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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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IN THE COURT OF CIVIL JUDGE, FAIZABAD

(R.S. No.26-59)

Plaint under order 7 Rule 1 C.P.C.

1. Nirmohi Akhara situate in Mohalla Ramghat City Ayodhya though Mahant Jagar Nath Das aged about 54 years chela of Mahant, Mahant and Jarbarahkar, resident of Nirmohi Akhara, Mohalla Ramghat Ayodhya, District Faizabad.

Substituted vide court order 23.7.66.

Sd/-

Substituted vide court order 11.7.78

Sd/-

Amended vide order dated 8.7.67 Sd/-

2. Vaishnab Das R/o Nirmohi Bazar Ramghat Qudh City Ayodhya District Faizabad added vide court's order dated 1.9.95.

Versus

1. Shri Jamuna Prasad Singh amended vide the order dated 23.10.89 on 44(O) by this Hon'ble Court Sd/
2. State of Uttar Pradesh
3. Deputy Commissioner, Faizabad.
4. City Magistrate, Faizabad.
5. Superintendent of Police, Faizabad.
- 6/1. Haji Mehboob (adult)
6. Died Haji Phekku aged 70 years son of unknown, r/o Mohalla Terhi Bazar.
- 6/2. Haji Abdul Ahed both R/o Mohalla Terhi Bazar of Mohalla Terhi Bazar. City Ayodhya The, & Distt. Faizabad.
7. Mohd. Farq aged 50 years son of Haji Ramizan R/o Terhi Bazar.

Amended under the Court order Sd/- 20.9.61

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8. Mohd. Achhan Mian aged about 55 years son of unknown r/o Mohalla Katra.
 9. U.P. Sunni Central Board of Waqfs through its Secretary, Lucknow
Amended vide order dt.23.8.89 this Hon'ble Court Sd./-
(6 to 8) City Ayodhya pargana Haveli Oudh Tahsil and district Faizabad on behalf of themselves and all other members of the Muslim Community.
 10. Umesh Chandra Pandey aged 34 years S/o Shri Ram Shanker Pandey S/o rampali Ayodhya City Distt. Faizabd (Haveli Oudh)
 11. Mohd. Farook S/o Zahoor Ahamad r/o Singarhat Ayodhya Distt. Faizabad.

Amended by the order of this Hon'ble Court dt. 3.12.91 Sd./- 3.12.91

Suit for removal from management and charge of Temple Janma Bhoomi and delivery of the same.

1. That there exists in Ayodhya, since the days of Yore an ancient Math or Akhara of Ramanandi Varagis called Nirmohis with its seat at Ramghat known as Nirmohi Akhara, the plaintiff no.1, which is a religious establishment of a public character, whereof the plaintiff no.2 is the present head as its Mahant and Sarbrahkar.
2. That Janma Asthan now commonly known as Janma Bhumi, the birth place of Lord Ram Chandra, situate in Ayodhya belongs and has always belonged to the plaintiff no.1 who through its reigning Mahant and Sarbrahkar has ever since been managing it and receiving offerings made there at in form of money, sweets, flowers and fruits and other articles and things.
3. That the said Asthan of Janma Bhumi is of ancient antiquity and has been existing since before the living memory of man and lies within the boundaries shown by letters A.B.C.D. in the sketch map appended hereto within which stands the temple building of Janma Bhumi marked by letters E.F.G.K P N M L E and the

building denoted by letters E F G H I J K L E is the main temple of Janma Bhumi wherein is installed the idol of Lord Ram Chandra with Lakshmanji, Hanumanji and Saligramji.

4. That the said temple has ever since been in the possession of the plaintiff no.1 and none others but Hindus have ever since been allowed to enter or worship therein and offerings made there which have been in form of money, sweets, flowers and fruits and other articles and things have always been received by the plaintiffs through their pujaris.

Para 4A-XI "That before the Judgment of the Writ Petition of 11.12.92 on 6th Dec. 1992, the Temples of Nirmohi Akhara were also demolished by some miscreants who had no religion caste or creed.

Para 4A-XII. "The main temple was demolished on 6th Dec. 1992".

Para 10 (Last) "and further cause of action against defendants 1 to 5 arises during pendency of the suit when the property and temples of plaintiff was demolished on 6th Dec. 1992 by same miscreants within the Jurisdiction of this Court."

amended and added to
plaint vide Court's order
dt. 25.5.95 Sd./- 30.5.95

Para 4A. That Nirmohi Akhara plaintiff is the Panchyati Math of Ram Nandi sect. of Vairagies and as such is a religious denomination following its own religious faith and pursuit according to its own custom prevalent in Vairagies sect of Sadhus. The customs of Akhara Nirmohi have reduced in writing on 19.3.1949 by Reg. deed.

Para 4B That plaintiff Nirmohi Akhara owns several temples in it and manages all of such temples through Panches and Mahant's of Akhara. The whole temples and properties vest in Akhara i.e. plaintiff. The plaintiff being a Panchyati Math acts on democratic pattern. The management and right to management of all temples of Akhara vest absolutely with Panches of Akhara and Mahant

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being formal head of Institution is to act on majority opinion of Panches.

Amended and added vide
Court's order dt. 25.5.95
Sd./- 30.5.95

5. That no Mohammadan could or ever did enter in the said temple building. But even if it be attempted to be proved that any Mohammadan ever entered it, which would be totally wrong and is denied by the plaintiffs, no Mohammadan has ever been allowed to enter it or has even attempted to enter it at least ever since the year 1934.

6. That in the year 1950, the City magistrate, Faizabad, the defendant No.4 without any lawful cause and with the active connivance of defendant no.2,3 and 5 and under the wrong persuasion of defendants nos.6 to 8 who claim to represent the Muslim community, attached the main temple shown by letters E F G H I J K L E in the said sketch map with all the articles mentioned in list 'A' appended hereto in a proceeding u/s 145 Cr.P.C. and placed the said temple and the articles under the charge of defendant no.1 as receiver on 5.1.1950.

7. That the plaintiffs have been wrongfully deprived of their management and charge of the said temple and have ever since the said wrongful attachment been waiting for the dropping of the proceedings u/s 145 Cr.P.C. but the same are unduly prolonged and lingered with the connivance of all the defendants and since no immediate termination of the same seems to be in sight and since the defendant no.4 refuses in connivance with other defendants to hand over charge and amendment of the temple to the plaintiffs from the hands of the receiver, the institution of the present suit has become inevitable.

8. That the plaintiffs are entitled that the management and charge of the said temple be delivered to the plaintiff no.1 through the plaintiff no.2 the former's mahant and Sarbarhrahkar.

9. That the defendants 6 to 8 claim to be the representatives of the Muslim Community which has got itself interested in the subject-matter of the suit in not getting the charge and management of the temple delivered to the plaintiffs and are exercising undue influence on the defendants 1 to 5. They are sued in their representative capacity on behalf of the entire Muslim community with the permission of the court.

10. That the cause of action for the suit arose within the jurisdiction of this Hon'ble Court on 5.1.50 on the defendant no.4 illegally taking over the management and charge of the temple with the said articles and entrusting it to the said receiver, the defendant no.1.

11. That the relief claimed by the plaintiffs is incapable of valuation the valuation for the purpose of jurisdiction is fixed at Rs.10,000/- and court fee of Rs.100/- is paid under schedule II Article 17 (6) of the Court fees Act.

12. That the notice of the suit as required by sec.80 C.P.C. has been given to the defendants 1 to 5 which was delivered to them between 6.10.59 and 12.10.59 and which has been replied by them through the defendant no.3 intimating their decision to defend the present suit.

13. That the permission of the court to file the suit against the defendants 6 to 8 on behalf of the themselves and all other members of the Muslim community has been obtained under order 1 rule 8 C.P.C.

14. Wherefore the plaintiffs pray for the following reliefs:-

(a) A decree be passed in favour of the plaintiffs against the defendants for removal of the defendant no.1 from the management and charge of the said temple of Janma Bhoomi and for delivering the same to the plaintiff through its Mahant and Sarbarhrahkar Mahant Jagannath Das. amended vide Hon'ble Court's

order dt. 14.5.90 Sd./-

- (b) Any other relief which the court may deem fit and proper.
- (c) The cost of the suit be awarded to the plaintiffs.

Plaintiffs:-

Sd/-

1. Nirmohi Akhara

Through

Mahant Raghunath Das

2. Mahant Raghunath Das

Sd/-

Sarvajit Lal Varma

Counsel

17.12.59

VERIFICATION:-

I, Mahant Raghunath Das plaintiff no. 2 verify that the contents of this plaint from paras 1 to 10 are true to the best of my knowledge and those of paras 11 to 14 are true to the best of my belief.

Verified this 17th day of December, 1959 in the court compound, Faizabad.

Sd/-

Mahant Raghunath Das

Amended vide court's

Order dated 25.05.95

30.05.95

//True Copy//

IN THE COURT OF CIVIL JUDGE, FAIZABAD,

WRITTEN STATEMENT UNDER ORDER 8 RULE CPC

Nirmohi Akada through Mahant Raghunath
Das & Ors.

... Plaintiff

Versus

Babupriya Dutt Ra & Ors. ... Defendants

Written Statement of Defendant No. 6 to 8

1. Para 1 is wrong and denied.
2. Para 2 is wrong and denied.
3. Para 3 is wrong and vehemently denied. Sit plan is denied.
4. Para 4 is wrong and denied.
5. Para 5 is totally forged and denied.
6. The manner in which Para 6 is written is wrong hence denied.
7. Para 7 is totally forged, false and denied.
8. Para 8 is forged, false and denied.
9. Para 9 is totally false and denied.
10. No right arose to the plaintiffs.
11. Suit is less valued and less court fee has been paid.
12. Denied
13. Denied
14. Plaintiff is not entitled for any relief.

OBJECTION

15. That property against which Plaintiff has filed the suit, is the babri Masjid built by Shanshah Hind Babar Shah, which has

been constructed by Shahanshah Babar in the year 1528 and further made waqf for the Muslim and Muslims have right to offer prayer in it.

16. That after the construction shanshah Babar has provided Rs.60/- per annum as grant from royal treasury for maintenance of the mosque which continued during Mughal period. This amount was enhanced and a sum of Rs. 302, 3 ana and 6 pai was fixed as an annual grant for the maintenance of the aforesaid mosque. This continued during the regime of British Government and in lieu of cash grant, grant free land were given in villages Solapuri, Ghuranpur and Bahoranpur.
17. That in 1885 Raghubar Das Mahant, Janam Sthan Ayodhya filed a suit against the Secretary of State for India in Council and Mohd. Asgar Mutwalli and Khatib Masjid Babri Majakur filed a suit in the court of Sub-Judge, Faizabad.
18. That site plan was also appended with the plaint by the plaintiffs in which mosque was clearly shown and no objection was made by the plaintiffs in this regard. The plaintiff of this suit had sought relief only with regard to a platform (chabutra), therefore, the averments made by the plaintiffs in the present suit that all the disputed property belongs to the temple Ram Janam Bhumi is completely false and groundless and has been framed with bad intention for the purpose of this very suit.

19. The Sub Judge, Faizabad on 24.12.85 dismissed the plaintiff's suit. This verdict was upheld by the appellate court and the remark relating to the title of the plaintiffs regarding platform (Chabutra) was struck off and appeal was accordingly dismissed.
20. That the suit filed by the Plaintiffs was sensational in which all the Mehanthas of Ayodhya and muaajij of Hindu Ayodhyay were in the intercession and lobbying of Defendant of the case. It was and is in the knowledge all the Hindu.
21. That as per the provisions of Muslim Waqf Act No.13 of 1936 the Chief Commissioner of the Waqf was appointed who after inspection of mosque Babri decided that Emperor Babar had constructed this mosque and acknowledged this property as Sunni Waqf. Accordingly legal notification was issued.
22. That the possession of Muslim on the Babri Kosque is continuing since 1528 and hence in case Plaintiff or any Hindu succeed in proving that prior to the construction of Babri mosque there existed any temple on the site in dispute to which defendants vehemently deny, in that situation also on the ground of being in possession for more than 400 years all the rights of plaintiffs have extinguished.

23. That plaintiffs were never in possession over property in suit, therefore, being time barred this suit is liable to be dismissed under section 42.
24. That the suit of the plaintiff is not within the limitation.
25. That the plaintiff has not issued any notice under section 80 CPC to Defendant No. 1 to 5 and hence suit is liable to be dismissed on this ground.
26. That Defendants have no knowledge as to whether any idol has been installed in the property in suit or not. Till 16.12.49 Namaz has continuously been offered in the property in suit and there was no idol by that time. If any idol has been installed surreptitiously even then the nature of mosque will not alter and if any person wants to visit the disputed place for offering prayer and enters into it for this purpose, it will be an offence. In view of the forthcoming election and to get the votes and to defame the secular state and congress government this suit has been filed.
27. That as far as defendants, they know that proceedings of Section 145 Cr.P.C. have been initiated by the defendant no.9 which is false against justice and has been done with the aid and help of Sri K.K.Nayar, Deputy Commissioner, Faizabad and Sri Guru Dutt Singh, the then City Magistrate, Faizabad.

28. There is another temple at Ayodhya which is known as temple Janam Sthan Ram Chandra Ji and is in existence for a very long time where the idols of Ram Chandra Ji and other Gods are installed. The question involved in the suit is that birth place id exists in place of the babri basjid and in view of the forthcoming election and to get the votes and to defame the secular state and congress government this suit has been filed.
29. That the suit of the plaintiff is totally false and the site plan annexed is also false. The things shown in the site plan is totally false and forged. There is Kabiristan in the east and north side of the mosque, in which pokhta various permanent tombs are present. But there is any Shankar Chabutra nor Sita Kope, nor Lomas Chaura. There are Hanuman Dwar, bara bhagwan and Samadhi Markande etc. The manner in which things are given in the site plan are totally false and forged and arbitrary and shown with malafide intention. Besides nothing is reveal that what is the number of ABCD and what is khasra or abadi number and what is height-width and what is the place of book.
30. That Plaintiffs have not disclosed that in which manner they became owner of the property of Defendant and when, till the plaintiffs not disclose this fact till then proper reply cannot be given.

31. That Plaintiff Gopal Singh Visharat and Paramhans Ram Chander Das have filed two suits against Babri Masjid, which are pending. Above should be impleaded as party in the suit, apart from this their mahant birthplace is also necessary party in the suit.
32. That the Babri Masjid is a mosque as per Muslim and govt is also considering the same as mosque, as such suit of the plaintiffs is not maintainable.
33. That proceeding under section 145 Cr.P.C. issued in the mosque as such the manner in which suit is filed is legally not acceptable by the Court.
34. That the suit is not properly valued and hence is not maintainable nor cause of action is arose in the suit.
35. That defendants have no knowledge about proceeding under Order 1 Rule 8 CPC. Answering Respondent are sound to contest the case nor they are eligible for contesting the case. Plaintiffs have intention to compel the defendants by threatening or frightening. All the Muslim of India has interest in the suit and all such person should be made party in the suit who can represent the case.
36. That the suit is filed with malafide intention just to harass and humiliate and same is liable to be dismissed under section 35 A of the CPC.

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Applicant
Haji Feku Defendant No.6
Haji Mohd Fayak Defendant No.7
Ahmad Hussain @ Miyan Defendant No.

Date 28.3.60

We the Defendant No.6 and 8 verify that the contents
from para 1 to 36 of the written statement are true and correct
to the best our knowledge.

Verified at Ayodhya and Defendant no.7 has verified at
Court Faizabad. Date 28.3.60

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH LUCKNOW

O.O.S. No.3 of 1989

(Regular Suit No.26 of 1959)

Nirmohi Akhara

.....Plaintiff

Versus

Babu Priya Dutt Ram (Deceased) and othersDefendants

Additional Written Statement of Defendant No.9 (U.P. Sunni
Central Board of Wakf).

The Defendant No.9 begs to submit as under:-

1. That the contents of para 4-A of the amended plaint are denied as stated and in reply thereto it is submitted that the Plaintiff is put to strict proof of the averments of the para under reply.
2. That the contents of para 4-B of the amended plaint are also incorrect, hence denied as stated. The averments of the para under reply are even vague and unspecific and the plaintiff is put to strict proof of the same.
3. That the contents of para 4-G XI are also quite vague and ambiguous and hence are denied as stated. In this respect it is submitted that on 6th December, 1992 the so-called Ram chabutra was demolished alongwith the Babri Masjid by the miscreants collected at the instance of Vishwa Hindu Parishad etc.
4. That in reply to para 4-G XII of the amended plaint it is submitted that on 6th December, 1992 the building of the Mosque was demolished and the same could not be called or alleged to be the Main Temple.

5. That the contents of para 10 of the amended plaint are also denied as stated and in reply thereto it is submitted that the averments of the para under reply are quite vague as the plaintiff's suit does not pertain to the so-called Ram Chabutra hence no cause of action can be said to have arisen to the plaintiff during the pendency of the suit on account of the demolition of the said Chabutra.
6. That in reply to the said amended portion of the plaint averments of the written statement of the answering defendant are also reiterated and it is further submitted that amendments made in the plaint are quite vague and ambiguous and the same are liable to be deleted.

Dated: 24.08.1995

Sd/-

Defendant No 9

Secretary

U.P. Based Central Board of Waqf
Lucknow

Sd/-

Advocate,

Counsel for defendant no. 9

VERIFICATION.

I, Mohd, Mien Siddique, Secretary of the U.P Sunni Central Board Waqf, Hall avenue, Lucknow, do hereby verify that the contents of paras 1 to 4 of this additional written statement are true to my knowledge and those of paras 5 are true to my knowledge based on records and those of paras 6 of the additional written statement are believe by me to be true.

Signed and verified this 24th day of August 1995.

Sd/-

DEFENDANT NO. 9

Secretary

U.P. Based Central Board of Waqf
Lucknow

//True Copy//

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH LUCKNOW

WRITTEN STATEMENT UNDER ORDER VIII RULE 1
C.P.C. IN OTHER ORIGINAL SUIT NO.3 OF 1989

Nirmohi Akhada etc.Plaintiffs

Versus

Baboo Priya Dutt Ram & othersDefendants

Written Statement of the Defendant Umesh chandra Pandey

1. That the contents of para 1 of the plaint are not admitted. The plaintiff no.2, Mahant Raghu Nath Das, died and there has been no proper substitution in his place.
2. That the contents of para 2 of the plaint are denied. However, it is submitted that the Janma & Asthan is a holy place of worship and belongs to the deity of Bhagwan SHRI RAM LALLA VIRAJMAN there. It never belonged to and could not have belonged to the plaintiff no.1. It is denied that the plaintiff no.1 ever managed it.
3. That the contents of para 3 of the plaint, as written are denied. The holy JANMA ASTHAN OR JANMA BHUMI is actually a very very old temple, whereas the plaintiff AKHADA on the other hand is an institution and owes its existence for no longer than two hundred years. The correctness of the sketch map and the boundaries of the temple with reference to the map are not disputed. The main presiding deity of the temple is BHAGWAN SHRI RAM, although there are several other idols of other deities, termed as RAM DARBAR and are worshiped. Besides, there are other symbols, such as, 'CHARAN', SITA RASOI' etc. through whom the deity of BHAGWAN SHRI RAM therein is worshiped at SHRI RAM JANMA BHUMI, in addition to the ASTHAN OF SHRI RAM JANMA BHUMI, which by itself is a deity and worshiped as such.

4. That the contents of para 4 of the plaint are not admitted. A Hindu Temple is deemed to be possessed and owned by a deity. The principal deity of SHRI RAM JANMA BHUMI is BHAGWAN SHRI RAM. Any offerings must have been received by the Manager of the same from time.
5. That the contents of para 5 of the plaint are not admitted in the form they have been pleaded. Although it is made to appear that in the first war of independence in the year 1857 A.D., the British, to divide the Hindus and Muslims, mala fide acted by dividing the said ASTHAN by creating an inner enclosure and describing the boundary within the inner enclosure as a mosque but no Muslim who was a true Muslim, would appear to have frequented it for offering his prayer as the same is prohibited by the SHARIYAT. Moreover even ALAMGIR (EMPEROR AURANGZED) issued a mandate, known as FATWA-E-ALAMGIRI which clearly prohibits the offering of prayer by Muslim at such places. More so the KASAUTI pillars and the carvings of Gods and Goddesses thereon will clearly show that this place could not be used by a true Muslim for offering his prayers therein. It will also be seen that the place wrongly alleged as mosque virtually stood land-locked by Hindu Temple, wherein there was the worship of the deity going on. Entry to this inner enclosure was also obstructed.

The British tried to set up the descendants of MIR BAQI, a Shiya Muslim, as the MUTWALLI, but he denied the TAULLAT and never looked after the disputed place in any capacity, what to say of looking after as a MUTWALLI thereof.

6. That the contents of para 6 of the plaint are denied. The building was attached and the Receiver appointed by the order dated 29.12.1949 by the court of Additional City Magistrate, Faizabad. In the said proceedings, which was under Section 145 Cr.P.C. (As it then stood), the Muslims also joined. all those Muslim gentlemen, who have been arrayed as defendant Nos.6 to 8 in the suit, have died. The real and legal representatives of the defendant Nos.6 to 8 have not been properly brought on record, in accordance with the provisions of law.

In view of the facts stated hereinabove, the cause of action for the present suit, does not arise. The suit stands abated completely on the death of the last one of the defendants No.6 to 8, which occurred many years ago. The defendant Nos.3,4 and 5 to the suit are the mere posts and offices and are not juristic persons. The suit against them does not lie. So far as the defendant No.2 is concerned, it has not been impleaded in accordance with the provisions of law.

7. That the contents of para 7 of the plaint are not admitted. The plaintiff is not entitled to file the suit which apparently is beyond the period of limitation prescribed therefor in accordance with the provisions of law. The plaintiffs did not join the proceedings under Section 145 Cr.P.C. nor did they file any revision against the order passed by the Additional City Magistrate, in the competent court of law.
8. That the contents of para 8 of the plaint are denied. The plaintiff No.2 died and there is no proper and legal substitution made in the plaint.
9. That the contents of para 9 of the plaint are incorrect and are denied. No Muslim individual came to contest the said case as the representative of the Muslim community. The defendant Nos.6 to 8 were all Sunnis and they could not

represent the Shia community of the Mohammedans. As such, it can not be said that the defendants Nos.6 to 8 could or were representing the Muslim community in general.

10. That the contents of para 10 of the plaint are not admitted. On the own showing of the plaintiffs, the cause of action arose in their favour on 5.1.1950, whereas the suit was filed by them in the year 1959. Thus the suit has been filed beyond the prescribed period of limitation. Further the plaintiffs, being not the Manager or the next friend, of the deity, are not entitled to file the suit.
11. That the contents of para 11 of the plaint are not admitted. The suit has not been valued in accordance with the provisions of law and, therefore, the payment of court fees also is not according to the provisions of law.
12. That the contents of para 12 of the plaint are denied for want of proper knowledge.
13. That the contents of para 13 of the plaint are not admitted. Even if any such permission, as mentioned by the plaintiffs, to sue the defendants No.6 to 8 on behalf of themselves and on behalf of all the members of the Muslim community, has been obtained under Order I Rule 8 of C.P.C., then it must be illegal and deserves to be recalled.
14. The plaintiffs are not entitled to the reliefs claimed.

ADDITIONAL PLEAS

15. That the suit, as framed, is bad in the eye of law. The defendants No.3 to 5 are mere posts and offices and are not juristic persons. The defendant No.2 has not been properly impleaded as a party to the suit. As such, the plaintiffs' suit is bad for the misjoinder of parties as also for non-joinder of necessary persons as the parties to the suit.

16. That the plaintiffs' suit is barred by the provisions of Indian Limitation Act, as the same is much beyond the period of limitation prescribed by law.
17. That the plaintiffs had adequate remedies under the provisions of the Code of Criminal Procedure (as it then stood) against the order, Returning Officer passed by the Additional City Magistrate, Faizabad under Section 145 of the Cr.P.C. The plaintiffs, having not availed of the said remedy within the time prescribed therefor and having not filed the suit within limitation prescribed therefor, their suit is liable to be dismissed on that score.
18. That at any rate, the Receiver appointed by the Additional City Magistrate, Faizabad under the provisions of the Section 145 Cr.P.C. having died and subsequently the Receiver having been appointed by the Civil Court in the Civil Suit under the provisions of the Civil Procedure Code, the present suit of the plaintiffs in its present form, can not proceed and deserves to be dismissed on this count also.
19. That even if the Receiver, appointed by the Civil Court, is or be impleaded in the suit, then the same is illegal and without jurisdiction.
In this very court another suit the other original suit No.4 of 1989 (Regular Suit No.12 of 1961) is pending, wherein the plaintiffs in this suit are a party. If they have any right or claim for restoration of the property, alleged to be their, they could and can get their relief in the said other Original Suit No.4 of 1989.
20. That the Original Suit No.3 of 1989 (Suit No.26 of 1989) and the other Original Suit No.4 of 1989 (Regular Suit No.12 of 1961) are separate suits with different reliefs claimed and different causes of action. These two suits can not be termed

as the Suits having been consolidated together, since the same would amount to the Misjoinder of causes of action. They cannot be tried together.

21. That in view of the facts, stated hereinbefore, the Suite (O.O.S.No. 3 of 1989) is liable to be tried separately and is liable to be dismissed with costs.

LUCKNOW
DATED - 21.10.1991.

Sd/-
(UMRSH CHANDRA PANDEY)
DEFENDENT

VERIFICATION

I, Umesh Chandra Pandey, the defendant, to hereby verify that the contents of paras 1 to 12 and 15 to 17 of this writtens statement are true to my Knowledge and those of paras 13, 14, 20 and 21, I verily believed to be true on the basis of the legal advice tendered.

Verified this 21st day of October, 1991 within the compound of the Hon'ble High Cout at Lucknow.

LUCKNOW
DATED - 21.10.1991.

Sd/-
(UMRSH CHANDRA PANDEY)
DEFENDANT

//True Copy//

O.O.S. No.3 of 1989 (R.S. No.26-59)

In the Court of the Civil Judge, Faizabad

Reg. Suit No.26 of 1959

Nirmohi Akhara and anotherPlaintiffs

Versus

Babu Priya Datta Ram and othersDefendants

Replication to the Joint Written Statement filed by defendants 6 to 8 Hazi Faiku (since dead) Hazi Muhammad Faiq and Ahmad Husain alias Achhan.

The contents of paras 1 to 14 of the plaint are correct and those of W.S. are wrong and denied.

Para 15. The allegations contained in para 15 of the written statement are totally incorrect and are denied. The property in suit is neither a mosque nor is it known as Babri Mosque, nor was it built by Emperor Babar through Mir Abdul Baqi. Nor was it made wakf. The property in suit is the temple of Janma Bhumi.

Para 16. The contents of para 16 of the written statement are totally incorrect and are denied.

Para 17. The contents of para 6 of the written statement are denied. Janma Asthan is a different temple not connected with the temple of Janma Bhumi and with which the plaintiffs have no concern. The temple of Janma Asthan is situated to the north of the temple of Janma Bhumi across the road passing between Janma Bhumi and Janma Asthan. The plaintiffs are not aware of the said suit, if any, filed by any person known as Mahat Raghubar Das as Mahant of Janma Asthan.

Para 18. The contents of para 18 of the written statement are totally wrong and are denied. If any, sketch map be found to have been filed by the said Raghubar Das in the said suit it would be totally false, fictitious and collusive and is not binding on the plaintiffs. The building in suit is nothing else but the temple of Janma Bhumi.

para 19. The contents of para 19 of the written statement are denied.

Para 20. That contents of para 20 of the written statement are pure concoctions are denied.

para 21. The contents of para 21 of the written statement are denied. It was beyond the authority and jurisdiction of the said Chief Commissioner of waqf to declare the temple of Janma Bhumi as a mosque. His decision and declaration, to the said effect, if any, is totally null and void. The said notification, if any, is also null and void and of no effect in law. The plaintiffs were never intimated of any proceedings held by the said Chief Commissioner regarding the temple of Janma Bhumi, that is, the building in suit and if any proceedings were conducted secretly and surreptitiously they have no effect in law. The said notification, if any, is neither final nor is it binding on the plaintiffs.

Para 22. The contents of para 22 of the written statement are totally false and are denied. The Muslims were never in possession of the building in suit and the allegation regarding the perfecting of the right of the muslims over the building in question by adverse possession is a pure fiction, concocted for the purposes of the suit.

Para 23. The contents of para 23 of the written statement are totally false. The plaintiffs have always been in peaceful possession of the

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building in suit.

Para 24. The contents of para 24 of the written statement are denied. The plaintiffs have ever been in possession of the temple in suit and no question of expiry of the period of limitation arises.

Para 25. The contents of para 25 of the written statement are denied. Proper notice u/s 80 of the C.P.C. was given to the defendants 1 to 5. The other defendants have no right to take the plea of want of notice to the defendants 1 to 5.

Para 26. The contents of para 26 of the written statement are deliberately false and are denied. The muslim defendants as well as the other defendants and the whole muslim community know that the idol of the deity are installed in the building in suit i.e. in the temple of Janma Bhumi and regular puja of the idol is being performed under the receivership of the defendant no.1. No prayers were ever offered by any muslim in the said building. The suggestion of the defendants that any idol were installed in the suit building stealthily is false and malicious. The said building is not a mosque and the relief asked for is within the competence and jurisdiction of the civil court to grant.

Para 27. The contents of para 27 of the written statement are false, malicious and scandalous. It was the temple of Janma Bhumi which was the subject matter of proceeding under Section 145 Cr.P.C. and not any mosque as also admitted by muslims in the said proceeding. It is admitted that the proceedings under section 145 Cr.P.C. were illegal and were in total denial of justice to and in flagrant invasion on the fundamental rights of the plaintiffs in regard to their management of the said temple. The defendants had

no interest in the building in suit and no question of invasion over their rights arises. It is the plaintiffs who have suffered the real loss and who have been deprived of their right of management of the said temple and receiving offerings made thereat.

Para 28. The contents of para 28 of the written statement are totally wrong and are scandalous. The only temple built on the sacred place of the birth of Lord ram Chandra is the Janma Bhumi temple in suit. There is no temple known as temple Janma Asthan as suggested by the defendants built on the place of birth of Lord Ram Chandra. The temple of Janma Asthan which is situate to the north of the temple of Janma Bhumi in suit is a separate temple which is not at all connected with place of birth of Lords Ram Chandra. The defendants seem to exploit the name of the said temple to create a confusion regarding the real place of birth of Lords Ram Chandra. They should point out clearly by correct location as to which is the Janma Asthan Temple mentioned in this para of their written statement. The idols of "Ram Chandra Ji and others" are installed in all the Hindu temples all the world over. The emphasis of communal bias alleged in the written statement is misplaced. The plaintiffs having been aggrieved by the invasion through the illegal proceedings under Section 145 Cr.P.C. upon their fundamental rights of managing their own temple have taken recourse to the court of law in defence of their own legal right. it is the said defendants who supported and instigated by their own fanatic friends are advancing a false and a preposterous claim to the temple of Janma Bhumi by blaspheming it with the name of Babari Masjid. The plaintiffs claim has no relation with any election and to characterise the plaintiff's claim as an attempt to jeopardize the success of a secular state in India is simply scandalous. it is in fact this defendants and their supporters who by denying the plaintiffs rights and by putting up a false and a fanatic claim to the sacred

place of the birth of Lords Ram Chandra are out to blackmail the noble efforts of the Indian people to the attainment of a secular state.

Para 29. The contents of para 29 of the written statement are wrong and are denied. The description of the property has been correctly given in the plaint and the sketch map with all its inferences is correct.

Para 30. In reply to para 30 of the written statement the plaintiffs contend that they have been in possession and management of the temple of Janma Bhumi ever since the living memory of man. The said temple always belongs to the plaintiff and was managed through his Sarbarahkar the plaintiff no.2 being the present Sarbarahkar.

Para 31. The contents of para 31 of the written statement are denied.

Para 32. The contents of para 32 of the written statement are denied. If the former Government ever acknowledged the temple of Janma Bhumi in suit as Mosque it was simply preposterous and collusive.

Para 33. That contents of para 33 of the written statement are totally wrong and are denied. The plaintiffs suit as framed is maintainable.

Para 34. That contents of para 34 of the written statement are denied. The plaintiffs claim is perfectly justified. The plaintiffs have been in possession of the temple in suit for an immemorial

Time and even through the evidence of the construction of the temple by the plaintiff No. 1 through his mac... Sarbarahkar may not be traced due to the lapse of immemorial age and want of written records the plaintiffs have acquired title to it by open and adverse possession for a period of time which is longer than the living memory of men.

Para 35. The contents of para 35 of the written statement do not call for a reply. The proceedings under order 1 rule 8 C.P.C. were properly taken. The plaintiffs have no objection to any Muslim individual or institution joining the other defendants.

Para 36. The contents of para 36 of the written statement are denied. It is the said defendants who are deliberately resisting the plaintiffs claim on grounds known to them as false and it is they who should be ordered to pay special cost to the plaintiffs.

Plaintiffs :-

1. Nirmohi Akhara
2. Mahant Raghunath Das

VERIFICATION

I, Pujaji Girwar Das Chela of Mahant Raghunath Das of Nirmohi Akbare, Ajodhya, Pairokar of the case do verify that the contents of paragraphs 1 to 18, 23, 29 to 32 are true to my knowledge; those of paragraphs of 19 and 20 to my belief and those of paragraphs 21, 22, 24 to 28, 33, 34 and 38 partly to my knowledge and partly to my belief.

Verified this 13th day of May 1968 in court compound at Faizabad.

(Girwar Das)

//True Copy//

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH LUCKNOW

In Re:

O.O.S. 3/1989

Nirmohi Akhara etc.

... Plaintiff

Versus

Babu Priyadatta Ram Etc.

... Defendants

Replication on behalf of plaintiff Nirmohi Akhara against the written
statement of Defendant No.10.

1. That the allegations contained in plain from para 1 to 14 are correct and are confirmed again.
2. That the contents contained in para 1 of the written statement of defendant No.10 are denied. The defendant Umesh Chandra was not even in existence in the world when cause of action of the suit accrued. Defendant No.10 has been made a tool and lever by certain group of persons who want to demolish the secular spirit of constitution of India and want to create confusion denying even the mandate of order law occurs.
3. That contents of para 3 as contained in the written statement of defendant no.10 are denied. Umesh Chandra being of 32 years of age cannot say anything about the Mahant of Nirmohi Akhara or about it's existence. Nor he has any clear conception of Nirmohi Akhara which has it's written customs being recognized some more than 500 years ago, in continuity, some of customs are written in a registered deed dated 19.3.49 (prior to date of attachment dated 29.12.49).
4. That a chronological events of growth and existence of Math witnessed a glorious revival of Hinduism with the advent of great religious preceptor Shankrachara at the end of 7th century A.C. The Hindus Maths were established for the first time by Shankaracharya

who himself founded four Maths at the four corner of India (1) Goverdhan Math at Puri, (2) Jyoti Math at Badrinath, (3) Saroda Math at Dwarka, (4) Sringari Math on the Tangabhadra.

5. That practice of setting up Maths which was started by Shankracharya was followed by almost all the religious Teachers since then. The first in order of time was Ramanujacharya next followed by Ramand.

6. That Ramanand founded a sect of Vaishnabs known as Ramats which contains a large element of ascetic population who are to be found in Baharas and Ayodhya Ramanand had established several Maths. Ramanandi Maths consist solely of celibates. They obey no caste rules and admit even Sudras in their brother-hood. That RMATS worship one God in the form of Rama and they call themselves Dasses servants of Lords. Thus existence of plaintiff fraternity is coming down from the time of Rama Nand.

7. That near about more than 500 years ago a great spiritual preceptor known as Shri Swami Brijanand Ji and Shri Balanand Ji belonging to Ramanandi sect of vairagies (belonging to fraternity of plaintiff) had established three Annu known as (1) Nirmohi, (2) Digamber, (3) Nirwani for protection, improvement of "Chatuha Rama Nandi Sampradaya" comprising seven Akhara in it as follows:-

- (1) Sri Panch Ramanandi Nirmohi Akhara.
- (2) Sri Panch Ramanandi Nirwani Akhara.
- (3) Sri Panch Ramanandi Digambari Akhara.
- (4) Sri Panch Ramanandi Santoshj Akhara.
- (5) Sri Panch Ramanandi Khaki Akhara.
- (6) Sri Panch Ramanandi Niralambi.
- (7) Sri Panch Ramanandi Maha Nirwani.

8. That aforesaid Akhara are Panchayati Math and act on a domestic pattern. The real power vests in Panchas. The appointment of Mahant is through election by Panchayat and has become only a formal head of institution.
9. The Nirmohi Akhara being a Panchayat Math can own several temple in it as such Nirmohi Akhara owns a temple known as Ram Janam Asthan i.e. Birth place of Lord Rama.
10. That it would be pertinent to point out here that Kistwar plot No.163 of first regular settlement of 1861 has been a very big plot having 5 Bighas 19 Biswas of land in it but when in the year 1995 amended map was prepared a road bifurcating Janam Asthan now known as Ram Janam Bhumi lies towards south of the Road whereas Janam Asthan of Gudar Dass lies towards north side of the Road leading from Hanuman Garhi to Janam Bhumi Road as shown in map of last settlement of 1937 A.D. by Kistwar No.159 and 160.
11. That at the time of attachment of main building outer enclosures comprising of Ram Chabutara where diety of Bhagwan Ram Lala Ji is installed with Laxman Ji. Bharat Ji and Shatruhan Ji in a cage (Guffa), situate both in the eastern side and western side with Hanuman Ji are installed. The outer enclosure have panchmukhi Shanker Ji, Ganesh Ji etc. also with Chhatti Pujan Asthan where Holy Foot Prints of Lord Ram (Charo Bhaiya) are penerial source of worship of followers of brotherhood of Ram Nandi Vairagies. These outer enclosure was in possession of Nirmohi Akhara as the Fard of 145 Cr.P.C. proceedings itself depicts prior to attachment in 1882 Feb.

12. The Nirmohi Akhara is a religious denominations and had been maintaining managing the disputed temples since long and as already said in the plaint always used to receive it's offering through Pujaris.
13. That Baba Baldeo Das was pujari as well Panch of Nirmohi Akhara when attachment was made. His disciple Bhaskar Das now UP-SAPPANCH and General Agency of Nirmohi Akhara was there with him discharging the duties of Pujari. According to custom of Nirmohi Akhara 5 Sadhus 3 Pujaries 2 cooks and one Panch always used to live at Shri Ram Janam Bhumi. Building certificate for outer enclosure has always been passed in the name of Mahant Raghunath Das of Akhara.
14. That Lord Ram Chandra installed in main temple belonged to Panchayati Math of Nirmohi Akhara. The big Deity of Lord Ram Chandra installed therein, is Achal Deity while a little Ram Lalla Ji as called Utsava Murti which according to custom prevalent in Bairagi Sect of Sadhus in Ayodhya are used to discharge certain outside ceremoney like Shrud Punoo etc. Beside there are six Salig Ram Bhagwan. There are Singhasan Silver 2, one Murti of Hanuman Ji and other parshades are there as detailed in para 3 of the plaint.
15. That Panchas of Nirmohi Akhara and Panchas of Nirwani Akhara fought together against many civil forces to save Hanoman Garhi and Ram Janam Bhumi and as such Hanuman Garhi belonged to Panch Rama Nandi Nirwani Akhara similarly Sri Ram Janam Bhumi belonged to Panch Ramanandi Nirmohi Akhara and same custom riwaz Parampara as are applicable to Hanuman Garhi is and used to

be discharged for darshan of Hindu Public at large by Nirmohi Akhara prior to attachment.

16. That outer enclosure was owned and managed by Nirmohi Akhara. Plaintiff. In the year 1967 it was released by court of City Magistrate, Faizabad in favour of Ram Lakhan Das, Goliki a Panch of Nirmohi Akhara in inter see dispute. Again in the year 1973 Regular Suit No.9/73 in the Court of civil Judge, Faizabad and several other disputed intersee upto Regular Suit No.39/82 followed. The Judicial record and it's decisions are in favour of Nirmohi Akhara proving the title and possession of plaintiff. Since 1982 the outer enclosure is in possession of Receiver appointed by Court in regular Suit No.39/82 pending in the court of Civil Judge III, Faizabad.
17. That contents of para 6 of written statement of Defendant No.10 are denied. The case was vehemently fought by Panch Nirmohi Akhara. Baldeo Das was a prominent figure who started Akhand Kirtan beneath Tin She Chabutara. He also filed written statement in 145 Cr.P.C. proceeding. Several Mohammadans of Vicinity had filed affidavit in favour of Nirmohi Akhara. The parties arrayed have been arrayed legally and constructive presence of all against whom order 1 rule 8 C.P.C. have been enlarged shall be presumed to exist by motion of law. There is no question of abatement in such a suit. The order dated 30.7.53 passed by City Magistrate in case u/s 145 C.P.C. case No.1/2/18 was only to consign the record which shall be taken after the order of Civil Court.
18. The contents of para 7 of written statement of defendant No.10 are denied.

19. That contents of para 8 of written statement of defendant No.10 is denied. Plaintiff being Panchayati Math is a legal entity which will never die. Some hidden greedy person may emerge to say anything to their lust against Nirmohi Akhara, but Nirmohi Akhara as being eternal legal body had fought for and is fighting for his legal right regarding disputed temple.
20. That contents of para 8, 9, 10, 11, 12, 13 and 14 of written statement of defendant No.10 are denied.
21. That contents of para 15 are denied being repetition only.
22. That contents of para 17 are vague and are denied.
23. That contents of para 18 and 10 of written statement of defendant No.10 are denied. The defendant No.10 is too short to give any advice to plaintiff.
24. That contents of para 20 of written statement of defendant No.10 are denied.
25. That contents of para 21 of written statement of defendant No.10 are misconceived and hence denied.
26. That Umesh Chandra has been utilized just by Hindu Vishwa Parishad only as a lever for some ulterior motive best known to Umesh Chandra.

Sd/-
Plaintiff
Nirmohi Akhara
Through Mahant, General Agent
Mahant Bhaskar Das

VERIFICATION

I, Mahant Bhaskar Das do hereby verify that contents of para 1 to 26 are true to my knowledge. Verified this 8th day of Nov. 1991 at Court Compound, Faizabad.

Sd/-
Mahant Bhaskar Das

Sd/-
(R.L. Varma)
Advocate

//True Copy//

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH) LUCKNOW

In Re

O.O.S. No.3 of 1989

Nirmohi Akhara Etc.

... Plaintiff

Versus

Babu Priya Datta Ram Etc.

... Defendants

AFFIDAVIT

I, Mahant Bhaskar Das Chela of Baba Baldeo Das aged about 70 years resident of Naka Muzafara Hanuman Garhi, Faizabad do hereby solemnly states and affirm on oath as under:-

1. That deponent is General Agent of Plaintiff and is also it's UP-Sarpanch and is doing it's pairvi and is fully conversant with the facts of the case.
2. That the contents of para 1 to 26 of accompanying replication are true to the personal knowledge of deponent.

Deponent

Sd/-

(Mahant Bhaskar Das)

Faizabad: 8.11.91

VERIFICATION

I, Mahant Bhaskar Das, General Agent of Nirmohi Akhara and being it's UP-Sarpanch do hereby verify that the contents of para 1 to 2 of this affidavit are true to my knowledge. No part of this is false and nothing material has been concealed, so help me god.

Verified this date of 8th Nov. 1991 at Faizabad Court Compound.

Deponent

Sd/-

(Mahant Bhaskar Das)

IDENTIFICATION

I identify Mahant Bhaskar Das who has signed before me.

Sd/-

(R.L. Varma)

Advocate

Solemnly affirmed before me on 8.11.91 at 3:13 P.M. by Mahant Bhaskar Das the deponent who has been identified by Sri R.L. Varma, Advocate, Faizabad. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which are being readover and explained to him.