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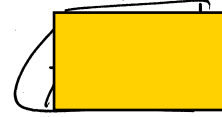
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5/9/2019
(1)

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 WITNESS STATEMENTS IN SUIT 3 OF
1989

BY DR. RAJEEV DHAVAN, SENIOR ADVOCATE

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New Delhi-110001
M-9818249711.

ADVOCATE ON RECORD: EJAZ MAQBOOL

NOTE ON WITNESS STATEMENTS IN SUIT 3 OF 1989

REFIED FOR	COMMENT
<p>1. DW 3/1 MAHANT BHASKAR DAS: (Date of Examination in Chief - 29.8.2003)</p> <ul style="list-style-type: none"> ❖ Examination in Chief: Pg. 8697, Volume 50 ❖ Cross: Pg. 8730, Volume 51 <ul style="list-style-type: none"> • Aged 75 years, disciple of Baba Baldeo Das, resident of Hanumangarhi, Faizabad and presently is the Sarpanch of Shri Manch Ramanandiya Nirmohi Akhara and prior to it he was a Panch and pujari of RJB temple. [Pg. 8698 @ para 1- Running Volume 50] • First came to Ayodhya in 1946 [Pg. 8699 @ Para 3- Running Volume 50] and his source of information for the events is through old preceptors who passed on the information from generation to generation. [Pg. 8702 @ para 10- Running Volume 51] 	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Possession taken by the receiver from Nirmohi</p> <p>d) Exclusive possession-no namaz</p> <p>e) No incident on December 22-23, 1949; Attachment due to pressure of Muslims</p> <p>[Pgs. A1 & A2 of the Written Submissions]</p>	<p>Relevant to note that this witness states:-</p> <p>a) There was no incident on December 22-23, 1949 and that he was sleeping below the northern dome of the disputed structure [Pg. 8766/Vol. 51]. This has to be read with the statement made by the Counsel of Nirmohi Akhara where he has himself stated that the idols were shifted from Ram Chabutara and kept under the Central Dome in the disputed building. [Pg. 1114 @ para 1706 of Vol. I of the Impugned Judgment]</p> <p>b) Recognizes the photo of Shri K.K. Nayar and Guru Dutt Singh inside the disputed structure. [Pg. 8771-8772/Vol. 51]</p> <p>c) Contradicts himself-</p> <p>i. First states- there were two idols of Ram Lalla in the disputed building – one on the throne and one on the stairs [Pgs.8780,8786-87of Running Volume 51]. Subsequently at pg. 8801 (Running Volume 51) he clarifies that by 'two idols' he meant one of Ram Lalla and one of Lakshman. Pertinently, he has also claimed that he has himself performed arati of Ram Lalla inside the disputed structure prior to its attachment on 29.12.1949 (Pg. 8719 of Running Volume 51), however despite the same he</p>

	<p>is not able to even tell the number of idols inside the disputed structure.</p> <p>ii. First states that- parikrama marg was at the back of the disputed structure [Pg. 8704 @ para 16- Running Volume 51], later states that parikrama was performed at the Ram Chabutara [Pg. 8805 Running Volume 51].</p>
<p>2. DW 3/2 SRI RAJA RAM PANDEY:- (Date of Examination in Chief:- 22.09.2003)</p> <p>❖ Examination in Chief: Pg. 8912, Volume 51</p> <p>❖ Cross: Pg. 8924, Volume 51</p> <ul style="list-style-type: none"> Aged 87 years, came to my father in Unwal temple Ayodhya in 1930, where his father was already serving as the Priest (Pujari) [Pg. 8912 @ para 1- Running Volume 51] Has been going to the RJB temple daily ever since his arrival in Ayodhya in 1930. [Pg. 8912-13 @ para 3- Running Volume 51] 	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Exclusive possession-no namaz</p> <p>[Pg. A2-A3 of the Written Submissions]</p>	<p>It is relevant to note that:</p> <p>a) Accepts that earlier Chabootra was known as RJB Temple:- <i>There was a temple on this Chabootra. That Chabootra was known by the name of Janam Bhoomi. That temple was the temple of God and was called Janam Bhoomi</i> [Pg. 9081- Running Volume 52]</p> <p>b) I also don't know as to when the disputed structure with three domes was built and who got it built. I have no knowledge as to when and who got the idols kept in the disputed structure [Pg. 8972- Running Volume 52]</p> <p>c) I don't know as to when and by whom the Nirmohi Akhara was made the owner of Ram Janam Bhoomi Mandir & as per my knowledge, this suit was filed by Nirmohi Akhara in the year 1949 [Pgs. 8925- Running Volume 52]</p>
<p>3. DW 3/3 Sri Satya Narain Tripathi- (Date of Examination in Chief-30.10.2003)</p> <p>❖ Examination in Chief: Pg. 9094, Volume 52</p> <p>❖ Cross: Pg. 9102, Volume 52</p> <ul style="list-style-type: none"> Aged 72 years, was born on 08 Sept. 1931 [Pg. 9095 @ para 1- Running Volume 52] States that he first time went to the RJB temple when he was 10 years old in 1941 and since then has been continuously visiting the same. [Para 2,5,8,10 @ pgs. 9095-9098- Running Volume 52] 	

<ul style="list-style-type: none"> Refers to the disputed site as the disputed temple throughout his testimony and states that no one ever read Namaz there and no Muslims were there in the area. [Pgs. 9105-9106- Running Volume 52] 	
<ul style="list-style-type: none"> a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard) b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara c) Exclusive possession-no namaz d) No incident on December 22-23, 1949 	<p>The following points are relevant:</p> <ul style="list-style-type: none"> a) He states that he does not know which temples belong to Nirmohi Akhara. [Pg. 9103- Running Volume 52] b) It is important to understand the background of this witness as it seems to have influenced his testimony:- <ul style="list-style-type: none"> i. Has been a dedicated worker of RSS. [Pg. 9106- Running Volume 52] ii. Holds RSS and VHP in high regard and describes them as leading organizations for protection of Hinduism [Pg. 9107- Running Volume 52] iii. Has been in RSS since 1945 when he was 14 years old. [Pg. 9111- Running Volume 52] iv. Has been jailed in 1949 in relation to a satyagrah called by RSS after the assassination of Mahatma Gandhi [Pg. 9111- Running Volume 52] v. Joined RSS before Class IX. The endeavor of RSS was the strengthening of Hindus. By strengthening, I mean, ability to protect oneself and self-defence. [Pgs. 9113-9114- Running Volume 52]
<p>[Pg. A3- A4 of the Written Submissions]</p>	<p>c) He refers to the disputed site as a Disputed Temple/ Disputed Bhavan in his entire testimony, but while answering a question in cross, he accepts Babri Masjid was demolished on 6.12.1992, however he immediately clarifies. The relevant portion is extracted below:</p> <p><i>Question: When did you see Shri Lal Krishan Advaniji for the first time?</i> <i>(On this question the learned advocate of the plaintiff, Shri Tarunjeet Verma objected that this question is not</i></p>

	<p><i>related to the contents of the suit. So, such question should not be asked.)</i></p> <p><i>Answer: I saw Shri Lal Krishan Advaniji for the first time when the procession passed through Ayodhya. I don't know whether Shri Lal Krishan Advani was there or not on 6 December, 1992, when Babri Masjid was demolished. After that he said, it was not a Masjid, but a Temple.</i></p> <p>[Pg. 9114- Running Volume 52]</p> <p>d) Despite stating that he has been continuously visiting the disputed structure continuously, when asked about the physical features of the structure he states the he never saw, any part of the Disputed Bhavan with much attention.</p> <p>[Pg.9128- Running Volume 52]</p>
<p>4. DW 3/4 Mahant Shiv Saran Das- (Date of Examination- 14.11.2003)</p> <p>❖ Examination in Chief: Pg. 9182, Volume 52</p> <p>❖ Cross: Pg. 9191, Volume 52</p> <ul style="list-style-type: none"> Aged 83 years, a disciple of Nirmal Das Jhariya Nirmohi [Pg. 9183- Running Volume 52] was born in 1920 [Pg. 9183 @ para 1- Running Volume 52]. I had been going for 'darshans' to Shri Ram Janam Bhoomi since 1933. [Pg. 9184 @ para 8- Running Volume 52] I have darshan of Bhagwan Ram Lala inside the Garbha Griha until the attachment in 1949. [Pg. 9184 @ para 9; Para 12 @ pg. 9185- Running Volume 52] I had been going there 4-6 times during a year. At times, I have even stayed there for a month or so [Pg.9187 @ para 20- Running Volume 52] 	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>d) No incident on December 22-23, 1949</p> <p>[Pg. A4- A5 of the Written Submissions]</p>	<p>The following portions of his testimony establish that the same is unreliable: -</p> <p>a) Has not read his affidavit of evidence in chief: -</p> <ul style="list-style-type: none"> i. I had read that cursorily and signed. I did not go through the affidavit completely. [Pg. 9218- Running Volume 53] ii. Before signing the affidavit, I had gone through it cursorily, but did not read it thoroughly. [Pgs. 9218-9219- Running Volume 53]

	<p>b) In 1936 idols of Ramalalla and others were kept in the Chabutara:- States that in 1936 when he visited the disputed site for the first time (as opposed to 1933-as stated in this examination in chief affidavit), the idols of Ram Lala were kept in the Chabutara.(Pg. 9219- Running Volume 53)</p> <p>c) States that when he visited the disputed site in 1936 there were no walls iron-bars at the disputed site (Pg. 9219- Running Volume 53). It is relevant to note that the iron grills were placed in 1856-1857 by the Britishers, which was done with the intention that Muslims use the inner portion and Hindus use the outer portion. [See pg. 28 /Vol. 1 of the Impugned Judgment]. This factual discrepancy shows that the witness has in fact never visited the disputed site.</p> <p>d) Though in his examination in Chief he says that he has been having darshan of the inner garbha girha until its attachment in 1949 (Pg. 9185- Running Volume 53) in his cross he states that he has never gone to the disputed building before 1986 (Pg. 9272- Running Volume 53)</p> <p>e) It takes about 15 day to do 'pran-pratishtha' of an idol. [Pg. 9227- Running Volume 53]. which strengthens the claim of the Muslim Community that the idols placed inside the disputed structure were not duly consecrated.</p>
<p>5. DW 3/5 SRI RAGHUNATH PRASAD PANDEY-(Date of Examination in Chief-18.11.2003)</p> <p>❖ Examination in Chief: Pg. 9279, Volume 53</p> <p>❖ Cross: Pg. 9288, Volume 53</p> <ul style="list-style-type: none"> Born on 18.10.1930, was 73 years old when he deposed. The temple of Ramjanam Bhumi is about a distance of 16 of 17 Kilometers from his village. His mother used to take him to the Ayodhya. He started visiting the RJB temple since he was 7 years old. [Para 1,2, 4 & 5 @ pgs. 9280-9281- Running Volume 53] 	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p>	<p>Upon being asked question about the physical features of the building he replies as follows:-</p>

<p>b) No use as masjid</p> <p>[Pg. A5 of the Written Submissions]</p>	<p>a) I have no knowledge whether the pictures are of the of the west side wall of the lower portion of the middle tomb of the disputed building or not. Because I used to go for darshan of God and had not paid careful attention to the walls. [Pgs. 9314- Running Volume 53]</p> <p>b) I used to go there only for darshan and did not see up & down or right or left. [Pg. 9314- Running Volume 53]</p> <p>c) He admitted to have seen the barricading (<i>iron grill wall</i>) but states that he does not remember if one had to pass through the barricading to enter the disputed structure. He further stated that he was unaware that whether the barricading was all around the building or whether it was only on one side. [Pg. 9324- 25- Running Volume 53]</p> <p>d) Regarding the <i>Singh Dwar</i> he says- I don't remember if the gate was of iron or wood. [Pg. 9326- Running Volume 53]</p> <p>e) Failed to tell about the clock and the fans in the disputed structure. [Pg. 9385- Running Volume 53]</p>
<p>6. DW 3/6 Sri Sita Ram Yadav:- [Date of Examination in Chief- 6.1.2004]</p> <p>❖ Examination in Chief: Pg. 9445, Volume 53</p> <p>❖ Cross: Pg. 9452, Volume 54</p> <p>• He was born in 1943 and states that he attained age of understanding when he was 8 years old i.e. in 1951. [Pgs. 9446 @ para 1- Running Volume 54]</p>	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>[Pg. A5-A6 of the Written Submissions]</p>	<p>The following points are relevant:-</p> <p>a) He was born in 1943 and states that he attained age of understanding when he was 8 years old i.e. in 1951, thus any statement that he makes is irrelevant as his factual knowledge would only pertain to the period after desecration. [Pgs. 9446 @ para 1- Running Volume 54]</p> <p>b) He states that he does not know how the disputed complex became the property of</p>

	Nirmohi Akhara. [Pg. 9537- Running Volume 54]
<p>7. DW 3/7 MAHANT RAMJI DAS-</p> <ul style="list-style-type: none"> ❖ Examination in Chief: Not Filed ❖ Cross: Pg. 9540, Volume 54 <p>• Evidence in chief has not been filed.</p>	
<p>His testimony has not been referred to in the Written Submissions.</p>	<p>The following points are relevant:-</p> <ol style="list-style-type: none"> a) He accepts that the disputed building was built by Babur but states that the same was constructed as Sita Pak not as a Mosque [Pg. 9569- Running Volume 54] This is completely contrary to the stand of Nirmohi Akhara which has in its written statement denied that the said building was built by Babur. [Pg. 69 of Volume 72 (Pleadings Volume)] b) Prophet Mohd. was the ancestor of Hindu King- Vikramaditya. [Pg. 9585- Running Volume 54] c) He also states that the disputed temple was constructed after the demolition of Janamsthan Mandir by Babur by one Goodar Baba and is also known as Goodartar Mandir, [Pg. 9565- Running Volume 54]. This is not the pleaded case of any of the Hindu parties. d) Babur got 'sita pak' written on the disputed building as he was unable to construct a mosque- because Hanuman ji would demolish the structure whenever an attempt was made to build a mosque. [Pg. 9587- Running Volume 54]
<p>8. DW 3/8 PT. SHYAM SUNDAR MISHRA @ BARKAU MAHRAJ- [Date of Examination in Chief- 30.1.2004]</p> <ul style="list-style-type: none"> ❖ Examination in Chief: Pg. 9668, Volume 54 ❖ Cross: Pg. 9676, Volume 54 <ul style="list-style-type: none"> • Born at Ayodhya in 1914 and the famous Ram Janambhoomi temple is situated at a distance of less than 400 yards from his house [Pg. 9670-Running Volume 54] • He was 90 years old at the time of deposing. Started going to the RJB Temple at the age of 14 years [Para 3 @ pg. 9670-Running Volume 54] 	

<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>[Pg. A6 of the Written Submissions]</p>	<p>The following points from his testimony are relevant:-</p> <p>a) He started going to the RJB Temple at the age of 14 years and also joined wrestling practice in an Akhara established by Nirmohi Akhara [Para 3 @ pg. 9670-Running Volume 54]. Thus it is clear that the witness himself belongs to the Nirmohi Akhara, however at pg. 9677-Running Volume 54, he denies that he is party of any Akhara.</p> <p>b) At pg. 9687-Running Volume 54, he states that the place below the central dome is swayambhu which is against the pleaded case of Nirmohi Akhara [See para 4 @ pg. 262 and para 22 @ pg. 265 of the Written Statement of Nirmohi in Suit 5 in the Pleadings Volume]</p> <p>c) In reference to the demolition of 1992 he states that:- <i>The dome of Janamsthan temple crashed down itself being very old and due to lack of proper maintenance after acquisition. Till the time of acquisition domes existed in Janamsthan temple and after that it got destroyed.</i> [Pg. 9746-Running Volume 55]</p> <p>d) Only Ram Chabutara temple owned by Nirmohi:- While deposing he seems to distinguish between the Ram Chabutara temple and the three domed temple and states only about Ram Chabutara Temple - that the same was in the ownership of Nirmohi Akhara and remains silent about the management and ownership of the three domed temple. [Pg. 9743-Running Volume 55]</p>
<p>9. DW 3/9 Sri Ram Ashrey Yadav:-[Date of Examination in Chief- 22.3.2004]</p> <p>❖ Examination in Chief: Pg. 9763, Volume 555</p> <p>❖ Cross: Pg. 9773, Volume 55</p> <ul style="list-style-type: none"> • Aged 72 years at the time evidence in chief- family resided in Ayodhya since Generations, lives close to the Ram Janmbhoomi Temple, which is visible from his terrace. [Para 1/Pg. 9764- Running Volume 55] • Has been going to RJB temple since he was 10-11 years old.[Para 2/Pg. 9764- Running Volume 55] 	

Not mentioned in the Written Submissions.

It appears that the Witness is not aware at all about what he has stated in his evidence in chief affidavit and therefore needs to be completely disregarded. The following portions of his testimony are relevant in this regard:-

- e) When it was put to the witness that he has no knowledge of what is written in his main examinee affidavit, he stated:- *"I had knowledge of what was written in this affidavit but I cannot recollect now what exactly was written in it, although it had been read out to me."* [Pg. 9775-Running Volume 55]
- f) He further adds:- *"The answers that I have furnished to the questions asked till this point of time maybe right or wrong. The answers to the question about the things I do not remember maybe wrong I am currently feeling the effects of High Blood pressure and that is affecting my memory.....I am not feeling well now and my brain is puzzled. Therefore, may I request you to postpone my statement for any other day"*[Pg. 9775-Running Volume 55]
- g) I donot remember if my main examinee affidavit was typed in Faizabad or Lucknow. [Pg. 9787-Running Volume 55]
- h) *"My memories are tricking me for the last 8-10 months....I cannot recollect things clearly these days. I cannot say if the content of Para 21 of my examinee affidavit that..... is correct or not, because I do not remember anything in this context. I even do not remember if I gave that statement to my lawyer or not."* [Pg. 9788-Running Volume 55]
- i) Para 10 of the main examinee affidavit [Pg. 9768-Running Volume 55] was read out to the witness. The said para is extracted below:- *"I had been to the Garbhagriha (sanctum sanctorum) for darshan even before 22/23 December. It was the month of Poush and just a couple of months before that, during the month of Kartik and Aghrayan there was a big rush of visitors. The statement that an idol was placed in the Garbhagriha before 22/23*

December is utterly untrue. A section of motivate Muslims resorted to false hearsay in order to put pressure on the government to take action. My father and my uncle used to speak about the hindumuslim riot that took place in 1934 because of the Goksi incident. Muslims were killed in this riot. Some graves were vandalized but because the main compound was a temple, it was not damaged. A 'Danga Tax' was imposed on all the Hindus as a punishment. Muslims suffered from fear psychosis because of the riots. My father and my uncle used to say that they discontinued using the road adjacent to the Ram Janambhoomi. My uncle said that there is no question of Namaaz being performed inside the premises of the disputed premises, nor were any Muslim burials near the disputed premises."

- j) In respect of this paragraph the witness stated :- "I do not know if whether I have written things in this para or not. I have written December 22-23 there. I do not know whether this date relates to the year 1949 or not"[Pg. 9790-Running Volume 55]
- k) When asked at to whether the pressure by Muslims mentioned in Para 10 was in relation to 1934 or 1949, the witness replied that the same was in relation to 1934.[Pg. 9791-Running Volume 55]
- l) The said affidavit was written ten months ago. But now after ten months have passed, I do not recollect anything in this regard. Presently I have not totally lost my memory, but I cannot remember entirety, what was written in the affidavit.[Pg. 9794-Running Volume 55]
- m) Apart from the above, the witness states the following which creates serious doubt about his credibility :-
- i. Don't know what date had been enrolled in school as my date of birth. [Pg. 9773-Running Volume 55]

	<p>ii. Not aware of history of Nirmohi Akhara. [Pg. 9774-Running Volume 55]</p> <p>iii. No knowledge if disputed shrine was ever attached. [Pg. 9774-Running Volume 55]</p> <p>iv. I donot recollect the year I was married. I do not remember how many years after marriage was my eldest daughter born. I do not remember how many years prior to birth of my child have I been visiting the disputed site. [Pg. 9787-Running Volume 55]</p> <p>v. Unable to say when my father died, it maybe 10,20 or 50 years ago. [Pg. 9791-Running Volume 55]</p>
<p>10. DW 3/10 SRI PATESHWARI DUTT PANDEY-[Date of Examination in Chief -23.3.2004]</p> <p>❖ Examination in Chief: Pg. 9808, Volume 55</p> <p>❖ Cross: Pg. 9827, Volume 55</p> <ul style="list-style-type: none"> Aged 74 years- states to have performed site survey of the disputed site in 1973 in relation to another case – Nirmohi Akhara v. Ram Lakhan Sharan Das [Suit No. 9 of 1973] [Para 1-4- at pg. 9809-9810 Running Volume 55] 	
<p>It has been stated that he was the local commissioner, but no inference has been drawn by Nirmohi from his testimony.</p> <p>[Pg. A6 of the Written Submissions]</p>	<p>The following points are relevant:-</p> <p>a) His report marks the existence of a Mandir at the place of the disputed site. However at pg.9886 (Running Volume 55), he agrees that he mentioned the word Mandir in his report after being told by the parties. He stated that he did not know whether the place was Babri Masjid or not. He was unable to tell that the wall of marked by him in the report was wall of the mandir or of the masjid. He stated that he wrote whatever was told to him by the parties.</p> <p>b) It is therefore submitted that the report of this witness cannot be relied upon to establish that the disputed structure was a temple as this witness has admitted that he marked the same as a temple in his report only on the suggestion of the parties and had not carried out any independent verification. The suit in which the</p>

	<p>said report was tendered was between two Hindu parties and therefore whether the Disputed Site was a mosque or not could not have been an issue in that case, therefore the report of this witness cannot be taken to be an evidence to establish that the disputed structure was a temple.</p>
<p>11. DW 3/11 Sri Bhanu Pratap Singh [Date of Examination in Chief 28.04.2004]</p> <p>❖ Examination in Chief: Pg. 9914, Volume 555</p> <p>❖ Cross: Pg. 9920, Volume 55</p> <p>• Aged 70 years- has been visiting RJB Temple since 10 years of age- His Guru Gharan is Nirmohi Akhara. [Para 1,3 & 6- pgs. 9915 & 9916-Running Volume 55]</p>	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>d) No incident on December 22-23, 1949</p> <p>[Pg. A7- A8 of the Written Submissions]</p>	<p>The following points are relevant:-</p> <p>a) Himself states that his memory is weak [Pg. 9956-Running Volume 55]</p> <p>b) Does not know of any other temple apart from the RJB Temple which is related to Nirmohi Akhara. [Pg. 9922-Running Volume 55]</p> <p>c) Attachment was done in the year 1949 and states that at that time he was 30 years old. It is submitted that the witness is 70 years old in 2004, that means he was born in 1934 and he would have been 15 years old in 1949. [Pg. 9922-Running Volume 55]</p> <p>d) States that before 1949 also Nirmohi Akhara filed a writ to get a temple constructed at the disputed site. [Pg. 9926-Running Volume 55]; This statement is contrary to the pleadings of Nirmohi. Though the year of this prior case has not been mentioned, the only case filed previously for construction of temple was the 1885 suit, which was filed by Mahant Raghubar Das of Nirmohi Akhara and his relief was confined to the Ram Chabutara.</p>
<p>12. DW 3/12 Sri Ram Akshaibar Pandey-[Date of Examination in Chief -25.05.2004]</p> <p>❖ Examination in Chief: Pg. 10006, Volume 56</p> <p>❖ Cross: Pg. 10013, Volume 56</p> <p>• Aged 70 years was about 12 years old when he started visting RJB temple . [Para 1 & 6- Pg. 10007 & 10008-Running Volume 56]</p>	

<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>d) No incident on December 22-23, 1949</p> <p>[Pg. A8- A9 of the Written Submissions]</p>	<p>The following statements are relevant:-</p> <p>a) Nirmohi Akhara existed when Lord Rama was born. [Pg. 10021-Running Volume 56] This contradictory to the pleaded case of Nirmohi Akhara.</p> <p>b) Admits that whatever information about the disputed building he has, he has learnt from his grandfather. [Pg. 10057-Running Volume 56]</p> <p>c) Though in his examination in chief he states that he used to do Parikarama [Para 6 @ pg. 10008-Running Volume 56], but states in cross @ pg. 10044 (Running Volume 56) that he had never seen the three domes from behind the structure. This shows that the witness is lying as the only route of Parikrama is from behind the disputed structure. However, the witness immediately clarifies that though he had gone behind the disputed structure, he does not remember what he saw there.</p>
<p>13. DW 3/13 Mahant Ram Subhag Shashtri- [Date of Examination in Chief- 25.05.2004]</p> <p>❖ Examination in Chief: Pg. 10076, Volume 56</p> <p>❖ Cross: Pg. 10090, Volume 56</p> <ul style="list-style-type: none"> 86 years old- became a Sadhu in Bihar according to tradition of Ramanandiye Vairagi Sadhu Samparday- came to Ayodhya in December 1933- His guru is connected to Nirmohi Akhara – He states that after coming to Ayodhya he used to do chanting in RJB every day for an hour. [Para 1-2 & 5- Running Volume 56] 	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>d) No incident on December 22-23, 1949</p> <p>[Pg. A9-A10 of the Written Submissions]</p>	<p>The following portions of his testimony are actually in our favour:-</p> <p>a) No clear knowledge if Namaz was happening before placing the idol on 22/23 Dec 1949. [Pg. 10180- Running Volume 56] This statement is against the pleaded case of Nirmohi Akhara as they have always denied that the idols were ever installed in the night of 22/23 December [See written statement of Nirmohi Akhara in Suit 4 @ Para 11-12 of Pleadings Volume- Running Volume 72].</p> <p>b) States that things after 1933-34 have begun to vanish from his memory. [Pg. 10103-Running Volume 56]</p>

	<p>c) Some king, with a view to avoid dispute gave the Ram Chabutra to Hindus for worship etc. – not aware if this was done during the period of Nawabs or Namaz was offered in the west side of Ram Chabutra during the time of Nawabs. [Pgs. 10121-22- Running Volume 56]</p> <p>d) RJB Mandir has no immovable property. According to him dispute should be resolved by building a mandir and a masjid. [Pg. 10180- Running Volume 56]</p> <p>e) It may be possible that before my coming to that place Hindus might be offering their prayers at Ram Chabootra and Muslims inside the disputed building. [Pgs. 10180- Running Volume 56]</p>
<p>14. DW 3/14 JAGAD GURU RAMANANDACHARYA SWAMI HARYACHARYA- [Date of Examination in Chief:-23.7.2004]</p> <p>❖ Examination in Chief: Pg. 10182, Volume 56</p> <p>❖ Cross: Pg. 10196, Volume 56</p> <ul style="list-style-type: none"> • Age 69 years, 25th Ramananda Sampradacharya of Ramananda Sect- Vyakaranacharya (Grammar Scholar) and Vedantacharya (expert of German Philosophy) and M.A. [Pg. 10183 @ para 1-3- Running Volume 56] • Studied Valmiki Ramayana in Sanskrit and Hindi- came to Ayodhya in 1945 at the age of 10 years- written 11 granths. [Pg. 10184 @ para 6-9- Running Volume 56] • Visited the DS daily with students and saint of Hanumangarhi [Pg. 10189 @ para 38- Running Volume 56] • States that he has seen the idol of Ram Lalla inside the disputed building under the central dome as well as outside at the Ram Chabutra. [Pg. 10189 @ para 39, Pg. 10190 @ para 43- Running Volume 56] 	
Not mentioned in the Written Submissions	<p>The following statements and contradictions in his testimony maybe relevant: -</p> <p>a) Says did not visit the disputed daily [Pg. 10295] which is in contrast to previous statement at Pg. 10189 @ para 38- Running Volume 57</p> <p>b) In Valmiki Ramayana, entire Ayodhya was the birthplace of lord Ram and no specific place was identified. [Pg. 10292- Running Volume 57]</p> <p>c) Witness Unable to identify a map of the disputed site. [Pg. 10308- Running Volume 57]</p>

	<p>d) Living in Ayodhya for the past 50 years [Pg. 10213-14- Running Volume 57] at another place says that he is living in Ayodhya for 55 years.[Pg. 10223- Running Volume 57]</p> <p>e) First says the idol of Shankar bhagwan was revealed in Kashi later clarifies that he meant that the shivling was revealed. [Pg. 10264-65- Running Volume 57]</p>
<p>15. DW 3/15 Narendra Bahadur Singh- [Date of Examination in Chief:- 17.8.2004]</p> <p>❖ Examination in Chief: Pg. 10466, Volume 58</p> <p>❖ Cross: Pg. 10471, Volume 58</p> <ul style="list-style-type: none"> • Age 72 years, belongs to Hindu Sanatan Dharm (born in 1932), farmer family-Resident of village Rajapur Sareiya, Dist. Faizabad. [Pg. 10467@ para 1- Running Volume 58] • Attained age of understanding at 11 years (in 1943) when he went to RJB with his parents. Ram Lalla was sitting under the middle shikhar of the RJB Mandir and he was informed by his father that this was Lord Ram Lalla and the disputed bhawan was RJB Mandir. [Pg. 10467-10468 @ para 2-5- Running Volume 58] • Since age of 15 years, he started going alone to the RJB Temple till demolition. [Pg. 10468 @ para 6- Running Volume 58] 	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>d) No incident on December 22-23, 1949</p> <p>[Pg. A10-A11 of the Written Submissions]</p>	<p>a) This witness needs to be completely disregarded because, he has given varied time periods as to when he started visiting the disputed site. In his examination in chief, he states that he first visited when he was 11 years old, thereafter in his cross he first says he was been seeing Nirmohi managing the disputed structure since 5-6 years and 8-9 years. [Pg. 10476- Running Volume 58]</p> <p>b) Further regarding no namaz being read at the disputed site, he says that he had earlier stated that he had never seen any Muslim reading namaz at the disputed site as he was not there at the disputed site and when he himself wasn't there at the disputed site, he couldn't see whether Namaz was being read or not. [Pg. 10501- Running Volume 58]</p> <p>c) Completely denies the existence of the Janamshtan Mandir on the north side which has been accepted by the Nirmohi Akhara in its replication (Para 17 @ pg. 69 of the</p>

	Pleadings volume) to the Written Statement of the Muslim Parties.
16. DW 3/16 SRI SHIV BHIKH SINGH-[Date of Examination in Chief:- 24.8.2004] ❖ Examination in Chief: Pg. 10513, Volume 58 ❖ Cross: Pg. 10518, Volume 58 <ul style="list-style-type: none"> Born in 1926- 79 years old at the time of swearing the affidavit- belongs to well off educated family- resident of Haliyapur, Dist. Sulanpur-attained age of understanding at the age of 11-12 years (i.e. since 1938). [Para 1-3/ Pg. 10514- Running Volume 58] Visiting RJB Mandir since he was 12 years old and has since then seen Lord Ram sitting at the Garb Grih under the central dome. [Pg. 10514 @ para 4; Pg. 10515 @ para 11-13- Running Volume 58] 	
a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard) b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara c) Exclusive possession-no namaz d) No incident on December 22-23, 1949. [Pg. A11-A12 of the Written Submissions]	The following points are relevant:- a) Says he started visited Ayodhya since he was 12 years old (since 1938), then later says that he does not remember when he went to Ayodhya for the first time. [Para 4/ Pg. 10514, Para11-13/pg. 10515, Pg. 10537, Pg. 10522- Running Volume 58] b) Does not remember any personal details but has given age of first visiting the temple and the number of times he has visited Ayodhya. [Pg. 10514-10515; Pg. 10522; Pg. Pg. 10555- Running Volume 58]
17. DW 3/17 SRI MATA BADAL TEWARI :- [Date of Examination in Chief:- 31.08.2004] ❖ Examination in Chief: Pg. 10557, Volume 58 ❖ Cross: Pg. 10562, Volume 58 <ul style="list-style-type: none"> Age 84 years-resident of Todhikpur Dist. Sultanpur, belonged to Zamindar family and his father was a religious person who used to go to Ayodhya regularly being birthplace of Lord Ram. He attained age of understanding at 12 years. Joined the army in 1939 and retired in 1941 as he was declared medically unfit. [Pg. 10558-10559 @ para 1-9- Running Volume 58] Went to Ayodhya to RJB Temple for the first time in 1935 when he was 15 years old alongwith the people of the village. Since 1935 upto the period when I was in the Army, I went to Ayodhya for seeking darshan of RJB 10-12 times. Since 1942 till date, visited Ayodhya 20-22 times. [Pgs. 10559-10560 @ para 9-11- Running Volume 58] 	
a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard) b) Possession of the Janambhoomi temple (Inner, & outer courtyard) with Nirmohi Akhara c) Exclusive possession-no namaz	a) First gives elaborate description about idols being kept inside the three domed structure but later says the he never entered the Disputed Bhawan. [Pgs. 10564, 10568, 10597- Running Volume 58]

<p>[Pg. A12-A13 of the Written Submissions]</p>	<p>b) Mentions that he first visited Ayodhya in 1935 and later says he visited Ayodhya for the first time in 1932. [Para 9-11/Pgs. 10559-10560 & Pg. 10583- Running Volume 58]</p> <p>c) At first says that he is unaware if Vairagees damaged the domes in 1934 or not but later mentions that Clashes happened in 1934 between Hindus and Muslims because of slaughtering of cows and upon this incident people became furious and damaged the disputed bhawan.[Pgs. 10599, Pgs. 10607-10608- Running Volume 58]</p> <p>d) He states that Janamsthan and Janambhoomi are the same while Nirmohi in its replication has admitted that Janamshtan and Janambhoomi are separate temples. [Pg 10603 r/w Pg. 69 @ para 17 of Pleadings Volume-Running Volume 58]</p>
<p>18. DW 3/18 SRI ACHARYA MAHANT BANSIDHAR DAS @ URIYA BABA- [Date of Examination in Chief-15.9.2004]</p> <p>❖ Examination in Chief: Pg. 10609, Volume 58</p> <p>❖ Cross: Pg. 10615, Volume 58</p> <ul style="list-style-type: none"> • Age 99 years-resident of Surya Mandir, Mohalla Ramkot, Ayodhya- disciple of Balram Das- born in 1905 and came to Ayodhya in 1930, where he attained detailed knowledge of Valmiki Ramayana [Pg. 10610/Para 1-2- Running Volume 58] • In 1966 became Mahant of Surya Mandir situated in the north of Kanak Bhawan. [Pg. 10611/Para 4 - Running Volume 58] • Since 1930 he has been residing in Ayodhya and visiting the RJB Mandir. Upto December 1949, I have been taking darshan of Ram Lalla in the inner part. [Pg. 10611 @ Para 4 & 8- Running Volume 58] 	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Exclusive possession-no namaz</p> <p>d) No incident on December 22-23, 1949</p> <p>[Pg. A13-A14 of the Written Submissions]</p>	<p>The following portions of his testimony maybe relevant for us:-</p> <p>a) States that Ram Chabutara is also called bedi [Pg. 10663- Running Volume 58]. When this statement is read in the context of Tieffenthaler's observations (pg. 4120 Vol 3 of the Impugned Judgment), wherein he has stated that bedi (cradle) was being worshipped as the birthplace of Lord Ram, it becomes clear that the Hindus were worshipping the Chabutara as the birthplace and not the portion</p>

	<p>under the middle dome of the disputed structure. Also, it can be established that Tieffenthaler wrongly recorded that bedi was in the inner courtyard.</p> <p>b) If there is a religious place and if somebody is acquiring it through wrong means or forcibly occupying them , there is no harm in telling a lie.[Pg. 10692- Running Volume 58]</p> <p>c) I am an old man and my memory is not good now.[Pg. 10741- Running Volume 59]</p> <p>d) He has given testimony in about 200 suits. [@pgs. 10622- Running Volume 58]</p> <p>e) Has varied theories about construction of the temple, which are contrary to the pleaded case of all Hindu parties:-</p> <ol style="list-style-type: none"> I cannot say who constructed the RJB temple. Its repairs were done by Nirmohi Akhara during last 700 years. There was a temple made of Kasauti Black stones, prior to temple constructed by Nirmohi Akhara. I cannot say who constructed the temple with Kausauti black stones as this was more than 700 years old. Ramkot is 10,00,5050 years old. Ramkot is 14,00,5050 years old. [Pg. 10617- Running Volume 58] The temple, constructed of black stones at the disputed site, which I referred above at the disputed site said to be made during the time of Vikramaditya was constructed by the King of Kannuz and not by the King of Ayodhya. [Pg. 10648- Running Volume 58] I believe Devtas had asked to Vishwakarma to construct Ayodhya city. Then came Manu. [Pg. 10657- Running Volume 58] Mir Baki destroyed Ram temple but did not construct Masjid and instead left the place open. The temple was reconstructed by Govind Das who was a Mahant of Nirmohi Akhara during the regime of Babur. [Pg. 10661- Running Volume 58]
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	<p>v. Govind Das ji constructed the building with three domes. The part of Ram Chabutra at the outer part of the building was also constructed during his time. [Pg. 10662- Running Volume 58]</p> <p>vi. Some part of the Mandir was constructed during the regime of Babar, which was destroyed during the regime of Humanyun, during the invasion, was reconstructed by GovindDasji during the time of Humanyun. [Pg. 10669, 10684- Running Volume 58]</p> <p>vii. Anantananda, disciple of Ramanand on the order of his Guru reconstructed the temple at the disputed site. This temple was constructed by AnantanandDasji during the time of Ramananda Das. Further, on 17.9.2004, I made a statement that this temple was constructed by GovindDasji, disciple of Shyamananda, about 600 years ago. It might have been constructed later but all the other facts mentioned in my statement were correct. GovindDasji constructed the temple, after two generations from the death of Ramanandaji. [Pg. 10683-10684- Running Volume 58]</p> <p>viii. Mir Baki destroyed the temple at the instance of Fakir and not Babur. The building was then rebuilt during the tenure of Govindasji. [Pg. 10706- Running Volume 59]</p> <p>ix. 14 stones fixed in the disputed Bhawan were not the stones of Kaushoti but were ordinary black stones. The brother of King Parsanajeet, Adityabhanj had brought these stones from the mines of Mayurbhanj in Orissa for the reconstruction of Ramjanam Bhoomi and fixed these stones at the disputed site two and half thousand years ago. These stones were fixed hundred years before BhagwanBudh. [Pg. 10718- Running Volume 59]</p>
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<p>19. DW 3/19 SRI RAM MILAN SINGH:- [Date of Examination in Chief -17.08.2004]</p> <p>❖ Examination in Chief: Pg. 10877, Volume 59</p> <p>❖ Cross: Pg. 10884, Volume 59</p> <p>• Age 75 years- born on 15.1.1930- attained age of understanding when he was 10 years old and went to Ayodhya for the first time in 1940 and has been going regularly on Ram Navami between 1940-1951 and occasionally after 1952. [Para 1-5 @Pg. 10878- Running Volume 59]</p>	
<p>This witness has not been mentioned in the Written Submissions</p>	<p>When questioned about the contents of his affidavit he states that :- “ I can only say that the person who prepared the affidavit can tell about it. I have not read the affidavit thoroughly before putting my signature on it. I read it in full after signing it....I was at the residence of my Lawyer in Ayodhya, at the time of preparation of the Affidavit. He told me that he is preparing the affidavit. I did not read it after it was prepared ”</p> <p>[Pg. 10935- Running Volume 59]</p>
<p>20. DW 3/20 MAHANT RAJA RAMCHANBDR-ACHARYA- [Date of Examination in Chief:- 27.10.2004]</p> <p>❖ Examination in Chief: Pg. 12030, Volume 65</p> <p>❖ Cross: Pg. 12138, Volume 65</p> <p>• 76 years old- pupil of Mahant Raghunath Das- who was Plaintiff No. 2 in Suit 3. He went to Ayodhya for the first time when he was 14 years old. [Para 1 @ Pg. 12030- Running Volume 65].</p> <p>• He deposes on the aspects as to whether the religious texts identify the DS as the exact place of birth of Lord Ram. He first states that the Disputed Structure was the Ramajanshtan/ Janambhoomi temple which was especially significant to Hindus as Lord Ram was born there. He states that this has been proved as per Ramayana SkandhPuran by Balmiki, Rudrayan and Ramcharitmanas by Tulsidas[Para 50 @ pg. 12054- Running Volume 65]. However later he states that as per Rig Veda no specific birthplace of Lord Ram has been mentioned, only entire Ayodhya is mentioned. [Pg. 12214-first para- Running Volume 65]</p>	
<p>a) Shebaiti Management of the idols and the Janambhumi temple (Inner & Outer courtyard)</p> <p>b) Possession of the Janambhoomi temple (Inner & outer courtyard) with Nirmohi Akhara</p> <p>c) Possession taken by the receiver from Nirmohi</p> <p>d) Exclusive possession-no namaz</p> <p>e) No incident on December 22-23, 1949; Attachment due to pressure of Muslims</p> <p>[Pgs. A14 & A15 of the Written Submissions]</p>	<p>There are certain points regarding pranprathishta which contradict the stand of Plaintiffs in Suit 5:-</p> <p>a) At pg. 12056 (Running Volume 65) the witness states that pranprathishta of Charanchinh of 4 brothers was done whereas in the Plaint of Suit 5 (at para 22/pg. 245- Running Volume 72), it has been stated that RJB itself is worshipped as deity though symbols of divine spirit as Charan and SitaRasoi. If therefore Charan was an identification of a Swayambhu deity, then no</p>

pranprathistha was required. It is therefore clear that there was no Hindu belief that birthplace was swayambhu.

- b) Again states at pg. 12344 (third para) [Running Volume 66] that though Pran Prathisha of the charan, chulha, chaukha & belan kept in Chhati Pujan sthal was held in the era of Luv Kush, but the pranprathishta of Chabutra was not held. Further at Page 12345 (first para)[Running Volume 66], the witness clarifies that without Pranprathisthan, the place can be considered holy but puja archana cannot take place. This may have a bearing on the rights of Nirmohi as a shebait, since they have stated that they were the shebait of the temple at the Ram Chabutra.

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