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IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

CIVIL APPEAL NO. 4768-4771 OF 2011

IN THE MATTER OF:

BHAGWAN SRI RAMA VIRAJMAN  
AND OTHERS.

...APPELLANTS

VERSUS

SRI RAJENDRA SINGH & ORS.

...RESPONDENTS

WITH

I.A. NO. \_\_\_\_\_ OF 2018

(AN APPLICATION FOR PERMISSION TO FILE ADDITIONAL  
DOCUMENTS)

PLEADINGS IN ALL SUIT

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ADVOCATE FOR THE APPELLANT: : MR. P. V. YOGESWARAN

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**IN THE COURT OF HON'BLE CIVIL JUDGE, FAIZABAD**

Suit under Order 7 Rule 1 C.P.C.

Shri Gopal Singh Visharad aged about 42 years, S/o Th. Girdhari Singh R/o Moh. Saragdwari City, Ayodhya Pargana Haveli Oudh, Tehsil and District Faizabad, (deceased) Plaintiff

Rajender Singh age 46 years, S/o Shri Gopal Singh Visharad, at present State Bank of India, Branch Gonda.

Versus

1. Jahur Ahmad Age 68 years S/o not known R/o Moh. Bada Bazar (deceased) City Ayodhya, Pargana Haveli Oudh, Tehsil and District Faizabad, City Ayodhya. P 10
2. Hazi Feku, age 65 years s/o not known R/o Moh. Tedi Bazar - Deceased City Ayodhya, Pargana Haveli Oudh, Tehsil and District Faizabad, City Ayodhya.
3. Mohammad Fayak age 45 years, S/o Not known R/o Moh. Tedi Bazar - deceased Tehsil and District Faizabad, City Ayodhya, Pargana Haveli Oudh. P 11
4. Mohammad Shami Chudiwala age 45 years, S/o not known, R/o Moh. Ramganj, deceased City Ayodhya, Pargana Haveli Oudh, Tehsil and District Faizabad, City Ayodhya.
5. Mohammad Achhan Miyan aged about 45 years S/o not known R/o Moh. Katra deceased City Ayodhya, Pargana Haveli Oudh, Tehsil and District Faizabad, City Ayodhya.
6. United Province, Uttar Pradesh Estate, Lucknow.
7. K.K.K. Naiyar, Deputy Commissioner, Faizabad.
8. Shri Markandey Singh, Additional City Magistrate, Faizabad.
9. Shri Ram Kripal Singh Superintendent of Police, Faizabad.
10. Sunni Central Waqf Board, Uttar Pradesh, Lucknow Moti Lal Bus Stand, Police Station Kesarbagh, Lucknow through Secretary.
11. Nirmohi Akhara, Ayodhya, Haveli Oudh, Ayodhya Dist. Faizabad, Through Sarpanch Ram Swarup Das, Deputy Sarpanch Mohan Singh Bhaskar Das and Panch Raja Ram Chandracharya.

SUIT FOR DECLARATION AND INJUNCTION ORDER,  
PROHIBITORY INJUNCTION AND PERMANENT INJUNCTION

Plaintiff submits as under:-

1. That the original Plaintiff, follower of Sanatan Dharm and is the resident of Ayodhya and as per his religion, he used to worship and have the darshan of the deities and idols and the present plaintiff like his deceased father (original Plaintiff) is the follower of Sanatan Dharma and performs the worship and has the darshan of the deities and holy places etc.
2. That the Plaintiff has been worshipping and having darshan of the idol of Lord Shri Ram Chandra Ji and Charan Paduka (foot impressions) etc. in that place of Janambhumi details whereof has been given hereinbelow and he is entitled to perform worship and have darshan in that place without any obstruction or interference and forever in future also.
3. That during those days, original plaintiff was ill and after getting well, when he went to Janambhumi to perform worship and have darshan on the day of Makar Sakranti i.e. on 14<sup>th</sup> January 1950, the employees of the Defendant No.6 prevented the plaintiff from going inside the place where the idol of Shri Ramchandra Ji and others are placed and it was

learnt that after getting influence with the baseless and false perversity of the Defendants No.1 to 5 and their other fellows, Defendant No.7 through its employees Defendant No.7 to 9 have deprived from the Hindu public from their legitimate rights of performing worship and having darshan and because of the undue insistence of the Defendants No.1 to 5 etc., Defendant No.6 declares that Hindu Public shall be deprived from their above rights in the same manner in future also and because of the above unjustifiable act, proprietary right of original plaintiff which he had always used; is being infringed and in the above circumstances, present plaintiff has the complete apprehension and fear of improper and unlawful interference by the Defendants in exercise of the above religious rights.

4. That the Defendant No.6 through its employees Defendant No.7 to 9 are putting undue pressure on the Hindu public that they will remove the idols of Lord Shri Ram Chandra Ji and others from the present place and other Defendants have been fully cooperating with them and thus, they are bound to do improper and unjustifiable act.

5. That all the Defendants have hatched the conspiracy in the above improper and unjustifiable act which is the direct attack on the right and title of the plaintiff and from any point of view, perversity of the Defendants No.1 to 5 could not be accepted and the above declaration of the Defendant No.6 to 9 is contrary to the declaration made by the Queen Victoria which was made in regard to the religion at the time of setting up their regime and is beyond the state right and is beyond the rights conferred by the Defendant No.6 to 9 in the year 1935 and thus, it is absolutely an oppressive act and since above entire act is contrary to the law and order, therefore, need has arisen to file the present suit.
6. That the cause of action has arisen on 14<sup>th</sup> January 1950 within the jurisdiction of this Hon'ble Court and is still subsisting because of the improper and unlawful interference of the Defendants in exercise of the above religious rights of the present plaintiff within the jurisdiction of this Hon'ble Court.
- 6A. That the original plaintiff has passed away during the pendency of the suit on 28.12.1989. Present Plaintiff is his son and legal representative and he likes his



father has got all those religious rights and thus, the present plaintiff has the right to pursue the proceedings of the above suit. Defendants Nos.1 to 5 have passed away and there is no need to make anybody as party in their place.

6B. That as per the order dated 17.10.1988 of the Court, Defendant No.10 is being made the party in the case and the suit is also being filed against the Defendant No.10 and the relief is also being sought by the Plaintiff against the Defendant No.10.

7. That the valuation of the present suit and relief is determined at Rs.5100/-, but the suit is for prohibitory injunction and permanent injunction order, therefore, court fee of Rs.51 on the amount of Rs.510 i.e. tenth portion of Rs.5100/- is paid.

8. Plaintiff prays for the following relief as under:-

(a) Declaration may kindly be made to this effect that the plaintiff according to his religion and custom is entitled to do worship and darshan of Sri Bhagwan Ram Chandra and others at the place of Janam Bhumi, details whereof has been given in the end of the suit plaint, by going near the idols without any let or hindrance and defendants No.6 & 7 to 9 and the

Defendant No.10 and their assigns have no right to interfere in the said rights.

- (b) Permanent and perpetual injunction order may kindly be issued against the Defendants thereby restraining the defendants No.1 to 6 and 7 to 9 and Defendants No.10 and their assigns from removing the placed idols of Lord Shri Ram Chandra and others from the place which has been detailed herein below and they should also not close the way leading to that and should not interfere in worship and darshan in any manner.
- (c) Cost of proceedings may also be awarded in favour of the Plaintiff against the Defendants.
- (d) Pass any such other and further reliefs as may be deemed fit and proper in the facts and circumstances of the present case against the Defendant and in favour of the Plaintiff.

Disputed place:-

East: Store and Chabutra of Ram Janam Bhumi  
West: Parti  
North: Sita Rasoi  
South: Parti

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I, the above named Plaintiff, do hereby verify that the contents of Paras 1 to 5 are true and correct to my knowledge and of paras 6 and 7 are believed to be true and correct and of paras 8 are assured to be correct. Verified today on 13.01.1950 at Civil Court Faizabad.

Sd/- Gopal Singh Visharad

Applicant Shri Gopal Singh Visharad  
13.01.50 Through Ch. Kedar Nath Advocate  
Sd/- Gopal Singh Visharad

Regd. Address of the Plaintiff  
Shri Gopal Singh Varashad,  
Moh. Saragdwar, Ayoydhya  
District Faizabad.  
Sd/- Gopal Singh Varsharad

//True Translation//

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True Translation of the above as follows:

IN THE COURT OF CIVIL JUDGE, FAIZABAD  
(O.O.S. No.1/1989)  
(R.S. No.2-50)

WRITTEN STATEMENT ON BEHALF OF DEFENDANT NO.1  
TO 5, UNDER ORDER 8 RULE 1 CPC

Shri Gopal Singh Visharad S/o Th. Girdhari Singh, R/o  
Mohalla Sarasdwar, City Ayodhya Pargana Haveli Awadh,  
District Faizabad.

... Plaintiff

Versus

1. Shri Jahur Ahmad S/o Noor Mohammad.
2. Hazi Mohammad Fayak S/o Haji Mhammad Ramzan
3. Mohd. Shami S/o Makhdum Bux
4. Mohd Achan Mian s/o Zahir Hasan
5. Hazi Feku S/o Chajju

Defendants Nos.1 to 5 are R/o Ayodhya Pargana  
Haveli and Tehsil and District Faizabad

6. U.P Lucknow.
7. K.K.K. Naiyar, Deputy Commissioner, Faizabad.
8. Shri Markandey, Additional City Magistrate, Faizabad.
9. Shri Ram Kripal Singh Superintendent of Police,  
Faizabad.

... Defendants

Case No.2/1950  
Written Statement 21.2.50  
2.3.50

SUIT FOR MANDATORY INJUNCTION

1. Denied.

2. The corresponding paragraph is denied. The property of which the case has been filed is not Janambhumi but a mosque constructed by emperor of India Babar Shah.
3. Denied. The entire contents of the paragraph are denied, false and ill founded and exaggerated by the Plaintiff. The suit has been filed against the Defendants with ill intentions against Mujeeb & Ors.
4. That the contention of this paragraph relate to Defendant No.6 to 9 to the suit and denied for want of knowledge. The rest of the contentions are wholly false, baseless which shall be revealed from further facts.
5. Contents are denied.
6. That the plaintiff has no authority to file the said suit.
7. That the Plaintiff has not violated the suit properly and as such suit is under valued. That the valuation of the suit is maximum Rs.5 lakhs and a very less amount of court fees has been paid.
8. That the plaintiff is not entitled for the relief claimed by any stretch of imagination.

#### PARAWISE REPLY

9. In respect of the property the plaintiff has filed the present suit infact as a mosque constructed by

Emperor of India Babar Shah known as Babri Masjid which the emperor after conquering India and his estate at Ayodhya through his Minister Madarul Mohammad Mir Baqi had constructed the same in the year 1528 and dedicated it as a waqf for entire Muslims and all Muslims have a right to worship in the same.

10. That after the construction of the mosque, the emperor Babar for the purposes of repairs, maintenance and expenditure had given Rs.60/- per annum as a Atiya from the Royal Treasury which continued during the kingdom of Mughals and after the fall of the Mughal Empire the Nawab of Awadh also continued after enhancing the same totaling Rs.302/- and 6/- annas per annum were approved and paid which amount the Nawab's and also the British Government continued for administration initially. The British Government continued for administration initially. The British Government instead of paying cash to the Mutawallis had given the lease for Solapuri and Behranpur respecting Ayodhya in order to meet out expenses of the mosque.
11. That in the year 1885 Mahant Raghubar Das Mahant Janamsthan Ayodhya filed a case against the

Secretary of the State for India in council and Mohammad Asgar Mutawalli and Khateeb Masjid Babri one suit before the court of Sub Judge Sahab Bahadur for declaration of ownership.

12. That in respect of the above suit the plaintiff filed a map in which the mosque has been clearly depicted and did not object to it. The suit related and the relief claimed there under was only in respect of a chabootra now the contention of the Plaintiff is that the entire building is the place of temple Janmasthan which is wholly wrong and baseless. The case has been fabricated and has been filed fraudulently.
13. That the court of Learned Sub Judge Sahab Bahadur Faizabad on 24<sup>th</sup> December 1885 had dismissed the Suit filed by the Plaintiff which decision was maintained in appeal also. The remark which was given in the judgment respecting the decision of the Sub Judge is liable to be dismissed for want of limitation. That the case respecting the Chabutra was not entertained and dismissed and the appeal brought against the judgment was also dismissed.
14. That the aforesaid case was quite sensational and it was in the knowledge of all gentlemen of Ayodhya and administration of Faizabad who were supporting the

plaintiff and also perusing the same on his behalf and were in full knowledge of the case.

15. That under the Muslim Waqf Act No.13/1936 Chief Commissioner Auqaf was appointed and after examined and inspect the Babri Mosque, the Chief Commissioner had decided that the mosque was constructed by Emperor Babar as per Sunni religion and as per law the mosque is a Sunni Waqf and in this direction the legal information was also issued.

16. That the possession of the mosque as a waqf property since 1522 till date is being continued under the Muslims. Therefore at any time any Hindu or the Plaintiff proves that there was any temple on this spot before Babri Masjid. It is emphatically denied by the Defendants in this direction for more than 400 years the Muslims are in possession of the said property and the legal duration by way of an adverse possession is 12 years which is within the knowledge of the plaintiff and all Hindus in capacity as a mosque which is continued as a waqf therefore the Hindus more especially the plaintiffs have no right whatsoever.



17. That the Plaintiff never have any possession nor had any possession therefore the suit is not maintainable and is liable to be dismissed under Section 42.
18. That the present suit is fully barred by limitation.
19. That the plaintiff in the present suit has not established any ownership and in the circumstances there is no question of any ownership in this situation the suit is liable to be dismissed.
20. That the plaintiff has not given any application under Order 1 Rule 8 CPC and has not filed any such application in the suit that he is representing the entire Hindu community. That the plaintiff in the suit is claiming relief for the entire Hindu community therefore the suit is objectionable and is liable to be dismissed.
21. That the plaintiff has not taken out any notice in as much as Defendant No.6 to 9 under Section 80 CPC therefore the suit on this ground is not maintainable and is liable to be dismissed.
22. That the defendants Mujeeb has no knowledge whether in the property known as Babri Masjid there is any idol or not. That upto 16.12.1949 the Namaz was offered at that time there was no idol but if any person steal three with mala fide intention has put the

idol inside the mosque. The degradation of the mosque is evident and the accused persons are liable to be prosecuted. That if the plaintiff or any other person tries to worship or with the intention of having darshan enters into the mosque then he would be violating the law therefore in this situation the Civil Court is not entitled to give any relief. Therefore in this situation the right of the non-Muslim, the question of right does not arise.

23. That in the present suit the plaintiff has nowhere stated that the Defendant No.6 to 9 has any interest nor any cause of action against them pleaded therefore the aforesaid suit is liable to be dismissed for joinder of proper parties.
24. That the plaintiff has also not stated that which of the employees of Defendant No.6 in what capacity have obstructed the plaintiff in the plaint of the suit therefore in this view also the suit could have been filed against those employees.
25. That so far as the Defendant Mujeeb is concerned he knows that Defendant No.9 has initiated the proceedings under Section 145 Cr.P.C. respecting the building in question i.e. Babri Mosque that the proceedings were wholly wrong and against the

justice. That the rights of the Defendant Mujeeb and other defendants have been infringed and the proceedings has been conducted for helping the opposite parties including the Defendant No.7, 8 Guni Dutt Singh former City Magistrate, Faizabad.

26. That the institutions of proceedings under Section 145 Cr.P.C. is not consented by the Defendant Mujeeb but during the progress of the said proceedings no suit for declaration of ownership is maintainable before the court and the civil court has no jurisdiction right to interfere into the functioning of the criminal courts.

27. That in Ayodhya there is a temple on the place of Janamsthan of Ram Janam Bhumi for quite long and still existing. That in this temple there are idols of Ramchandraji etc. Therefore the present suit inter alia claiming Babri Masjid as the place of Janamsthan against the Defendants and other persons is objectionable and is the result of achieving nefarious ends and takes advantage in the coming elections in order to seek support of the Majority and to secure votes in favour of the present Congress Government and to Hindustan (not legible).

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28. The present suit has been filed only to harass and harm the Defendant Mujeeb and to exert unnecessary pressure with ill intentions without any right of the plaintiff and as such is liable to be dismissed with the special costs in accordance with Section 35 CPC alongwith the expenses of the case in favour of the Defendants and against the plaintiffs.
29. That the Defendant is an original person with lesser resources and he has been impleaded as a Defendant that he may not be in a position to bear expenses of the case therefore in the eyes of law and justice that the plaintiff may be called upon to deposit the cost by way of suitable security.
30. That in view of the above the present suit is liable to be dismissed with costs throughout.

Date: 21.2.50

Applicants

Jahoor Ahmad

Haji Muhammad Fayak

Mohammad Shami

Muhammad Achan Miya

Haji Feku

Mudalahoom Mujeeb

Sd/- illegible

17

Sd/- Feku

Sd/- (in Urdu)

Sd/- (in Urdu)

Sd/- (in Urdu)

Sd/- illegible

Advocate 21.2.50

VERIFICATION

I, Defendant Jahoor Ahmad say and submit that the paragraph 1 to 7 and 9 to 20 and paragraph 23 to 29 besides paragraph 8, 21 and 22 are true and correct to my knowledge and belief. Verified at civil court compound on 21.2.50.

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//True Translation//

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True Translation of page 7168 to 7171 as follows:

IN THE COURT OF CIVIL JUDGE FAIZABAD,  
REPLICATION ON BEHALF OF SHRI GOPAL SINGH  
VISHARAD

Date of hearing – 5<sup>th</sup> December, 1952

Shri Gopal Singh Visharad ... Plaintiff

Versus

Shri Zahoor Ahmed & Ors ... Defendants

SUIT FOR DECLARATION OF TITLE, PROHIBITORY AND  
PERPETUAL INJUNCTION

1-8 That facts as stated in paras 1 to 8 are all true and correct and need no reply.

9. That the boundaries of the Janambhumi which have been given by the plaintiff in his suit plaint, there had the evolution of idol of Shri Ram Chandra Ji before the filing of the present suit and plaintiff sees its shape and name in the form of temple, which actually has and criminal Court after finding it in the form of Mandir (Ram Janam) handed over it to the Manager Babu Priya Dutt Ram, Chairman, Faizabad for performing worship and bhog etc. has passed the order that continue as before. Consequently, Muslim people -illegible -. It has never come as mosque since after 1934 and it is denied that it is a Babri

Mosque. Dedicated to wakf by Babar is denied. All the muslims have no right to perform worship there.

10. It is denied. It is irrelevant.

11. It is denied. It is irrelevant.

11. That the facts from paras 11 to 14 are related to the same occupation and are irrelevant, which has no effect on the case nor it could be binding on all the Hindus.

13. Denied.

15. Act No.13 of 1936 is absolutely inapplicable and if any action is carried out in its behalf, then the entire proceedings are baseless. No notice is binding upon the plaintiff nor any proceedings which have been mentioned in Para 15, has no effect on the above case. Plaintiff thinks that the present case has been filed under a conspiracy.

16. Denied.

17. Facts as stated are denied. Relief as sought by the Plaintiff, it has nothing to do with the relief under Section 42 of the Act.

18. That the suit has been filed within the limitation period.

19. That the plaintiff is entitled to his personal right and is also entitled to the relief. As the Defendants have mentioned the facts equivocally, they are meaningless.
20. That para 20 is denied. Defendants had filed an application for taking up proceedings under Order 1 Rule 8 on 4<sup>th</sup> August 1950 which was replied by the plaintiff on 18<sup>th</sup> August 1951 and there is no benefit of reiterating it.
21. That only that person can raise the objection under Section 80 of C.P.C. for which Section 80 has been framed. Defendants No.1 to 5 have no right to raise objection.
22. That para 22 is denied. Defendants No.1 to 5 know very well that the idols are placed there. As per the knowledge of the plaintiff, no Namaj has been offered there since after 1934 and if any government employee has given such false information about offering of Namaj, then it has no impact on the case and on the basis of any such false information or offering of Namaj of two or four persons creates no objection on the continuous right of the Plaintiff from 1934 to till date specially when the said right is being exercise within the knowledge of the Defendants.



23. Para 23 is denied. Its details have been specifically mentioned in the suit plaint. Government officials have specifically prevented the Hindu public and the Plaintiffs from entering into the site and performing the worship there and this illegal act of the government employees is the base of this thing.
24. Para 24 is denied. Employees have been made the parties.
25. That after coming under the impression of the Defendants No.1 to 5, false proceedings under Section 145 Cr.P.C. have been conducted. Manner in which things have been mentioned by the Defendants, they all are false.
26. Para 26 is denied. Defendants must throw light specifically on those acts, by virtue of it this Court has no jurisdiction to hear and decide the present suit.
27. That temple Janam Bhumi in regard to which Defendants have mentioned in the para under reply, it is definitely another temple, boundaries whereof are as under:-

North - Hata and Partu and temple in the possession of  
Kallu Mahapatra

South - Road permanent

East - Road and courtyard and well

Idol of Shri Ram Chandra Ji is installed in almost all the temples in Shri Ayodhya Ji which have nothing to do with the disputed place. Discussion about the election in para under reply is baseless, immaterial and absolutely irrelevant.

28. Para 28 is false and denied. Defendants are not entitled to any costs and compensation.

29. Plaintiff is an Advocate, who used to practice as an Advocate in the provincial states and he has got lot of property there which all has now come under the Indian Union and because of which, Plaintiff has got the right to practice as an Advocate here, as has been published in UP Official Gazette para - 11 on 18<sup>th</sup> August 1951. There is no such Act exists under which security in regard to the costs be demanded from the plaintiff.

30. Para 30 is denied. Suit is liable to be decreed.

#### REJOINDER

31. As the Defendants claim that it is a Babri mosque and if the Plaintiff fails to prove it, yet no muslim has managed to enter into the temple from the year 1934 and Hindus have been in the continuous possession since then within the knowledge of all the persons and

therefore, if Defendants or any other Mohammedan has got any right, it has been ceased and the said claim has ended. Considering the above place as temple being a Hindu, every Hindu regularly visits the above place because of which it has certainly become sure that there is a temple. If any muslim had ever tried to show his claim, then same claim is denied. Hindus particularly those who live there have dispossessed them from there. It has been learnt that the Muslims by hatching conspiracy have filed a false and fake suit before the court of some of Civil Judge and got conducted some fake proceedings, which are denied by the plaintiff and it has no affect on the above suit. Specially when some Hindu even did not know about it. Entire proceedings are fake and false. Documents of the said case are absolutely irrelevant and same are not admissible in the present suit in any manner.

Applicant

Sd/- Gopal Singh Visharad  
Gopal Sigh Vvisharad

Plaintiff

Dated: 5<sup>th</sup> December 1952

Typed by

Sd/- Daya Shankar Shukla  
Deed Writer  
05.12.1952

//True Translation//

IN THE COURT OF THE CIVIL JUDGE, FAIZABAD

Written Statement on behalf of Defendant No.6

Shri Gopal Singh Vishrad ... Plaintiff

Versus

Zahur Ahmad & 8 Ors .. Defendants

Regular Suit No.2 of 1950

The defendant No.6 answer to the plaint as follows:-

Para 1. The answering defendant does not admit the allegation in para 1 of the plaint.

Para 2 The answering defendant denies the allegations in para 2 of the plaint.

Para 3 to 5. The answering defendant does not admit the allegations in paras 2 to 5 of the plaint, also see additional please hereinafter contained.

Para 6 The answering defendant denies that any cause of action has arisen to the plaintiff against it.

Para 7 The suit has been grossly under valued and the court fee paid is inadequate and is payable ad-valorum on the full value of the suit.

Para 8 The plaintiff is not entitled to get the relief claimed.

Additional Please.

- Para 9 No notice is required by section 80 CPC has been served, and the suit deserves to be dismissed on that ground above.
- Para 10 That the plaintiff has not sufficiently described the property in suit and the allegations in the plaint are vague.
- Para 11 That there is not cause of action for the suit.
- Para 12 That the property in suit is known as Babri Mosque, and it has, for a long period has been use as a mosque for the purpose of worship by the Muslims. It has not been in use as a temple of Shri Ram Chandraji.
- Para 13 That on the night of the 22<sup>nd</sup> December 1949 the idols of Shri Ram Chandraji were surreptitiously and wrongly put inside it.
- Para 14 That as a result of the said wrongful act a situation imperiling public peace and tranquility was created and the public authorities had to intervene in order to prevent breaches of peace and tranquility.
- Para 15 That in view of the state of feelings between Muslims and Hindus of the locality the City Magistrate, Shri Gurdutt Singh, passed an order under section 144 Cr.P.C. dated 23.12.49

prohibiting the carrying of fire arms, swords etc and the assemblage of more than 5 persons within the limits of Faizabad and Ayodhya Municipalities.

Para 16 That on the same date the Additional City Magistrate, Shri Markandey Singh, on police report and other information, passed orders under section 145 Cr.P.C. calling upon the claimants to the premises to appear and file their written statements by 17.1.1950 in his court.

Para 17 That the said Magistrate being of opinion that the case was one of emergency attached the said property and appointed Shri Priya Datt Ram, Chairman, Municipal Board, Faizabad-cum Ayodhya as receiver of the said property and further authorized him to arrange for the care of the same; and further directed him to submit a scheme for the management thereof for his approval.

Para 18 That the authorities have throughout acted in a manner warranted by law and in a situation fraught with serious danger to peace any

interference with their discretion would be prejudicial to the maintenance of public peace.

Para 19 That the answering defendant No.6 is the Uttar Pradesh Government and this court has no jurisdiction to grant any injunction which may interfere with the performance of public duties by a department of the Government.

Para 20 That the suit is, in any case, barred by limitation.

Para 21 That the plaintiff is not entitled to the relief sought.

Sd/-  
Deputy Commissioner, Faizabad  
For Defendant No.6

I, C.W. Ugra Isqr. Deputy Commissioner, Faizabad do hereby verify that the contents of paras 12, 13, 15, 16, 17 are true to my knowledge, the contents of paras 1 to 5, 7, 9, 14 and 19 are partly true to my knowledge partly to my belief and the contents of paras 6, 8, 10, 11, 18, 20 to 21 are true to my belief, knowledge in every case being based on records and information received. Verified this 25<sup>th</sup> day of April 1950 at the Deputy Commissioner's residence Faizabad.

Sd/-  
Deputy Commissioner  
Faizabad

## IN THE COURT OF THE CIVIL JUDGE, FAIZABAD

Written Statement on behalf of Shri Markandeya Singh, City  
Magistrate, Faizabad

Shri Gopal Singh Vishrad ... Plaintiff

Versus

Zahur Ahmad & 8 Ors .. Defendants

Regular Suit No.2 of 1950

The defendant No.8 answer to the plaint as follows:-

Para 1. The answering defendant does not admit the allegation in para 1 of the plaint.

Para 2. The answering defendant does not admit the allegation in para 2 of the plaint.

Para 3 to 5. The answering defendant does not admit the allegations in paras 2 to 5 of the plaint, also see additional please hereinafter contained.

Para 6. The answering defendant denies that any cause of action has arisen to the plaintiff against him.

Para 7. The suit has been grossly under valued and the court fee paid is inadequate and is payable ad-valorem on the full value of the suit.



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Para 8 The plaintiff is not entitled to get the relief claimed.

Additional Pleas..

Para 9 No notice is required by section 80 CPC has been served, and the suit deserves to be dismissed on that ground above.

Para 10 That the plaintiff has not sufficiently described the property in suit and the allegation in the plaint are vague.

Para 11 That there is not cause of action for this suit.

Para 12 That a situation imperiling public peace and tranquility was created in December last and the public authorities and to intervene in order to prevent breacher of peace and tranquility.

Para 13 That in view of the state of feelings between Muslims and Hindus of the locality the then City Magistrate Shri Gurudutt Singh, passed an order under section 144 Cr.P.C. dated 29.12.49 prohibiting the carrying of firearms, swords etc. and the assemblage of more than 5 persons within the limits of Faizabad and Ayodhya Municipalities.

Para 14 That on the same date the answering defendant No.8 was the Additional City Magistrate and such

on police report and other information, passed orders under section 145 Cr.P.C. calling upon the claimants to the premises to appear and file their written statements by 17.1.1950 in his court.

Para 15 That the answering defendant being of opinion that the case was one of emergency attached the said property and appointed Shri Priya Datt Ram, Chairman, Municipal Board, Faizabad-cum Ayodhya as receiver of the said property and further authorized him to arrange for the care of the same; and further directed him to submit a scheme for the management thereof for his approval.

Para 16 That the authorities have throughout acted in a manner warranted by law and in a situation fraught with serious danger to peace any interference with their discretion would be prejudicial to the maintenance of public peace.

Para 17 That this court has no jurisdiction to grant any injunction which may interfere with the performance of public duties by a department of the Government.

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Para 18 . That the plaintiff is not entitled to the relief sought.

Sd/-  
City Magistrate,  
Faizabad  
Defendant No.8

I, Markandey Singh City Magistrate, Faizabad do hereby plead the contents of paras 13, 14, 15 are true my knowledge and those paras 5, 7,9 and 12 are partly true to my knowledge..... (paper troned)

//TRUE COPY//

IN THE COURT OF THE CIVIL JUDGE, FAIZABAD

Written Statement on behalf of Defendant No.9

HRI Kirpal Singh, Superintendent of Police, Faizabad

Shri Gopal Singh Vishrad ... Plaintiff

Versus

Zahur Ahmad & 8 Ors .. Defendants

Regular Suit No.2 of 1950

The defendant No.9 answer to the plaint as follows:-

Para 1. The answering defendant does not admit the allegation in para 1 of the plaint.

Para 2. The answering defendant denies the allegations in para 2 of the plaint.

Para 3 to 5. The answering defendant does not admit the allegations in paras 2 to 5 of the plaint, also see additional please hereinafter contained.

Para 6. The answering defendant denies that any cause of action has arisen to the plaintiff against him.

Para 7. The suit has been grossly under valued and the court fee paid is inadequate and is payable ad-valorum on the full value of the suit.

Para 8 The plaintiff is not entitled to get the relief claimed.

Additional Pleas...

Para 9 No notice is required by section 80 CPC has been served, and the suit deserves to be dismissed on that ground above.

Para 10 That the plaintiff has not sufficiently described the property in suit and the allegation in the plaint are vague.

Para 11 That there is not cause of action for the suit.

Para 12 That the property in suit is known as Babri Mosque, and it has, for a long period has been use as a mosque for the purpose of worship by the Muslims. It has not been in use as a temple of Shri Ram Chandraji.

Para 13 That on the night of the 22<sup>nd</sup> December 1949 the idols of Shri Ram Chandraji were surreptitiously and wrongly put inside it.

Para 14 That as a result of the said wrongful act a situation imperiling public peace and tranquility was created and the public authorities had to intervene in order to prevent breaches of peace and tranquility.

Para 15 That in view of the state of feelings between Muslims and Hindus of the locality the then City Magistrate, Shri Gurdutt Singh, passed an order under section 144 Cr.P.C. dated 23.12.49 prohibiting the carrying of fire arms, swords etc and the assemblage of more than 5 persons within the limits of Faizabad and Ayodhya Municipalities.

Para 16 That on the same date the Additional City Magistrate, Shri Markandey Singh, on police report and other information, passed orders under section 145 Cr.P.C. calling upon the claimants to the premises to appear and file their written statements by 17.1.1950 in his court.

Para 17 That the said Magistrate being of opinion that the case was one of emergency attached the said property and appointed Shri Priya Datt Ram, Chairman, Municipal Board, Faizabad-cum Ayodhya as receiver of the said property and further authorized him to arrange for the care of the same; and further directed him to submit a scheme for the management thereof for his approval.

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Para 18 That the answering defendant No.9 in the Superintendent of Police and an officer of the Uttar Pradesh Government, and he and the other authorities have throughout acted in a manner warranted by law, and in a situation fraught with serious danger to peace, any interference with their discretion would be prejudicial to the maintenance of public peace.

Para 19 That the court has no jurisdiction to grant any injunction which may interfere with the performance of public duties by a department of the Government

Para 20 That the suit is, in any case, barred by limitation.

Para 21 That the plaintiff is not entitled to the relief sought.

Sd/-  
Shri Kirpal Singh  
S.P., Faizabad  
Defendant No.9  
Dated: 1.05.50

Dated 01.05.50

I, Shri Kirpal Singh, S.P. Faizabad do hereby verify that the contents of paras 12, 13, 15, 16, 17 are true to my knowledge, the contents of paras 6, 8, 10, 11 and 19 to 21 are true to my belief and the contents of paras 1 to 5, 7,

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9, 14 and 15 are partly true to my knowledge and partly to my belief, knowledge in every case being based on records and information received. Verified this 1<sup>st</sup> day of May 1950 at my residence in Faizabad.

Sd/-  
Shri Kirpal Singh  
S.P., Faizabad  
Defendant No.9

//TRUE COPY//

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IN THE COURT OF III ADDITIONAL DISTRICT JUDGE,  
FAIZABAD

Regular Suit No.2 of 1950

Sri Gopal Singh Visharad (now deceased)  
And substituted by Sri Rajendra Singh ...Plaintiff

Versus

Zahoor Ahmad, and others .....Defendants

Fixed for 25.02.1989

WRITTEN STATEMENT OF DEFENDANT NO.10

Defendant No.10 U.P. Sunni Central Board of Waqf,  
Lucknow, begs to submit as under:-

1. That the contents of para 1 of the plaint are denied as stated. Kindly see additional pleas.
2. That the contents of para 2 of the plaint are absolutely incorrect and hence denied as stated. The building referred to in the para under reply is not the Janam Bhoomi of Sri Ram Chandrajil and no idols of Sri Ram Chandrajil were ever installed in the said building and as such there arises no question of any right or claim

of the plaintiff to perform Pooja and Darshan over there. The fact is that the property in suit is a mosque known as Babari Masjid and the same was constructed during the regime of Emperor Babar. Kindly see additional pleas also.

3. That the contents of para 3 of the plaint are also absolutely incorrect and hence denied as stated. The entire story narrated in the para under reply is nothing but a concoction and the same appears to have been cooked up just for the purposes of the case. neither any idols were kept in the said mosque prior to the incident of the night of 22<sup>nd</sup>/23<sup>rd</sup> December, 1949 when the idol was surreptitiously and stealthily kept in the mosque by some mischievous elements and nor the said mosque was ever used for performing Pooja and Darshan etc. kindly see additional please also.

4. That the contents of para 4 of the plaint are also incorrect and hence denied as stated. Kindly see additional pleas also.

5. That the contents of para 5 of the plaint are also incorrect and hence denied as stated. Kindly see additional pleas also.
6. That the contents of para 6 of the plaint are also incorrect and hence denied as stated. No cause of action ever accrued to the plaintiff as against the defendants. Kindly see additional pleas also.
7. That the contents of paras 6-A and 6-B of the plaint are also denied as stated. Kindly see additional pleas also.
8. That the contents of para 7 of the plaint are also denied as stated. The property in suit has been undervalued and the court fees paid is also insufficient. Kindly see additional pleas also.
9. That the contents of para 8 of the plaint are also denied as stated and in reply thereto it is submitted that the plaintiff is not entitled to any relief and the suit is liable to be dismissed with special cost.

**Additional Pleas**

10. That the property in suit is an old mosque constructed around the year 1528 A.D. during the regime of Emperor Babar under the supervision of Mir Baqi and the same has always been used as a mosque and it

was never used as a temple or as a place of worship for any other community except muslims.

11. That the Emperor Babar had given a grant of Rs.60/- per annum for the maintenance and annual repairs and other expenses relating to the said mosque which had remained being paid during the Moghal regime, and during the regime of Nawabs of Avadh the said grant was enhanced and the British Government had also continued the said grant and at the time of the First Settlement, the land of mauza Sholapur and Bahuranpur was settled as Mafi for the expenses of the said mosque.
12. That in 1885 Mahant Raghubar Das (Mahant of Janam Asthan of Ayodhya) had filed a suit against the Secretary of State for India in Council, and Mohd. Asghar, Mutawalli of the said mosque, in the Court of Sub-Judge, Faizabad, in which a site plan had also been annexed alongwith the Plaint and in the said site plan the mosque in question was specifically mentioned in the western side of the Chabutra in respect whereof the said suit was filed for permission to erect temple over the said Chabutra. In respect of the said Chabutra the said Mahant Raghubar Das had stated that the temple of Janam Bhoomi was desired

to be constructed over there, but the said Mahant could not succeed even in that suit which was ultimately dismissed on 24<sup>th</sup> December, 1885 by the Sub-Judge, Faizabad, and the Appeal filed against the said judgment and decree dated 24<sup>th</sup> December, 1885 was also dismissed by the District Judge, Faizabad, and the Second Appeal filed against the same had also been dismissed by the Judicial Commissioner of Avadh.

13. That the aforesaid suit was filed by Mahant Raghubar Das on behalf of other Mahants and Hindus of Ayodhya and Faizabad etc.
14. That after the promulgation of U.P. Muslim Waqf Act, 1936, the Chief Commissioner of Waqf had got a survey made in respect of the waqf properties and in that connection survey of the mosque in question was also conducted and the same was registered as a waqf and a gazette notification had also been issued in respect thereto under the provisions of the U.P. Muslim Waqf Act, 1936.
15. That muslims had along remained in possession of the said mosque right from 1528 upto the date of attachment of the said mosque under section 145 Cr.P.C. made in December, 1949.

16. That the said mosque stands registered as a mosque in the office of the U.P. Sunni Central Board of Waqf hereinafter referred to as the Board, as Waqf No.266 Faizabad even in the Register of Waqf maintained under section 30 of the UP Muslim Waqf Act, 1960.
17. That as the plaintiff has never remained in possession or occupation of the building in suit, he has no right, title or claim over the said property and as such the suit is even barred by the provisions of Section 41 of the Specific Relief Act.
18. That the plaintiff's suit is even barred by the Law of Limitation as the muslims have remained enjoying the possession over the property in suit at least from 1528 A.D.
19. That the plaintiff has neither shown any personal claim or title in the plaint over the property in suit and nor he has been able to set up any right or title over the said property on the basis of any customary or easementary right.

20. That the plaintiff's suit is not even in representative capacity, and no permission was obtained by the plaintiff to file the instant suit on behalf of other Hindus as required by order I Rule 8 of the Code of Civil Procedure although in the plaint it has been contended by the plaintiff that the suit was being filed for the protection of rights of over Hindus as well. As such the suit is bad even on this account.
21. That the suit is bad and not maintainable even on account of the reason that no notice required under section 80 CPC had been given to the defendants Nos. 6 to 9 and in this view of the matter the plaint is liable to be rejected under Order VII Rule 11 CPC.
22. That the muslims have remained regularly offering prayers in the mosque in question upto 21.12.1949 and ~~friday~~ prayer are also offered upto 16.12.1949 and as such the idols kept in the mosque in a stealthy and mischievous manner in the night of 22<sup>nd</sup>/23<sup>rd</sup> December 1949 will not confer any right or title upon the plaintiff or upon anyone else to perform Pooja in the said mosque.

23. That the plaintiff has failed to point out as to how the defendants nos. 6 to 9 were interfering in any alleged right of the plaintiff.
24. That the proceedings under section 145 Cr.P.C. and attachment of the mosque in question was also absolutely unjust, improper and illegal and in any case no benefit can be derived by the plaintiff on account of the attachment of the said mosque under section 145 Cr.P.C.
25. That the ownership of the mosque in question vests in the God Almighty and the said mosque is a waqf property and the waqf character of the said mosque cannot be challenged by the plaintiff in the suit specially so when the plaintiff had never challenged the entry of the said waqf which was made in pursuance of the gazette notification issued by the State Government of Uttar Pradesh under the provisions of the UP Muslim Waqf Act 1936.
26. That the plaintiff's suit is barred even by the provisions of the U.P. Muslim Waqf Act, 1936.



27. That the suit is not maintainable even on account of the reason that no notice was served upon the boards as required by section 56 of the U.P. Muslim Waqf Act, 1936 and the suit is liable to be dismissed even on this account.
28. That the plaint is liable to be rejected under order VII Rule 11 CPC.
29. That the manner in which the idols are said to have been kept in the mosque in the night of 22<sup>nd</sup>/23<sup>rd</sup> December 1949, could also not be said to be in accordance with the Hindu Law and Jurisprudence and as such the mere keeping of idols in a stealthily manner could confer no right or title upon the plaintiff or anyone else.
30. That the original plaintiff having expired, the present plaintiff Sri Rajendra Singh cannot even claim those alleged rights which were set up by the original plaintiff and as such the suit cannot be continued by the present plaintiff, Sri Rajendra Singh even on this

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account, and also because Sri Rajendra Singh is not even the son of Sri Gopal Singh Visharad.

31. That the judgment and decree passed by Sub Judge, Faizabad in Original Suit No.61/280 of 1885 (Mahant Raghubar Das Vs. Secretary of State and another) dated 24.12.1885 and confirmed by the District Judge, Faizabad, in Civil Appeal No.27 of 1885 as well as by the Judicial Commissioner of Avadh in Second Appeal operates as res-judicata and so the instant suit is barred by the principles of res-judicata.

32. That the plaintiff is even estopped from claiming the mosque in question as the Janam Bhoomi of Sri Ram Chandraji as the plaintiff's predecessors and specially Mahant Raghubar Das had confined his claim to the Chabutra of 17' x 21' outside the said mosque as being Janam Asthan of Sri Ram Chandraji and also because there already exists Ram Janamsthan Mandir in the northern side of the property in question at a short distance from the pathway passing from the side of the Babri Masjid.

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33. That in view of the facts and circumstances stated above, the suit is liable to be dismissed with costs.

Dated: Lucknow  
24.02.1989

Sd/-  
Defendant No.10

Sd/-  
Advocate  
Counsel for the defendant No.10

VERIFICATION

I, Zamir Ahmad Khan, Secretary, UUP Sunni Central Board of Waqf, do hereby verify that the contents of paras 1 to 7, 10 to 18, 22, 23 and 25 of this written statement are true to my knowledge based on records while the contents of paras 8, 9, 19 to 21, 24 and 26 to 33 of the same are believed by me to be true.

Signed and verified this 24<sup>th</sup> day of February 1989 at  
91, Dr. Motilal Bose Road, Lucknow.

Lucknow Dated

24.02.1989

Sd/-  
Secretary  
U.P. Sunni Central Board of Waqf  
Lucknow

//TRUE COPY//