

**(Relevant paragraphs containing result/directions issued)**

**4566.** In the light of the above and considering overall findings of this Court on various issues, following directions and/or declaration, are given which in our view would meet the ends of justice:

(i) It is declared that the area covered by the central dome of the three domed structure, i.e., the disputed structure being the deity of Bhagwan Ram Janamsthan and place of birth of Lord Rama as per faith and belief of the Hindus, belong to plaintiffs (Suit-5) and shall not be obstructed or interfered in any manner by the defendants. This area is shown by letters AA BB CC DD is **Appendix 7** to this judgment.

(ii) The area within the inner courtyard denoted by letters B C D L K J H G in Appendix 7 (excluding (i) above) belong to members of both the communities, i.e., Hindus (here plaintiffs, Suit-5) and Muslims since it was being used by both since decades and centuries. It is, however, made clear that for the purpose of share of plaintiffs, Suit-5 under this direction the area which is covered by (i) above shall also be included.

(iii) The area covered by the structures, namely, Ram Chabutra, (EE FF GG HH in Appendix 7) Sita Rasoi (MM NN OO PP in Appendix 7) and Bhandar (II JJ KK LL in Appendix 7) in the outer courtyard is declared in the share of Nirmohi Akhara (defendant no. 3) and they shall be entitled to possession thereof in the absence of any person with better title.

(iv) The open area within the outer courtyard (A G H J K L E F in Appendix 7) (except that covered by (iii) above) shall be shared by Nirmohi Akhara (defendant no. 3) and plaintiffs (Suit-5) since it has been generally used by the Hindu people for worship at both places.

(iv-a) It is however made clear that the share of muslim parties shall not be less than one third (1/3) of the total area of the premises and if necessary it may be given some area of outer courtyard. It is also made clear that while making partition by metes and bounds, if some minor adjustments are to be made with respect to the share of different parties, the affected party may be compensated by allotting the requisite land from the area which is under acquisition of the Government of India.

(v) The land which is available with the Government of India acquired under Ayodhya Act 1993 for providing it to the parties who are successful in the suit for better enjoyment of the property shall be made available to the above concerned parties in such manner so that all the three parties may utilise the area to which they are entitled to, by having separate entry for egress and ingress of the people without disturbing each others rights. For this purpose the concerned parties may approach the Government of India who shall act in accordance with the above directions and also as contained in the judgement of Apex Court in **Dr. Ismail Farooqi (Supra)**.

(vi) A decree, partly preliminary and partly final, to the effect as said above (i to v) is passed. Suit-5 is decreed in part to the above extent. The parties are at liberty to file their suggestions for actual partition of the property in dispute in the manner as directed above by metes and bounds by submitting an application to this effect to the Officer on Special Duty, Ayodhya Bench at Lucknow or the Registrar, Lucknow Bench, Lucknow, as the case may be.

(vii) For a period of three months or unless directed otherwise, whichever is earlier, the parties shall maintain status quo as on today in respect of property in dispute.

**4571.** In the result, Suit-1 is partly decreed. Suits 3 and 4 are dismissed. Suit-5 is decreed partly. In the peculiar facts and circumstances of the case the parties shall bear their own costs.

*(From the Judgment of Hon'ble Mr. Justice Sudhir Agarwal)*

## FINDINGS ON ISSUES

### Suit-4

1. Issue 1 (Suit-4) is answered in favour of plaintiffs.
2. Issue 1(a) (Suit-4) is answered in negative. The plaintiffs have failed to prove that the building in dispute was built by Babar or by Mir Baqi.
3. Issues 1(b), 6, 13, 14 and 27 (Suit-4) are answered in affirmative.
4. Issue 1-B(a) (Suit-4) is answered in affirmative and it is held that the fact that the land in dispute entered in the records of the authorities as Nazul plot would make things difference.
5. Issue 1-B(b) (Suit-4) is not answered being irrelevant.
6. Issue 1-B(c) (Suit-4)-It is held that building in question was not exclusively used by the members of muslim community. After 1856-57 outer courtyard exclusively used by Hindu and inner courtyard had been visited for the purpose of worship by the members of both the communities.
7. Issue 2 (Suit-4) is answered in negative, i.e., against the plaintiffs.
8. Issue 3 (Suit-4) is answered in negative, i.e., against the plaintiffs. It is held that Suit-4 is barred by limitation.
9. Issue 4 (Suit-4)-At least since 1856-57, i.e., after the erection of partition wall the premises in outer courtyard has not been shown to be used/possessed by muslim parties but so far as the inner courtyard is concerned it has been used by both the parties.
10. Issue 5(a) (Suit-4) is answered against the plaintiffs.
11. Issue 5(b) (Suit-4) is answered in favour of defendants and Hindu parties in general.
12. Issues 5(c), 7(c), 8, 12, 22 (Suit-4), are answered in negative.
13. Issue 5(d) (Suit-4) is not pressed by the defendants, hence not answered.
14. Issue 5(e) (Suit-4) is decided in favour of plaintiffs subject to that issue 6 (Suit-3) is also decided in favour of defendants (Suit-3).
15. Issue 5(f) (Suit-4) is answered in negative, i.e., in favour of plaintiffs and against the defendants.
16. Issue 7(a) (Suit-4) is answered in negative. It is held that there is nothing to show that Mahant Raghubar Das filed Suit-1885 on behalf of Janamsthan and whole body of persons interested in Janamsthan.
17. Issue 7(b) (Suit-4) is answered in affirmative, i.e., in favour of plaintiffs (Suit-4).
18. Issue 7(d) (Suit-4) is answered in negative to the extent that there is no admission by Mahant Raghubar Das plaintiff of Suit-1885 about the title of Muslims to the property in dispute or any portion thereof. Consequently, the question of considering its effect does not arise.
19. Issues 10 and 15 (Suit4) are answered in negative, i.e., against the plaintiffs and muslims in general.
20. Issue 11 (Suit-4)-It is held that the place of birth as believed and worshipped by Hindus his the area covered under the central dome of the three domed structure, i.e., the disputed structure in the inner courtyard in the premises of dispute.
21. Issue 16 (Suit-4)-No relief since the suit is liable to be dismissed being barred by limitation.
22. Issue 17 (Suit-4) is answered in negative holding that no valid notification under Section 5(3) of U.P. Act No. 13 of 1936 was issued.
23. Issue 18 (Suit-4)-It is held that the decision of the Apex Court in **Gulam Abbas Vs. State of U.P. and others, AIR 1981 SC 2199** does not affect findings on issue 17 (Suit-4) and on the contrary the same stand supported and strengthen by the said judgment.
24. Issue 19(a) (Suit-4)-It is held that the premises which is believed to be the place of birth of Lord Rama continue to vest in the deity but the Hindu religious structures in the outer courtyard cannot be said to be the property of plaintiffs (Suit-5).
25. Issue 19(b) (Suit-4) is answered in affirmative to the extent that the building was land locked and could not be reached except of passing through the passage of Hindu worship. However,

this by itself was of no consequence.

26. Issue 19(c) (Suit-4)-It is held that Hindus were worshipping at the place in dispute before construction of the disputed structure but that would not make any difference to the status of the building in dispute which came to be constructed at the command of the sole monarch having supreme power which cannot be adjudicated by a Court of Law, came to be constituted or formed much after, and according to the law which was not applicable at that time.
27. Issue 19(d) and 19(e) (Suit-4) are answered in favour of the plaintiffs.
28. Issue 19(f) (Suit-4)-In so far as the first part is concerned, is answered in affirmative. The second part is left unanswered being redundant. In the ultimate result the issue is answered in favour of plaintiffs (Suit-4).
29. Issue 20(a) being irrelevant not answered.
30. Issue 20(b) (Suit-4)-It is held that at the time of attachment of the building there was a Mutawalli, i.e., one Sri Javvad Hussain and in the absence of Mutawalli relief of possession cannot be allowed to plaintiffs who are before the Court in the capacity of worshippers.
31. Issue 21 (Suit-4) is decided in negative, i.e., in favour of the plaintiffs. The suit is not bad for non-joinder of deities.
32. Issues 23 and 24 (Suit-4) are held that neither the Waqf Board is an instrumentality of State nor there is any bar in filing a suit by the Board against the State. It is also not a 'State' under Article 12 of the Constitution and can very well represent the interest of one community without infringing any provision of the Constitution.
33. Issues 25 and 26 (Suit-4)-Held that as a result of demolition of the disputed structure it cannot be said that the suit has rendered not maintainable. Nothing further needs to be answered.
34. Issue 28 (Suit-4)-It is held that plaintiffs have failed to prove their possession of the disputed premises, i.e., outer and inner courtyard including the disputed building ever.

### **Suit-1**

1. Issue 1 (Suit-1)-It is held that the place of birth, as believed and worshipped by Hindus, is the area covered under the central dome of the three domed structure, i.e., the disputed structure in the inner courtyard in the premises of dispute.
2. Issue 2 (Suit-1)- It is held that the idols were kept under the central dome of the disputed structure within inner courtyard in the night of 22<sup>nd</sup>/23<sup>rd</sup> December, 1949 and prior thereto the same existed in the outer courtyard. Therefore, on 16.01.1950 when Suit-1 was filed the said idol existed in the inner courtyard under the central dome of the disputed structure, i.e., prior to the filing of the suit. So far as the Charan Paduka is concerned, the said premises existed in the outer courtyard. Since Suit-1 is confined only to the inner courtyard, question of existence of Charan Paduka on the site in suit does not arise.
3. Issues 3 and 4 (Suit-1)-It is held that plaintiffs have right to worship. The place in suit to the extent it has been held by this Court to be the birthplace of Lord Rama and if an idol is also placed in such a place the same can also be worshipped, but this is subject to reasonable restrictions like security, safety, maintenance etc.
4. Issues 5(a), 5(c), 5(d), 9(c) and 11(a) (Suit-1) are answered in negative.
5. Issue 5(b) (Suit-1)-Held, the Suit 1885 was decided against Mahant Raghubar Das and he was not granted any relief by the respective courts, and, no more.
6. Issue 6 (Suit-1) is answered in negative. The defendants have failed to prove that the property in dispute was constructed by Shahanshah/Emperor Babar in 1528 AD.
7. Issue 7 (Suit-1) is decided in negative, i.e., against the defendants muslim parties.
8. Issue 8 (Suit-1) is answered in negative. Suit is not barred by proviso to Section 42 of Specific Relief Act, 1963.
9. Issue 9 (Suit-1) is decided in favour of plaintiffs (Suit-1).
10. Issue 9(a) (Suit-1) is answered in favour of plaintiffs (Suit-1).
11. Issue 9(b) (Suit-1) is answered against the plaintiffs.
12. Issue 10 (Suit-1) is answered in negative, i.e., in favour of plaintiffs of Suit-1.

13. Issue 11(b) (Suit-1) is answered in affirmative.
14. Issue 12, 13, 15, 16 and 21 (Suit-1) are answered in negative, i.e., in favour of the plaintiffs (Suit-1).
15. Issue 14 (Suit-1) has become redundant after dismissal of Suit No. 25 of 1950 as withdrawn.
16. Issue 17 (suit-1)-The plaintiffs is declared to have right of worship at the site in dispute including the part of the land which is held by this Court to be the place of birth of Lord Rama according to the faith and belief of Hindus but this right is subject to such restrictions as may be necessary by authorities concerned in regard to law and order, i.e., safety, security and also for the maintenance of place of worship etc. The plaintiffs is not entitled for any other relief.

### **Suit-3**

1. Issue 1 and 16 (Suit-3) are answered in negative.
2. Issue 2, 3, 4 and 9 (Suit-3) are answered in negative, i.e., against the plaintiffs.
3. Issue 5 (Suit-3) is answered in negative. The defendants have filed to prove that the property in dispute was constructed by Shahanshah/Emperor Babar in 1528 AD.
4. Issue 6 (Suit-3) is not proved hence answered in negative.
5. Issue 7(a) and 7(b) (Suit-3) are answered in negative, i.e., in favour of plaintiffs and against the defendants in Suit-3.
6. Issue 8 (Suit-3) is decided in negative.
7. Issue 10 (Suit-3) is decided in favour of plaintiff. It is also held that a private defendant cannot raise objection of maintainability of suit for want of notice under Section 80 CPC.
8. Issue 11 and 12 (Suit-3) are decided in negative, i.e., in favour of plaintiffs.
9. Issue 13 (Suit-3)-The plaintiff is not entitled for any relief in view of the findings in respect of issues 2, 3, 4, 14 and 19.
10. Issue 14 (Suit-3) is answered in affirmative. It is held that the suit as framed is not maintainable.
11. Issue 15 (Suit-3) is answered in affirmative, i.e., in favour of plaintiffs (Suit-3).
12. Issue 17 (Suit-3) is decided in favour of plaintiffs. Nirmohi Akhara is held a Panchayati Math of Ramanandi Sect of Bairagi, is a religious denomination following its religious faith and pursuit according to its own customs. However, its continuance at Ayodhya is found sometime after 1734 AD and not earlier thereto.

### **Suit-5**

1. Issue 1 (Suit-5) is answered in affirmative. Plaintiffs 1 and 2 both are juridical persons.
2. Issue 2 (Suit-5) is not answered as it is not necessary for the dispute in the case.
3. Issue 3(a) (Suit-5) is answered in affirmative. The idols were installed under the central dome of the disputed building in the early hours of 23<sup>rd</sup> December, 1949.
4. Issue 3(b), 3(d), 5, 10, 11, 14 and 24 (Suit-5) are answered in affirmative.
5. Issues 3(c), 7, 19, 23 and 28 (Suit-5) are answered in negative.
6. Issue 4 (Suit-5) is answered in negative. The idol in question kept under the Shikhar existed there prior to 6<sup>th</sup> December, 1992 but not from time immemorial and instead kept thereat in the night of 22<sup>nd</sup>/23<sup>rd</sup> December, 1949.
7. Issue 6 (Suit-5) is decided in negative, i.e., in favour of plaintiffs (Suit-5).
8. Issue 8 (Suit-5) is answered against the defendant no. 3, Nirmohi Akhara.
9. Issue 9 (Suit-5) is answered against the plaintiffs.
10. Issue 13 (Suit-5) is answered in negative, i.e., in favour of plaintiffs. It is held that suit is not barred by limitation.
11. Issue 15 (Suit-5)-It is held that the muslims atleast from 1860 and onwards have visited the inner courtyard in the premises in dispute and have offered Namaj thereat. The last Namaj was offered on 16<sup>th</sup> December, 1949.
12. Issue 16 (Suit-5)-Neither the title of plaintiffs 1 and 2 ever extinguished nor the question of reacquisition thereof ever arise.

13. Issue 18 (Suit-5) is answered in negative, i.e., against the defendants no. 3, 4 and 5.
14. Issue 20 (Suit-5) is not answered being unnecessary for the dispute in the case in hand.
15. Issue 21 (Suit-5) is answered in negative, i.e., against the defendants no. 4 and 5.
16. Issue 22 (Suit-5)-It is held that the place of birth as believed and worshipped by Hindus is the area covered under the central dome of the three domed structure, i.e., the disputed structure in the inner courtyard in the premises of dispute.
17. Issue 25 (Suit-5) is answered in affirmative. It is held that the judgement dated 30.03.1946 in Suit No. 29 of 1949 is not binding upon the plaintiffs (suit-5).
18. Issues 26 and 27 (Suit-5) are answered in negative, i.e., in favour of plaintiffs (Suit-5).
19. Issue 29 (Suit-5) is answered in negative, i.e., in favour of plaintiffs.
20. Issue 30 (Suit-5)-The suit is partly decreed in the manner the directions are issued in para 4566.

**Gist on some point**

1. The area covered under the central dome of the disputed structure is the birthplace of Lord Rama as per faith and belief of Hindus.
2. Disputed structure was always treated, considered and believed to be a mosque and practised by Mohammedans for worship accordingly. However, it has not been proved that it was built during the reign of Babar in 1528.
3. In the absence of any otherwise pleadings and material it is difficult to hold as to when and by whom the disputed structure was constructed but this much is clear that the same was constructed before the visit of Joseph Tieffenthaler in Oudh area between 1766 to 1771.
4. The building in dispute was constructed after demolition of Non-Islamic religious structure, i.e., a Hindu temple.
5. The idols were kept under the central dome of the disputed structure in the night of 22<sup>nd</sup>/23<sup>rd</sup> December 1949.

Other Original Suits no. 3 of 1989 and 4 of 1989 are barred by limitation.

## ISSUES FRAMED

### **Suit-4 :**

Issue No. 1:- Whether the building in question described as mosque in the sketch map attached to the plaint (hereinafter referred to as the building) was a mosque as claimed by the plaintiffs? If the answer is in the affirmative-

- (a) When was it built and by whom-whether by Babar as alleged by the plaintiffs or by Meer Baqi as alleged by defendant no.13?
- (b) Whether the building had been constructed on the site of an alleged Hindu temple after demolishing the same as alleged by defendant no.13? If so, its effect?

Issue No. 1-B(a) :-Whether the building existed at Nazul plot no. 583 of the Khasra of the year 1931 of Mohalla Kot Ram Chandra known as Ram Kot, City Ayodhya (Nazul Estate) Ayodhya? If so its effect thereon?

Issue No. 1-B(b) :-Whether the building stood dedicated to almighty God as alleged by the plaintiffs?

Issue No. 1-B(c) :-Whether the building had been used by the members of the Muslim community for offering prayers from times immemorial? If so, its effect?

Issue No. 2 :- Whether the plaintiffs were in possession of the property in suit upto 1949 and were dispossessed from the same in 1949 as alleged in the plaint?

Issue No. 3 :- Is the suit within time?

Issue No. 4 :- Whether the Hindus in general and the devotees of Bhagwan Sri Ram in particular have perfected right of prayers at the site by adverse and continuous possession as of right for more than the statutory period of time by way of prescription as alleged by the defendants?

Issue No. 5 :- (a)Are the defendants estopped from challenging the character of property in suit as a waqf under the administration of plaintiff no.1 in view of the provision of 5(3) of U.P. Act 13 of 1936?

- (b) Has the said Act no application to the right of Hindus in general and defendants in particular, to the right of their worship?
- (c) Were the proceedings under the said Act conclusive?
- (d) Are the said provision of Act XIII of 1936 ultra-vires as alleged in written statement?
- (e) Whether in view of the findings recorded by the learned Civil Judge on 21.4.1966 on issue no.17 to the effect that “No valid notification under section 5(1) of the Muslim Waqf Act ( No. XIII of 1936) was ever made in respect of the property in dispute”, the plaintiff Sunni Central Board of Waqf has no right to maintain the present suit?
- (f) Whether in view of the aforesaid finding, the suit is barred on account of lack of jurisdiction and limitation as it was filed after the commencement of the U.P. Muslim Waqf Act, 1960?

Issue No. 6 :- Whether the present suit is a representative suit, plaintiffs representing the interest of the Muslims and defendants representing the interest of the Hindus?

Issue No. 7 :- (a) Whether Mahant Raghubar Dass, plaintiff of Suit No. 61/280 of 1885 had sued on behalf of Janma Sthan and whole body of persons interested in Janma-Sthan?

- (b) Whether Mohammad Asghar was the Mutwalli of alleged Babri Masjid and did he contest the suit for and on behalf of any such mosque?
- (c) Whether in view of the judgment in the said suit, the members of the Hindu community, including the contesting defendants, are estopped from denying the title of the Muslim community, including the plaintiffs of the present suit, to the property in dispute? If so, its effect?
- (d) Whether in the aforesaid suit, title of the Muslims to the property in dispute or any portion thereof was admitted by plaintiff of the that suit? If so, its effect?

Issue No. 8 :- Does the judgment of case No. 6/281 of 1881, Mahant Raghubar Dass Vs. Secretary

of State and others operate as res judicata against the defendants in suit?

Issue No. 9 :- Deleted vide order dated May 22/25, 1990

Issue No. 10 :- Whether the plaintiffs have perfected their rights by adverse possession as alleged in the plaint?

Issue No. 11 :- Is the property in suit the site of Janam Bhumi of Sri Ram Chandraji?

Issue No. 12 :- Whether idols and objects of worship were placed inside the building in the night intervening 22<sup>nd</sup> and 23<sup>rd</sup> December 1949 as alleged in paragraph 11 of the plaint or they have been in existence there since before? In either case, effect?

Issue No. 13 :- Whether the Hindus in general and defendants in particular had the right to worship the Charans and 'Sita Rasoi' and other idols and other objects of worship, if any, existing in or upon the property in suit?

Issue No. 14 :- Have the Hindus been worshipping the place in dispute as Sri Ram Janam Bhumi or Janam Asthan and have been visiting it as a sacred place of pilgrimage as of right since times immemorial? If so, its effect?

Issue No. 15 :- Have the Muslims been in possession of the property in suit from 1528 A.D. continuously, openly and to the knowledge of the defendants and Hindus in general? If so, its effect?

Issue No. 16 :- To what relief, if any, are the plaintiffs or any of them, entitled?

Issue No. 17 :- Whether a valid notification under Section 5(1) of the U.P. Muslim Waqf Act No. XIII of 1936 relating to the property in suit was ever done? If so, its effect?

Issue No. 18 :- What is the effect of the judgment of their Lordships of the Supreme Court in Gulam Abbas and others vs. State of U.P. and others, AIR 1981 Supreme Court 2198 on the finding of the learned Civil Judge recorded on 21<sup>st</sup> April, 1966 on issue no. 17?

Issue No. 19(a) :- Whether even after construction of the building in suit Deities of Bhagwan Sri Ram Virajman and the Asthan, Sri Ram Janam Bhumi continued to exist on the property in suit as alleged on behalf of defendant no.13 and the said places continued to be visited by devotees for purposes of worship? If so, whether the property in dispute continued to vest in the said Deities?

Issue No. 19(b) :- Whether the building was land-locked and cannot be reached except by passing through places of Hindu worship? If so, its effect?

Issue No. 19(c) :- Whether any portion of the property in suit was used as a place of worship by the Hindus immediately prior to the construction of the building in question? If the finding is in the affirmative, whether no mosque could come into existence in view of the Islamic tenets at the place in dispute?

Issue No. 19(d) :- Whether the building in question could not be a mosque under the Islamic Law in view of the admitted position that it did not have minarets?

Issue No. 19(e) :- Whether the building in question could not legally be a mosque as on plaintiffs' own showing it was surrounded by a graveyard on three sides?

Issue No. 19(f) :- Whether the pillars inside and outside the building in question contain images of Hindu Gods and Goddesses? If the finding is in the affirmative, whether on that account the building in question cannot have the character of Mosque under the tenets of Islam?

Issue No. 20(a) :- Whether the Wqaf in question cannot be a Sunni Waqf as the building was not allegedly constructed by a Sunni Mohammedan but was allegedly constructed by Meer Baqi who was allegedly a Shia Muslim and the alleged Mutwallis were allegedly Shia Mohammedans? If so, its effect?

Issue No. 20(b) :- Whether there was a Mutwalli of the alleged Waqf and whether the alleged Mutwalli not having joined in the suit, the suit is not maintainable so far as it relates to relief for possession?

Issue No. 21 :- Whether the suit is bad for non-joinder of alleged Deities?

Issue No. 22 :- Whether the suit is liable to be dismissed with special costs?

Issue No. 23 :-Whether the Waqf board is an instrumentality of State? If so, whether the said Board can file a suit against the State itself?

Issue No. 24 :-If the Waqf Board is State under Article 12 of the Constitution? If so, the said Board being the State can file any suit in representative capacity sponsoring the case of particular community and against the interest of another community?

Issue No. 25 :-Whether demolition of the disputed structure as claimed by the plaintiff, it can still be called a mosque and if not whether the claim of the plaintiffs is liable to be dismissed as no longer maintainable

Issue No. 26 :-Whether Muslims can use the open site as mosque to offer prayer when structure which stood thereon has been demolished

Issue No. 27 :-Whether the courtyard contained Ram Chabutara, Bhandar and Sita Rasoi If so, whether they were also demolished on 6.12.1992 along with the main temple?

Issue No. 28 :-Whether the defendant no.3 has ever been in possession of the disputed site and the plaintiffs were never in its possession?

### **Suit-1 :**

Issue No. 1 :- Is the property in suit the site of Janam Bhumi of Sri Ram Chandra Ji?

Issue No. 2 :- Are there any idols of Bhagwan Ram Chandra Ji and are His Charan Paduka situated in the site in suit?

Issue No. 3 :- Has the plaintiff any right to worship the 'Charan Paduka' and the idols situated in the site in suit.

Issue No. 4 :- Has the plaintiff the right to have Darshan of the place in suit?

Issue No. 5(a) :-Was the property in suit involved in Original Suit No. 61/280 of 1885 in the court of Sub -Judge, Faizabad, Raghubar Das Mahant Vs. Secretary of State for India and others?

5(b) Was it decided against the plaintiff?

5(c) Was the suit within the knowledge of Hindus in general and were all Hindus interested in the same?

5(d) Does the decision in same bar the present suit by principles of res judicata and in any other way?

Issue No. 6 :- Is the property in suit a mosque constructed by Shanshah Babar commonly known as Babri Mosque, in 1528 A.D.?

Issue No. 7 :- Have the Muslims been in possession of the property in suit from 1528 A.D. continuously, openly and to the knowledge of plff and Hindus in general? If so, its effect?

Issue No. 8 :- Is the suit barred by proviso to Section 42 Specific Relief Act?

Issue No. 9 :- Is the suit barred by provision of Section 5(3) of the Muslim Waqfs Act (U.P. Act 13 of 1936)?

9(a). Has the said Act no application to the right of Hindus in general and plaintiff of the present suit, in particular to his right of worship?

9(b). Were the proceedings under the said Act, referred to in written statement para 15, collusive? If so its effect?

9(c) Are the said provisions of the U.P. Act 13 of 1936 ultra vires for reasons given in the statement of plaintiff's counsel dated 9.3.62 recorded on paper no. 454-A?

Issue No. 10 :-Is the present suit barred by time?

Issue No. 11 :- (a) Are the provisions of section 91 C.P.C. applicable to present suit? If so, is the suit bad for want of consent in writing by the Advocate General?

(b) Are the rights set up by the plaintiff in this suit independent of the provisions of section 91

CPC? If not, its effect.

Issue No. 12 :-Is the suit bad for want of steps and notice under Order 1, Rule 8 CPC? If so, its effect?

Issue No. 13 :-Is the suit no. 2 of 50 Shri Gopal Singh Visharad Vs. Zahoor Ahmad bad for want of notice under Section 80 CPC.

Issue No. 14 :-Is the suit no. 25 of 50 Param Hans Ram Chandra Vs. Zahoor Ahmad bad for want of valid notice under section 80 CPC?

Issue No. 15 :-Is the suit bad for non-joinder of defendants?

Issue No. 16 :-Are the defendants or any of them entitled to special costs under Section 35-A C.P.C.

Issue No. 17 :-To what reliefs, if any, is the plaintiff entitled?

### **Suit-3:**

Issue No. 1 :- Is there a temple of Janam Bhumi with idols installed therein as alleged in para 3 of the plaint.

Issue No. 2 :- Does the property in suit belong to the plaintiff no.1?

Issue No. 3 :- Have plaintiffs acquired title by adverse possession for over 12 years?

Issue No. 4 :- Are plaintiffs entitled to get management and charge of the said temple?

Issue No. 5 :- Is the property in suit a mosque made by Emperor Babar known as Babari Masjid?

Issue No. 6 :- Was this alleged mosque dedicated by Emperor Babar for worship by Muslims in general and made a public waqf property?

Issue No. 7 :- (a) Has there been a notification under Muslim Waqf Act Act No. 13 of 1936) declaring this property in suit as a Sunni Waqf?

(b) Is the said notification final and binding? Its effect?

Issue No. 8 :- Have the rights of the plaintiffs extinguished for want of possession for over 12 years prior to the suit?

Issue No. 9 :- Is the suit within time?

Issue No. 10 :- (a) Is the suit bad for want of notice u/s 80 C?

(b) Is the above plea available to contesting defendants?

Issue No. 11 :-Is the suit bad for non-joinder of necessary defendants?

Issue No. 12 :-Are defendants entitled to special costs u/s 35 CPC?

Issue No. 13 :-To what relief, if any, is the plaintiff entitled?

Issue No. 14 :-Is the suit not maintainable as framed?

Issue No. 15 :-Is the suit property valued and court fee paid sufficient?

Issue No. 16 :-Is the suit bad for want of notice u/s 83 of U.P. Act 13 of 1936?

Issue No. 17 :-Whether Nirmohi Akhara, plaintiff, is Panchayati Math of Rama Nand sect of Bairagis and as such is a religious denomination following its religious faith and persuit according to its own custom?

### **Suit-5:**

Issue No. 1 :- Whether the plaintiffs 1 and 2 are juridical persons?

Issue No. 2 :- Whether the suit in the name of Deities described in the plaint as plaintiffs 1 and 2 is not maintainable through plaintiff no.3 as next friend?

Issue No. 3 :- (a) Whether the idol in question was installed under the central dome of the disputed building (since demolished) in the early hours of December 23, 1949 as alleged by the plaintiff in paragraph 27 of the plaint as clarified in their statement under Order 10 Rule 2 C.P.C.

- (b) Whether the same idol was reinstalled at the same place on a Chabutara under the canopy?
- (c) Whether the idols were placed at the disputed site on or after 6.12.1992 in violation of the courts order dated 14.8.1989 and 15.11.91?
- (d) If the aforesaid issue is answered in the affirmative, whether the idols so placed still acquire the status of a deity.

Issue No. 4 :- Whether the idol in question had been in existence under the “Shikhar” prior to 6.12.92 from time immemorial as alleged in paragraph 44 of the additional written statement of defendant no.3?

Issue No. 5 :- Is the property in question properly identified and described in the plaint?

Issue No. 6 :- Is the plaintiff no.3 not entitled to represent the plaintiffs 1 and 2 as their next friend and is the suit not competent on this account?

Issue No. 7 :- Whether the defendant no.3 alone is entitled to represent plaintiffs 1 and 2, and is the suit not competent on that account as alleged in paragraph 49 of the additional written statement of defendant no.3?

Issue No. 8 :- Is the defendant Nirmohi Akhara the “Shebait” of Bhagwan Sri Ram installed in the disputed structure?

Issue No. 9 :- Was the disputed structure a mosque known as Babri Masjid?

Issue No. 10 :- Whether the disputed structure could be treated to be a mosque on the allegations contained in paragraph 24 of the plaint?

Issue No. 11 :- Whether on the averments made in paragraph 25 of the plaint, no valid waqf was created in respect of the structure in dispute to constitute it as a mosque?

Issue No. 12:- Deleted vide order dated 23.02.1996.

Issue No. 13 :- Whether the suit is barred by limitation?

Issue No. 14 :- Whether the disputed structure claimed to be Babri Masjid was erected after demolishing Janma Sthan temple at its site.

Issue No. 15 :- Whether the disputed structure claimed to be Babri Masjid was always used by the Muslims only regularly for offering Namaz ever since its alleged construction in 1528 A.D. to 22<sup>nd</sup> December 1949 as alleged by the defendants 4 and 5?

Issue No. 16 :- Whether the title of plaintiffs 1 and 2, if any, was extinguished as alleged in paragraph 25 of the written statement of defendant no.4? If yes, have plaintiffs 1 and 2 reacquired title by adverse possession as alleged in paragraph 29 of the plaint?

Issue No. 17:- Deleted vide order dated 23.02.1996.

Issue No. 18:- Whether the suit is barred by section 34 of the Specific Relief Act as alleged in paragraph 42 of the additional written statement of defendant no.3 and also as alleged in paragraph 47 of the written statement of defendant no.4 and paragraph 62 of the written statement of defendant no. 5?

Issue No. 19 :- Whether the suit is bad for non-joinder of necessary parties, as pleaded in paragraph 43 of the additional written statement of defendant no.3?

Issue No. 20 :- Whether the alleged Trust creating the Nyas , defendant no.21, is void on the facts and grounds stated in paragraph 47 of the written statement of defendant no.3?

Issue No. 21 :- Whether the idols in question cannot be treated as Deities as alleged in paragraphs 1,11,12,21,22, 27 and 41 of the written statement of defendant no.4 and in paragraph 1 of the written statement of defendant no.5?

Issue No. 22 :- Whether the premises in question or any part thereof is by tradition, belief and faith the birth place of Lord Rama as alleged in paragraphs 19 and 20 of the plaint? If so, its effect?

Issue No. 23 :- Whether the judgment in suit no. 61/280 of 1885 filed by Mahant Raghubar Das in the Court of Special Judge, Faizabad is binding upon the plaintiffs by application of the principles of estoppel and res judicata as alleged by the defendants 4 and 5?

Issue No. 24 :-Whether worship has been done of the alleged plaintiff Deity on the premises in suit since time immemorial as alleged in para 25 of the plaint?

Issue No. 25 :-Whether the judgment and decree dated 30<sup>th</sup> March 1946 passed in Suit No. 29 of 1945 is not binding upon the plaintiffs as alleged by the plaintiffs?

Issue No. 26 :-Whether the suit is bad for want of notice under section 80 C.P.C. as alleged by the defendants 4 and 5?

Issue No. 27 :-Whether the plea of suit being bad for want of notice under Section 80 CPC can be raised by defendants 4 and 5?

Issue No. 28 :-Whether the suit is bad for want of notice under Section 65 of the U.P. Muslim Waqfs Act, 1960 as alleged by defendants 4 and 5? If so, its effect.

Issue No. 29 :-Whether the plaintiffs are precluded from bringing the present suit on account of dismissal of suit no. 57 of 1978 (Bhagwan Sri Ram Lala Vs. State) of the Court of Munsif Sadar, Faizabad?

Issue No. 30 :-To what relief, if any, are plaintiffs or any of them entitled?