Order:-

Accordingly, all the three sets of parties, i.e. Muslims, Hindus and Nirmohi Akhara are declared joint title holders of the property/ premises in dispute as described by letters A B C D E F in the map Plan-I prepared by Sri Shiv Shanker Lal, Pleader/ Commissioner appointed by Court in Suit No.1 to the extent of one third share each for using and managing the same for worshipping. A preliminary decree to this effect is passed.

However, it is further declared that the portion below the central dome where at present the idol is kept in makeshift temple will be allotted to Hindus in final decree.

It is further directed that Nirmohi Akhara will be allotted share including that part which is shown by the words Ram Chabutra and Sita Rasoi in the said map.

It is further clarified that even though all the three parties are declared to have one third share each, however if while allotting exact portions some minor adjustment in the share is to be made then the same will be made and the adversely affected party may be compensated by allotting some portion of the adjoining land which has been acquired by the Central Government.

The parties are at liberty to file their suggestions for actual partition by metes and bounds within three months.

List immediately after filing of any suggestion/ application for preparation of final decree after obtaining necessary instructions from Hon'ble the Chief Justice.

Status quo as prevailing till date pursuant to Supreme Court judgment of Ismail Farooqui (1994(6) Sec 360) in all its minutest details shall be maintained for a period of three months unless this order is modified or vacated earlier.