

**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**

**Documentary Evidence / Oral Evidence showing the user of**  
**Babri Mosque by Muslims between 1934 and 1949**

**COMPILED BY:-**

**MR. ZAFARYAB JILANI, SENIOR ADVOCATE**

**ADVOCATE-ON-RECORD: SHAKIL AHMAD SYED**

**A. Documentary Evidence / Oral Evidence showing the user of Mosque by Muslims between 1934 and 1949**

S. No.	Exhibit No.	Nature of Document	Volume No. and Pages
1.	Ext. A-4, Ext. A-5 and Ext. A-6 of (Suit -4) filed by Nirmohi Akhara	Certified copy of the order dated 4-6-1942, decree dated 6-7-1942 and Terms of compromise filed in R.S. No. 95 of 1941 D/o 4-6-1942 by the Additional Civil Judge Faizabad (Sri Mahant Ram Charan Das Vs. Raghunath Das and others)	Vol. 91, Pgs. 41 etc. (Pgs. 14-16) (Pgs. 17-45) (Pgs. 46-76)
2. <del>1435</del>	Ext. A-49 (Suit-1)	Order dated 12-5-1934 for cleaning of Babri Masjid and for its use for religious services	Vol. 3, Pgs. 124
3.	Ext. A-6 (Suit-1)	Application of Mohd. Zaki and others dated 5-6-1934 for recovery of the amount from Bairagies	Vol. 3 Pgs. 23-25
4.	Ext. A-43 (Suit-1)	Order of D.C. / D.M. regarding payment of compensation dated 6-10-1934 regarding the Babri Mosque Ayodhya.	Vol. 3, Pgs. 101
5.	Ext. A-51 (Suit-1)	Application of Tahawar Khan dated 25-2-1935 for payment of his Bills regarding repair of Babri Mosque.	Vol. 3, Pgs. 127-128
6.	Ext. A-45 (Suit-1)	Order of D. C. Faizabad dated 26-2-35 to S.D.M. Sadar for inspection of the work done for payment of Bills of Babri Mosque.	Vol. 3, Pgs. 115
7.	Ext. A-44 (Suit-1)	Estimate of Tahawar Khan Contractor dated 15-4-1935 for repair of Babri Masjid.	Vol. 3, Pgs. 111- 114
8.	Ext. A-50 (Suit-1) <del>1438</del>	Application of Tahawar Khan, contractor dated 16-4-1935 regarding delay for submission of the Bill for repair of Babri Masjid.	Vol. 3, Pgs. 126
9.	Ext. A-48 (Suit-1)	Inspection Note dated 21-11-1935 by Zorawar Sharma, Assistant Engineer PWD	Vol. 3, Pgs. 121- 123

		Faizabad regarding repair of Babri Masjid. The work seen on the site and found done satisfactorily.	
10.	Ext. A-46 (Suit-1)	Report of the Bill clerk dated 27-1-1936 on the Bill of contractor regarding the construction of the Mosque.	Vol. 3, Pgs. 117
11.	Ext. A-47 (Suit-1)	Order of Mr. A. D. Dixon dated 29-1-1936 regarding the payment of the work of repair of Babri Masjid.	Vol. 3, Pgs. 119
12.	Ext. A-52 (Suit-1)	Application of Tahawar Husain contractor dated 30-4-1936 regarding less payment of his Bill for the repair of Babri Masjid.	Vol. 3, Pgs. 129– 130
13.	Ext. A-7	Agreement /undertaking executed by Syed Mohd. Zaki, Trustee of Babri Masjid dated 25-7-1936 in favour of Maulvi Abdul Ghaffar, Pesh Imam of Babri Masjid regarding payment of his outstanding salary till 1935 to be paid in 2 years.	Vol. 3, Pgs. 26 – 27
14.	Ext. A-67 (Suit-1)	Application of Syed Mohd. Zaki dated 19/20 <sup>th</sup> July 1938 filed before the Waqf Commissioner, Faizabad in the proceeding u/s 4 of the Waqf Act 1936. (See para 7)	Vol. 3, Pgs. 148– 151
15.	Ext. A-61 (Suit-1)	Application of Abdul Ghaffar, Pesh Imam, Babri Masjid dated 20 <sup>th</sup> August, 1938 submitted in person before the Waqf Commissioner Faizabad, included in Waqf File No. 26, Faizabad, praying for direction to Mohd. Zaki, Mutawalli Babri Masjid for payment out of arrears of salary @ 5/- per month due upto 31 <sup>st</sup> July, 1938, totalling to Rs. 389/- (only Rs. 40 paid in terms of agreement) and (copy of Agreement also filed with the application)	Vol. 3, Pgs. 137– 138

16.	Ext. A-66 (Suit-1)	Reply of Sayed Kalbe Hussain S/o Syed Mohd. Razi (brother of Syed Mohd. Zaki – former Mutawalli) dated 20-12-1943 against the Notice of Sunni Waqf Board dated 27-10-1943 stating clearly about the arrangement of Namaaz etc. and payment of salaries to Pesh Imam and Moazzin and also about Sadhu and hut in the outer compound of the Moque (Bhandar)	Vol. 3, Pgs. 145– 147
17.	Ext. A-65 (Suit-1)	Notice of Shia Waqf Board dated 11-4-1945 given to Sunni Waqf Board for instituting a suit u/s 5 (2) of the U.P. Muslim Waqf Act, 1936 against the Notification dated 26-2-1944 declaring it a Sunni Waqf.	Vol. 3, Pgs. 143– 144
18.	Ext. A-62 (Suit-1)	Notice dated 25-11-1948 from Secretary Sunni Waqf Board to Munshi Javed Husain about charge of Tauliat due to the death of Syed Kalbe Husain, w.e.f. 27 <sup>th</sup> June, as Mutawalli / Trustee of Babri Masjid.	Vol. 3, Pgs. 139
19.	Ext. A-63 (Suit-1)	Mohd. Ibrahim, Waqf Inspector submitted his Report dated December 10/12, 1949, stating that on investigation it was revealed that Muslims were harassed by Hindus and Sikhs if they go and pray in the Masjid.	Vol. 10 Pgs.1330- 1331
20.	Ext. A-64 (Suit-1)	Report of Syed Mohd. Ibrahim, Waqf Inspector, dated 23-12-1949 (10 A.M.) regarding the then condition of Babri Masjid stating that Keys remain with Muslims and only Friday prayers are offered.	Vol. 3, Pgs. 140– 142

## B. Oral Evidence of Witnesses

S. No.	Witnesses	Statement relating to offering of Namaz	Volume No. and Pages
1.	PW-1 Mohammad Hashim, Resident of Ayodhya <i>See below entry by us (Pg 7212)</i> <i>Pm 470</i> <i>Pravara</i>	Aged about 75 years in 1996. Offered five times prayers/ Jumma prayer/ Taraweeh prayers upto 22.12.1949 @ Pgs. 7210 -7213	Vol. 45 Pgs.7209-7332 <i>Red</i> <i>Page 1930</i>
2.	PW-2 Haji Mahboob Ahmad Resident of Ayodhya	Aged about 58 years in 1996. I had been offering five-time Namaz, <b>except (Apart from)</b> the Friday Namaz, there. Last time I had offered Namaz on December 22, 1949. @ Pgs. 3736	Vol. 31 Pgs.3735-3832
3.	PW-3 Shri Farooq Ahmad Resident of Ayodhya <i>Pravara</i>	wrong to say that no Muslim has gone in this campus after 1934 or Namaz was not recited there. @ Pgs. 3863	Vol. 31 Pgs.3833-3932 <i>3863</i>
4.	PW-4 Shri Mohd. Yaseen Resident of Ayodhya	Aged about 66 years in 1996. I started reading Jumme Ki Namaz at about 12 years of age. I offered Jumme Ki Namaz in Babri Masjid. @ Pgs. 3934-35	Vol. 31 Pgs.3933-3985

5.	PW-5 Shri Abdul Rahman Resident of Magalsi, District and Tehsil Faizabad	Aged about aged 71 years in 1996. In 1945 and 1946 I had recited the holy Quran in Babri Masjid also. This Babri Masjid was in Ayodhya. @Pgs. <b>3987</b>	Vol. 31 Pgs.3986-4000 & Vol. 32 Pgs.4001-4036
6.	PW-6 Mohd. Yunus Siddiqi, Advocate, Resident of Faizabad City	Aged 63 years in 1996. Offering prayers in Babri Masjid since around 1945 @ Pgs. <b>4038-39</b>	Vol. 32 Pgs.4037-4102
7.	PW-7 Hashmatullah Ansari Resident of Ayodhya	Aged about 65 years in 1996. Offered Namaz in Babri Masjid since 1943 @ Pgs. <b>4103-04</b>	Vol. 32 Pgs.4103-4162
8.	PW-8 Shri Abdul Aziz Resident of Shajahanpur, Faizabad	Aged about 70 years in 1996. Offered Namaz in Babri Masjid since around 1936 @Pgs. <b>4164</b>	Vol. 32 Pgs.4163-4223 4164.
9.	PW-9 Shri Saiyad Akhlak Ahmed Resident of Ayodhya	Aged about 60 years in 1997. Offered Namaz several times in Babri Masjid upto 1949 @ <b>Pgs. 4225</b>	Vol. 32 Pgs.4224-4250 & Vol. 33 Pgs.4251-4330
10.	PW-14 Shri Jaleel Ahmed Resident of Faizabad	Aged 78 years in 1999. I had been there and I have also offered Namaz there. For the last time, I had offered the Namaz on Juma	Vol. 35 Pgs.4783-4851

		before placing of the Idol at the Masjid. @ <b>Pgs. 4783</b>	
11.	PW-21 Dr. M. Hashim Qidwai Resident of Aligarh	Aged about 80 years in 2001. Offered Namaz in Babri Masjid from 1939 to 1941. @ <b>Pgs. 5760</b>  Elected as MP Rajya Sabha @ <b>Pgs. 5762</b>	Vol. 39  Pgs.5759-5830
12.	PW-23 Mohd. Qasim Ansari Resident of Ayodhya	Aged 74 years in 2002. I have performed Namaz in that mosque number of times. I had offered the Namaz of Fajir, Zohar, Asir, Magrib, Isha and Tarvih. Said again that I had recited the Jumma Namaz also. For the last time I offered the Namaz there on 22nd December, 1949. @ <b>Pgs. 5873</b>	Vol. 39 <u>Pgs.5872-5940</u>
13.	PW-25 Shri Sibte Mohd. Naqvi Resident of Akbarpur, Faizabad	Aged 76 years in 2002. Had seen Namazis going to Babri Masjid for offering Namaz since 1948. @ <b>Pgs. 6020</b>	Vol. 40  Pgs.6018-6063