

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos.4768-4771 OF 2011**

IN THE MATTER OF:

Bhagwan Sri Ram Virajman Rep.By Next

Friend Trilokinath Pandey and others

... Appellants

-Versus-

Rajendra Singh & others

... Respondents

COMPILATION

**SUBMISSIONS ON LIMITATION IN SUIT NO.5 ON
BEHALF OF SRI K. PARASARAN, SENIOR ADVOCATE**

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(PAPER BOOK)

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A. FINDINGS OF THE HON'BLE HIGH COURT

1. It is respectfully submitted that on the issue as to whether the suit is barred by limitation, all the three Hon'ble Judges have unanimously held that the suit is not barred by limitation. See in this regard findings of Hon'ble Justice S.U. Khan at pg.87, Hon'ble Justice Sudhir Agarwal para 2738 at pg.1565 and Hon'ble Justice Dharam Veer Sharma at pg.3585.
2. It is respectfully submitted that Hon'ble Justice Khan holds as follows:
 - a. **At page 79:** *"As far as suit no.5 is concerned (instituted on 01.07.1989) the plaintiffs of this suit are not parties in any other suit however, in view of my above finding that due to wrong order passed by the magistrate dated 30.7.1953 limitation remained suspended (first reason), and for the fifth reason it is held that this suit is also within time."*
3. It is respectfully submitted that Hon'ble Justice Agarwal deals with this issue at length and comes to the conclusion that no right to sue had accrued in the past so as to attract the provisions of the limitation act and bar the present suit. The findings are summarised as under:
 - a. **At page 1526, para 2613:** Whether Suit-5 is barred by limitation or not is really a vexed question in the peculiar facts and circumstances of this case.
 - b. **At page 1526, para 2614:** Disputed structure (temple) had come into existence by the time Father Joseph Tieffenthaler visited Ayodhya i.e. before 1766. Can an issue be raked up after more than 2 centuries particularly when nothing was governed at that time by codified law but it was the Rule of the King and his command was the law of the land.
 - c. **At page 1529, para 2620:** In this entire episode, taking it back to a few hundred years, the only occasion which to some extent could have been said to be adverse to the plaintiffs was when the disputed structure was raised.

Neither at that time the concept of legal principles, as we have today under the codified laws of British India and thereafter, was recognised and/or known, nor the plaintiffs, in view of the subsequent events, had any cause of action.

Moreover, as a matter of fact, the place in dispute continued to be visited by the Hindus for the purpose of worship, Darshan etc. The religious status of plaintiff-deities remained intact.

There is mention of the factum that despite construction of the building as Mosque, the Hindus visited there and offered worship continuously, but do not find no mention, whatsoever, that the Muslims also simultaneously offered Namaz at the disputed site from the date it was constructed and thereafter till 1856-57. At least till 1860 there is no material at all supporting the claim of the Muslim parties in this regard. On the contrary, so far as the worship of Hindus in the disputed structure is concerned, there are at least two documents wherein this fact has been noticed and acknowledged. There is nothing contradictory thereto.

- d. **At page 1529, para 2620:** In this entire episode, taking it back to a few hundred years, the only occasion which to some extent could have been said to be adverse to the plaintiffs was when the disputed structure was raised.

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- e. **At page 1530, paras 2621 and 2622:** Reference to Tieffenthaler's book and Edward Thornton's Gazetteer.

4. It is respectfully submitted that having held as above, Hon'ble Justice Agarwal further considers the other submissions and his findings are summarised as under:

- a. **At page 1533, para 2640:** In the area of Oudh, British Rule came into force in 1856 and not prior thereto.

During Muslims Rulers, Governors were appointed but no material has been brought to our notice that in the matter of Hindu Laws, any interference was made by the Islamic Rulers.

- b. **At page 1533, para 2641:** When Subedar of Oudh declared himself an independent ruler and conferred Nawab Wazir in the second half of 18th Century, then also with respect to the dispute redressal system there was no major change and the personal laws and tenets continued to occupy high position as it was.

In 1801, East India Company entered into a treaty with the Nawab of Lucknow but even that treaty did not cause any impact upon the personal laws of Hindus within the territorial area of Oudh province with which we are concerned.

It is only in 1856 AD, when the area of Oudh or the Oudh province was annexed to the East India Company, the Britisher's Laws came to be imposed upon the citizens of Ayodhya and Faizabad. But then also so long as the matters were not caused by statutory laws, the two communities continued to be governed by their personal laws.

- c. **At page 1534, para 2642:** Statutory law to be administered in Oudh and Rule of Limitation therein.

- d. **Page 1535, para 2643:** Personal Laws in the matter of religious usage of institution and also in the matter of minority etc. were to continue. Hindu idol or the deity was always treated as a person to be protected by the king like a minor or women and that legal position has not been shown to us having gone under change by any authority by any point of time. Some earliest judgments on this aspect and do find nothing contrary.

- e. **Page 1537, para 2653:** Reference to some of ancient Hindu scriptures to throw some light on the concept, status and position of idol in Hindu religion for the purpose that the idol was treated to be in the position of a minor not because of the recognition or declaration by British Indian Courts about its being a legal person or juridical person but because of the then existing and continuing position of the idol in Hindu law being

treated as minor and capable of holding and acquiring property and in furtherance thereof, its recognition as legal person was granted.

Therefore, the idol enjoyed the status of a minor not by virtue of subsequent declaration of law but on account of the recognition of its pre-existing status before the application of the codified laws during British regime whether it was prior to the takeover by the British Government or subsequent thereto.

- f. **At page 1539, para 2662:** It is not disputed before us that an idol/deity is like an infant or minor and, therefore, has to be acted through a guardian but what is contended is that the provisions specially made for minor like Order XXXII Rule 1 C.P.C. and Section 6 LA 1963 would not apply to the case of an idol/deity since it is not a minor in perpetuity.
- g. **At page 1544, para 2682:** In our view, reference to Section 6 of LA 1963 need not at all be necessary. It is not required in this case to go into the question whether a deity suffers a “legal disability” to attract the aforesaid provision or not. The matter can be decided without going into this aspect and without considering the question as to whether the judgements taking the contrary view, which one thereof is correct and ought to be followed by us.
- h. **At page 1545, para 2683:** Reference to settled notions qua idol/deity, its property and rights, powers and duties of a Shebait.
- i. **At page 1552, para 2715:** While considering the applicability of limitation in the case of the deity and its property a distinction has to be seen in a case where the endowment's property is involved and where the very deity or the corpus of the deity itself is involved.

Where the corpus of the deity is involved it being a juridical person, the Limitation Act as such would have no application. It applies to the rights and obligations of the parties concerned but not to the very person and its personality. If a dispute arose whether a person is alive or dead, it cannot be said that the dispute arose 10 years or 20 years back but he is seeking a declaration after expiry of the period of 6 years or three years, therefore, the suit is barred by limitation or he cannot seek declaration. Such a case, in our view, would be a case of continuous wrong and, therefore, no limitation will stand in his way.

Similarly, where the very existence of a juridical person like deity or idol comes into picture or that it seeks declaration about itself from a Court of Law, the position would be different.

- j. **At page 1553, para 2716:** Earlier when the suit was filed it was in respect to a much wider area which included not only the place which we have held as deity, but also appurtenant land which was claimed by the deity as property belong to it. But now the matter is confined only to

the place which is being claimed by Hindus that according to their belief and faith, it is the most revered, sacred and pious place being birthplace of Lord Rama over which they have been visiting since time immemorial, offering their worship continuously despite change of structure or no structure, as the case may, over the said land.

Here the nature of the deity is different as it is in the form of a place, can never be destroyed nor could be destructed, therefore, if the deity claims a declaration from the Court, the plea of limitation, in our view cannot be made applicable. There is thus no question of taking recourse to Section 6 or 7 of the Limitation Act.

In *Bishwanath v. Sri Thakur Radha Ballabhji* (supra), the Court in respect to the capacity in which a deity can act observed that it is in the position of minor but there is nothing to suggest that the Apex Court sought to undo all judgments otherwise wherein to certain other aspects the statutory provisions had been made applicable observing that it cannot be treated to be a minor in perpetuity for the purpose of those provisions only.

- k. **At page 1554, para 2722:** The Fourth angle: It is a deity which has filed the present suit for enforcement of its rights. The religious endowment in the case in hand so far as Hindus are concerned, as they have pleaded in general, is a place of a peculiar and unique significance for them and there cannot be any other place like this. In case this place is allowed to extinguish/extinct by application of a provision of statutes, may be of limitation or otherwise, the fundamental right of practicing religion shall stand denied to the Hindus permanently since the very endowment or the place of religion will disappear for all times to come and this kind of place cannot be created elsewhere.
- l. **At page 1554, para 2723:** Reference to *Ismail Faruqui*, paras 78 and 82 re. acquisition and place of special significance.
- m. **At page 1555, para 2724:** Sufficient justification to extend this plea to the statute of limitation also, inasmuch as, if the statute pertaining to acquisition cannot be extended to a religious place of special significance which may have the effect of destroying the right of worship at a particular place altogether, otherwise the provision will be ultra vires, the same would apply to the statute of limitation also and that be so, it has to be read that the statute of limitation to this extent may not be availed where the debutter's property is of such a nature that it may have the effect of extinction of the very right of worship on that place which is of peculiar nature and specific significance. This will be infringing the fundamental right under Article 25 of the Constitution.
- n. **At page 1555, para 2725:** In fact this reason could have been available to the plaintiffs (Suit-4) also had it been shown by them that the mosque

in question for them was a place of special significance but this has already been observed by the Apex Court in respect to this particular mosque that like others it is one of the several mosques and by acquisition of the place it will not have the effect of depriving such fundamental right of Muslims. It is always open to them to offer prayer at any other place like they could have done here but Hindus are not placed on similar footing.

- o. According to Hindus, this is a place of birth of lord Rama and that be so, there cannot be any other place for which such belief persists since time immemorial. Once this land is allowed to be lost due to the acts of persons other than Hindus, the very right of this section of people, as protected by Article 25, shall stand destroyed. This is another reason for not attracting the provisions of limitation in the present case.
- p. **At page 1556, para 2726:** The fifth angle: Last aspect is also an important one. The suggestion is that the first cause of action arose when at the disputed site the structure was raised but no action for redressal of grievance was taken within reasonable time. Thereafter the cause of action must have arisen when the property in dispute was attached and the suit for declaration having not been filed within six years thereafter. Hence the suit is barred by limitation.

If we take as if the disputed structure was raised in 1528 AD, whether any remedy was available to the plaintiffs 1 and 2 and whether inaction on their part cause any irreparable loss to the extent of preventing from raising the dispute after a long time. The reign of Babar in India was only for four years i.e. from April, 1526 to 1530. We have not been informed as to what changes he made in the judicial system and in what way a dispute could have been raised by the idol at that time. The king, normally, enjoyed all powers whether legislative, judicial or administrative except only to the extent he authorises somebody to exercise his power otherwise. His command was supreme and constituted law. Even the religious law could have prevailed at that time only to the extent the king would have permitted it. None could have sought justification of the king's action before any authority. At least nothing has been brought before us to show otherwise.

- q. **At page 1563, para 2730:** We do not find any system in the above which empower at that time, subject to challenge a Firman of the king or an order of the king particularly in the matter of desecration of religious place of idolaters by the king himself or under his command or with his approval.

The Nawab Subedar of Oudh separated sometimes in the later half of 18th century from Mughal kingdom but so far as the policy towards religious matters qua Muslim and Hindus are concerned, there does not appear to be any change.

Moreso, in the meantime, as we have already shown, the Hindus continued to enter the disputed structure, offer worship and Darshan thereat and therefore, vis a vis plaintiffs, the piety and sacredness as also the belief of Hindus continued along with worship.

- r. **At page 1564, para 2731:** The Hindu worshippers tried to enforce their right to the exclusion of Muslims some times in 1853-55 but with the intervention of the British Government, sometimes in 1856-57, a partition wall said to have been raised dividing the area between the two communities. However, this arrangement could not detain Hindus as we have noticed from several documents. They continued to enter the arena provided for Muslims (i.e., inner Courtyard) and it appears therefrom that Hindus continuously worshipped in the inner courtyard also though at time the Muslims Friday prayers were also held thereat, may be under the safety provided by the administration.

In 1949, though it is true that the property was attached, but simultaneously it is also true that the worship of deities in the disputed structure has continued not only in the outer courtyard but also in the inner courtyard.

- s. **At page 1564, para 2732:** Thus for all practical purposes, since the worshippers continued to be benefited by worship and darshan for which the public temple is meant, it cannot be said any cause of action accrued to the plaintiffs to file a suit at any stage earlier.
- t. **At page 1564, para 2733:** The benefit of a temple or deity is not for the idols but the real beneficiaries are the worshippers and the purpose of endowment is the maintenance of that worship for the benefit of the worshippers.
- u. **At page 1564, para 2734:** The pleading in the suit for filing the same is that a decision was taken by majority of the worshippers to construct a new temple but apprehending some dispute thereupon, to have clarity in the matter, the present suit has been filed.
- v. **At page 1564, para 2735:** From the pleadings of the defendant also we have not been able to find out as to how and in what manner they claim that the limitation arises for the purposes of the present suit on a particular date and commencing therefrom the suit is barred by limitation.
- w. **At page 1565, para 2737:** In this particular and peculiar case, one most important aspect is that the disputed place is believed to be the birth place of Lord Rama by Hindus. We have already held that it is a deity and therefore, a legal person. Thus the position of the place in this case is in dual capacity. This constitute a legal person and simultaneously it is also the property of the legal persons i.e. a deity. The possession can be on a property and not the person.

Regarding the declaration, which the plaintiffs 1 and 2 have sought before us, we have not been shown the exact date from which such period would have commenced so as to nonsuit the plaintiffs on the ground of limitation. Neither the plaintiffs 1 and 2 were disturbed at any point of time in 1949 or even prior thereto. The only one occasion which at the best could have been there of disturbance is the structure of the temple which is said to have been disturbed sometimes in the late 17th century or early 18th century. However, that disturbance does not appear to have caused any interference in the maintenance of worship of the place in dispute and that is how the worshippers continued to be benefited. This has continued even when the property was attached on 29th December, 1949 but it was ensured that the worship by Hindus shall continue.

Therefore, find no period of commencement wherefrom it can be said that the suit stand barred by limitation.

Mere filing of some other suit by some other persons, in which the deity is not impleaded, cannot necessarily give a cause of action to the deity necessarily to file a suit or to suffer the cause of limitation.

5. It is respectfully submitted that Hon'ble Justice Sharma also deals with this issue at length and holds as under:

- a. **At page 3568:** “... The law declared, therefore, is that an idol is in the position of a minor. In that particular case it was for the purpose of permitting the worshipper to file a suit as a guardian or next friend - to safeguard the interest of the deity. It is submitted that by extending the benefit under Section 6 to a deemed minor —ie a deity - the cause of justice is not prejudiced; but only advanced. In a situation where the expression ‘minor’ is not defined, the deity who is in the position of a minor should receive the protection of S.6 — as if the deity is a minor. It may be that the duration of the disability could be long and indefinite - in the case of a insane or an idiot it could be life long.

There are no special provisions in the Limitation Act to deal with recognized juristic persons like a deity. Can it be the intention of the legislature not to apply the Limitation Act to a deity? Extending the benefit available to a minor to a deity can do no injustice to the world at large. It may be noted that in the majority of cases there is a shebait to take care of the idol or deity — in such cases S.6 does not come in to play. Cases dealing with the applicability of O.32 CPC have found that the said set of provisions may not be sufficient to protect the interest of a deity.

Thus, deity is a minor for the purpose of S.6 of the Limitation Act.”
(Emphasis supplied)

- b. **At page 3582:** “...The legal position under the Hindu Dharma Shastra Law being as the one indicated above, destruction of Hindu Temple at the site of DS or erection of Babri Masjid over it could never deprive the two Deities, Ram Janma Bhumi & Bhagwan Shri Ramlala of their ownership of the disputed property/area; the Indian Law of Limitation is not applicable at all. ...”
- c. **At page 3583:** “On behalf of the defendants only this much has been said that plaintiff nos. 1 and 2 are not the deities. They are not infants. The suit for limitation has been filed beyond limitation and Section 6 of Limitation Act does not come in operation in this case. Accordingly the suit is liable to be dismissed being barred by limitation. In this regard.

At the cost of repetition, I would crave to refer that while deciding issue nos. 1 and 2 I have given findings that plaintiff nos. 1 and 2 are juridical persons. I have already referred extracts of Hindu Law on Religious and Charitable Trust on the point of Hindu idols, the deity and religious faith. In this regard certain cases have also been referred to establish that Asthan and Chabutra and deities, the plaintiffs (no. 1 and 2) are juristic persons and they will be deemed under the law law as child and for the reasons that deity is a child. It is not disputed that in view of the decision, referred to above, the idols are minors. Thus, I am referring the finding on issue nos. 1,2 and 6 for the sake of brevity. Thus, in view of the findings of this Court on issue nos. 1,2 and 6, plaintiff nos. 1 and 2 are the juridical persons.

I agree with the view of Sri Ravi Shanker and Sri Bhat Senior Advocates that no limitation runs against deities which are perpetual minors. In this context, I have also to add that the deities are perpetual infants and Hindu idol being juridical person is capable of holding properties. Thus, the benefit of Section 6 of Limitation Act is all the time available to minors I.e, deities in this case. They are considered to be under disability. Under Section 6 of the Limitation Act the ground for extension of limitation are minority, lunacy, and idiocy of the person. In the instant case plaintiff nos. 1 and 2 will be deemed to be disable on account of their minority. Even in England church has been regarded as under age. Right from 1903 to 1967 and thereafter also the Indian Courts have always treated idols as infants perpetually. In this regard decision of Hon'ble the apex court in AIR 1967 S.C. Page 1044 Bishwanath and another v. Shri Thakur Radhaballabhji and others which has considered the earlier decisions of Privy Council and different High Court of this country held that an idol is in a position of minor. Consequently, in view of Section 6 of Limitation Act for the purpose of Limitation Act provisions of Section 6 would be made applicable. In this case benefit of Section 6 is not limited to the period

after the cessation of the disability but applies also to the period during which disability exists. The plaintiff can only sue through next friend. During the continuance of the disability whether the period of limitation expired or not, Section 6 applies to every minor including the deities. It is a settled proposition of law that a person entitled to bring the suit can claim benefit of Section 6. The plaintiffs have claimed this benefit. Section 6 of the Limitation Act prescribes that the plaintiff or applicant must be under the disability on the date from which the period of limitation is reckoned. In this case the defendants have not pointed out and have not opposed the claim of deities, i.e, plaintiff nos. 1 and 2 that they were not under the disability. Once it is proved that plaintiffs no. 1 and 2 are the deities, they are required to sue on behalf of the next friend either he may be Shebait or worshipper vide AIR 1967 Supreme Court 1044 Bishwanath and another v. Shri Thakur Radabhallabhji and others. Accordingly the worshipper P.W.3, the next friend filed the suit on behalf of the deities. Thus, the disability is starting point of limitation. In this regard it would also be expedient to mention as a general rule the infancy is a personal privilege of which no one can take advantage but the infants themselves. ...” (Emphasis supplied)

- d. **At pages 3584 to 3585:** “On the basis of the aforesaid proposition of law the deities are entitled to the benefit of Section 6 by their next friend in this case and the suit will not be deemed to be barred by limitation.

Personal privilege given to the minor under Section 6 of Limitation Act has been availed in this case by the next friend, plaintiff no. 3. I further find that the defendants have failed to point out any circumstance under which the benefit of Section 6 should not be given to plaintiff nos. 1 and 2.

Hon'ble the apex court in Bishwanath and another v. Shri Thakur Radhabhallabhji and others AIR 1967 S.C. 1044 recognized the rights of a worshipper and a person interested in the worship of idol was found to be clothed with an ad hoc power of representation to protect its interest. Thus, plaintiff no. 3 has come out with a case that as per trust deed the worshippers have decided in the interest of worship of idol to remove the disability of the idols as there is dereliction of deities by the person responsible not managing the affairs of the idols in their interest. Consequently, in view of the decision of the apex court in AIR 1967 SC 1044 (Supra) referred to above even this Court is competent to appoint a next friend to look after the interest of plaintiff nos. 1 and 2 by appointing next friend to safeguard the interest of the deity as some human being is required to represent the deity before the court of law. Thus, definitely plaintiff nos. 1 and 2, the deities, the idol in person have properly been represented by next friend, plaintiff no. 3 and plaintiff nos. 1 and 2 have proved their disability and sufficient cause of not

filing the case within the time and have further proved that their case is not barred by Section 6 of the Limitation Act and against them being infants according to the principle of personal privilege the provisions of period of limitation do not apply.

To sum up I hold that plaintiff nos. 1 and 2 are infant juridical persons and they are entitled for the benefit of Section 6 of the Limitation Act. Accordingly the suit is not barred by limitation.

Issue no. 13 is decided in favour of the plaintiffs and against defendants.” (Emphasis supplied)

B. CONTENTIONS OF THE DEFENDANTS’ PROCEED ON ASSUMPTIONS

6. It is respectfully submitted that the Defendants in the suit, particularly the Sunni Wakf Board, have sought to assail the findings as to limitation on the following broad grounds:

- a. Suit No. 5 could not have been filed when the deity was being well represented through its shebait and there is no grievance against the shebait whose removal has not been sought. There is no alienation pursued.
- b. The defence of perpetual minor cannot help the Plaintiffs in Suit No. 5 for the reason that the deity was already represented by the shebiat and a suit can be filed by a worshiper, as a next friend, only when the shebait is found to have been acting adversely to the interest of the deity. However, no such allegation has been made by the next friend against the shebait.
- c. It is settled law that a deity is not a minor for the purpose of limitation.

d. Therefore, under any circumstance, Suit 5 was not maintainable as there was no cause of action for filing of Suit No. 5, even otherwise, whichever provision of the Limitation Act is applicable, Suit No. 5 would be barred by limitation.

7. It is respectfully submitted that the contentions of the Defendants proceed on the footing that the Plaintiffs are not juridical persons and that the Mahant of the Nirmohi Akhara was a valid Shebait of both the Plaintiff Nos.1 & 2. It is respectfully submitted that on these issues, all the three Hon'ble Judges have unanimously held in favour of the Plaintiffs (save to the extent that Justice Khan does not decide the issue as to whether Plaintiff No.2 is a juristic person). Thus, the issue of limitation in the present suit would depend on the findings given by this Hon'ble Court on Issue Nos. 1, 6 and 8 in Suit No.5 and in the event these issues are to be held in favour of the Plaintiffs in Suit No.5, the attack of the Defendants as to the suit being barred by limitation would automatically fail.

C. CAUSE OF ACTION AND THE RELIEF PRAYED FOR IN THE PLAINT

8. The cause of action alleged in the plaint in Suit No.5 is found at paras 14, 18, 30 r/w para 36 and reads as under:

"14. That the plaintiff Deities and their devotees are extremely unhappy with the prolonged delay in the hearing and disposal of the said suits, and the deteriorating management of the affairs of the Temple, particularly the way in which the Receiver has been acting. It is believed that a large portion of the money offered by the worshippers, who come in great numbers, is being misappropriated by the Pujaries and other Temple staff, and the receiver has not controlled this evil. Further devotees of the plaintiff Deities are desirous of having a new temple

constructed, befitting their pristine glory, after removing the old structure at Sri Rama Janma Bhumi, Ayodhya.

...

18. *That although the aforesaid suits have been pending trial for such an extraordinarily long number of years, they are inadequate and cannot result in a settlement of the dispute which led to their institution or the problems arising there from, inasmuch as neither the presiding Deity of Bhagwan Sri Rama Virajman nor the Asthan Sri Rama Janma Bhumi, the Plaintiffs Nos. 1 and 2 herein, who are both Juridical persons, were impleaded therein, although they have a distinct personality of their own, separate from their worshippers and sewaks, and some of the actual parties thereto, who are worshippers, are to some extent involved in seeking to gratify their personal interests to be served by obtaining a control of the worship of the Plaintiff Deities. Moreover, the events which have occurred during these four decades, and many material facts and points of law require to be pleaded from the view point of the Plaintiff Deities, for a just determination of the dispute relating to Sri Rama Janma Bhumi, Ayodhya, and the land and buildings and other things appurtenant thereto. The Plaintiffs have been accordingly advised to file a fresh suit of their own.*

...

30. *That the Hindu Public and the devotees of the Plaintiff Deities, who had dreamed of establishing Ram-Rajya in Free India, that is, the rule of Dharma and righteousness, of which Maryada Purushottam Sri Ramchandra Ji Maharaj was the epitome, have been keenly desirous of restoring his Janmasthan to its pristine glory, as a first step towards that national aspiration given to us by Mahatma Gandhi. For achieving this, they are publicly agitating for the construction of a grand Temple in the Nagar style. Plans and a model of the proposed Temple have already been prepared by the same family of architects who built the Somnath Temple. The active movement is planned to commence from September 30, 1989, and foundation stone of the new Temple building, it has been declared, shall be laid on November, 9, 1989.*

...

36. *That the cause of action for this suit has been accruing from day to day, particularly since recently when the plans of Temple reconstruction are being sought to be obstructed by violent action from the side of certain Muslim Communalists.*” (Emphasis supplied)

9. From the above it can be seen that there were three causes of action alleged which had been accruing day to day necessitating filing of the present suit, viz.

- a. prolonged delay in the hearing and disposal of the pending suits;
- b. the deteriorating management of the affairs of the Temple;
- c. devotees of the plaintiff Deities are desirous of having a new temple constructed, befitting their pristine glory and in this context reconstruction are being sought to be obstructed by violent action from the side of certain Muslim Communalists

10. Thus, it is in this backdrop that the Plaintiff No.3 has filed the Suit on behalf of the Plaintiff Deities 1 and 2 seeking the relief of “*a declaration that the entire premises of Sri Ram Janma Bhumi at Ayodhya, as described and delineated in Annexures I, II and III belong to the plaintiff deities*” and a consequential perpetual injunction. (Annexures I, II and III have been described at para 2 of the plaint as “*two site plans of the building premises and of the adjacent area known as Sri Rama Janma Bhumi, prepared by Shiv Shankar Lal pleader ... along with his Report dated 25.05.1950.*” The said Annexures are found at pages 2885, 2887 and 4218 of Volume 3 of the judgment, respectively. On the issue whether the property in question in Suit-5 was properly identified and described in the plaint, Justice Agarwal (at para 4458 at pg. 2837) and Justice Sharma (at pg. 3533) have answered the issue in the affirmative.)
11. It is submitted however the after the judgment of this Hon’ble Court in ***Ismail Faruqui v. Union of India*** (1994) 6 SCC 360, the scope of the dispute was limited to the area comprising the inner and outer courtyard alone (referable to Annexure I) and the High Court proceeded to adjudicate the revived suits

accordingly. See the observations of Justice Khan at page 55, Volume 1. Thus, the prayer in Suit No.5 as to declaration has now been narrowed down.

12. It is submitted that there existed circumstances, as pleaded in the plaint, necessitating the filing of the present suit and seeking the reliefs as prayed for. It is respectfully submitted that the consequential relief of perpetual injunction sought for in the present case is in the nature of a preventive relief on an apprehension that some act or omission or obstruction may be done by the Defendants in future. In the background of the entire history of the case, right from 1856-57, such apprehension of the Plaintiffs cannot be disputed and hence are entitled to such preventive relief.

D. IN RE: THE SUIT IS BARRED BY LIMITATION

13. It is submitted that the Plaintiff deities were offered worship by its devotees continuously and the existence of the Janamsthan or the Janambhoomi was never in question and as such no cause of action or right to sue had arisen before. As such time did not begin to run for the purposes of computing any period of limitation. However, certain circumstances in 1989, as enumerated above, necessitated the Plaintiff deities to file the present suit seeking the reliefs as prayed for. The Defendants have not been able to substantiate their claim as to how and at what point in time the right to sue for the first time arose for the Plaintiffs so that time for the purposes of limitation began to run and that the present suit is barred. Thus, in the absence of anything to the contrary, the findings of the Hon'ble High Court do not call for interference.

E. THE QUESTION OF LIMITATION WILL NOT APPLY IN THE FACTS OF THE PRESENT CASE

14. It is respectfully submitted that it is the belief, faith and worship which elevates the land in question to the level of a deity and when it is the deity itself that seeks a declaration as to its existence or the area of its worship, it cannot be non-suited by applying the provisions of the Limitation Act.
15. It is submitted that in any event, the belief, faith and worship of the worshippers is that the Plaintiff No.2 represents the Janmbhoomi, being the place where Lord Ram was born. This belief, faith and worship of the Hindus of offering prayers at that particular place, has existed prior to the coming into force of the Constitution and has continued ever since thus forming an essential integral part of their right under Article 25 of the Constitution. It is submitted that if the Limitation Act is made applicable to non-suit the Plaintiffs in Suit No.5, which suit in essence seeks recognition of such rights of the worshippers, it will result in denying the adjudication on the very existence of the deity and thereby render the fundamental rights of the Hindu worshippers otiose. It is respectfully submitted that a similar argument may also be adopted by the Plaintiffs in Suit No.4. However, in such a case, the Plaintiffs therein would have to show as to how praying at the mosque in question forms an essential part of their religion so as to claim a right under Article 25 of the Constitution.