

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4768-71 OF 2011

IN THE MATTER OF:

BHAGWAN SRI RAMA VIRAJMAN & ORS ...APPELLANTS

VERSUS

SRI RAJENDRA SINGH & ORS. ...RESPONDENTS

**SUBMISSIONS ON BEHALF OF APPELLANTS BY SH. C. S.
VAIDYANATHAN, SR. ADVOCATE**

ON

**“THE EXISTENCE OF TEMPLE BENEATH & DEMOLITION
THEREOF FOR CONSTRUCTION OF DISPUTED STRUCTURE”**

FILED BY

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**NOTE ON EXISTENCE OF TEMPLE BENEATH & DEMOLITION
THEREOF FOR CONSTRUCTION OF DISPUTED STRUCTURE**

The Archeological Survey of India on the basis of excavation conducted under the orders of the court within the stipulated period in presence of the parties and judge observers submitted its report in accordance with the settled norms confirming existence of Hindu religious structures underneath the disputed structure.

A perusal of the report submitted by ASI shows that the excavations were conducted by the ASI following the most standardized settled norms of excavations, Recording and writing of the reports were strictly followed. The excavations were conducted in vertical and horizontal manners by way of grid system of layout for excavation. Three dimensional recording were done and principles of stratigraphy was strictly followed. The Archaeological excavation being a scientific investigation was conducted on the spot in accordance with settled norms. The trench supervisor's note book, diary, daily register antiquity registers were maintained regularly in presence of the parties.

It found structural activities right from Sunga level (circa second-first century BC), Kusan level, Gupta and Post Gupta Rajput period as well as construction of massive structure and walls during 10th to 12th Century. Some of the walls were seen extending beyond the area excavated by ASI.

The report mentions the archaeological discoveries at different periods as under (Pages 52-65 Vol-83):

“Period - I (Northern Black Polished Ware Level)

The earliest people to settle at the site used Northern Black Polished Ware (NBP ware) and other associated ware (Grey ware, Black slipped ware and Red ware) which are diagnostic ceramics of a period from sixth to third century B.C. In the limited operation areas in this level no structural activity of the period was noticed except reed impressions on burnt clay...

...Besides the pottery, this level yielded broken weights, fragments of votive tanks, ear-studs, discs, hopscotches, a wheel made on disc, a broken animal figurine (all in

terracotta), an iron knife (broken), glass beads, bone point, etc. *However, the most significant find from the level is a round bezel in greenish glass with legend 'sidhe' in high relief in Asokan Brahmi; on the obverse while the reverse is plain (Rg.No 778).*"

Period - II (Sunga Level)

Frequency of NBP sherds, however, decreases considerably in the upper levels of the period and finally it almost disappears from the horizon in layer 16 of G7 and layer 11 of J3, which marks the beginning of the Sunga level (circa second-first century B. C.) at the site... *...It is in this period that the site witnessed first structural activity in stone and brick, as noticed in J3. The level is represented by terracotta objects comprising human and animal figurines, bangle fragment, ball, wheel and a broken sealing with only 'sa' letter in Brahmi extant (Rg. No. 701), a saddle quern and part of a lid in stone, a glass bead, a hairpin and an engraver on bone and an ivory dice, besides the period pottery of the level.*

Period - III (Kushan Levels)

"...In trench 15, though the regular stratified deposit was not encountered in the operation area, the eastern section yielded a record of regular deposition and almost all the structural activity at the site. A massive brick construction, running into 22 courses above excavated surface, is noticed at the bottom of J5-J6 which belongs to this period. The Kushan period certainly gave a spurt to construction of structures of large dimensions which attest to their public status. Besides, the same trench provided evidence for a stone structure, nature of which is not very clear.

From this period onward, tradition of stone and brick constructions is very much in vogue at the site and each successive period added some structures to the site increasing the height of the mound."

Period - IV (Gupta Level)

Almost 2 m thick deposit, represented by layer 7 and 8 in G7, by layers 9 and 10 in JS-16 and layers 7 and 8 in trenches E8 and F8, above the remains of the preceding period belong to Gupta times (circa fourth-sixth century A.D.), *the presence of which is attested mostly by terracotta figurines typical of the period and of course by a copper coin (3.15 m, layer 8, G7, Rg. No. 1 GJO) bearing image of king on the obverse and garuda standard in upper register and legend 'srichandra (gupta)' in lower register on the reverse. The structures which*

appear above those of Kushan, some times using the Kushan wall itself, as in J5-J6, belong to this period...

...It is interesting to note that the deposits that go with these structures contain earlier material as well. It appears that to raise the level plain, earth excavated from the nearby area of the mound is utilized at this level...

Period - V (Post Gupta - Rajput Levels)

... In this period also, structural activities were witnessed in numerous phases in trench E8 and F8. A circular subsidiary shrine belonging to the late level of this period was exposed in trench E8-F8 (Fig 24 and 24A). Among the pottery assemblage Kushan type is more frequent than the period pottery. Other finds also include earlier material like Kushan pestles and terracotta figurines of Sunga-Kushan type. The total deposit assignable to this period is about 90 cm represented by layers 5 and 6 in trench G7, by layers 7 and 8 in trenches J5 J6 and by layers 5, 5A and 6 in trenches E8-F8.

Period - VI (Medieval-Sultanate Level)

A thick floor made of brick-crush floor appears, on the circumstantial evidence, to have been attached to a wide and massive looking north-south oriented brick wall (No. 17) markedly inclined to east (noticed in trenches 07 and E2-E1, F1 and ZF 1) which was the major structural activity of the period (circa eleventh-twelfth century A.D.). Another wall in same orientation has been noticed in G2 and ZG 1 at a depth of 180 cm which is sealed by layer 6A in G2. The red brick-crush floor is noticed extending in a large area of the mound covering trenches E8, F8, G7, JS & J6 with varying thickness. At the same level, in trench G5, calcrete stone blocks have been noticed in formation which may be of large dimension. Since not many trenches have been excavated to that depth, it would be premature to speak about the nature and behaviour of the structure, however, the structural activity appears to have lived a short life. In trench G2 from the same level (layer 6) were collected several knife-edge lipped lamps in red ware with soot/burnt marks at the lips..."

Period - VII (Medieval Level)

Period VII is marked by structural activities in three sub-periods A, B & C which together lasted from the end of the twelfth to the beginning of the sixteenth century A.D.

In sub-Period-A, a massive wall (no. 16) in north-south orientation was constructed, the foundation trench of which cuts the red brick-crush floor of the previous period. A new style of construction is noticed in this

period, however, in a limited area. Level of the mound was raised considerably by the material excavated from the vicinity to lay a floor of lime mixed with fine clay and brick-crush, over which a column-based structure was built (evidence of pillar bases are available in trenches F9, F8 and G7)...

In the sub-Period B, the area enclosed by the thin wall is found earth filled and is over-laid with a brick-bat paving on top of which is laid a layer of rammed brick jelly as bedding to the 4-5 cm thick floor of lime mixed with grit and fine brick nodules which runs over the broken/levelled wall. The finished surface is levelled at par with the southward extension of the earlier floor. Another thin wall which is erected resting over the earlier floor makes an enclosure which is slightly smaller... *There is a circular depression specially made by cutting the large brick pavement (Pl. 67), having the diameter of 1.05 m with a rectangular projection of 0.46 x 0.32 m towards west. It is interesting to note that the circular depression comes in the centre of the pavement if the central part is calculated on the basis of extant length of wall 16 or wall 17 and longitudinal length of the alignment of pillar bases from north to south. Thus, suggesting it as a place of importance. Besides, the circular depression faces the central part of the disputed structure over which 'Ram Lalla' is enshrined.*

In sub-Period C, when the surface of the earlier floor (Floor No.) is weathered enough (as witnessed in the combined trenches H4-H5) to be replaced, debris of the brick (and stone) structures was leveled to attain height. *In this deposit foundations to support pillars or columns were sunk which were overlaid with a 4-5 cm thick floor which had a grid of square sandstone bases for pillars projecting out, only a few still survive. Floor around most of the pillar bases is found broken with pillar base foundations in much disturbed condition. This floor is the most extensive on the mound, which is found spreading from the north-south wall of the sub-Period A in the west and is found broken with the mound towards north as well as south, while in the eastern part it has been damaged by the later structural activities. (Fig. 23 and 23A)..."*

Period - VIII (Mughal Level)

Structural activities of this period are limited only to the raised platform and the area immediately adjacent to it particularly in the south and the eastern area covering trenches E2 - G2 in the north to E7 --07 in the south. This period through two successive floors, which account for total thickness of about 23 to 25 cm, not only registers the two continuous phases of the structure but also

document at least two horizontal expansion of the fore-court from the simple apron flooring to terraced platform towards the eastern side.

The floor of the previous period (Period VII-C) is found cut by the stone block (mostly calcrete) foundations of the disputed structure (mosque). However, the north south wall of the Period VII-A is retained as foundation for the back wall. Inside the foundation and in the immediate front part a layer of rammed earth is laid which is then overlaid with rammed deposit of grey coloured kankars and a thin layer of ashy deposit which contains riverine shells burnt white. The total deposit accounts for a thickness of about 20-25 cm, which acts as soling for the first floor of the Mughal period inside as well as out side of the structure to a short distance to the east forming an apron floor. The apron floor which extends out to the east for 4.45 cm is provided with an edge-wall of brick to withstand the stress of stepping. The edge wall rests on the floor of the Period VII-C.

In the next phase another floor of lime mixed with brick nodules and some grit is laid over the earlier floor after it was duly chiseled for grip. This floor extends from inside the structure out to the east. In this phase the apron wall is converted into an extended platform, which exceeds the apron by almost 4.00m. An edge-wall is provided on north, east and south which uses chiseled calcrete stone blocks and some carved sandstone blocks as well.

An interesting feature of the layer sandwiched between the floors of this period and the last floor of the preceding period is that it contained least amount of pottery and other material, apparently much care and effort was taken for leveling the deposits before laying the floor and sinking the foundation of the structure. No deposit, definitely contemporary to this period, exists on the mound presently.

Period - IX (Late and Post Mughal Level)

In this period two successive floors were laid, another platform was added to the east forming a terrace and subsequently two successive enclosure walls were erected, one around the first platform of the structure and the other encompassing the second terrace and adjoining areas to the north and south of the structure covering an area under trenches ZE1-ZK1 in the north to E8/E9-K8/K9 in the south.

In this period to attache a terraced platform to the east of the existing one, deposits of the earlier periods were excavated and removed, in which the floor of the period VII-C was cut and destroyed from the eastern

area. Slightly later, a partition wall was added attached to the first terrace platform along with a small step in the centre. And then was added another floor inside the structure which ran out on the now enclosed platform and abutted to the partition wall. Some times later an enclosure wall was added to the entire complex without any foundation which rested over the existing floor, which was provided with two gates, larger one to the north and a smaller one to the east. Sometimes around this period dead bodies were buried in the north and south of the disputed structure which have cut the top floors and which are sealed by layer 1.

...

Finally a floor of cement was laid inside the structure which was painted over with arch-patterned blocks in bichrome. A brick paving was laid in the eastern part over which were laid inscribed (in Devanagari script) memorial marble slabs.

After the construction of the disputed structure at the site, practically no deposition, except that of floors, was allowed to settle. Most of the deposit in the northern area is post 1992. The site, thus, has stratified cultural material only from the first seven periods, while the last two periods are only represented by structural activities.”

Emphasis added

The Archeological Survey of India expressed its views that on the basis of excavation conducted on the spot and finds of excavation proves **existence of massive structure with 3 structural phases and 3 successive floors** attached to them.

The pillar bases with brick bat foundation below calcrete block also establish the existence of load bearing pillar at the disputed site. It is pertinent to mention here that according to basic principle of civil engineering, the load is distributed on brackets put over the top of the pillar.

The report clearly demonstrates that the ‘Disputed Structure’ had no foundation of its own which was constructed on a pre-existing structure/ wall i.e. wall no. 16 (12th Century A. D.).

During excavation by the Archeological Survey of India **no feature of habitation activity** was found right from Gupta period to early Rajput period. The periodization was done on the basis of archaeological

principles which was also confirmed by scientific investigation like carbon dating of various sites. ***The kind of excavation is indicative of remains of North Indian Temples.***

(1) NATURE OF DISPUTED STRUCTURE (STRUCTURE-3)
(PLATES 22,23,24, 25,26, 29, 30, 32in VOL-85)

1.1 The ASI Report mentions the nature of Disputed Structure (Structure 3) and the relevant portion of the same is extracted hereunder:

“...Two decorated sand stone blocks from an earlier structure, one having the damaged figure of a possible foliated makara-pranala were found reused in the foundation of wall 5 on its outer face (Pls. 22-23). The wall 5 of the structure 3 was found resting directly (Pl. 24, Fig. 5) over an earlier plastered brick wall (wall 16) having a foundation of five to six courses of calcrete and sand stone blocks, some of them reused from yet another earlier structure as they are decorated ones with foliage (Pls. 25-26) and other decorations....

...The wall 16 has externally as well as internally plastered surface (Pl. 29) below the level of the twin floors of structure 3.

“...The southern foundation wall (wall 6) of structure 3 directly rests over two pillar bases of earlier period (PB 34 and PB 35) below its middle and south-eastern corner (PL 30)...”

“...The wall 7 of structure 3 in front of its southern chamber rests over three pillar bases of the earlier period (PB 29, PB 32 and PB 35) which were attached through floor 2 of it to the wall 16 (Fig. 6)...”

“...Wall 5 at the north western corner seems to be 2.40 m in width made of reused bricks and brick-bats having two courses of calcrete and sand stone blocks in its foundation. This part is raised over the earlier brick wall (wall 16). Three courses of calcrete blocks were found in the foundation of the eastern wall (wall 11) of the northern chamber with its extended lime floor over it in the courtyard and floors 1 and 1A in the inner side with decorative coloured cemented

surface painted with black and buff coloured arched rectangles pointing towards west, a feature of the mosque (Pl. 32). The width of wall 11 is 1.60 m and its two courses of calcrete blocks plastered from inside were found in trench F2. While laying the foundation of the wall, the pillar base 23 was cut as noticed in the baulk between F2 and G2.

“...The northern wall (wall 12) of the structure 3 has four courses of calcrete blocks in its foundation with one course of bricks above the last courses of foundation blocks. The wall over the foundation was plastered with 4 cm thick lime plaster. Width of the wall is 1.70 m and there is a recess in the middle of the wall, 0.70 m deep and 2.50 m in length. The total length of wall 12 is 8.38 m (Fig. 7) which in trench F2 rests just over the pillar base 22.”

1.2 The excavation therefore clearly reveals that **Wall 5** of the Structure 3 was found **resting directly** over an earlier plastered brick wall (wall 16).

It may be noted here that during excavations, in all 28 walls were traced as out of which wall no. 1 to 15 are either coteremporary to the disputed structure or belong to disputed structure and Walls no. 16 to 28 are earlier to the disputed structure and were found underneath the disputed structure.

1.3 Wall No.5 is not in continuation of wall No. 16 and is just lying over the wall No. 16. Wall no. 16 and 17 are much longer than wall No.5 and these walls (No. 16 and 17) were seen extending beyond the area excavated by ASI.

1.4 The wall 16 (which was used as foundation for Disputed Structure) has externally as well as internally **plastered surface** (See Plate 24 @ Pg. 31 Vol-85). It also prima facie establishes the demolition, as foundation wall is never plastered.

1.5 **Wall 6** of structure 3 **directly rests over** two pillar bases of earlier period.

1.6 The **Wall 7** of structure 3 in front of its southern chamber **rests**

over three pillar bases of the earlier period (PB 29, PB 32 and PB 35) which were attached through floor 2 of it to the wall 16 (Fig. 6).

1.7 Wall 12 of the structure 3 **rests just over** the pillars base 22.

1.8 Structure-3 had no foundation of its own and earlier structure was used as foundation for Disputed Structure. It prima facie establishes demolition of earlier structure for the construction of Disputed Structure.

1.9 Admittedly the wall No.5 was raised on wall No. 16 which is much prior to the disputed structure, i.e., relating to old temple structure. It is also apparent and established that wall No. 16 which is resting on wall No. 17 belong to pre-existing structure and wider than wall No.5.

- PW-32 Dr. Supriya Verma, a witness produced on behalf of Muslim Parties has also admitted “... *This is also true that Wall-5 is resting on Wall-16 which was used in foundation of Wall-5. Wall No. 16 extends beyond wall no. 6 as it appears from Photograph in Plate 24. Plaster of Wall No. 16 is of the time of the construction of this wall. Wall No. 16, according to me, was used as a wall prior to the construction of disputed structure...*”Pg 7124 Vol 44

1.10 The in-situ existence of Makar Pranal in wall No. 5 (See Plates 22-23 @ Pg. 29-30 Vol-85) proves that the temple materials were re-used for construction of disputed structure. It is noteworthy that existence of Makar Pranal has all along been admitted by the witnesses of Muslim Parties.

1.11 Makar-Pranala is a distinct feature of Hindu Temples. Even the witnesses produced by the Muslim Parties admit that it is a non-islamic feature and is considered pious in hindu religion because of its association with Goddess Ganga.

- PW-29 Dr. Jaya Menon says that “... *This Makar Pranal is non Islamic feature.... I know that one of the goddesses stand on crocodile ‘Makar’. I have heard the name of river Ganga. It is considered a very pious river of Hindus. Goddess Ganga, in the sculptures is*

supposed to stand on crocodile...” Pg. 6591-6592 Vol-42.

- Similarly PW31 Dr. Ashok Dutta has also said that *“...I know crocodile. It is very important for the temples. It is called ‘Makar Mukhi’. I have not seen Makar-mukha in any mosque...” Pg. 6833 Vol-43*

He further says, *“...Makar Pranal is one of the part of the Hindu temple architecture. I am not very sure whether Makar Pranal has any association with mosque or not. I have not seen any mosque having any Makar Pranal in it.”(Page 6881 Vol-43)*

- OPW-18 Sh. A.K. Sharma stated that: *“...In Wall No.5, the structural members like Makar Pranal of earlier structure has been re-used. This Makar Pranal is used only in temples for outlet of water. This clearly proves that the structure which existed at the site prior to the disputed structure was nothing but a Hindu temple...”Pg. 3012 Vol-28*

1.12 Therefore construction of wall Nos. 1-15, i.e., its structure and texture, material used, etc., proves that the walls of the disputed structure were constructed hurriedly by re-using material of the earlier structure even without any foundation as is evident from the use of brickbats and broken bricks used in the wall which prima facie establishes demolition of pre-existing temple.

1.13 Hon'ble High Court (J. Agarwal) after considering the entirety of the evidence held as under:

“Para 3927. As the main wall of the disputed structure i.e. wall No. 5 was filled with brick bats, it implies that it was constructed with reused material. These brick bats prima facie establish that they must be of the previous structure. Structurally the date of the designing of pillar bases has also been confirmed with example of Sarnath in which decorated octagonal stone blocks were found in Trench F-7 belonging to 12th century A.D.(page 56 & pl. 39 & 40 of the report). Plate 45 shows disputed structure resting over pillar base No. 29. Wall No. 6 (foundation

wall of southern chamber of mosque) was directly resting over two pillar bases no. 34 & 35 (Pl. 30). Wall No. 7 (foundation of southern chambers of mosque towards east) is resting over 3 pillar bases (No. 29, 32 & 35) (P. 52) read with Fig. 6. Wall No.12 (Northern wall of Northern Chamber of the Mosque) rests just over the pillar base No. 22 (P. 53).

3928. The statements of Experts (Archaeologist) of plaintiffs (Suit-4) in respect to walls and floors have already been referred in brief saying that there is no substantial objection except that the opinion ought to be this or that, but that is also with the caution that it can be dealt with in this way or that both and not in a certain way. In other words on this aspect witnesses are shaky and uncertain. We, therefore find no substantial reason to doubt the report of ASI in this respect.”

2. NATURE OF THE STRUCTURE BELOW THE DISPUTED STRUCTURE (STRUCTURE-4)

(PLATES 33, 34, 35, 39, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 VOL-85)

2.1 ASI report extensively mentions the existence of a massive structure below the disputed structure at pages 80 to 105 of Volume-83. The relevant portion thereof is quoted herein for reference:

“The Massive Structure Below the Disputed Structure

“As stated earlier the disputed structure or structure 3 was found directly resting over an earlier construction, structure 4 (Pls. 33-34) which has survived through its nearly 50 m long wall (wall 16) in the west and 50 exposed pillar bases to its east attached with floor 2 or the floor of the last phase of structure 4 (Pl. 35).

*A square sandstone block placed at the top and the orthostats provided on its four sides, contemporary with the floor 2 was the prima facie nature of the pillar base which primarily served as base for the pillar erected over it. Their foundations were circular or square or irregular in shapes made of brick-bat courses laid in mud mortar, **most of them resting over floor 4**, top of which was provided with sand-*

stone or calcrete blocks in lime mortar, these blocks were also encased with brick-bats and somewhere sandstone chips were used to get the desired height and level.

...

From the excavation it could be inferred that there were **seventeen rows of pillar bases from north to south, each row having five pillar bases**. Due to area restriction and natural barriers, the pillar bases in the central part occupied by the make-shift structure on the raised platform could not be located. Out of excavated fifty pillar bases only twelve were completely exposed, thirty five were partially exposed and three could be traced in sections only. A few pillar bases were noticed during earlier excavation after which a controversy took place about their association with different layers and their load bearing capacity. **The present excavation has set aside the controversy by exposing the original form of the bases having calcrete and stone blocks arranged and set in a proper manner over a brick foundation and their arrangements in rows including their association with the top floor of the structure existing prior to the disputed structure.**

The seventeen rows of pillar bases were constructed along the north-south running brick wall (wall 16) on the west. The distance of the first pillar base in each row from the wall ranges from 3.60 to 3.86 m. Seventeen rows of pillar bases could be categorized in three different groups on the basis of north-south distance which varies in different groups whereas east-west distance from centre to centre of each pillar base vary from 2.90 to 3.30 m. Six rows of the pillar bases on north and south were at the equidistance which ranges from 3 to 3.30 m. Central five rows consisting twenty five pillar bases show different equations-two rows on either sides of the central row were placed approximately at the distance of 5 .25 m. whereas the other two rows on either side of these three rows were at the distance of 4.20 - 4.25 m. **From this it could be easily concluded that the central part of the pillared structure was important and special treatment was given to it in architectural planning.**

...The decorated octagonal sand stone block on pillar base³² having floral motif on four corners in trench F7 in

the southern area is the unique example at the site (Pl. 39) which definitely belongs to the twelfth century A.D. as it is similar to those found in the Dharmachakrajina Vihara of Kumaradevi at Sarnath (Pl. 40) which belongs to the early twelfth century A.D. Seeing its cut or broken surface on one side its use as the base of a neighboring pilaster (Pl. 41) attached with wall 16 in trench E6 cannot be ruled out...

*The **wall 16** having its existing length around 50 m, with its unexposed middle part, is 1.77 m wide. Its ten lower brick courses are original and belongs to the first phase of its construction, but the upper six courses as seen in trenches E6, E7 and E8 are added at a later date - four courses during the second phase of construction and **top two courses when its southern length outside the disputed structure was utilized in later constructions by reducing the width of the wall for the new structure along with the structure 3.***

...A band of decorative bricks was perhaps provided in the first phase of construction or in the preceding wall (wall 17) of which scattered decorated bricks with floral pattern were found reused in the wall 16. Walls 16 and 17 were found running on almost the same alignment in north-south orientation in trenches ZE1 and ZF1 (Fig. 14)...

...The wall 17 which is a brick wall was found to be 1.86 m wide having the maximum of four courses in the northern area (Pl. 50) and six courses in southern area. It was found to be of the same length as that of wall 16, though having a slight deviation in its orientation in the cardinal direction. Thus, it runs in the lower level than that of wall 16, almost parallel to it in the northern area and comes out below the wall 16 in the southern area as noticed in trench D7 where in the northern part it is projected 0.74 m below wall 16 and in the southern part it is projected 1.07 m below wall 16 having provided decorated stone blocks on its top and also refixed in its veneer (Pl. 51), probably at the time of the construction of wall 16 to serve as its foundation. A thick floor of brick crush (Pl. 52) spread over a large area in northern and southern areas with varying thickness was found associated with wall 17. The floor was cut for foundation trench of wall 16 with which were associated three lime floors raising the ground levels in three different phases

described earlier in chapter III. Amongst the three lime floors associated with this wall 16, the lowest was found in a limited area within the inner walls 18A, 18B and 18C. The upper two floors (Pls. 53-54, Fig 16) were found spread in the area along wall 16 and show signs of repair patch works (PL 41). **Thus the evidence of three phases of the structure 4 suggests its long span of existence.** The available C14 dates from the deposit between floors 2 and 3 in the trench ZH 1 is $1040 \pm 70 \text{ B.P}$ ($910 \pm 70 \text{ A.D.}$) having the calibrated age range of A.D. 900-1030. The early date may be because of the filling for leveling the ground after digging the earth from the previous deposit in the vicinity. A pavement no less than $29.25 \times 6 \text{ m}$ of large square bricks in the eastern area as described in chapter III is associated with the period.

“Attached with the earliest activities along with wall 16 are traces of inner walls having a width of 0.48 m to 0.55 m having one exposed entrance to the east found in trench H 1. The inner walls are attached with the wall 16 in the northern as well as southern areas. In northern area the inner wall (Pl. 55) or wall 18A runs to a length of about 15.0 m in east-west direction and takes a turn to south in trench ZH I (Fig. 8). It was traced upto a length of 6.0 m (wall 18B) after which due to the existence of the barricaded gangway it was not possible to dig further. The two parallel running walls 18C and 18D were traced in trenches E6-F6, G6 and in E7 respectively. Traces of a retaining brick wall (wall 19) with eroded outer face were noticed in trenches ZE2, ZD2, C1 and C2...”

2.2 The existence of ‘bigger structure’ before the construction of the disputed structure is established during excavation particularly Wall No. 16 and 17 which are undisputedly prior to the construction of the disputed structure.

2.3 The shape, size, length and continuity of the wall on western side in south north orientation coupled with pillar bases intervening floor 2 and 3 and also of the pillar bases of the northern side are even admitted by the Muslim Parties.

2.4 During excavation by ASI fifty pillar bases were discovered out of which twelve were completely exposed, thirty five partially exposed and three were traced in section.

2.5 The existence of pillar bases in the northern side with foundation further proves existence of huge pre-existing religious structure extending to much more area in northern side.

2.6 The seventeen rows of pillar bases were constructed along the north-south running brick wall (wall 16) on the west.

2.7 The distance of the first pillar base in each row from the wall ranges from 3.60 to 3.86m.

2.8 Seventeen rows of pillar bases could be categorised in three different groups on the basis of north-south distance which varies in different groups whereas east-west distance from centre to centre of each pillar base vary from 2.90 to 3.30m.

2.9 Six rows of the pillar bases on north and south were at the equidistance, which ranges from 3 to 3.30m.

2.10 Central five rows consisting twenty five pillar bases show different equations-two rows on either sides of the central row were placed approximately at the distance of 5.25m. whereas the other two rows on either side of these three rows were at the distance of 4.20 - 4.25 m.

2.11 The Alignment prima facie establishes that the central part of the pillared structure was important and special treatment was given to it in architectural planning.

2.12 The ASI report in figure 23B at page 63 (Vol-83) has given an isometric view of the pillar bases and in figure 23A (Pg. 51 Vol-85) the isometric view of the excavated site with different floors and pillar bases.

2.13 The foundation of the pillar bases are circular, square, oval, or irregular in shape and the foundation has been filled with brick bats covered with orthostat which prima facie establishes its load bearing

nature. It is also clear from the report that all the fifty pillar bases are more or less are of similar pattern except the orthostate position.

2.14 A perusal of the report particularly at page 80 (Vol-83) shows that all the 50 exposed pillar bases are attached with floor 2 dateable to 1200 A. D. and most of them are resting over floor no. 4 which has the earliest floor. The details of each pillar base in tabular form with trench number and floor is provided at Page no. 82-99 Vol-83.

2.15 It is also clear from the report that all the pillar bases exposed are attached with the floors existing prior to the floor of disputed structure. It is also clear that floor 4 which support the foundation of pillar bases was the most extensive floor.

2.16 Association of pillar bases has been reported at page 56 to 68 and a perusal of the same shows that pillar base no. 1, 2, 3, 5, 6, 7, 8 and 14 total 8 are projected over floor no. 2, pillar base no. 15, 19, 21, 23, 24, 30 total 8 are projected over floor no. 3 which have penetrated downward by cutting floor no. 2 and pillar bases no. 10, 11, 13, 16, 17, 18, 22, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46, 47, 48, 49, 50 total 29 pillar bases are projected over floor 4 which have penetrated downward by cutting floor no. 2 & 3. In addition to above pillar base no. 20, 40, 41 are pillar bases in the section whereas pillar base no. 4 and 25 is not associated with any floor due to damaged condition.

2.17 The existence of these pillar bases below the disputed structure particularly in courtyard establishes that the earlier structure was that of a temple.

2.18 According to Hindu Philosophy the temple site should always be divided into 64 squares. Its central or main gate would be auspicious if situated in one of the four cardinal directions. In Brihat Samhita a temple side has been described as under:-

“ChatuhshastipaadamKaaryamdevatayatatanamsada,
Dwaaram cha madhyamtasminsamadiksthamprasasyate.”

2.19 The pillar bases traced on the spot makes 64 squares in between 17 rows of 5 pillar bases each. The seventeen rows of pillar bases were constructed along the north-south running brick wall (wall No. 16) and as ASI Report suggests the arrangement of these Pillar Bases are such that central portion is given the importance as is done in temples.

2.20 It further is clear from the report that floor 4 which support the foundation of pillar bases was a floor of a Temple. It cannot be the floor of the Idgah or Kanati Mosque because pillars are always absent in the Idgah so that maximum persons could be accommodated in minimum space for offering prayer.

2.21 Moreover, pillar bases have been found below the floor level of the disputed structure. The pillar bases No. 29, 32, 34, 35 further prove demolition of the pre-existing structure as is evident from perusal of the report at page No. 75 (Vol-83) and plates 30 (Pg. 37 Vol-85) and 45 (Pg. 52 Vol-85) of the Archaeological Survey of India. Figure 3 B of ASI Report at Page 72 (Vol-83) shows nine pillar bases have been exposed below the wall and floor of the disputed structure numbered as pillar base Nos. 22, 23, 25, 28, 29, 31, 32, 34 and 35. All this clearly shows demolition of earlier structure to raise the disputed structure.

3. CIRCULAR SHRINE (STRUCTURE-5)

(PLATES 59-60 @ Pages 66-67 VOL-85)

3.1 Excavations also revealed a Circular Shrine in trenches E8 and F8 which unequivocally establishes religious nature of the earlier structure. It was a subsidiary shrine and ASI at Page 105 and onwards in Vol-83 discusses about the same. Some relevant portion is extracted hereunder:

“A partly damaged east facing brick shrine, structure 5 was noticed after removal of baulk between trenches E8 and F8. It is a circular structure with a rectangular projection in the east, the latter having been already visible before the removal of the baulk. The structure was squarish from the inner side and a 0.04 m wide and 0.53 m long chute or outlet

was noticed on plan made through the northern wall upto the end where in the lower course a 5.0 cm thick brick cut in 'V' shape was fixed which was found broken and which projects 3.5 cm outside the circular outer face as a pranala to drain out the water, obviously after the abhisheka of the deity, which is not present in the shrine now.

...

"...The brick shrine is similar (fig. 18) on plan to the Chirenath brick temple at Sravasti exposed recently by the Archaeological Survey of India though which is larger (approximately 5 m in diameter including its projections). Its central part is 2.20 m square where a Siva Linga is placed in the centre (Pl. 61). It has also affinity with circular Siva temples near Rewa in Madhya Pradesh at Chandrehe and Masaon belonging to C. 950 A.D. and a Vishnu temple and another without deity at Kurari in Fatehpur district of Uttar Pradesh and Surya temple at Tinduli in Fatehpur district. V.V.Mirashi thought that temples having circular garbhagriha where a speciality of the Chedi country and were built for the first time by the Acharyas of the Mattamayura clan as in the case of Chandrehe temple which was built by Prasanta siva as per the Chandrehe stone inscription of 972 A.D. Thus on stylistic grounds, the present circular shrine can be dated to c. tenth century A.D. when the Kalachuris moved in this area and settled across river Sarayu. They possibly brought the tradition of stone circular temples transformed into brick in Ganga-Yamuna valley..."

3.2 The nature, circular appearance and *paranala* on the northern side of the structure clearly establishes it to be a Shivalaya and the similarity on the basis of some Shiva temples has also been given by the ASI, as extracted hereinabove.

3.3 The Circular Shrine was an independent miniature shrine. The architectural features suggest that, that it was a Shiva shrine. It is unthinkable that in spite of the clear features of Siva shrine, it has been identified as a Muslim tomb or a Buddhist Stupa by some witnesses produced by Plaintiffs in Suit-4.

3.4 It is stated that it is too small a structure for a tomb or Stupa as from inside it is only 4.4 ft. square.

3.5 This circular structure was found with a well defined 'Pranala' (water chute to drain out ablution liquids).

3.6 Thus, the dimension of this structure are too small for a tomb or Buddhist Stupa and the parnala (water chute) is never found in tombs or stupas while it is an integral feature of the sanctum of Siva temples to drain out the water poured on the Sivlinga.

3.7 There are plenty of examples of miniature shrine/temples around the main temple in temple complexes of temple towns.

3.8 The existence of 'Circular Shrine' has been admitted by most of the Experts of Muslim parties, however, it has been suggested that it may be a "Buddhist Shrine" or a tomb of erstwhile Islamic religious structure.

3.9 The perusal of the statements of witnesses, it is evident that neither it can be a muslim tomb nor a Buddhist stupa.

➤ OPW-17 Dr. R. Nagaswamy in his statement has said as follows:

“ That existence of circular shrine with parnal towards north proves existence of Hindu Temple.

That the brick circular shrine is circular outside and square on the inner side, with a rectangular projection in the east with entrance, it has a water chute on the northern side which is obviously in level with the floor level of the inner sanctum clearly intended for the abhisheka to be drained. As this seems to be secondary shrine dedicated to Siva in his linga form the shrine is built to smaller dimension. Smaller dimension of subsidiary shrines with just minimum entrance space are seen in some of temples eg. Mansor, Rajasthan-KumbhariaShantinath Temple relevant pages are photostate copies prepared from those books, are annexed with this affidavit as Annexure No. 4, 5(Temples of India by Krishna Deva, published by Arya Books, New Delhi). The smaller diamension does not preclude the structure being a

shrine. The absence of any significant artifacts belonging to other sister faiths like Buddhism or Jainism, precludes this structure being identified with any of those faith. **Pg. 2630-2631 Vol-26**

“...I do know about the ‘Buddhist Stupas’. It is not possible that this circular structure will represent a ‘Buddhist Stupa’. For the reason ‘Buddhist Stupa’ is a solid globular structure in which the relics of either Buddha or great Buddhist monks will be deposited inside and such Stupa will not have an entrance opening and no provision for draining the ‘Abhisheka’ water or liquid as found in Hindu temple. There are hundreds of Hindu temple where a central deity is a ‘Shi-Linga’ for which ‘Abhishek’ is performed daily a number of times which requires provisions of ‘Parnalas’ in the northern direction as found in this circular shrine. There is no doubt what so ever that this circular shrine is a Hindu temple and not a ‘Buddhist Stupa’. No ‘Linga’ is found here but but as I have said in my earlier statement that this site has been attacked by iconoclasts in the 11th century once around 1030 CE and again around 1080 CE the idols have suffered and disappeared. No icon have been left in the site except a mutilated sculpture called Divine Couple...” **Pg. 2820 Vol-27**

- OPW-18 Sh. A. K. Sharma deposed that: “... That the stratigraphically, circular shrine belongs to Period V, datable from 700-1000 AD. It was built prior to Wall No.17. The existence of carved brick Pranala in north clearly shows that it was circular shrine...” Pg. 3015 Vol-28

4. ARCHITECTURAL FRAGMENTS

(PLATES 79, 80, 81,82, 83, 84, 85, 86, 87, 88, 89, 90, 93, 94, 95, 96, 97 and 103 and 235@ Pages 81-93 and 97and 167 VOL-85)

4.1 Some Archaeological finds like KopotPalli, Amalak, decorated bricks, decorated stone slabs in wall No.5 and 17, Srivatsha, etc. also gives an indication of the nature of the earlier structure.

4.2 Under Chapter VI of the ASI Report titled as 'Architectural Fragments' a list of articles found under the disputed structure evidently proves the temple character of the earlier structure.

4.3 The relevant portion of the report is extracted hereunder:

"...Consequent upon laying of a lay out for archaeological excavation of disputed site at Ayodhya, various architectural fragments consisting of pillars, pilasters, broken door jambs, lintels, brackets and etc. were retrieved as disjecta membra, ranging from surface of the mound to a considerable depth of various trenches..."

Besides, there are also symptomatic features to the effect of reusing the earlier architectural members with decorative motifs or mouldings by re-chiseling the slab (Pls. 79-80, Fig 59). A few intact architectural members like Amlaka (Pl. 81, Fig. 59) pillar with Ghata-pallava base with dwarf beings as weight-bearers and Kirtimukhas (Pls. 82-83, Fig. 59) to mention a few, have also been recovered. Besides, there are a number of architectural members which have been decorated with deeply carved foliage motifs. This pattern is distinct one resembling like that of "stencil" work (Pls. 86-87). It may be pointed out that the various architectural members with similar decorative designs have been found used in the foundation of one of the major brick structures (wall 16) (see Chapter IV- Structures) exposed in these excavations.

The aforesaid pillars and other decorative architectural members of this site like fragment of broken jamb with semi circular pilaster (Pl. 85) fragment of an octagonal shaft of Pillar (Pl.84), a square slab with Srivatsa motif (Pl. 88), fragment of lotus medallion motif (Pls. 89-90) emphatically speak about their association with the temple architecture. Stylistically, these architectural members in general and pillars in particular may be placed in a time bracket of tenth-twelfth Century A.D. It is also pertinent to note that there are a few architectural members (Pls.92-94), which can clearly be associated with the Islamic architecture on stylistic ground, which might belong to sixteenth century A.D. onwards.

In addition to the architectural fragments, a highly mutilated sculpture of divine couple seated in alingana mudra has also been recovered. The extant remain depicts the waist, thigh and foot (PI 235)."

4.4 Therefore, the presence of Amlaka stone (which is used in the shikhar of temple); intact pillar with ghata-pallava, stone; Architectural member with stencil cut foliage motif stone; Architectural member with srivatsa motif stone; Fragment of lotus medallion motif, stone; Fragment of a floral design; stone bracket with lozenge motif; Terracotta Brick fragment with a lotus petal motif, mutilated divine couple etc. clearly establishes Temple below the disputed structure.

5. STONE INSCRIPTIONS

5.1 NAGARI STONE INSCRIPTION:

(PLATE 137 @ Page116 VOL-85)

The 11th century inscription found from the debris of trench No. J-3 at a depth of 5.75 metres below the floor level of the disputed structure indicates existence of temple below the disputed structure as reported by ASI at page 280-281 (Vol-84) and Fig. 22 as well as Plate 137 (Pg. 116 Vol-85). The report (at page 280-281 Vol-85) reads as under:

“1. Nagari stone inscription

The inscription is engraved on a red stone slab of almost rectangular shape. The inscribed portion of the stone slab is found well-dressed and the lower edges of the slab are partly broken. This stone slab was found embedded in a section of a wall in trench J3 and was located at a depth of 5.75 m. The inscribed slab was found in upturned position. It measures 51.9 x 30 x 13.3 cm (Reg No. 1178).

This fragmentary inscription is having very few letters. At the outset it appears to be a single lined record. The available portion of the inscription seems to be the middle portion of a record and the remaining part of the record being lost (PI I 37)

The inscription reads as follows:

...ingapala / ja.ma...

On the basis of paleography the inscription can be assigned to eleventh century AD' Since the inscription is of highly fragmentary nature, the object of the record cannot be made out. Perhaps, it mentions the name of a person ending with *pala*."

It is noteworthy to mention that such decorated inscriptions are always found in temple/Hindu religious structures and are never found in the residential buildings. A perusal of the behaviour of debris as shown in Fig. 22 marked as layer No.5 and 6 of trench No. J-3 also indicates that the same was created due to demolition of the temple. The lower level of the layer as shown in Fig. 22 establishes that the boulders obviously came from the demolished temple in accordance with a theory of gravitation.

5.2 Visnu-hari-inscription:20-line inscription recovered from the wall of the disputed structure at the time of its demolition also proves existence of temple in 12th century AD, i.e., prior to construction of the disputed structure.

Recovery of 20-line inscription on 06.12.1992 from the debris of the disputed structure proves that the same was reused in the construction of the disputed structure.

6. GHATA-SHAPED PIT

(PLATES 67 @ Page 74 VOL-85)

6.1 Another important archaeological evidence of temple is presence of Ghata-shaped pit cut into large brick paving

6.2 ASI Report at Pg. 59 Vol-83 mentions that "...*There is a circular depression specially made by cutting the large brick pavement (Pl. 67), having the diameter of 1.05 m with a rectangular projection of 0.46 x 0.32 m towards west. It is interesting to note that the circular depression comes in the centre of the pavement if the **central part** is calculated on the basis of extant length of wall 16 or wall 17 and longitudinal length of the alignment of pillar bases from north to south.*

*Thus, suggesting it as a place of importance. Besides, the circular depression **faces the central part of the disputed structure over which 'Ram Lalla' is enshrined...***

6.3 The Position and shape of the pit is indicative of Garuda-Stambh kind of structure.

7. HUMAN AND ANIMAL FIGURINES

(PLATES 104 to 136 @ Pages 98-116 VOL-85)

7.1 The presence of human and animal figurines etc. in the excavated material which is largely used in temples of India is also indicative of temple. The photographs of many of such artifacts and finds supports the reasoning of ASI that the earlier structure resembled temple.

7.2 Admittedly, no Islamic religious artefacts have been found during excavation while the artifacts relating to Hindu religious nature were in abundance.

7.3 Plate No.88, Cobra hood (Nag Devta) Plate No.129 and various other Gods and Goddesses in human shape (Plate Nos. 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 115, 116, 118, 119, 120, 121, 122, 123, 125, 126) are quite clear and admits no doubt that earlier structure was a temple.

8. SUMMARY OF RESULT

8.1 ASI after analyzing the entire archaeological evidence recorded its the Summary of Result of the report (at Pages 345-349 Vol-84) and indicates that massive structure just below the disputed structure was indicative of remains which are distinctive features found associated with the **temples of north India**.

8.2 Some portions of the report is extracted hereunder:

"...During the Post-Gupta-Rajput period (seventh to tenth century A.D.), too the site has witnessed structural activity mainly constructed of burnt bricks. However, among the

exposed structures, there stands a circular brick shrine which speaks of its functional utility for the first time. To recapitulate quickly, exteriorly on plan, it is circular whereas internally squarish with an entrance from the east. Though the structure is damaged, the northern wall still retains a provision for pranala, i.e., waterchute which is a distinct feature of contemporary temples already known from the Ganga-Yamuna plain.

Subsequently, during the early medieval period (eleventh - twelfth century A.D.) a huge structure, nearly 50 m in north-south orientation was constructed which seems to have been short lived, as only four of the fifty pillar bases exposed during the excavation belong to this level with a brick crush floor. On the remains of the above structure was constructed a massive structure with at least three structural phases and three successive floors attached with it. The architectural members of the earlier short lived massive structure with stencil cut foliage pattern. And other decorative motifs were reused in the construction of the monumental structure having a huge pillared hall (or two halls) which is different from residential structures, providing sufficient evidence of a construction of public usage which remained under existence for a long time during the period VII (Medieval-Sultanate level- twelfth to sixteenth century A.D.) ***It was over the top of this construction during the early sixteenth century, the disputed structure was constructed directly resting over it.*** There is sufficient proof of existence of a massive and monumental structure having a minimum dimension of 50x30 m in north-south and east-west directions respectively just below the disputed structure. In course of present excavations nearly 50 pillar bases with brick bat foundation, below calcrete blocks topped by sandstone blocks were found. The pillar bases exposed during the present excavation in northern and southern areas also give an idea of the length of the massive wall of the earlier construction with which they are associated and which might have been originally around 60 m (of which the 50 m length is available at present). The centre of the central chamber of the disputed structure falls just over the central point of the length of the massive wall of the preceding period which could not be excavated due to presence of Ram Lala at the spot in the make-shift structure. This area is roughly 15x15 m on the raised

platform. Towards east of this central point a circular depression with projection on the west, cut into the large sized brick pavement, signify the place where some important object was placed. Terracotta lamps from the various trenches and found in a group in the levels of Periods VII in trench G2 are associated with the structural phase...”

...

“...Another noteworthy feature is that it was only during and after Period IV (Gupta level) onwards upto Period IX (late and post Mughal level) that the regular habitational deposits disappear in the concerned levels and the structural phases are associated with either structural debris or filling material taken out from the adjoining area to the level the ground for construction purpose. As a result of which much of the earlier material in the form of pottery, terracottas and other objects of preceding periods, particularly of Period I (NBPW level) and Period III (Kushan level) are found in the deposits of later periods mixed along with their contemporary material. The area below the disputed site thus, remained a place for public use for a long time till the Period VIII (Mughal level) when the disputed structure was built which was confined to a limited area and population settled around it as evidenced by the increase in contemporary archaeological material including pottery. The same is further attested by the conspicuous absence of habitational structures such as house-complexes, soakage pits, soakage jars, ring wells, drains, wells, hearths, kilns or furnaces etc. from Period IV (Gupta level) onwards and in particular from Period VI (Early Medieval-Rajput level) and Period VII (Medieval- Sultanate level).

8.3 Finally it was opined that:

“The Hon'ble High Court, in order to get sufficient archaeological evidence on the issue involved "whether there was any temple/structure which was demolished and mosque was constructed on the disputed site "as stated on page 1 and further on p.5 of their order dated 5 march 2003, had given directions to the Archaeological Survey of India to excavate at the disputed site where the GPR Survey has suggested evidence of anomalies which could be structure, pillars, foundation walls, slab flooring etc. which could be

confirmed by excavation. ***Now, viewing in totality and taking into account the archaeological evidence of a massive structure just below the disputed structure and evidence of continuity in structural phases from the tenth century onwards upto the construction of the disputed structure alongwith the yield of stone and decorated bricks as well as mutilated sculpture of divine couple and carved architectural members including foliage patterns, amalaka, kapotapali doorjamb with semi-circular pilaster, broken octagonal shaft of black schist pillar, lotus motif, circular shrine having pranala (waterchute) in the north, fifty pillar bases in association of the huge structure, are indicative of remains which are distinctive features found associated with the temples of north India."***

Emphasis added

9. PLATES

A perusal of photographs of the Excavations and the artifacts found during excavation as shown in following Plates prima facie establishes pre-existing temple/temple-like structure:

Sr. No.	Plate No.	Page No. Vol-85	Description
1.	22 and 23	Pg. 29 and Pg. 30	<p>“...Two decorated sand stone blocks from an earlier structure, one having the damaged figure of a possible foliated makara-pranala were found reused in the foundation of wall 5 on its outer face (Pls. 22-23)...” Pg. 75 Vol-83</p> <ul style="list-style-type: none">• Outer-wall of the Disputed Structure with MAKAR-PRANALA• Indicating that material of Temple was used in the construction of Disputed Structure.• Makar-Pranala is a traditional feature of Hindu Temples as

			<p>Goddess Ganga's Vahana (vehicle)</p> <ul style="list-style-type: none"> It is also evident from the picture that Disputed Structure was directly resting over WALL-16
2.	24	Pg. 31	<ul style="list-style-type: none"> Southern wall of the disputed structure resting over an earlier brick wall (Wall-16) Wall-5 (of the Disputed Structure and Wall-16 of the Earlier Structure are clearly visible) and the former is found resting over the later. <i>"...The wall 5 of the structure 3 was found resting directly (Pl. 24, Fig. 5) over an earlier plastered brick wall (wall 16)..."</i> (See Pg. 75 Vol-83)
3.	25	Pg. 32	<ul style="list-style-type: none"> <i>Floral Motif</i> visible in Wall-16 Indicating Hindu Religious character of the earlier structure
4.	26	Pg. 33	Enlarged Picture of Floral Motif
5.	29	Pg. 36	<ul style="list-style-type: none"> North-South oriented brick wall with plastered inner face. Wall-16, Wall-6 and Wall-18D are clearly visible Wall-16, which was used as Foundation for Disputed Structure was plastered, and presence of <i>floral motif</i>. <i>"...The Wall 16 has externally as well as internally plastered surface (Pl. 29) below the level of twin floors of Structure 3..."</i> (See Page 75 Volume-83 ASI Report) The foundation is never plastered and therefore it could not have

			<p>been the foundation of Disputed Structure.</p> <ul style="list-style-type: none"> Wall-16 and Wall-18D are seen connected
6.	30	Pg. 37	<ul style="list-style-type: none"> Southeastern foundation of the disputed structure resting over pillar bases 34 and 35. <i>“...The southern foundation wall (wall 6) of structure 3 directly rests over two pillar bases of earlier period (PB 34 and PB 35) below its middle and south-eastern corner (PI 30)...”</i> Pg. 75 Vol-85
7.	36, 37, 38	Pg. 43-45	<ul style="list-style-type: none"> Pillar base 13 in section facing north, Tr. ZH1. <i>“In the southern area only one decorated sand stone block was found over a pillar base while in the northern area many of the pillar bases were found topped by a plainsand stone block set over the brick bat foundation having calcrete blocks over them (PI.36). The plain sand stone block was found in many of the cases having a stone encasing from all the four sides, possibly to avoid shifting of the pillar placed over the block (Pls.37-38)...”</i> Pg. 83 Vol-85
8.	30	Pg. 37	Southeastern foundation of the Disputed Structure is found resting over Pillar Bases 34 and 35
9.	34	Pg. 41	Close-up of the plastered surface of the brick wall
10.	35	Pg. 42	Pillar-bases attached to the contemporary floor 2 in the northern area
11.	35	Pg. 42	Pillar Base No. 22 in Trench F2

			<i>“The foundation was resting on Floor 4 Northern wall (Wall12) of the Disputed Structure slightly damaged the foundation of the pillar base (Pl 42).” (See Pg. 90 Vol-83)</i>
12.	36	Pg. 43	<p>Pillar Base No. 13</p> <ul style="list-style-type: none"> Resting on Floor 4 and cutting through Floor 3. (Ref. Pg. 86 Vol-83) <i>“...The portion of Pillar Base is seen where it can be clearly made out that the pillar bases comprises some courses of brick bats in squarish formations over which calcrete stone blocks are kept and thereafter decorated sand stone block was used and above that pillars were raised. (See Pg. 27)</i>
13.	37	Pg. 44	<ul style="list-style-type: none"> Finished Pillar Bases 1 and 5 Dressed Stone of Pillar Base is visible
14.	38	Pg. 45	Close-up of Pillar Base No.1
15.	39	Pg. 46	Decorated octagonal sandstone block with floral motif on Pilar Base No. 32
16.	40	Pg. 46	Similar structure found from Sarnath
17.	41	Pg. 45	Close-up of the Pillar base showing top block and orthostats
18.	42	Pg. 49	Pillar Base No. 22
19.	43	Pg. 50	Pillar Base No. 23 and 24
20.	44	Pg. 51	Pillar Base No. 27
21.	45	Pg. 52	<ul style="list-style-type: none"> Pillar Base No. 29

			<ul style="list-style-type: none"> The eastern wall (Wall-7) of the Disputed Structure was resting over the foundation.
22.	46	Pg. 53	Pillar Base No. 31
23.	47	Pg. 54	Pillar Base No. 44
24.	48	Pg. 55	Pillar Base No. 45
25.	50	Pg. 57	<ul style="list-style-type: none"> Wall-17: Brick wall of lower level in north-south orientation, Tr. ZE1-ZF1 “...Wall 17 which is a brick wall was found to be 1.86 m wide having the maximum of four courses in the northern area (PL 50) and six courses in southern area...” Pg. 101 Vol. 83
26.	51	Pg. 58	<ul style="list-style-type: none"> Decorated Stone Blocks visible in Wall-17 indicative of temple character of earlier structure
27.	52	Pg. 59	<ul style="list-style-type: none"> Brick-crush floor 5 cut for laying foundation of the North-South oriented brick wall
28.	55 & 56	Pg. 62-63	<ul style="list-style-type: none"> Thin east-west running wall attached to the north-south wall in the southern area, and Thin east-west running wall attached to the north-south wall in northern area.
29.	59, 60	Pg. 66-67	<ul style="list-style-type: none"> Circular Shrine with <i>parṇalaon</i> the northern direction
30.	67	Pg. 74	<ul style="list-style-type: none"> Ghata-shaped pit cut into large brick paving The Position and shape of the pit is indicative of Garuda-Stambh kind of structure.

			<ul style="list-style-type: none"> “...There is a circular depression specially made by cutting the large brick pavement (Pl. 67), having the diameter of 1.05 m with a rectangular projection of 0.46 x 0.32 m towards west. It is interesting to note that the circular depression comes in the centre of the pavement if the central part is calculated on the basis of extant length of wall 16 or wall 17 and longitudinal length of the alignment of pillar bases from north to south. Thus, suggesting it as a place of importance. Besides, the circular depression faces the central part of the disputed structure over which 'Ram Lalla' is enshrined...”
31.	79	Pg. 81	Re-chiseled lotus medallion, ceiling slab stone
32.	80	Pg. 81	Re-chiseled architectural member with lozenge design stone
33.	81	Pg. 82	Amlaka, stone
34.	82	Pg. 83	Intact pillar with ghata-pallava, stone.
35.	83	Pg. 83	Close-up of lower part of the pillar, stone
36.	84	Pg. 84	Fragment of an octagonal shaft of pillar, stone
37.	85	Pg. 85	Broken jamb with semicircular pilaster, stone
38.	86	Pg. 86	Stencil cut lotus petal design and beaded register at top, stone
39.	87	Pg. 86	Architectural member with stencil cut foliage motif, stone.

40.	88	Pg. 87	Architectural member with srivatsa motif, stone
41.	89	Pg. 88	Fragment of lotus medallion motif, stone
42.	90	Pg. 88	Fragment of a floral design, stone
43.	93	Pg. 91	Bracket with lozenge motif stone
44.	94	Pg. 91	Architectural member with geometric pattern decoration, stone
45.	95	Pg. 92	<ul style="list-style-type: none"> • Brick fragment with a lotus petal motif, terracotta. • <i>“A few intact architectural members like Amlaka (Pl. 81, Fig. 59) pillar with Ghata-pallava base with dwarf beings as weight-bearers and Kirtimukhas (Pls. 82-83, Fig. 59) to mention a few, have also been recovered. Besides, there are a number of architectural members which have been decorated with deeply carved foliage motifs. This pattern is distinct one resembling like that of "stencil" work (Pls. 86-87). It may be pointed out that the various architectural members with similar decorative designs have been found used in the foundation of one of the major brick structures (wall 16) (see Chapter IV-Structures) exposed in these excavations.</i> • <i>The aforesaid pillars and other decorative architectural members of this site like fragment of broken jamb with semi circular pilaster (Pl. 85) fragment of an octagonal shaft of Pillar (Pl. 84), a square slab with Srivatsa motif (Pl. 88), fragment of lotus medallion motif (Pls. 89-90) emphatically speak about their association with the temple architecture. Stylistically, these</i>

			<i>architectural members in general and pillars in particular may be placed in a time bracket of tenth-twelfth Century A.D...” Pg. 195-198 Vol-83</i>
46.	96	Pg. 92	Brick fragment with stencil cut foliage and half lozenge in a register
47.	97	Pg. 93	Brick with <i>rajjuor</i> rope design
48.	103	Pg. 97	Fragments of a flower motifs, stucco
49.	104-136	Pg. 98-116	Animal and Human figurine
50.	137	Pg. 116	<ul style="list-style-type: none">• Nagari stone inscription• “...On the basis of paleography the inscription can be assigned to eleventh century AD . (Pg. 180-281 (Vol-84)
51.	235	Pg. 167	<ul style="list-style-type: none">• Divine Couple Stone• “...In addition to the architectural fragments, a highly mutilated sculpture of divine couple seated in alinganamudra has also been recovered The extant remain depicts the waist, thigh and foot (Pl 235).” Pg. 198 Vol-83

CONCLUSION

The ASI report unequivocally establishes following facts:

- i) That there were/are structures below the disputed structure and wall on the West side was not the only wall;
- ii) That there is abundant material to show that the earlier structure was demolished to raise the disputed structure;

- iii) That there are interconnecting walls; (Wall 18A, 18B, 18C, 18D etc.)
- iv) There are floors of different periods, starting from 1000 B.C. to 300 B.C (NBPW period);
- v) There are pillar bases and remnants, some (4) in the lowest Floor 4, coming up to Floor 3;
- vi) There are 46 pillar bases in Floor 3;
- vii) These pillar bases have 3 layers, consisting of brickbat layers in the bottom topped with calcrete stone and above that a dressed stone, which prima facie establishes its load bearing nature.
- viii) That the massive structure is indicative of a public place, not a small residence; and
- ix) During excavation by the Archeological Survey of India **no feature of habitation activity** was found. There was complete absence of typical habitational deposits such as soakage pits, ring wells, drainage system, etc.
- x) At the site in question right from the virgin soil, beginning with the circular Shiva Shrine up to the working floor of the disputed structure only religious structural remains associated with antiquities of religious nature have been found.
- xi) Archaeological finds like KopolPalli, Amalak stone, decorated bricks, decorated stone slabs in wall No.5 and 17, earthen lamp below the floor of the disputed structure, Garuda Dhvaj (the pit made for erecting the Garuda Dhvaj in front of the Garbhagriha - a salient feature of northern Indian temples), figurine of Nag Devta (Cobra hood), intact pillar with ghata-pallava; Architectural member with stencil cut foliage motif stone; Architectural member with srivatsa motif stone; Fragment of lotus medallion motif, stone; Fragment of a floral

design; stone bracket with lozenge motif etc. confirms the pre-existence of temple on the disputed site.

The Plaintiffs in Suit-5 in their Plaint had pleaded a Hindu temple beneath the disputed structure. Wakf board disputed existence of any structure and even pleaded that the mosque was constructed on a vacant land. There was no plea of idgah or Kanati Masjid or any Buddhist or Jain structure by any party.

The inference drawn by the ASI, on the basis of the above referred materials, that the structure beneath the disputed structure resembles the temple of north India is well supported by the proof of continuous worship by the Hindus. The Plaintiffs have successfully discharged the burden of proving the pre-existing temple below the disputed structure.

FINDINGS OF HON'BLE HIGH COURT

After considering the ASI report and the other evidences available on record the High Court rendered following findings-

Hon'ble Mr. Justice S.U Khan observed that:

"...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..." (Page No.115 Vol.1)

Hon'ble Mr. Justice Sudhir Agarwal held that:

"Para 3990. ...Sufficient indication has been given by ASI that the building in dispute did not have its own foundation but it was raised on the existing walls. If a building would not have been existing before construction of the subsequent building, the builder might not have been able to use foundation of the erstwhile building without knowing its strength and capacity of bearing the load of new structure. The floor of the disputed building was just over the floor of earlier building. The existence of several pillar bases all show another earlier existence of a sufficiently bigger structure, if not bigger than the disputed structure then not lessor than that also." (Page 2445 Vol-2)

...

“Para 4055. The ultimate inference, which can reasonably be drawn by this Court from the entire discussion and material noticed above, is:

(i) The disputed structure was not raised on a virgin, vacant, unoccupied, open land.

(ii) There existed a structure, if not much bigger then at least comparable or bigger than the disputed structure, at the site in dispute.

(iii) The builder of the disputed structure knew the details of the erstwhile structure, its strength, capacity, the size of the walls etc. and therefore did not hesitate in using the walls etc. without any further improvement.

(iv) The erstwhile structure was religious in nature and that too non-Islamic one.

(v) The material like stone, pillars, bricks etc. of the erstwhile structure was used in raising the disputed structure.

(vi) The artefacts recovered during excavation are mostly such as are non-Islamic i.e pertaining to Hindu religious places, even if we accept that some of the items are such which may be used in other religions also. Simultaneously no artefacts etc., which can be used only in Islamic religious place, has been found.”

“...4056. The claim of Hindus that the disputed structure was constructed after demolishing a Hindu temple is pre-litem and not post-litem hence credible, reliable and trustworthy. Till late, no person of any other religion except the Hindus have been continuously staking their claim over the site in dispute on the ground that this is the place of birth of Lord Rama and there was a temple. In normal course, there could not have been any reason for such persistent attachment to the site had there been no basis or substance for the same particularly when this kind of persistence is continuing for the last hundreds of years. The various non-Indian writers, who have mentioned these facts, clearly stating that a Hindu temple was demolished for constructing mosque in question, may have some motive if it would have been a case of only

post nineteenth century when the British Government virtually came in power and sought to evolve the theory of "Divide and Rule" but even prior thereto, these facts have been noticed and recognized. Tieffenthaler was a missionary having no motive in making such remark when he visited Oudh area between 1766 to 1771 and such work was published in 1786."

"4057. This belief is existing for the last more than 200 years from the date the property was attached and therefore, having been corroborative by the above it can safely be said that the erstwhile structure was a Hindu temple and it was demolished where after the disputed structure was raised."
(Page 2507 Vol-2)

Hon'ble Mr. Justice D. V. Sharma held that:

"...On the basis of the report, it can conclusively be held that the disputed structure was constructed on the site of old structure after the demolition of the same. There is sufficient evidence to this effect that the structure was a Hindu massive religious structure." (Page 2970 Vol-3)

...

"...In the ASI's report Vol. II Plate 67 is photograph of "Garuddhwaj" Plate No. 88 is photograph of "Srivatsa". These religious symbols of the Hindu Temple have been found during excavation at disputed site in Ayodhya. In Sri Bhagawat-Puran. 1.18.16; Sri Mahabharat Anushasan Parva.149. 51 & Shanti-parva Garud-dhwaj have been mentioned as one of the thousand names of the Lord of Universe Sri Vishnu which means in the Flag of Lord Vishnu emblem of Garud finds place. In Sri Valmiki Ramayana Yuddh-Kanda.111.13 & 132; Sri Mahabharatl Anushasan Parva.149.77; Sri Ramcharitamanas Balkanda.146.6 Sri Vatsa has been mentioned as a holy mark on the chest of the Lord of Universe Sri Vishnu. Finding of these holy religious symbols related to the Lord of Universe Sri Vishnu leaves no doubt that the structure in question was a Vaishnav Temple.

In the ASI's report Vol.1 a chart of the Architectural Members have been given on pages 122-152 wherein on SI which are visible in Plate no.37 & 38. The pillar-base which is in Plate

no.46, construction thereof is different from the aforesaid pillar-bases. The construction of the pillar-base visible in Plate no.46 is similar to the construction in Plate no.42. The constructio. No.130 at page 129 Ghata Pallava & Srivatsa; on Sl. No.148 at page 130 Divine Couple in alingana mudra; on Sl. No.123 at page 140 Couching Ganas(human beings) & Kirtimukhas; on Sl. No.125 at page 141 Amalaka; on Sl. No.225 at page 148 ghata-pallav, kirtimukhas, human miniature details have been given. ... In the said ASI's report Vol.1 a chart of the Miscellaneous Objects have been given wherein on pages 219-267 on Sl. No.58 at page 252 Swastika have been described.

In the book 'A Dictionary of Hindu Architecture' by Prasanna Kumar Acharya published by Low Price Publication first published in 1934 and reprint in 2008 on page nos.17 to 43 Adhishtana have been described in detail. On its page no.109 and 110 Kapota and Kapota-Pallika have been defined. On its page nos.121 to 124 kalas has been defined, on its page no.246 Torana, has been defined. On its page no.361 Pranal has been defined, Prasad has been described on page no.396. On its page no.598 Sri-vatsa have been described and defined. On its page nos.644 to 704 Stambha i.e. pillars/orthostate has been described and defined. On page nos.732 and 738 Svastika has been described and defined. From the aforesaid objects found during the excavation and their association with the temples as it is proved by the authentic dictionary and books of the Hindu architecture as well as Gazetteer of India makes it beyond doubt that the disputed structure was a temple." (Pages 2958-2959)

Therefore, it is most respectfully submitted that the contextual inference drawn by an expert body consisting of independent archeological team of ASI was rightly accepted by the Hon'ble High Court and the submissions made by the Wakf Board before this Hon'ble Court do not warrant acceptance to interfere with the findings of the high court arrived at on balance of probabilities.
