

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NOS. 10866-10867 OF 2010****IN THE MATTER OF: -**

M. Siddiq (D) Thr. Lrs.

... Appellant

VERSUS

Mahant Suresh Das & Ors. etc. etc.

... Respondents

AND**OTHER CONNECTED CIVIL APPEALS**

**NOTE ON PLANNED DESECRATION OF MOSQUE - REPLY
TO NO DESECRATION ON DECEMBER 22-23, 1949**

BY**DR. RAJEEV DHAVAN, SENIOR ADVOCATE****ADVOCATE-ON-RECORD: EJAZ MAQBOOL**

**NOTE ON PLANNED DESECRATION OF MOSQUE- REPLY TO
NO DESECRATION ON DECEMBER 22-23, 1949**

**I. SEQUENCE OF EVENTS FROM MARCH TILL DECEMBER 22-
23, 1949**

S.NO.	DATE	EVENT
1)	19.3.1949	<p>On March 19,1949, a deed which reduced into writing the customs of Nirmohi Akhara was executed by the Panches of Nirmohi Akhara and was registered in Sub Registrar's Office. For the first time it was mentioned that: - <i>"Temple of Janam Bhoomi is situate in Mohall Ram Ghat of City, Ayodhya which is under the Baithak of this Akhara and its whole management is trust upon to this Akhara. It stands in name of Mahant of Akhara as Mahant and Manager. This is the best well reputed, moorty of worship temple of Ayodhya. Being the birthplace of Lord Rama, it is the main temple of Ayodhya. The deity of Shri Ram Lalaji is installed there and there are other deities also."</i></p> <p>This Document is Exhibit No. 1 of O.O.S. NO. 3 of 1989. (See: Pg. Nos. 1 to 44 of Vol. I of Exhibits filed by Ms. Pratibha Jain, Advocate- Running Volume 90)</p>

2)	12. 11.1949	A police picket was posted near the grave mounds (precincts <i>of Babri Masjid</i>). [Pg. No. 37 of Vol. I of Impugned Judgment]
3)	29.11.1949	On November 29,1949, the Superintendent of Police, Faizabad, Mr. Kripal Singh informed the Deputy Commissioner Shri KK Nayar that "...there is a strong rumour that on puranmashi the Hindus will try to force entry into the Babri Masjid with the object of installing a diety..." [Pg. No. 36 of Vol. I of Impugned Judgment]
4)	10.12.1949	On December 10,1949, Mohd. Ibrahim, Waqf Inspector submitted his Report dated December 12, 1949. The report recorded that Muslims were harassed by Hindus and Sikhs when they went to pray in the Babri Masjid. It was also stated that there was a temple of the Hindus outside the courtyard, where many Hindus lived. They abused any Muslims who go to the Masjid. [This Document is marked as Annexure 5.27 at Vol. III. See Exhibit No. A-63 of O.O.S. No. 1 of 1989 at Pg. Nos. 1330-1331 of Vol. VIII (Running Volume-10) filed by Mr. Ejaz Maqbool, Advocate]
5)	16.12.1949	Shri KK Nayar (Deputy Commissioner & D.M. Faizabad) sent letter addressed to the Govind Narayan (Home Secretary,

		<p>Government of Uttar Pradesh) dated December 16, 1949 wherein he stated that a magnificent temple at the site was constructed by Vikramaditya and in 16th Century, it was demolished by Babur and the mosque known as Babri Masjid was constructed and in the said process, building material of the Temple was used, and that a long time before Hindus were again restored to possession of a site therein i.e. at the corner of two walls. It was further mentioned that Muslims who go to the mosque pass in front of the temple and there has frequently been troubles over the occasional failure of the Muslims to take off their shoes. Lastly, he requested the State Government to not give credence to the apprehensions of the Muslims regarding safety of the Babri mosque. [Pgs. 36-37/Vol. 1 of Impugned Judgment]</p>
6)	22/23.12.1949	<p>On the night intervening 22.12.1949 and 23.12.1949, some members of the Hindu Community in the darkness of night surreptitiously placed idols inside the Babri Masjid. [Pg. 35/Vol. 1 of Impugned Judgment]</p> <p>FIR No. 167 was filed alleging about the placement of idols inside the inner courtyard of disputed site in the night of</p>

		22/23/12.1949 u/s 147, 295, 448 I.P.C by the Hindu Parties. [Pg. 35/Vol. 1 of Impugned Judgment; See Exhibit No. A 64 of O.O.S. No.1 of 1989 at Pg. Nos. 140-142 of Vol. I (Running Volume-3) filed by Mr. Ejaz Maqbool, Advocate]
7)	27.12.1949	Despite directions to remove the idols, the Deputy Commissioner refused to follow directions defiantly and reported to have written "... and if the government still insisted that the removal should be carried out in the face of these facts, I would request to replace me by another officer." [Pgs. 38-39/Vol. 1 of Impugned Judgment]

II. CONCLUSION

1. A bare perusal of the above events establishes the following:-
 - i. That there was a mosque at the disputed site.
 - ii. The State authorities acknowledged the same as the mosque and have consistently referred to it as a mosque in their internal communication.
 - iii. From report of the waqf commissioner dated 10.12.1949, the following points emerge:-
 - a) The temple of the Hindus was outside the Courtyard

- b) Namaz was being read in the Babri Mosque as it refers to the Muslim worshippers being harassed by the members of the Hindu Community.
- iv. The State authorities acknowledge threat posed by the members of the Hindu Community to the mosque and the people going to pray therein.
- v. The State authorities could foresee the potential desecration/attack to the mosque and the worshippers, but took not steps to avert such an incident.
- vi. From the internal communication of the officials of the State, it is clear that the desecration of the mosque is a planned one as S.P had already informed the D.C of the plan of the Hindus to force entry into the mosque with the intention of installing an idol.
- vii. The desecration of December 22-23,1949 was a planned attack, the seeds for which were sown with the custom deed dated March 19,1949 when the temple of Ram Janambhoomi was for the first time mentioned.
- viii. Officials of the State refused to thereafter remove the surreptiously installed idol despite orders from the State Government, further confirming their alliance with the miscreants who desecrated the mosque.
2. It is in the background of these wrongdoings, that the members of the Hindu community are before the Court seeking right to a site, which they acquired illegally as is clearly reflected from the above records.