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

O.O.S. No – 3/1989

Regular Suit no .- 26/1959

Nirmohi Akhara & others ...Plaintiff

Virsus

Baboo Priya Dutt Ram . ..Defedant

**STATEMENT OF D.W 3/10  
SHRI PATESHWARI DUTT PANDEY**

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Main Statement on Affidavit Under Order  
18 Rule 4, Code of Civil Procedure

**Dated 23.3.2004**

**D.W.- 3/10 Shri Pateshwari Dutt Pandey.**

**Affidavit**

I Pateshwari Dutt Pandey, age about 74 years, son of Sh. Ghirrou Pandey, advocate, Gulab Nagar Colony, Mouja Janoura, Pargana – Haveli Avadh, Tahsil Sadar, City and District – Faizabad solemnly give the statement as below:

Para1: I have been practicing as an advocate in Faizabad District since 1966.

Para 2:I was enlisted in the Commission's List of advocates nominated by Faizabad Judge. I used to perform both site plan as well as Survey Work of the Commission and I had acquired a lot of experience of the above work. I am an old resident of Janoura. District Faizabad.

Para 3:I am aware of disputed Temple of Sri Ram Janama Bhumi Ayodhya. I had performed the site survey work of the Commission in 1973 by visiting the site for many days.

Para 4:I received the summon of Hon'ble High Court personally through Mahant Bhaskar Das and advocate Sh. Ranjit Lal Verma regarding the above suit alongwith the photocopy of original suit No. 9/73 and that of report of Hon'ble Civil Judge (C.D.), Faizabad in the case of Nirmohi Akhara virsus Ram Lakhan Sharan Das. I have gone through it and also examined the original File. This photocopy is the copy of the certified photo copy and the original copy of the Report is not available in the main file and the same has been destroyed. The name of Sh. Pateshwari Dutt Pandey is recorded in the index portion of Commissions Report, which is available in the original file. The photocopy of the certified copy of Commission's Report, dated 13.10.1973 is attached with the Affidavit at List – (I). The original Report was filed by me after visting the site in the Honourable court of Civil Judge, Faizabad in connection with the soriginal suit No. 9/73 Nirmohi Akhara virsus Ram Lakhan Islasi. The original Report was filed with the court after duly signed by me and its photocopy is attached at List (I) which I have read. I hae given on the spot position in the Report and whatever things, such as Board and Daan Patra were found ther, the same have been shown in it. Whatever was written on the board that was noted by me in the presence of advocates and in compliance with their instruction, which was correct as per on the spot position.

Para 5:When I was assigned the Commission work in August 1973, I measured the iron bar barricaded portion or the North-Eastern and South courtyard attached with the three Gumbads. Whatever facts

were written on the board in Devanagari or English script were literally read and noted down word by word and are strictly as per on the spot position. I have given detail of all the boards in my Report at List (I) attached with my Affidavit which is correct.

Deponent

Sd/-

Pateshwari Dutt Pandey

#### VERIFICATION

I, Pateshwari Dutt Pandey, advocate and the above Deponent take the oath solemnly, witnessing the God and attest herewith that whatever I have stated in Section 1 to 5 of my affidavit is correct and true to my knowledge and there is nothing incorrect or hidden in it, God may help me. Attested in High Court Campus, Lucknow.

Deponent

Sd/-

Pateshwari Dutt Pandey

I, Ranjit Lal Verma, Advocate verify herewith that the Deponent Shri Pateshwari Dutt Pandey has signed in my presence, I know and recognize him.

Dated 23.03.2004

Ranjit Lal Verma

Lucknow

Advocate



In the Court of Hon'ble Civil Judge, Faizabad  
Original suit No. 9 of 1973

Nirmohi Akhara ----- Plaintiff

Versus

Ram Lakhan Saran Das ----- Defendant

Date of Hearing 1.10.1973

Commissioner's Report -----

In the above suit after getting the order from the commission and after informing both the parties in advance. I visited the site on 22<sup>nd</sup>, 26<sup>th</sup> August and on 16 September 1973. The learned advocate of both the parties, Shri Ranjit Lal Verma and Shri Ram Chandar Verma were also present at the site every day, in whose presence, action as directed by the commission was undertaken. The site was measured to the extent as asked by and whatever was asked to be noted was noted. After measuring the disputed Mandir a drawing at the scale of 1" – 10" was prepared and the report is enclosed.

Both the parties requested to write down whatever was written on ----- signboards displayed at many places on the walls of the temple.

The entire drawing which was prepared at the request of both the parties, has been marked as A, Ba, Sa, Da, Ya, Ra, La, Va with a view to gain understanding. The temple situated at western side from the site Ba, Sa is also found disputed which is attached and has been placed under police custody.

There is a 'Gond tree' on the eastern side of the site Ya and there is a concrete platform on the eastern side. The roots of "Gond tree" are spread over to the platform. There is another small concrete platform measuring 9" feet wide and long on the North East corner of this platform. There is an about 7.8 feet high iron bar grounded in the mid of that platform which was stated to be grounded last year by both the parties for hoisting the flag. The learned advocate of the defendant stated and that platform was constructed for offering Pooja and for chanting Ram Bhajan.

There is a Neem tree in the North of the site "T" where there is an platform. It is covered by strips of bamboos leaving the 9" x 7" space from the wall on the Eastern side and the door of the "tattar" is on the North side. The statues of Lord Shankar, Parvati Ji, Ganesh Ji, Swami Kartikey Ji, Nandeshwar Ji and Awadeshwar Nath Ji are on the platform. It was stated to be a temple of Shri Awadeshwar Nath Ji by plaintiff.

There is another platform on the North-West side of the above site which is shown by the words as Ka, Kha, Ga, Gha, Cha, Chha in the drawing. This platform is 2" - 2" high from the ground level. This is platform is down in the middle in Southern side which is shown as Ta, Tha, Da, Dha in the drawing. There a Tulsi Plant, on this Ta, Tha, Da, Dha platform. It was stated to be a Tulsi Ka Chaura by the parties. This is 3" : 4" high from the ground level.

Platform Ka, Kha, Ga, Gha, Cha, Chha is divided in to four parts. First part which has been

shown as Ta, Tha, Ee, Dha, Gha, Cha is totally uncovered. Second part has been shown at E, EE, Tha, Fa. There are three doors in it which are in the Northern Side. These three doors are made up of marble stone. It was stated to be a Temple of "Shri Ram Lalla Shri Ram Janambhoomi" by the plaintiff. All the four brothers in their child hood alongwith many toys etc have been depicted in the middle of the throne made from silver and Hanuman Ji is also sitting by their side. In its North, there are two round platforms in front of it, one in the East and another in the West which was shown by ^ mark on which priest sits and also goes to Temple by crossing it Excluding its North side, it is covered from three sides by strips of bamboos and is covered from above.

The Eastern and Western part of Shri Ramlalla Temple is open from above and there is a cave constructed below the ground level inside the platform. The Eastern cave is shown by the words Chha, Ta, Fa, Ph ( ) and Western cave is shown by the words E, E, Dha, Ka in the drawing.

It was stated that the Eastern part in Shri Ram Janambhoomi Temple, Shri Ramji is seated in the lap of Kaushaliya Ji and in the Western part of cave of Ram Janambhoomi Temple, Shri Bharat Ji. Satrugan Ji are sitting alongwith the wooden sandal (Charan Paduka) of Shri Ram Devotees take the darshan of Bhagwan in both the sides of caves of Ram Lalla Temple, and thereafter goes around the platform shown at Ka, Kha, Ga, Gha, Ch, Chha and In the north of Ram Lala Temple there is a Akhand Kirtan platform, where the devotees chants kirtan round the clock. This platform has been shown by

the word K1, K2, K3 and K4. It was stated by plaintiff that it is a wooden Baithaka which is indicated by me at the word Kh1, Kh2, Kh3 and Kh4 in the drawing and Defendant stated that it is a throne. In between a lamp always lights there on in the mid of platform and, a Handi is kept there, which, according to the plaintiff is a Akhand Jyoti. The Throne is made of wood, Kirtani platform is a spread over from the Eastern to Southern side. Which was indicataed in the drawing by ----- line and has been shown by K1, G1, G2 and G3 . Both the parties asked us to note the items present in the throne. There are two calendar in side it, one is of Hanuman Ji and second one is of Ram Panchayat - or Ram Darbar. There are two photos, which are framed by the glasses, one is of Ram Darbar and second one is of Bhagwan Ram Chandar ji in his child hood. There is a time piece which is kept in the wooden case. Below the clock there are three more photos framed in glasses. One is of the seats of deities (DHAM), second one is of Bhagwan Ram Chandar Ji in his child hood and in the third one, Shri Sita Ram has been written and ahead of it there is Akhand Jayoti, which referred above. There is a sign board above the throne where in there is a writing that "Akhand" Kirtan is being carried out here since 1949. Who so ever wants to donate for the help of Akhand Kirtan, can donate and please do obtain receipt in lieu of it.

Convenor, Ram Lakhan Saran  
Shri Ram Janambhoomi Ayodhya

"Narayan"

Sign Art

It was stated by the plaintiff that the above board is displayed on the shed. The above throne,

which is at the Southern side of the entrance of the disputed temple, is attached. In front of this entrance gate, in the Eastern side, there is a main gate to enter in to Shri Ram Janambhoomi Temple. In the North side of this main gate there are three rooms which are surrounded/fenced by the bamboo strips and tin platform in the West and South side. The Western wall of the Sant Niwas is of bricks but bricks are not cemented. It was stated by the plaintiff that drawing room "Bhaithaka" Ka of southern side's room "Ka" Kitchen constructed in the middle "K" and room in the Northern Side are called Sant Niwas. The plaintiff asked to note down about the tap, the cot and the chair, boxes etc kept in the Southern room. There is a tap also. The door of the Southern room is in the South and the door of the kitchen, which is in the middle, is in South and the door of the Northern room which is Sant Niwas in the West. There is an aged Neem tree in the West side of Sant Niwas. There is a concrete platform under the tree for sitting and resting.

The Northern wall which is shown by the word Ya, Wa in the drawing there is a tap at a distance of 1 to 9 feet from the place shown by L in the corner of North-Western side of Sant Niwas. There is a round platform in the Eastern-South and West side of this tap which is shown by ----- line in the drawing. There is a gate at a distance of 41 feet in the West from the site shown at La in the drawing, which was locked during our three visits.

There is a thatched chhappar over the Dandies (Gaurders) in the Eastern side from the wall shown by A, B which is 6" – 4" wide in the East and in the West. There is a creeper tree (Bel tree) in the East of this

thatched structure. Beyond this tree, towards Eastern side there is a platform which was stated as Kaushalaya's kitchen or Chati Poojan site. There are four charans (parts) Chula Chuwka. There is Chulha at a distance of 1" – 11" from the Western side of the platform and also Chuwka, Belen at a distance of 1" – 9" from the Eastern-Southern side of the Chulha and a Charan at a distance of 1" – 8" from the Chulha towards Eastern side. All the above mentioned things excluding the sign boards of idol and donation boxes installed at various places, induction of whom is not possible in the map, are shown in the drawing through measurement. It is also necessary to mention it here at the very first day, the parties, while measuring the wall shown at Wa, Ka, Ta also requested to measure the windows fixed in the wall and to show them in the map. Hence these were measured and shown in the map. But on the next day while measuring the wall Ph, T they have not asked to show the windows fixed in that wall in the drawing. There are one or two windows in the wall Gha,1, gha2, Gha3 & Gha 4. After taking the measurement, both the parties requested to note down all donation boxes, throne and writings on the walls. At the Phatak which is fixed in the Northern side's wall of the temple which is shown as Wa, La in the drawing there is a writing viz "The place for Chatti Pujan" and Kaushalaya's kitchen Shri Ram Janambhoomi, Manager Ram Kewal Das Goswami Nirmohi Akhara Ayodhya Ji. There is a small Board on the Western side of creeper tree (Bel tree) where following writing has been written "Nirmohi Akhara Shri Ram Janambhoomi":  
 Manager Ram Kewal Das Goswami

Following writings has been written on the wall above the western tap of the Sant Niwas.

"Do not spit, brush your teeth or urinate here. Goswami Ram Kewal Dass, Janambhoomi, Nirmohi Akhara, Shri Ayodhya Ji".

Defendant said that whatever is written on the wall, has been written within two or three days.

The western gate of the Sant Niwas is made of wooden strips. There is also a signboard on it and there is also a board on the tatar door of the room in southern side of the kitchen. Following has been written on both the boards.

Nirmohi Akhara Shri Ram Janambhoomi,  
Manager - Shri Ram Kewal Dass Goswami.

There is a temple of Shiv and Parvati etc near the place shown by R in the drawing. A donation box is kept there, on which it has been written "Donation Box".

Manager - Ram Kewal Das Goswami

Shri Ram Janambhoomi Nirmohi Akhara Shri Ayodhya Ji.

There are two large boards above the Eastern and Western caves of Shri Ram Lalla Mandir and following writing in red ink, has been written in the Eastern board:- "Important notice, Worship Shri Ram Janambhoomi" Maryada Purshotam Shri Ramchander Ji, the Supreme God has descended in the fourth phase of Treta Yug at this very holy place. At this very place of the did his childhood pranks with Bharat, Lakhshman and Shatrughan ji which are rare to witness even to gods. At that time the birth place of the Supreme spirit was in the form of huge Royal Mansion decorated with valuable stones and gold. About one century before christian era Hindu dynasty wise Indian

Emperor Vir Vikramaditya with his untiring hard work and after conducting detail research had constructed a Ram Janam Palace over the marble pillars on this holy land. It is said that there were seven kalashas at the upper most top of this grand palace which were demolished by Emperor Babar in 1686 to fulfil the wishes of Fakir Fazel Abbas Jalal Shah. Since then, up to the time of British Rulers, Hindu population had fought for the restoration of Shri Ram Janam Bhoomi, the birth place of their God Shri Rama, and a number of people had laid their life to this cause. The movement lasting for hundred years, under the leadership of Nirmohi Akhara, the Nirmohi Ahkara has succeeded in getting the right to perform worship and to have darshan of Shri Ram Janambhoomi. The Government, due to clash in between the Muslim and Hindu community, has declared the place in question as a disputed premises and in the year 1950 has taken the possession of some part of the temple, under section 145. Mahant Shri Rameshwar Dass, Manager, Nirmohi Akhara, is pleading the case, filed in the Civil Court of Civil Judge, Faizabad.

The people, therefore are requested to donate for the protection of Religion, service to the God, Bhog Rag service to the Sadhus and for advocating the case. They may put their donation in the feet of God Rama Chander Ji and their four brothers and may obtain the receipt thereof from the place, near the idol.

Note:-None from here, goes out to collect the donation.

Therefore beware of such people. Please sent your donation at the following address only.



Manager,  
Mahant Shri Rameshwer Das Ji  
Shri.Ram Janambhoomi, Nirmohi Akhara,  
Shri Ayodhya District, Faizabad, U.P.

Kindly have a Darshan of Shankar Bhagwan behind  
the temple. "Narayan"

Following information has been written on the Western  
board of Ramlalla Temple.

Important Notice  
Worship Shri Ram Janambhoomi

The people who want receipt for donation, may get  
the receipt after putting their donation for Bhog Rag (food  
service and decoration) at the feet of Shri Ram Chander ji  
and four brothers, from the priest sitting thereby.  
The address for sending help:- Manager Mahant Shri  
Rameshwar Das Nirmohi Akhara, Shri Ram Janambhoomi,  
Shri Ayodhyaji Faizabad.

Kindly also have the Darshan of Bhagwan, below.

Important Notice:-

May the great glory of the Ram Janambhoomi shine and  
spread far and wide.

Gentlemen and women who are desirous to  
make charitable donations and give alms in aid to  
Rag Bhog (food service and decorations) and  
pending cases of the Rain Janambhoomi temple arc  
requested and advised to present the above  
metitioned donations and alms to the lotus

feet of the four brothers and take receipts on the very spot from the Pujari first sitting near Bhagwan.

The address for sending alms and donations is given below :-

To,  
The Vyasthapak Mahant Rameshwar Das,  
Shri Ram Janambhoomi, Nirmohi Akhara  
Ayodhya, Faizabad (U.P.)

Please have Darshan of Bhagwan, below also.

The following version is written at the temple which is in a cave adjacent to the Eastern side of Ram Lalla Mandir, "Shri Ramji is in the lap of Kaushalya ji Beneath this there is a stone on the floor adjacent to the wooden frame, the following is written on it. delighted Kaushalya ji happy with Ragunandan in her lap.

Pujari Siya Raghav Sharan- An attendant

In the stone beneath Ramlalla temple in the Eastern Stone, it has been written "Kaushalya Ji is on the bed having Ram Shishu in her lap.

Kaushalya, with affection, looking at all the four brothers Some time she feed them, some time she kiss them embraced them with love Sings lullaby, some time keep them in swinging cradle, behold them and Mahesh ji and all other gods were watching her activities and four brother's with affection and love. Tulsidas ji that only the blessed one, divine lighted can watch the infantile fun of four brothers Shri Raghupati ji devotee Raghav Sharan Shri Ram Janam Rhoomi.

On the Western wall shown as Sa, Sa – 1 of Shri Ram Lalla Temple there is a donation box on which it has been written (Donation box) Shri Ram Janambhoomi..

Help the Government by putting Rupees and paise for the Bhog Rag (food service and decoration) of the temple, in this Golak (Donation box)

K.K. Ram Verma  
(Govt. receiver)

In the North side of the above donation box there is an important notice board on which it is written.

"Ram Janambhoomi Important Notice.

1. The service, Pooja, Rag Bhog etc. of the very old disputed Shri Ram Janambhoomi temple which is inside the iron bars under security, is performed by the money donated in the donation boxes, hanging on the iron bars. Besides there is no other service of help. For the assistance of Ram Janambhoomi, donate generously, in cash etc and earn the fortune.

2. Don't give anything to anyone, in the name of Ram Janambhoomi. None from here, is sent anywhere to ask for donations. So, beware of the cheats asking for donations in the name of Janambhoomi Mandir.

Nivedak.

Receiver appointed by the Court

K.K. Ram Verma

There is another board inside the above notice board. Following has been written on it:-

"Jai Shri Ram Janambhoomi"..

The service, Rag Bhog etc, in this ancient temple of Shri Ram Janambhoomi, where Ramji is sitting, is managed by the money received from the donation boxes. Therefore Hindu gentlemen should donate money, financial help only in the donation boxes hanging on the iron bars and save Shri Ram Janarn Bhoomi along with Hindutava.

Nivedak

Maganer, Shri Ram Janambhoomi

'Shanti Art'

There is a donation box in the northern side of the above board. Following has been written on it.

Donation box

Help the govt. in performing Bhog Rag etc for Ram Janambhoomi Mandir, by donating money in the donation boxes (Golaks)

K.K. Ram Verma

Govt. Receiver

There is another donation box in the Northern side of the said donation box. The same request has been written on this donation box.

In the prepared by me, the place at Fa2 which is a Phatak for entering the Coork Mandir. There is a board hanging on it. Following has been written on it.

Important Notice for the viewers

A Court case in regard to ancient temple, which is inside the box is subjudice. Therefore police has been deployed for guarding the idol. and for the up keeps of service and worship of Bal Bhagwan and for Rag Bhog etc. a receiver has also been appointed.

The service, worship, Rag Bhog etc. of Shri Ram Janambhoomi Mandir is performed with the money received from the donation boxes hanging on the iron bars. Besides there is no other source. None from here goes out to collect the donation for these services and

receipt is not issued from here in the name of Ram Janambhoomi Mandir. In addition to this there is no arrangement for receipt book. So beware of the person asking for donation and giving receipt in the name of Ram Janambhoomi Mandir. For the aid of Janambhoomi Mandir which is inside the iron bars, Hindus should put the money in the donation boxes, Golaks only and get Mahapunya.

Nivedak

Receiver appointed by the Court

K.K. Ram Verma

Please put money into the donation box for the aid of the temple receiver.

K.K. Ram Verma

There is a donation box on the Phatak of the coork Mandir which is in possession of Govt. Following has been written on it.

Donation box

For the aid of Govt. please put your donation in the Golak for performing Bhog Raj of Shri Ram Janambhoomi Mandir.

K.K. Ram Verma

Govt. Receiver

There is a board hanging on the door above the donation box. Following writings has been written in it.

[Important Notice for the devotees).

A Court case in regard to ancient temple, which is inside the box is subjudice. Therefore police has been

deployed for guarding the idol and for the up keeps of service and worship of Bal Bhagwan and for Rag Bhog etc. a receiver has also been appointed.

For service and worship of Bal Bhagwan and for Rag Bhog etc. The service, worship, Rag Bhog etc. of Shri Ram Janambhoomi Mandir is performed with the money taken from the donation boxes hanging from the iron bars. There is no other source of income. None from here goes out to collect the donation for these services and receipt is not issued from here in the name of Ram Janambhoomi Mandir. In additin to this there is no arrangement for receipt book. So beware of the person asking for donation and giving receipt in the name of Ram Janambhoomi Mandir. For the help of Janam Bhooini Mandir which i inside the iron bars Hindu should put the money in the donation boxes. Golaks only and get Mahapunya.

Nivedak

Receiver appointed by the Court

K.K. Ram Verma

Please put the money in to the donation box for aid of the temp1e.

There is a board above the board hanging on the phatak of the coorked Mandir, an another board north to it, on which it is written.

Ram Janambhoomi

#### Important Notice

1. For the service, puja, Rag Bhog etc. of the ancient disputed Shri Ram Janambhoomi Mandir which is inside the iron bar for the security, is performed with the money

received from the donation boxes hanging on the iron bars. Besides there is no other source of aid.

2. Attain Mahapunya by putting more and more donation money in the donation boxes, Golaks for the aid of Shri Ram Janambhoomi Mandir.
3. Don't give anything to any person in the name of Mandir. No person from here is sent any where to ask for donations.

So, beware of the cheats asking for donations in the name of Janambhoomi Mandir.

Receiver appointed by the Court  
(K.K. Ram Verma)

Shri Ram Chandra Verma the learned advocate of the Defendent submitted an application on 16.09.73 that there is some difference between the tape brought at the time of last commission and the tape brought today. Rechecking is therefore necessary. Accordingly it was rechecked as requested in his application and the difference has been rectified.

There are shops of books and prasad out side the Phatak in the North and the South side. Plaintiff stated that these were the shops of Nirmohi Akhara.

All the details given by both the parties are given in the report and in the map.

Report is submitted.

Signature  
(Pateshwari Dutt Pandey)  
Advocate  
Commissioner

Dated 13.10.1973

In the presence of Commissioner, Narendra Prasad,  
Additional District Judge/OSD Honourable High Court,  
Lucknow, Lucknow Bench.

(Commissioner appointed by Hon'ble Full Bench  
vide their order dated 19.3.2004 in the O.O.S. No.  
3/89 (original suit No. 26/59) Nirmohi Akhara and  
others virsus Babu Priya Dutt Ram and others).

Other Original suit No. 3/1989

R.S. No. 26/1959

Nirmohi Akhara & others ..... Plaintiff

Versus

Babu Priya Dutt Ram and Others..... Defendant

**Dated 23.03.2004**

**D.W. 3/10 Sh. Pateshwari Dutt Pandey**

The Affidavit of Main Examination of Sh.  
Pateshwari Dutt Pandey, age about 74 years, s/o  
Sh. Ghirrou Pandey, advocate, resident of Gulab  
Nagar Colony, Mouja Zanoura, Pargana Haveli  
Awadh, Tahsil Sadar, City and District Faizabad  
submitted (from page 1 to 3) which was taken on  
record.

The cross examination of D.W. 3/10 Shri  
Pateshwari Dutt Pandey on behalf of defendant  
No. 17 Shri Ramesh Chandra Tripathi and defendant  
No. 22 Shri Umesh Chandra Pandey in other original suit  
No. 4/89 starts under oath by Shri Veereshwar Prasad  
Dwivedi, Advocate.

The learned advocate cross-examinin showed  
the witness the extract of para 4 of the affidavit of his



main examination "and has examined the main file "and asked him, when he had examined the above file? After seeing it, the witness replied that he had examined the above file on Saturday dated 20.03.2004. I had examined the main file of original suit No. 9/73. When I had examined the main file, decision had already been taken on that file by that time. As far as I had seen and I remember, decision was taken regarding this file in 1978. I had not read the decision of that suit. I shall not be able to tell whether the honourable court had expressed any view or not on the report submitted by me in that suit. The learned advocate cross-examining showed the witness the extract of the same para 4 of the Affidavit of his main examination "the above photocopy is the copy of certified photo copy and the original copy of the Report has been destroyed from the main file and asked the meaning of this full extract. Seeing the above, the witness replied that from the above I mean that I was given a photocopy of certified copy and the original of the same was in the main file of the original suit, which has been destroyed (weeded out). The Affidavit of my main examination was written by the advocate of Nirmohi Akhara, Shri Ranjit Lal Verma and he had read the contents of the Affidavit before me. I have seen practising in the District Court as an advocate for the last 38-40 years.

Question. Can you tell as to why the Affidavit was not written by you and why it was got written by the Advocate of Nirmohi Akhara?

(The learned advocate of the plaintiff, Sri Ranjit Lal Verma objected on this point that the witness himself is a practising advocate and the learned advocate cross-examining the witness is also a learned advocate of the same court and

there is no such law under which such question can be asked and the advocates present the evidence of his clients and submit the Affidavit of the main examination and on the basis of parity, order 18 rule 4 of Ja. Di. has been amended and the witness has told that he had listened the read out Affidavit, and only after that he signed the affidavit, so this question can not be asked from the witness.)

Answer. It has two reasons. The first one is that I do not understand that there is any law under which only the witness should write the affidavit and the second one is that I my self somewhat unable to write, because my hand shivers and it takes a lot of time when I write.

Question. Why did you read the above Affidavit of yours? (The learned advocate of the plaintiff objected on this ground that this kind of question does not cover under the law of cross-examination, so such question should not be allowed.

Answer. I read the above affidavit of mine yesterday i.e. dated 22.03.2004 and have read it today also.

I have attached list-I to the Affidavit. The above list-I which is attached to my affidavit is neither in my hand writing nor the photocopy of my handwriting. I do not remember the facts mentioned in list-I, but it is correct that this report has been prepared by me. It is incorrect to say that I am giving the wrong statements. I did not saw, when the Department issued the copy of the report submitted by me at List-I. I even had not seen for whom the photocopy was issued to. When I was

verifying the main file of the above original suit No. 9/73, I did not saw whether the decision of the suit was there or not in the main file. As an advocate, I know that the decision taken on a file is always a permanent record of that file.

Question. As an advocate do you know that the report of commission appointed by the Hon'ble Court is considered only as an evidence?

(On this question, the learned advocate of the plaintiff Shri Ranjit Lal Verma objected that keeping in view the law aspect, the cross-examining advocate can not ask such question from the witness which itself is mentioned in the perview of law.

Answer. Yes Sir, I know it.

I do not remember, for what the original suit 9/73 was? Because I had not seen the Vaad-Patra of the file. It is incorrect to say that keeping the interest of plainfiff of other original suit No. 3/89, I am giving this witness.

The cross-examination completed by advocate Shri Vireshwar Dwivedi, in other original suit No. 4/89 defendant No. 17 Shri Ramesh Chandra Tripathi and defendant No. 22 Shri Umesh Chandra Pandey.

(The cross-examination started by Shri Ved Prakash, Advocate on behalf of the plaintiffs of other original suit 5/89.

XXX      XXX      XXX      XXX

I had received the writ of the commission to submit the report after preparing the site-plan. The learned advocate cross-examining showed the witness the list-I submitted with his main

examination and the commission report drawing paper No. 3/15 and 3/16 and the witness was asked to see the drawing and identify the site in this drawing, for which he had received the writ of the commission?

(The learned advocate of the plaintiff objected on this question that there is a disputed land in every suit and on arising dispute on that, the writ of the commission is issued, so this question is not clear.)

Seeing the above, the witness replied that the above writ of Commission is not with me at present, so I shall not be able to tell for which-disputed land, this writ was received.

The learned advocate cross-examining the witness showed the witness the drawing paper No.3/9A-I which was attached with the vaadpatra of other original suit No. 3/89 and asked for which site- you were issued the writ of Commission and for which you had given your comments? Where was that site in that drawing? Seeing that the witness replied that because the writ of Commission is not with him, so he will not be able to tell about that.

(Shri Ved Prakash, Advocate completed the cross-examination on behalf of Plaintiff of other original suit No. 5/89.)

(The learned advocate Shri Ajay Kumar Pandey on behalf of Plaintiff other original suit No. 5/89 informed that the learned Shri M.M. Pandey,

advocate of defendant No. 2/1 Mahant Suresh Das, had conveyed in other original suit No. 4/89 and other original suit 5/89 that they are accepting the cross-examination of Shri Vireshwar Dwivedi, advocate and Shri Ved Prakash, advocate.)

(On this point the learned advocate of the plaintiff said that the original defendant No. 2 of other original suit No. 4/89 has admitted the statement of Nirmohi Akhara case, so as a co-defendant of other original suit No. 4/89, Shri M.M. Pandey is not allowed to cross-examine on behalf of Mahant Suresh Das.)

The statment attested after reading

Sd/-

Pateshwari Dutt Pandey

23 .03.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented tomorrow on 24.03.2004 in this sequence for further cross examination. The witness be present.

Sd/-

Narendra Prasad

23.3.2004

**Dated 24.03.2004**

**D.W. 3/10 Sh. Pateshwari Dutt Pandey**

In the presence of Commissioner Shri Narendra Prasad, Additional District Judge/OSD Honourable High Court Lucknow, Bench Lucknow.

(Commissioner appointed by Hon'ble full Bench vide their order dated 19.03.2004 in other original suit No. 3/89 (original suit No. 26/59) Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others).

(The cross examination of D.W.3/10 Shri Pateshwari Dutt in the sequence dated 23.03.2004 and other original suit No. 4/89, on bahaif of defendant No. 20 begins under oath by Kumari Ranjan Agnohotri advocate.)

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I have been practising as an advocate in Faizabad since 1996. My birth took place in Faizabad itself. It is believed that the place below the middle Gumbad underneeth the disputed place of three Gumbad portion is the birth place of Ram Chandraji.

(Kumari Ranjana Agnihotri advocate completed the cross-examination in other original suit No. 4/89 on behalf of defendant No. 20)

(Shri D.P. Gupta, the learned advocate of defendant of other original suit No. 1/89 was given the chance for the cross examination of the witness, but he said that he does not want any cross examination of the witness.)

(There was no any advocate for the cross examination from the defendant side other than the advocates of defendants of other original suit No. 4/89 and other original suit No. 5/89 defendants 4, 5, 6 and 26 other original suit 1/89 defendant No. 10 and other original suit No. 03/89's 6/01 and 6/02, 9 and 11. So, Shri Abdul Mannan advocate of started the cross-examination on behalf of defendant No. 11 of this suit.)

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I pursued the LLB Degree from Lucknow University in 1963. When I pursued the LLB Degree in 1963, at that time I was serving in Lucknow Bench of the High Court. I pursued LLB. while I was in service. Submitting the application to the then Deputy Registrar of High Court, I took the permission to get myself registered in LLB. At that time for LLB course two years time was sufficient. I was given voluntary retirement in 1966 on the basis of disability. I was about 35-36 year old in 1966. I had started my service in the Lucknow Bench of High Court in February, 1950. I had not given any thing written for the voluntary retirement. I was registered as an advocate in July 1966 and this registration was done through the Bar Council, Uttar Pradesh. I had informed about my previous service in the High Court in the application given to the Bar Council for registration also. Exactly how many days after submitting the application, I was registered, that much I do not, remember correctly, but as I had remember, after giving the application, within two months I got the registration certification. I

do not remember who has signed on that Registration Certificate. After that registration, I had started the practice as a lawyer at District Court Faizabad. Regarding the place of my practice as an advocate till date, I had mentioned in the application for registration. I have been practising as an advocate in Faizabad since 1966, and this is a long period of 37-38 years. I had no interest in Babri Masjid and to know whether it was a Mandir or Masjid. I do not know when Mandir or Masjid was constructed there. In addition to my service period, the whole life I have been living at Faizabad. I had passed my B.A. Examination from Vidyant Degree College, Lucknow. This Vidyant Degree College is located at Gautam Budh Marg. When I was pursuing B.A., I used to live at Lucknow. I had lived at Lucknow from 1950 to 1966. [I had gone to Lucknow only in 1949]. I had been in service since 1950 to 1966 in Lucknow High Court. When I had come to Lucknow in 1949, I was 19 years old. I had taken admission in B.A. in Vidyant Degree College Lucknow in 1959. I had taken permission of Deputy Registrar of High Court for taking admission in B.A. I had gone to Lucknow 4-5 months before joining the service. I had not heard about any story or episode of Babri Masjid. I live at some distance from Ayodhya, so I even do not know about the demolishing of Babri Masjid. Ayodhya is at a distance of 7-8 kms. from my village. I had been to Ayodhya. I am not able to say that how many times I visited Ayodhya? I have no idea whether I have gone to Ayodhya 10-15 times or 15-20 times. I have gone to Ayodhya after I became Balig. After starting practice in Faizabad as a lawyer, how many times I have gone to Ayodhya, I do not remember correctly, but I must have gone 4-6 times, Ayodhya must be 5-6 miles



away from Faizabad, but I shall not be able to tell the exact distance between the two. I had heard some Mandir or Masjid was demolished at Ayodhya, but exactly what has been demolished that I do not know. This incident of demolishing Mandir or Masjid must have been occurred 10-12 years back. I have not gone there after the demolition of that Bhawan or I never visited after demolishing the Janam Sthan or Janambhoomi.

I had prepared the commission's drawing in 1973. For preparing the commission drawing. I had visited Ayodhya for three days on the site, and it relates to 1973. I did not take the help of anyone else in preparing it. I had prepared the commission's drawing myself.

The learned advocate cross-examining the witness showed the witness drawing paper No. 3/15 and 3/16 which was attached to list-I of the affidavit of his main examination and asked about the location of the disputed Bhawan of three Gumbads. Seeing the above the witness replied that the disputed three Gumbad Bhawan is not shown in this drawing. This drawing pertains to one part of the Janm Bhoomi.

Statement Attested after reading

Sd/-

Pateshwari Dutt Pandey

24.03.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented on 25.3.2004 in this sequence for further cross examination. Witness be present.

Sd/-

Narendra Prasad

Commissioner

24.03.2004

**Dated 25.03.2004**

**D.W- 3/10 Sh. Pateshwari Dutt Pandey**

In the presence of Commissioner Sh. Narendra Prasad, Additional District Judge/OSD, Honourable High Court Lucknow Bench, Lucknow.

(Commissioner appointed by Honourable full Bench vide their order dated 19.03.2004 the other original suit No. 3/89 (original suit 26/59) Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others.)

(Shri Abdul Mannan advocate starts the cross examination of Shri. Pateshwari Dutt Pandey under oath on behalf of defendant No. 11 in context of 24.03.2004 D.W.- 3/10.)

I started practising as a lawyer in 1966. I am about 74 years old. The incident of demolishing Mandir or Masjid had occurred perhaps in 1992. At time also I was practising as an advocate. I am not aware of whether any talks were discussed or not regarding demolishing of Mandir or Masjid in the court of Faizabad, because I did not go, I even did not attend the meeting. No, curfew was imposed in the area where I lived, after the demolition of Mandir-Masjid. I am unable to tell whether curfew was imposed in Ayodhya or not at that time, because I did not go there. I used to live at Janoura when the demolition of Mandir-Masjid occurred. Janoura is located at a distance of 7-8 kms. from Ayodhya. Janoura is located in the South-West of Ayodhya. I used to go to court from Janoura to Faizabad daily. Janoura is located at a distance of 2-2 1/2 kms. from the court of Faizabad. Some parts of Janoura are

located in the jurisdiction of Municipality, Faizabad and some parts are out of its jurisdiction. It is not correct to say that whole Janoura is out of the Municipality of Faizabad, I started the practice as a lawyer when I was 35-36 years old. During my practice as a lawyer, so many happenings took place in Ayodhya likewise murder of some one, some must have gone for Darshan, celebration of some fair and some Parikarma etc. The Demolished Bhawan is called Mandir. I have not met anyone calling the same as Masjid. I do not read newspapers. Earlier I used to read newspapers, but I have not been reading newspapers for the last 10-15 years. When I used to read newspaper, at that time also I did not hear anything about the Babri Masjid. Even I had heard when Babri Masjid was constructed. I have a little knowledge of History. I am unable to tell exactly whether Babri Masjid was constructed in 1528 or not. It is incorrect to say that Namaj was offered there. When I went there for commission, the place called as Babri Masjid by the learned advocate cross-examining the witness, so I am saying to him that, I never saw any Muslim reading Namaj at Babri Masjid. I visited Babri Masjid 4-5-6 times.

The learned advocate cross-examining showed the witness drawing paper No. 3/15, 3/16 of list-I attached to affidavit of his main examination and asked where is the three Gumbads are shown in it? Seeing it, the witness said that nothing like this is shown in this drawing. I do not know Babri Masjid. The parties who told it a disputed place, the drawing of the same is there in paper No. 3/15, 3/16. Nirmohi Akhara and Ram Saran Das were the concerned parties. What was disputed, that only has been shown in the above drawing. What ever was to be shown in this drawing,

has been shown and has, been written also. It is written in the above drawing paper No. 3/15 that "part of the temple which has been cooked and is in the possession/custody of police." When it was given to the custody of police, I have no knowledge of that. I did not feel any necessity to know when it was handed over to police. I even do not know when this part was cooked. I had informed that the part shown in the drawing has been handed over to police and police was also present there. Neither I asked anything from the police nor they told for how many days ago that part was handed over to them. When I went there to prepare the drawing, 8-10 policemen were present there I went there on the site for preparing the drawing in 1973. When I went there for preparing the drawing, the advocates of both parties were also present there. Babu Ranjit Lal Verma from the Nimohi Akhara side and Shri Ram Chandra Verma advocate from the other side were present there. Sh. Ram Chandra Verma is alive and practicing as a lawyer. I do not remember what I did the first day during these three days. The 2nd and 3rd day was spent in measurement. I used to note down, as told by those people, during that period. I made the notes of measurement. Those notes are not in list-I, attached to the affidavit of my main examination. As far as I understand, those notes have been weeded out from the file. The drawing I had prepared on the site, the photocopy of the same is in two parts, which are paper No. 3/15 and 3/16 of the list-I attached to the affidavit of my main examination and those are in two parts because the drawing was a big one and getting photocopy of it on one paper was not possible. In the part of drawing in paper No. 3/16, Babri Masjid is not written anywhere.

(The learned advocate cross-examining the witness said that Babri Masjid is written in the 2nd part of the drawing of list-I of the affidavit given to him, while the learned advocate of the plaintiff Sh. Ved Prakash in other suit No. 5/89 Shri. Puttu Lal Mishra learned advocate of other original suit No. 1/89 and the learned advocate of defendant No. 20 in other original suit No. 4/89 learned advocate Kumari Ranjana Agnihotri said that Babri Masjid is not written in the 2nd part of list-I attached to the affidavit given to them.)

I do not remember how many times I was kept in commission list by the District Judge of Faizabad during my entire period as an advocate. A list of advocates is mentioned in the court of District Judge who have given their witness.. No, any District Judge enlisted my name in the list of advocates who have been recording their witness since 1966, because I have never applied for the same. I do not know the names included in the list of advocates, which had kept with Judge of Faizabad Court, who had recorded it as their evidence. I have never been a member of B.J.P. or Hindu Mahasabha. I have also never been a member of RSS. I have visited Bikapur Tahsil of Faizabad District once for representing in some suit. In this suit, where I am a witness, there was no interest of mine. I had received the summon of High Court and on the basis of same, I have come here for giving my statement.

At this stage the learned advocate cross-examining the witness showed the photocopy of list-I submitted with the affidavit of main examination of the witness

from the paper No. 49c-I and presented the same which was given to him through the learned advocate of the plaintiff which is 49 c-1/1 & 49 c-1/2 and asked whether the above documents are the true copies of the drawings attached with the report of the witness?

(Shri Ajay Kumar Pandey the learned advocate of plaintiff of other original suit 5/89 objected that the witness was asked the question about the so called papers and he has replied also, so asking the same question is neither relevant nor justified.)

After seeing the above documents, the witness replied that he would be able to reply this question only after seeing his own drawing. After that the witness saw the drawing paper No. 3/15 and 3/16 of the list-I attached to the affidavit of his main examination and replied that whatever is written on paper No. 49 c-1/1 and 49 c-1/2, that is not written by me.

I know only these few Urdu words which are commonly used during conversation. I do not know how to read and write Urdu. When I was studying, at that time it was not necessary to take Urdu in the second form. The learned advocate cross-examining the witness showed the witness paper No. 49 c-1/2 and asked whether Babri Masjid is written at the upperside?

Shri Ajay Kumar Pandey (The learned advocate of other original suit No. 5/89 objected on this question and said asking the same question again and again is only wasting of time of the court and to disturb the witness, so the permission should be given for these such question.)

Seeing the above cited paper 49 c-1/12 the witness said that on this paper No. 49 c-1/2 Babri Masjid is written.

Question : I mean to say that when Babri Masjid was constructed, then Gumbads were not there. What do you want to say on this matter?

Answer. I do not know about Babri Masjid, so I have nothing to say about it.

I have not read the newspapers for the last 10-12 years, earlier I used to read newspaper sometimes.

Question. Have you ever read the TAJKIRA of Babri Masjid in any newspaper?

The learned advocate of plaintiff Sh. Tarunjit Verma and Shri Ajay Kumar Pandey the learned advocate of other original suit No. 5/89 objected on this question that asking the same question again and again is a sort of disturbance and misleading to the witness, so such questions should not be asked.

Answer. I have not read the TAJKIRA of Babri Masjid in any newspaper.

It is incorrect to say that whatever I have told about Babri Masjid, is false. I do not know that since 1528 Babri Masjid has been in existence in Ayodhya and till now it is located there.

Shri Abdul Mannan advocate on the behalf of defendent No. 11 concluded cross-examination.

(Shri Zaffaryab Jilani advocate on behalf on defendant No. 9 Sunny Central Board of Wakf, Uttar Pradesh stated the cross-examination).

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When I was appointed as commissioner in the suit No. 9/73, at that time I received copy of the Vaad-Patra along with a copy of writ of Commission and I had received no other paper with the writ of Commission. I do not remember whether I had gone through the Vaad-Patra

received with the Writ of Commission or not before preparing the report of Commission and preparing site-plan. No other drawing paper was attached with the suit paper. Then he said that he does not remember whether drawing paper was attached with suit paper or not. After issuing notice to both the parties, I had verified the area physically. The report submitted at list-I attached to the affidavit of my main examination, I had read that before submitting the affidavit. After reading this report, there was an idea that the suit in which I was given for the commission, what was the point of dispute. After that he said- I did not know what was the point of dispute in that suit.

The learned advocate cross-examination the witness showed the witness drawing paper No. 108 c-1/35 and No. 5/89 and asked whether it was a true copy of the drawing prepared by him. Seeing the above the witness replied because it bears the stamp of Court and it is certified copy, so I will say, it, a true copy. The learned advocate cross-examining the witness showed the above drawing paper No. 108 c-1/35 that part written as "In the form of childhood the four brothers....." showed to the witness and asked by which letter it has been reflected in this drawing and what details have been given in it. Seeing the above the witness replied that this letter is not written by me, but whatever is falling through this drawing, that this part is represented by letter E, EE, Gh and Ph and in that part is written "All the four brothers in the form of childhood, Bhagwan Ram, Vivid Salik Ram, Kharaoun with so many toys on the throne of silver." In addition to these letter, one more letter is written on that part, but I am unable to read that. Below this part in this drawing "there is an arrow" and below is written - Ram Lala Mandir. I showed this part where "All the four brothers in childhood..



. . Kharaoun" is written as an "arrow" and reflected as Ram Lala Mandir. It is correct that in the last line of this part is written "Virajmaan on the throne." The part shown by "E EE Gh Ph" means that part was called as Ramchabutara or not, this I can only tell after seeing my own report. After seeing the certified copy of his report paper No. 108 c-1/29 enclosure 108 c-1/35 to which the drawing is also attached. After seeing it continuously for 12 minutes the witness replied he is unable to tell that the part shown by me as E, EE, Gh, 4 Ph is Ram Chabutara or not, but it seems that it is the part of Ramchabutara. In this very drawing paper No. 108 c-1/35 the open part Ram Lala Mandir and below that is written Chabutara, below that is written "Tulsichaura" or 'Chabutara'. I have said myself that my eyes are weak and I feel difficulty in reading and writing. Below the "Tulsichabutara" is written "Parikarma Marg." On the above drawing, where 12.10 is written, there seems letter 'Oa' on left side and in the same drawing 5-10 'Ga' is written in between 'Da' and 'Gha' in this drawing and in the west is letter 'Sa'. The line made by the letters Da, Sa, Ga, Dha, reflect a boundry, the parties told that only upto that point can go.

Question: Whether you have not reflected southern wall of the disputed campus through the letter Da, Sa, Ga and Gh?

Answer. No sir, I have not reflected that.

The complex in which I have taken the measurement, the same measurement I have given in this drawing. That was the Southern wall of that complex which is reflected in this drawing by Ya & Ra. I have shown the length of the wall Ya and Ra as 32 feet. Whatever I have shown in this drawing by Ya and Da that is the Western wall of that complex. The

disputed land for the measurement of which, I was appointed as Commissioner the breadth of that disputed land towards south was only 32 feet. The code list prepared by me in this drawing, I have not given any code for the wall. In the South and East of Ram Lala Mandir I have reflected "Parikarma Marg", except that I have not shown any other Parikarma Marg. The Parikarma Marg pertains to that Ram Lala Mandir which have shown in this drawing by the letter E, EE, Gh, Ph. That Parikarama marg was there within the walls of the complex, where I had done the measurement work and this suit pertains to that disput complex for which I have come here for witness. It is not so that this complex is known as Ram Janm Bhoomii or Babri Masjid. The complex for which the dispute is going on in the court, its Eastern part is shown in this drawing. After that he said that the complex for which a suit is going on in the court, I do not know about that. When I do not know for which complex the dispute is going on in this court, then how I can tell that any part of the complex have shown in the drawing paper No. 108 c-1/35 or not.

Statement attested after reading

Sd/-

Pateshwari Dutt Pandey

25.03 .2004

Typed by the stenographer is the open court as dictated by me. The case may be presented on 26.03.2004 for further cross examination. Witness be present.

Narendra Prasad

Commissioner

25.03.2004

**Dated 26.03.2004**

**D.W.3/10. Pateshwari Dutt Pandey**

In the presence of Sh. Narendra Prasad, Commissioner, Additional District Judge/OSD Hon'ble High Court Lucknow Bench, Lucknow.

(Commissioner appointed by the Hon'ble full bench vide their order dated 19.03.2004 in the other original suit 3/89 (original suit 26/59) Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others.)

(Sh. Zafaryab Jilani Advocate on behalf of Sunny Central Board of Wakf, Uttar Pradesh defendant No. 9 in sequence to dated 25.03.2004 begin the cross examination of D.W - 3/10 Shri Pateshwari Dutt Pandey under oath.

The complex I had visited as a commissioner in 1973 for preparing the drawing, perhaps I had gone once or so to that complex earlier, but I do not remember exactly. If I might have gone once or so to prepare the drawing of that complex, this must have happened before 1966. At that time I must have visited there with my parents. My childhood was spent in Janoura village.

Question: Do you remember that the complex where you had gone as the commissioner to take the measurement and prepare the drawing, did you have gone there for Darshan or worship in that complex at that time?

Answer: Whenever I went to Ayodhya, I went to Hanumangarhi for Darshan and I had never come to any other temple. I even do not know

the geography of Ayodhya and have no knowledge about the lanes or roads.

When I went there as commission, then I came to know that complex is known as 'Ram Janambhoomi'. The lawyers and parties who were present there, they told me all this.

The learned advocate cross-examining the witness showed the witness the report attached with the drawing paper No. 108 c-1/29 enclosure 108 c-1/35 in the other suit No. 5/89 and asked that he had given the reference of temple in para 2. Have you mentioned about that temple after hearing from the parties? Seeing the above the witness said that it is like so. A, Ba, Ca, Da and it is shown in the drawing of my report and my whole drawing is confined to these letters. The above drawing prepared by me has been marked by the letters- A, Ba, Ca, Da and Ya, Ra La, Va. The suit in which I was given the commission, that land was told as disputed by the parties. The matter that this land is marked as A, Ba, Sa, Sa & Ya, Ra, La, Va by me in the drawing, I came to know through the parties, that it is under dispute. I had not seen the vaadpatra of that suit. This I have mentioned in my report in paper No. 108 c-1/29's para No. 3 that the portion Ba, Ca is the disputed part of Western Temple, which was cooked and is under the custody of police, which was conveyed to me by the parties. I had not any knowledge about that. The last para of my report paper No. 108 c-1/29 starts with 'Ya'. In this para I have mentioned that from 'Ya' to Eastern side is shown a tree of Gonth, but the drawing I prepared with the report, 108 c-1/35 is the certified copy of that in the East of the 'Ya', no Gonth tree is marked. I must have marked the Gonth tree in the drawing of my report in the East of 'Ya' and it seems that Gonth tree has been left in this

certified drawing. In my report's para 3 of paper No. 108 c-1/29 it is mentioned that in the East of that tree is constructed a solid Chabutara. The chabutara is marked in the drawing attached to my report. To its one side is marked 4.6 and 4.5 to the other side. In the certified copy of my drawing, it is not visible that the tree of Gonth is shown in the third para of my reports' paper No. 108 c-1/29. In the fourth line it is mentioned that the root of the Gonth tree is spread from the spot 'Ya' to the Chabutara. I have not shown this root in the drawing attached to my report. The witness was shown the extract of 4th to 6th line of paragraph 3 of his report "In the North-Eastern corner of the Chabutara was adjoined another solid and small chabutara which is 9 inches in length and breadth" and it was asked-where the above small Chabutara is located in the drawing attached to the report? Seeing the above, the witness replied that- this small Chabutar is shown in the North-East of my drawing of which 4.5 is written in one side and 4.6 is written on the another side. This Chabutara is of Nine (9) inch or of brick length. It is written in the third, fourth and fifth line from downwards of the third para of paper No. 108 c-1/29 of my report- "Amid that there is an iron rod of 7-8 feet which is fixed after digging and both the parties told that it was fixed for the Flag.

After the above extract, it is written in my Report paper No. 108 c-1/29- "on dated 16/9 the learned Advocate of the defendant told that it was constructed by the defendant for the Rambhajan and Pooja", the word "it" in this extract refers to the both small and big Chabutaras. The Tatter of Bamboo sticks mentioned in the first para of my Report Paper No. 108 C-1/29, that has not been shown in the drawing attached to the Report. The idols of Bhagwan Shankarji, Parvatiji,

Ganeshji, Swami Kartikeyaji, Nandeeshwarji and Aydheshji are mentioned in the above paragraph, I was told about these idols by the parties. I recognized the idols of Nandeeshwarji and Ganeshji myself in the above idols. The Temple of Sh. Avadheshwar Nathji mentioned in this very paragraph about that also I was told by the parties that it was the Temple of Avdheshwar Nathji. Shri Avadheshwar Nathji temple Chabutara has also been shown in the drawing attached to my report.

The learned advocate cross-examining the witness showed the witness Black and White Album paper No. 201 c-1's drawing No.32 and asked whether it was the drawing of same Chabutara, which has been mentioned as Avadheshwar Nath Temple in your report. Seeing it, the witness replied that it seems to be the same place. In this drawing No. 32 the Bamboo sticks are not visible, but a Tin shade is visible. What is visible around the Chabutara in the above drawing No. 32, that was not there, when I went there to prepare the drawing. I do not remember whether the visible white stone with black writing was there at that time or not, when I went to that complex for the work of Commission. Seeing the drawing No. 33 in that Black and White Album the witness said that this drawing pertains to that Chabutara, the drawing of the same is also shown in drawing No. 32. The marble stones with black writing are also visible in this drawing, but I do not remember whether those were fixed there at that time or not, when I went there for the work of Commission. The Idols visible in the drawing No. 33 at present, were arranged in the same order at that time also, when I went to the complex for commission work, that much I do not remember.

The learned advocate cross-examining the witness showed the witness drawing No. 59 and 60 of coloured album paper No. 200 C-1, seeing those drawings, the witness said that both these two drawings pertain to the same Chabutara, the drawing of the same is also shown at black and white album paper No. 32 and 33. The wall is not clearly visible to me in the drawing No. 59 of the coloured album, but the wall is felt and no wall is visible to me in drawing No. 60. The sticks of Bamboo and the Tatter is not visible in both these drawings. The second and third line of the second paragraph of my report paper No. 108 c-1/29 is mentioned as "In the East of this Chabutara 7 inch or 9 inch -6 inch from the wall." The above measurement is the distance of the Tatter of the Bamboo sticks from the Eastern wall. The Neem tree mentioned in the first line of this paragraph of my report, the tree is visible in the corner of drawing No. 59 and 60 of the coloured album. The chabutara reflected by Ka., Kha., Ga, Gha, Cha, Chha letters in the third para of paper No. 108 c-1/129 of my report paper, that chabutara is shown at that place in the drawing attached to my report. In that is written- "Ram Lala Mandir", on the upper side there is an arrow, and below side is shown open chabutara of Ram lala mandir. Letter 'Ka' is not visible anywhere at this place and letter 'Chha' is written in the Eastern side of letter 'Fa, The height of this chabutara from the land is hown 2 inches and some more in the third para of the back of the paper No. 108 c-1/29 of my certified report, which is not visible as to read.

On being pointed out by the learned advocate cross- examining the witness , on seeing the drawing No. 57 of the coloured album paper 200 c-1 the witness said that he is unable to tell whether the Chabutara visible in this drawing is the same Chabutara or not, about which I have told just above.

The image of the Chabutara marked by ka, Kha, Ga, Gha, Cha, & Chha in, backside of the paper No. 108 c-1/29 of my certified report is not clear to me, so I shall not be able to tell that the Chabutara visible in the drawing No. 57 is same Chabutara, or some part of that or some thing else. Similarly I shall not be able to tell about the Chabutara visible in drawing No. 66 of the coloured album, whether that is the same Chabutara or its part or not, reflected by Ka, Kha, Ga, Gha, Cha, Chha. Seeing the drawing No. 57 and 66, the witness said that-I am unable to tell the height of the Chabutara visible in these drawings, whether it is one feet or two feet or three feet high from the land. The Chabutara as seen in these drawings seems to be more than six inch high from the land. The height of the Chabutara is mentioned as 2 inch from the land in the third para of back part of the drawing paper No. 108 c-1/29 of my certified copy which may be incorrect and it may be some different height in my original report.

Question: Whether it is also possible that when you inspected that place in 1973, the height of that Chabutara might have been only 2-3 inches from the land as you have mentioned in the above drawing paper No. 108 c-1/29 of your report?

Answer: I can tell this only after seeing my original report. It is not possible to tell on the basis of memory.

The Chabutara mentioned in the third para of drawing backside of paper No. 108 c-1/29 of my report, the location of the same is not there in my memory at this time, due to this reason I am unable to tell. Whether its location is similar as visible in drawing paper No. 57 and



66 of coloured album or not. It is mentioned in the 4th, 5th and 6th line of above para of my report "this Chabutara is some what extended in the south, due to this, position it has been reflected by Ta, Tha, Da, Dha, Na. In the above extraction the word "drawing" after 'drishti' seems to have been left. In the drawing attached to the report where Tulsi Chabutara or Tulsi Chaura is mentioned, it is the same Chabutara which is reflected by the words Ta, Tha, Da, Dha.

The witness was shown the drawing paper No. 29 and 30 of the black and white album paper No. 201 c-1 and it was asked by the learned advocate cross-examining the witness whether there were the drawings of the North side or of the South side of the Chabutara. Seeing the above drawings the witness said, that was not in his memory after seeing the last line of the third paragraph of the drawing paper No. 108 c-1/29 of his certified copy, the witness said that the words or digit written by the 'Nakal Navis' after the word basement, is incorrect.

Question: I mean to say that the drawing visible in paper No. 57 pertains to the North and the drawing No. 66 pertains to the South of the coloured album, what do you want to say about it?

Answer: Presently its location is not clear in my memory, so I shall not be able to tell this at this time.

The places of "The Ram Lala Mandir, open part of Ram Lala Mandir and Tulsi Chaura" mentioned in paper No. 108 c-1/35 attached to my report are shown by me in the drawing after being conveyed by the parties. I have no personal knowledge about above mentioned places. The part mentioned as Ta, Tha, E. Gh in the 4th para of the drawing No. 108 c-1/35 of my certified report after that

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one more 'word' is there which is not there to read and after that is mentioned Ga, Gha, Cha, it is not clear in the attached drawing No. 108 c-1/35 to the report.

Statement attested after reading

Sd/-

Pateshwari Dutt Pandey

26.03.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented on 29.03.2004 for further cross examination in this sequence. Witness be present.

Narendra Prasad

Commissioner

26.03.2004

[www.vadaprativada.in](http://www.vadaprativada.in)

**Dated 29.03.2004**

**D.W. 3/10 Sh. Pateshwari Dutt Pandey**

In the presence of Commissioner Shri Narendra Prasad, Additional District Judge/OSD Hon'ble High Court Lucknow Bench, Lucknow.

(Commissioner appointed by the Hon'ble Full Bench vide their order dated 19.03.2004 in the other original suit No. 3/89 (original suit No. 26/59) Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others.)

(Sh. Zafaryab Jilani starts the cross examination on behalf of Defendant No. 9 Sunny Central Board of Wakf U.P. in case of D.W. 3/10 Sh. Pateshwari Dutt Pandey under oath in sequence to dated 26.03.2004.)

The learned advocate cross-examining the witness showed the witness the extract of third to fifth line of para 4 of submitted paper No. 108 C-1/29 in the other original suit No. 5/89 "The second part is E, EE, Ca, Pha, it has three doors, which are in north side all these three doors are made of marbel stone" and asked where he has reflected the part E.EE, Th, Ph in the drawing paper No. 108 c-1/35 attached to his report, seeing the above the witness said that the above part can be seen in the drawing at space where it is written- "all the four brothers sitted in childhood", but the 'Tha' is written incorrectly at the back side in the drawing No. 108 c-1/29 of this paper. It should be 'Gha' insteal of 'Tha' I myself have said that the letters written in the drawing paper certified copy No. 108 c-1/29 enclosure 108 c-1/35 are confusing at some places. By confusing I mean that formation or writing of the letter is not clear and its difficult to identify what the letter is really. The three

doors mentioned in the extract of my report paper No. 108 c-1/29, they are not shown anywhere in the drawing paper No. 108 c-1/35 attached to my report. The original drawing which was prepared by me in my original report, the three doors must have been shown in that. So up to this extent the certified copy of the drawing paper No. 108 c-1/35 seems to be defective. In the fourth para of paper No. 108 c-1/29 of my certified copy it is mentioned as "told that all the four brothers in childhood, so many Saligram Bhagwans are virajman amid the throne of silver with so many toys" after the "Mandir Sh. Ram lala, Sh. Janm Bhoomi" All this tale and extraction of Mandir Sh. Ram Lala, Sriram Janm Bhoomi" was written by me in my report after being conveyed by the plaintiff. In the above report, after the extraction" After this, Ans. two..... has been shown, in this what ever mark and place is mentioned that is shown in the East of letter 'E' and west of letter 'fa' in the certified copy of my drawing or shown at two places in my drawing. After this the extract beginning with the third line, that temple also after making a TATTER of the sticks of Bamboo, except North that has been surrounded from remaining three sides and it is covered from upper side:, seeing the same the witness said that the above TATTER has neither been reflected in the drawing attached to the report, nor it can be marked. The learned advocate cross-examining the witness showed the witness drawing No. 56 of the coloured album paper No. 200 c-1 and said that in this drawing the part of thatch ceiling is the same Chabutara about which you have just told that it is in his drawing and report. Seeing it the witness replied-I can not say definately that it is the drawing of same place or not. No. TATTER is visible to me in this drawing.

The learned advocate cross-examining the witness showed the witness the extract of first para: in the East and West of Sh. Ram Lala Mandir..... showed by E, EE, Gha, Ka" of his certified report of drawing paper No. 108 c-1/30 and asked whether the open part mentioned in it, whether it is visible in the drawing No. 66 of this coloured album? Seeing the above extract and drawing the witness replied that he could not say definitely whether it is the drawing of the same place or not. "The Ram lala Mandir" mentioned by him in the above extract that is written after being conveyed by the plaintiff. The Gufa marked by Chha, Tha, Chha, Fa is the Gufa constructed in the East below the level of the land in the above extract, this Gufa is shown in the East in my above drawing where "All the four brothers in childhood" is written, but the Nakal Navis has done some mistake in writing the letters in the above extract after Chha, Ta and that letter should be Gha instead of Chha. I have said myself that it is written in the above extract of my report that the remaining upper part in East and West of Ram Lala Mandir is open, which clarifies that it is said for the East and West part and the East part is reflected by Chha, Ta, Gha, Fa. Chha is written there in the drawing, where 6.4 is written and in the west of that is written fa, and the letter Ta is indicated in the drawing, where 3.6 is written and after that Gha is indicated.

Question: I mean to say that the letter told by you above as Gha, that does not reflects as Gha it seems to be Dha and letter Gha in the Southern side of the drawing Have you to say anything about it?

Answer. I have to say that the letter Gha is written in the West of EE and as told by me regarding the letter Gha in my drawing that is Gha.

I have told above in the certified copy of my drawing that the Eastern part of the Chabutara is reflected by Chha, Ta, Gha, Fa, I feel it is doubtful, because some letters are not clear this certified copy, but I am sure that the Eastern Gufa was reflected by Chha, ta, Gha, fa part.

In my report, the Western Gufa which is represented by E, EE, Gh, Ka in the above extract of my certified report, that is shown in the west of the Chabutara in the above certit copy of drawing, in which after letter E 2.9 is written after that is the letter 'Dha', but in this drawing letter Ka is not visible any where; but as per my opinion it should be in the Western corner after the letter E. The letter Ka must have been shown in my original drawing. This is also a lapse in the certified copy of paper No.108-C-1/35. As per my opinion the Western Gufa should be in that part, which is reflected by the letters E, EE, Dha, Ka in the original drawing. Gufa is not marked in the drawing. In my original drawing the Gufa must be Dha in the whole E, EE and Ka part. In my certified copy of drawing paper No.108- C-1/35 Western Gufa's part is reflected. In that it can be read clearly 'Bharat Lal Ji'- 'Shatrughan' and after that whatever is written ahead to that is not legible. In this drawing the part of Gufa which is represented Ta, Chha,Fa, Gh in that is written 'Bhagwan in the lap of Kaushalya'. Something is written below that, is not clear. It may be possible that Bhagwan Ram might have been written below that. Whatever is Written in the part of Eastern Gufa and Western Gufa, that has been written by me after being conveyed by plaintiff. The doors of both these Gufas have not been shown in my verified drawing verified copy paper No.108-C-1/35, it may be possible that their doors might have been

shown in the original drawing prepared by me. I don't remember in which side both of the doors were fixed or I don't know whether these doors are fixed towards Eastern side, Western side, Northern side or Southern side or in which direction.

The witness was shown the drawing paper No.29 & 30 of the black & white album 201-C-1 by the learned Advocate cross-examining the witness and it was asked whether he can tell after seeing that, whether the Eastern and Western Gufa mentioned by him were seen there or not in these drawing. Seeing the above, the witness replied he was not recognizing those drawings and after seeing them it is not clarified that those are the drawings of Gufas or not.

After seeing the drawing No.57 of the coloured album paper No.200 C-1, this drawing is also not recognized by him because a lot of time has gone, so the image of those Gufas is not in his memory.

Question. I mean to say that both the Gufas are visible in the above drawing No.57 which were constructed below the Chabutara and the direction of both Gufas were towards North as visible in this drawing. Have you to say anything about it?

Answer. I don't remember the scene of these Gufas today, so due to this I am unable to tell whether the drawing No.57 pertains to these Gufas or not.

The learned Advocate cross-examining the witness showed the witness extract of para 1 of the certified copy paper No.108 C-1/30 of his report..... 'The Eastern

part..... is called' and it was asked whether he has mentioned Shri Ram Janam Bhumi, lap of Koushalya, Shri Ram Janm Bhoomi Mandir, Bharat Ji, Charan Padukas of Bhagwan Ram after being conveyed by plaintiff or Party or on the basis of Companions or conveyed by Advocate. Seeing the above extracts the witness replied that he has written all these things in the report after verifying them on the site or after being conveyed by Parties. He further said after seeing the report and felt that the above informations asked by him in the question were mentioned after being conveyed by the plaintiff.

Question. You have told that you have mentioned in your report in the above extracts of your report conveyed by the plaintiff, so please let me know which information you have given on the basis of your personal knowledge or after verifying them on the site in the above extracts.

Answer. At the time of doing the work of Commission whatever have been written that is written after being conveyed by plaintiff or defendant or both or after verifying them personally.

Question: My question is very much specific, I am not asking about the whole report, but about the extract from the 6th line to 13th line of paper No.108 C-1/30 of my report.... the Eastern part..... do the Parikarma, so please let me know about that extract only, which informations have been written on the basis of personal knowledge or after verifying them personally in the above extracts ?

(On this question the learned Advocate of plaintiff Shri Ranjit Lal Verma objected that this question has already been replied and such question should not be asked about



the contents of the documents. This question contains the factual as well as actual description, to have Darshan, make parikarma etc. and therefore such questions can be asked separately, so integrated question should not be asked.)

Answer: Whatever I have mentioned in the above extract, that has been written, on the basis of what was being conveyed by the plaintiff or after verifying that personally. Whatever I have written about Parikarma and having Darshan, it is done after having been told by the plaintiff.

Question. I mean to say you are giving false statement in this regard, because you have mentioned that all these informations you have shown only on the basis of whatever was told by the plaintiff in the extract of the above report, what you have to say about it?

Answer. It is not correct to say. While doing the work of commission, on the site, I used to verify the facts after being conveyed by the parties and only then I noted down them.

(On the basis of which sources you have verified that the Eastern part of this Chabutara is Shri Ram Janarn Bhumi, which you have mentioned in the 6th-7th line of this page.

Answer. I have mentioned this fact only after being conveyed by the plaintiff.

Question. In the 7th-8th line of this para you have mentioned about the presence of Ram Ji in the lap of Koushalya, through which sources you have verified this?

Answer. On being conveyed by the Plaintiff, I was also shown that drawing, on the basis of which I have written this information.

The drawing in which Bhagwan Ram is shown in the lap of Koushalya Ji that was seen by me after entering the Gufa. The Gufa in which I saw this chitra after entering it, the height of that Gufa I don't remember. I even don't remember whether I entered that Gufa in standing or sitting position. There was some light in the Gufa, through which it was enlightened that I don't remember. I even don't remember, whether the drawing was how much big? I am unable to tell whether this chitra was made of paper or cloth or mud or stone. I don't remember, whether some other chitra was seen by me in that Gufa. I even do not remember whether I entered that Gufa alone or in the company of some one else. I even don't remember that this chitra was hanged on the wall or it was virajman on land. I even don't remember that when I entered that Gufa, at that time it was morning, noon or evening. I even don't remember that when I entered the Gufa, my face was in East, West, North or South side. I entered both the Gufas at the time of doing the work of commission.

The statement attested after reading

Sd/-

Pateshwari Dutt Pandey

29/3/2004

Typed by the stenographer in the open court as dictated by me. The case may be presented on 29.03.2004 for further cross examination in this sequence. Witness be present.

Sd/-

Narendra Prasad

Commissioner

29.3.2004

**Dated 31.3.2004**

**D.W-3/10/ Shri Pateshwari Dutt Pandey**

In the presence of Commissioner, Shri Narender Prasad, Additional District Judge /OSD Hon'ble High Court, Lucknow Bench.

(Commissioner appointed by the Hon'ble full Bench vide their order dated 19.03.2004 in other original suit-3/89 (original suit No.26/59) Nirmohi Akhara and other virsus Babu Priya Dutt Ram and others).

(Shri Zafaryab Jilani, Advocate begins the cross examination of DW 3/10 Shri Pateshwari Dutt Pandey under oath. On behalf of defendant No.9 Sunny Central Board of Wakf, Uttar Pradesh in sequence to dated 29.3.2004

The learned Advocate cross-examining the witness showed the witness drawing No.29 of black and white Album paper No. 201 C-1 and it was asked whether he has mentioned about the two Gufas in his report about which there is a mention in the paper No.108 C- 1/30 in the first paragraph of his certified report, whether these are the same Gufas, which have been mentioned in drawing No.29 towards lower side and he was further asked what he has to say about it? Seeing above the witness replied that the same is visible in drawing No.29, but I do not remember any thing properly about it. I did not see Gufa in the lower side of drawing No. It is incorrect to say that two Gufas are visible at the lower side of the above drawing No.29 and it is also incorrect to say that I am giving miss

statement in this regard. It is false to say that the height of the Gufas was not enough be entered by some person.

The learned Advocate cross-examining the witness showed the witness the extract from 8th line to 10th line of the first paragraph of certified copies of paper No.108 C-1/30 of his report. 'The Western Gufa.... was virajman' and asked what do you mean by Shri Ram Janambhoomi Mandir, Bharat Ji, Shatrughan Ji with Charanpaduka of 'Bhagwan Ram', which you have called to the Western Gufa in your above extract what do you mean by it? Seeing the above the witness replied that by this I mean that all these things were virajman in the Gufa and after seeing them I made it written.

Question: You have mentioned Ram Janambhoomi Mandir in your report in the above para, in what position it was located there in the Gufa.

Answer: The Plaintiff told- this Gufa is Mandir and he said that Gum was given the shape of Ram Janani Bhoomi Mandir, so due to this reason, I wrote that Western Gufa as Ram Janambhoomi Mandir. In that very Gufa or Western Gum were present Bharat Ji, Shatrughan Ji, Charan Paduka of Bhagwan

Ram, the said three things. I have seen these things after entering in the Western Gufa, there was a complete darkness and I was shown these things through the torch light or light of some thing else, so I can tell the length and breadth of this Gufa, I don't remember whether the length of the Gufa was equal to the length of Chabutara constructed towards upper side or not. I don't remember whether those were the idols or chittra of Bharat Ji and Shatrughan Ji in that Gufa. I even don't remember those idols or picture of Chabutara of Bharat Ji and Shatrughan

Ji were virajman in the starting or end of the Gufa. I even don't remember whether the idols or picture of Bhagwan Ram and Shatrughun were virajman side by side or together or in Northern or Southern or Eastern side. Even I don't remember the Charan Padukas of Bhagwan Ram were placed at the starting or at the end of the Gufa or in which order. Kharaons are called as Charan Padukas. There were two Charan Padukas in the Western Gufa, I don't remember whether those Charan Padukas were made of wood, silver or stone. I even don't remember whether those Charan Padkas were of two inches, three inches or four inches. Then he said that those Charan Padaks were not of two, three inches, but those ere the Charanpadukas of average measurement to be used by a young person. I had gone to the site for three days for the work of Commission. I did not see any Bhakatjan, sharadhalu or Darshanarthi in these Gufas for all three days offering worship, prayer or doing chadhwa on that picture.

The learned Advocate cross-examining the witness showed the witness the extract from line 10th to 13th line of the first paragraph of page 108 c-1/30 of the certified copy of his report. After doing the darshan of Shri Ram Janambhoomi and the both near by Gufas, Bhakatjan used to have a parikarma of whole Chabutara Ka, Kha, Ga, Gha, Cha, Chha, seeing which the witness replied that he had written this fact after being conveyed by the Parties.

The witness was shown the extract just after that 'in the North of above Ram Lala Mandir, there is a Akhand Keertan Chabutara on which the Bhakatjan used to recite the Keertan 24 hours. You have reflected this Chabutara by the letter' Ka-1, Ka2, Ka-3 and Ka-4'. The learned advocate cross-examinaing the witness showed the above to the witness and asked whether these facts have been written on the basis of being conveyed by the parties,

seeing the above the witness replied that he has seen people reciting keertan, but the fact of reciting keertan 24 hours was conveyed by the parties. After seeing the drawing paper No.108 C-1/35 of his certified copy of report, the witness replied that in his report there is a mention about the Chabutara in the above extract reflected by the letter Ka-1, Ka-2, Ka-3 and Ka-4. It is shown in the north side in the paper No.108 C-1/35 where "all the four brothers in childhood..... virajman" is written. In this drawing the Phatak is written above the letter Ka-1 and on the left side is written 13.6 above the Ka-2.

The learned Advocate cross-examining the witness showed the witness the extract from 17th to 19th line of the first para of paper No.108 C-1/35 of the certified copy of his report " in the west of it, which I shown by Kha-1, Kha-2, Kha-3, Kha-4 in my Naksha Nazri and it was asked which thing has been shown in the above mentioned Kha-1, Kha-2, Kha-3, Kha-4 letters in the drawing paper No.108 C-1/35 and where? Seeing the above, the witness replied that Kha-1, Kha-2, Kha-3 and Kha-4 showed the Baithka of wood by the plaintiff and the defendant told it as throne and which is reflected by Kha-1, Kha-2, Kha-3 and Kha-4 letters have been shown in drawing paper No.108 C-1/35 at Ka-1, Ka-2, Ka 3, Ka-4 the West is shown as adjoined.

The learned Advocate cross-examining the witness showed the witness drawing No.56 of the coloured Album Paper No.200-C1 and asked the place showed by in his report and drawing as Ka-1, Ka-2, Ka-3 and Ka-4, whether it is the same place which is visible as Tin shade in drawing paper No.56. Seeing the above the witness replied that after seeing

drawing No.56, I am unable to tell it clearly. After seeing the drawing No.64 of this Album the witness replied- it is not clear to me whether the place showed by the letters Ka-1, Ka-2, Ka-3, Ka-4 in my drawing and report whether it is visible in this drawing or not.

After seeing the drawing No.201 of the coloured Album of the drawing and paper No. 108 C-1/35 (other original suit No.5/89) the witness said that the place mentioned by him as Kha-1, Kha-2, Kha-3, Kha-4 in my drawing, that has been shown as Phatak in the North of that, whether this Phatak is the same as seen in drawing No.201 or not, it is not clear to him.

After seeing paper No.200 C-1's drawing No.9,45 and 46 of this coloured Album the witness said that all other three drawings seem to be as one Phatak. In the three drawings two Phatak are visible, one towards front side, the next towards back side. The complex which I had visited in 1973 for the work of Commission, the certified copy of which is at paper No.108 C-1/29 enclosure 108 C-1/35, in that complex I saw the Phatak as seen in the above three drawings and this is outer Phatak of eastern side of that complex. I do not remember about the Phatak seen in the inner side of these drawings, but I remember very well about the outer Phatak. The complex where I went in 1973 for the work of Commission there was a wall of iron bars, I do not remember there was one Phatak or two Phatak in that wall of iron bars, but there must be at least one Phatak in that wall of iron bars, a lock was hanging on that at that time.

After seeing the drawing No.77 of the coloured Album paper No.200 C-1, the witness said that the Phatak

is seen in this drawing, such type of Phatak, I saw in the wall of iron bars, which was locked.

After seeing the drawing No. 78 of coloured Album the witness said that Phatak is seen in this drawing, whether same type of Phatak was there on the wall of bars or not, he does not remember at this time.

After seeing the drawing No.58 of the coloured Album, the witness said- that is the Gufa visible in this drawing, the same type of Gufa was there or not when I had gone for the work of Commission in 1973 that I do not remember, but the Idols as visible in this drawing those were virajman there and I saw them personally at that time. The Idols which shown in above drawing No. 58 are not visible completely, so one can not know whose Idols these are? Then he said that one of these Idols seems to be that of Kaushalya Ji. The Idol of Kaushalya Ji which is visible in drawing No.58 in the lap of that Idol, there is an Idol of Bhagwan Ram Lala. As far as I remember, this idol of Kaushalya Ji was virajman in the Gufa at that time, but I do not remember whether this Gufa was just like as it is visible in drawing No.58 or not.

The learned Advocate cross-examining the witness showed the drawing No.31 of black and white Album paper No.201 C-1, seeing this witness said that two doors and windows are visible to him in this drawing and the idols placed are also visible to him after the doors. One idol seems to be of 'Hanumanji among the idols visible in drawing No.31, but exactly its not clear. As I said earlier, I have undergone eye operation, so even using magnifying glass also I can not see clearly. Through magnifying Glass it is not clear to me whether there is a idol of Kaushalya Ji or not in this drawing No.31. But in



coloured Album drawing No.58, the idol of Kaushalya Ji is visible to me without magnifying glass. The window which is visible in drawing No.31 in the black & white Album that would be more than 3 ft. high, I do not remember whether any Gufa is visible in drawing No.31 towards the window side or not. In these both Gufas I had entered in 1973 for the work of Commission. I even do not remember whether there was any door or not at any one of these Gufas as seen in Drawing No. 31. None of the idol seems to be of Ganesh Ji amid the idols as visible in drawing No.31. In this drawing the white stone is visible to me with black writing towards the left side of the window. After seeing through magnifying glass, 12.2.1976 in writing is visible to him on the above white stone with black writing. After seeing the drawing No.107 of this black and white Album, the witness said that he does not remember whether he saw such Phatak in the complex or not at the time doing the work of Commission as visible in this drawing.

The statement attested after reading.

Sd/-

Pateshwari Dutt Pandey

31.3.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented on 01.04.2004 for further cross examination in this sequence. Witness be present.

Narender Prasad

Commissioner

31.3.2004

**Dated. 1.4.2004**

**D.W 3/10 Shri Pateshwari Dutt Pandey**

In the presence of Shri Han Shankar Dubey, Additional District Judge (OSD) Hon'ble High Court Lucknow Bench, Lucknow.

(Commissioner appointed by the Hon'ble full Bench vide their order dated 19.03.2004 in other original suit No.3/89 (original suit No.26/59)/ Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others.)

(Shri Zafaryab Jilani, Advocate starts the cross examination of Shri Pateshwari Dutt Pandey under oath on behalf of defendant suit No.9 Sunny Central Board of Wakf, Uttar Pradesh in sequence to dated 31.3.2004).

On page No. 108C-1/30, of my report paper No. 108 c-1/29 first prastar's 19 to 27 lines extracts "The plaintiff told about the Baithaka of wood.....are shown" by Ka1, Ga2, Ga3 and Ga4 have been seen by me. By Akhand Jyoti as mentioned, I mean the Jyoti which was lightning there, that was burning there for 24 hours. Whatever light is visible between the throne and Keertan Chabutara in the map attached to my reoport, a Jyoti was lightning at there. Oil or Ghee was used in that Akhand Jyoti, this fact was told to me by the defendant. Whether there was any Tin shade or riot at that time that I don't remember. The place of throne and the wall of bars were adjoined there. The last line of first pras of my report Ka-1, Ga1, Ga2 and Ga3 which has been shown by dotted line in the scenary. That was adjoined with Keertan Chabutara and it was the part of that, Dotted line was shown between Ka-1 to Ga-1, Ga-1 to Ga-2, Ga-2 to Ga-3 in the drawing prepared by me,

but this dotted line is not been shown between the letters of my certified copy. Accept that it has been shown by the straight line. The part between Ga3 to Ka4 has been shown by the dotted line. During the time of my site verification, I did not see any person managing on the Keertan Chabutara and the adjoined part of it. The details of things found on the throne which I have given at the start of page No 3 & No. 4 of my report; except that I did not see anything on the throne. The Sign-Board which has been mentioned in my report, at the Keertan Sthal, was not placed on the land, but that was placed on the throne itself. But actually where it was fixed at that time, that I do not remember. Shri Ram Lakhan Saran was the defendant of this suit and his name was written on the Board. He also met me at the time of verification of site. The witness was shown the extract of page 4 of his report 'the plaintiff meant to say bricks have been arranged and asked who told you about the Disputed Mandir' and "Shri Ram Janambhoomi as mentioned in the above extract? The witness said that the plaintiff had told me about it. By disputed Mandir I meant to 'Cooked Bhawan as mentioned in the 5th line of page 4 of my report, I mean the 'Cooked Bhawan' and Ram Chabutara both. The three rooms mentioned by me in 6th line of this para, of which material the ceiling of those rooms was made, that I do not remember, whether it was made of thatch or tin or wood, I do not remember this. Similarly the doors of three rooms mentioned in this paragraph were made of the Bumboo sticks, tin or wood that also I do not remember. The 'Sant Niwas mentioned by him in this para is also included in these 3 rooms. The bricks used in the Western wall of the 'Sant Niwas were the Gumma bricks. Those bricks were arranged on one another and there was no sticking material amid them. The

Sant Niwas, Baithaka and the middle Rasoighar and the Northern Room and the 'Sant Niwas mentioned in this part were separate. The Baithaka and Rasoighar were not the part of Sant Niwas. The Sant Niwas is shown in the East in the drawing attached to my report and Sant Niwas was written on it. But whether something was written on Rasoighar and Baithaka, I do not remember. Some party told me that those were Rasoighar and Baithaka, but I do not remember which party told me about it, I do not remember it. The door of Sant Niwas was in the west But the door of Rasoighar and Baithaka was not in the West. If any door had been in the Western side, then I would have shown that in my drawing. The Neem tree which was shown in the West of the 'Sant Niwas in the drawing prepared by me was neither very old, nor it was new. It was about 20-25 years old. I went to the disputed place for the work of Commission in 1973, after that I never went to that place again. The Chabutara shown by me in the Western side in the paper No.108 C-1/35 prepared by me which was adjoined with the wall of bars. No tree was shown on the Chabutara located in the Western side of Rasoighar and Baithaka in the drawing prepared by me. The breadth of Chabutara was 4 to 5 ft. and its length was 41.8 feet. This length was stretched from the letter Va to Phatak. The North Western corner of the Chabutara was shown by the letter Va. The wall of bars was also located at the place of 'Va. That wall of bars turned to West at the place 'Va', I don't remember whether there was any big tree of moulishri or not in the middle of the Chabutara and I have also not shown this tree on the Chabutara in my drawing.

The witness was shown the drawing Page No.65 of the coloured Album paper No.200 C-1 and it was asked whether he could see the above mentioned Chabutara in that or not? In his reply the witness told-

the position of Chabutara is not clear in it. The witness was also shown the drawing No.68 of this coloured Album and asked whether the position of the Chabutara is clear in this drawing or not, in the reply the witness told- the position of the Chabutara is clear in this drawing. The position of the Chabutara which I verified physically at the site which has been shown in the drawing clearly and seems to be correct. I have shown it in the Western side of Rasoigliar and Baithaka in my drawing. The witness was also shown drawing No.75 of this Album and asked whether Chabutara was visible in this drawing or not. In the reply, the witness said that the Chabutara was visible in this drawing also. The same Chabutara is also visible in Photo No.76 of this Album. The witness was asked about the tree as visible in Photo No.68, 75 and 76 of this Album. The witness said that he does not remember whether this tree was there on the Chabutara or not at the time of site-verification. The tree is visible in the above 3 drawings they seem to be very old and after seeing these drawings it seems that this tree will be surely at there at the time of site-verification. No Party must have stressed for showing the tree in the report or drawing, Consequently, I did not mention it in my drawing or report. The Neem tree shown by me in my drawing which was newer to it. The Chabutara was mentioned below this Neem tree in my report, whether it was made of cement or mud or some different material, I do not remember. The length of Chabutara was 11 ft. The diameter of Chabutara was 8-10 ft or not, I do not remember. The Chabutara was at some height from the base of the land, but I am unable to tell whether it was 1 ft. high or 2 ft. high. I am unable to tell whether the height of Chabutara adjoining the wall of Bars was more than the height of this Chabutara or not.

The witness was shown the drawing No. 37 of the black and white album paper No. 201-c-1 asked, whether the Chabutara visible in that picture is same which was adjoined to the Wall of Bars. The witness replied it is positively. The wall of Bars visible in this picture, there are many marble stones in it and there is black writing on these stones. I am unable to tell about the height of the wall visible in Chitra No. 37 even after seeing the Chitra or on the basis of his memory. I am unable to tell whether the height of the wall was 8 feet or 10 feet. The height of the wall must be 7-8 feet. The Northern part- Sant Niwas etc. visible in the drawing attached to my report, the same part is felt, after seeing drawing No. 37. The distance of wall of Bars must be about 20-21 feet from the Western wall of Sant Niwas. The Tap mentioned in the first para of page 4 has been reflected by the letter 'J' in the drawing attached to my report, which was adjoins the Northern wall. The Tap mentioned in this para and next para, both the Taps are the same or different ones, it can be clarified only after seeing my report. I am unable to say on the basis of memory. At the time of site inspection, I visited Sant Niwas Rasoi Ghar and the Baithaka personally for the verification of articals, those places have been shown in the drawing of my report. I do not remember whether there was any Tap in the three rooms or not "The Tap reflected by me as 'J' letter, I do not know whether water was coming it or not. The North-East corner of the Sam Niwas which have been shown by me as letter 'La-I' that was North-Eastern corner of the disputed land. The Northern wall of the disputed complex 'La-I' leads to the place, which have been shown by me as 'Va' in the West direction. 'La-I' has been shown at two places in the drawing attached to my report.

The place shown as 'La' and 'Wa' in the North-Eastern corner from the Sant Niwas in the paper No. 108-c-1/30 of page No. 4 of my report that has been shown as 'La-I' and 'Wa' in the drawing attached to my report, while it should be shown by La, Wa. The tap mentioned in the last para of page 4 of my report that place is located at distance of 9 (nine) feet from La, Wa. Actually that is the distance of North-Eastern corner of Sant Niwas at La-1 as shown in the drawing attach with my report. The round Chabutara mentioned in the last line of my report at page No. 4 and which, has also been marked in the first line of para 5. That mark is not shown in the certified copy of the drawing attached' to the report. So, the drawing has some lapse up to this extent. The round Chabutara mentioned in the last line of page No. 4 of my report, where it has been shown in the certified drawing attached to report, I am unable to tell it on the basis of memory. The witness was shown the Chitra No. 75 of paper No. 200 c-1 of coloured album and was asked whether this chitra has been taken from the North-Eastern of the outer and inner wail of disputed Bhawan. In the reply to this question, tile witness said- definitely it has been taken from the Northern side, but I am unable to tell definitely that it has been taken from North-Eastern side. The policeman shown in drawing No. 75, Tin shade is visible behind that. One Tin shade is also visible in the Eastern side of the policeman which place is that. By the Tin shade visible behind the policeman, I am unable to tell, which is this place, it is not clear after seeing the picture. Similarly the Tin shade visible in the Eastern side of the policeman, that seems to be the Southern part of the Sant Niwas. The witness was asked about the last word of first line of the page 5 of his report. After focusing on it for some

time, he said that this word is wall, the word La-1 mentioned in the second line of this very page, that has been shown in the North West wall of Sant Niwas, as La-1. The distance between the two places, shown by La-1 should be 10 feet. The fatak mentioned in the third line of page No. 5 of my report, the three places were close at the time of my inspection. The fatak mentioned in the third line of page 5 in my certified copy of Report, whether it pertains to the fatak shown in photo No. 70 of coloured Album Paper No. 200 c-I or not, I am unable to tell it. The fatak visible in photo No. 37 and 38 in the coloured Album, it seems to be the same fataks which have been mentioned in the third line of page 5 of the certified copy of my report. A Chabutara has been shown in certified copy of my drawing at a distance of 10 feet 6 inch from this fatak. That Chabutara is visible at picture 70, 71 and 72 of the above coloured Album. I have shown this Chabutara in the drawing prepared by me as well as in the Report. Chhapper has been mentioned with a slope towards East on wooden support (Thuni) on the wall 'Aa' Ba' in the sixth line of page 5 of my certified report. This is the same Chhapper which has been shown at 'Aa' 'Ba' in the certified copy of the drawing attached to my report. Its length has been shown 18 feet 10 inch. There is a tree of Bail in front of it, which has been shown towards East. The Chhapper mentioned in the sixth line of the backside of page five of my certified copy of my report which has been mentioned as 6 feet 4 inch in breadth towards West, this is the Chhapper which has been shown in the West pf copy of drawing of my report. The North-Western part of the Chabutara is shown at a distance of 21 feet 10 inch in the Western part of the Chhapper in the certified copy of drawing prepared by me.



The witness was shown photo No. 39 of the paper No. 201 c-I of the black and white album and asked whether it was the same Chabutara which has been mentioned in the 9th line of page 5 of the report, the witness replied this question in positive. Chhapper is not visible in the Western side of the Chabutara in the photo No. 39 of this album. The same Chabutara is visible in photo No. 38 of this album which has been mentioned as Koushalya Rasoi and Chhati Poojan Sthal. No chhapper is visible in the Western part of the Chabutai in this photo. The chhapper mentioned in my drawing and report that was observed to be 5-6 months old at the time of my verification of site.

The witness was shown the photo No. 71 and 72 of the coloured album paper No. 200 c-I and asked whether the Chabutaras visible in this photos are the same which have been mentioned in my report as Koushalya Rasoi and Chhati Poojan Sthal. No. Chhapper is visible in the West side of the Chabutara in this photo. The Chhapper which I have mentioned at this place in my report and drawing that was observed to be five-six month old at the time of site-verification.

The witness was shown the Photo No. 71 and 72 of the coloured album paper No. 200 c-I and asked whether they are the same Chabutaras which are visible in the above photos which have been mentioned as Koushalya Rasoi and Chhati Poojan Sthal in the report The witness replied this question in positive. No Chhapper is visible in these Photos No. 71 and 72 in the West or back side of the Chabutara. When I had inspected the site there was no any throne at the chabutras. At the time of inspection of that site there was no

any chappar or tin-shade at the chabutra. In the 5<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> line of the backside of the certified report copy page No. 5 the presence of which objects are written, except than no object was there at the chabutara. When I inspected the site, at that time, some stones were there with black writing on them on the Chabutara, but I am unable to say whether the stones visible in Photo No. 71 and 72 are the same or some different stones. The area where Chulha, Chouka and Belan are shown in Photo No. 71 and 72 these things were there, when I inspected the site. The Foot-Prints shown in the Northern side of the Photo No. 71 and 72, they were also seen at the time of my site verification. Both Foot-prints are visible in the Photo No. 71 & 72. The witness was shown the Photo No. 39 of the paper No. 201 c-I of Black and White Album, seeing it the witness said that the same Chabutara is visible in it, which has been mentioned in my statement. The stones with black writing on them visible in Photo No. 39, whether the same stones were there at the time of site-verification or not, I am unable to tell it, but stones were there at the Chabutara at that time also. The Chulba visible in Photo No. 39, whether it was made of stone, cement, mud or any other material, I am unable to tell about it, but it was made like the Chuiha as visible in Photo No. 39, the Belan and Chouka visible in Photo No. 39, they were there at the time of my spot verification and were made of stone. The Foot-prints on the Chabutara as mentioned by me in my statement, they were made of stone. These Foot-prints were not for childhood, but for youngster stage. The witness again said that whether those Foot-prints were of childhood

stage or of youngster stage, I do not remember that correctly. I have not mentioned in my report whether those Foot-Prints were of Ram Chandraji, or Laxmanji or Shatrugh or of some one else. The parties had also not told me anything about them. I also do not have any personal knowledge about them.

I have mentioned Koushalya Rasoi nd Chhati Poojan after being conveyed by the parties. It is mentioned in the fourth and fifth time at page 5 of the certified copy of my report. That Dristi-Chitra was made on the basis of scale, which is correct. By the above, I mean that the thing showed in the drawing by me, they are based on scale. The idols shown at various places of the above para at page No. 5, no party has given any imphasis on them, so I had not shown them in the drawing. Similarly the wall Wa, Fa2 mentioned in the sixth line of this para that has not been shown in the ccertifled copy of the paper of the drawing No. 108 C-1/35. The letter Wa, mentioned in the East of the Bhawan in the certified copy of the drawing prepared by me, actually that letter is Ba instead of Va. The witness himself said that the reason of it is that at the very beginning he had mentioned the Disputed place as Aa, Ba, Sa, Da, Ya, Ra, La, Va.

Statement Attested after reading  
Sd/-

Pateshwari Dutt Pandey  
1.4.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented tomorrow dated 2.4.2004 in this sequence for further cross examination in this sequence. Witness be present

(Hari Shankar Dubey)  
Commissioner  
1 .4.2004

**Dated 19.4.2004**

**D.W. 3/10 Sh. Pateshwari Dutt Pandey**

In the presence of Commissioner, Sh. Hari Shankar Dubey, Additional District Judge/OSD Hon'ble High Court, Lucknow Bench, Lucknow.

(Commissioner appointed Hon'ble Full Bench vide their order dated 16.4.2004 in the other original suit No. 3/89 (original suit No. 26/59) Nirmohi Akhara & others virsus Babu Priya Dutt Ram and others.)

(Sb. Zafaryab Jilani, advocates begins, the cross examination of D.W.3/10 Sh. Pateshwari Dutt Pandey under oath, on behalf of defendant No. 9 Sunny Central Board of Wakf, Uttar Pradesh in sequence to dated 1.4.2004 under oath.)

The witness was shown the fifth and sixth line of third para of his report 108 C-1, page No. 5 (paper No. 108 C-1/31) and asked which wall is mentioned in it? The witness replied that the wall Wa, Fa-2 mentioned in it was the wall of the bars. Volunteer :- that there is some lapse in it and there is no line above Fa, so there will be any possibility of mistake while reading. The word Fatak mentioned in the East of Fa-z, that Fa-2 is written in the West of the Fatak in the drawing. The distance of Fatak from Va was indicated 41.1 feet and some more the drawing. That distance is not indicated 42.2. That distance is some what longer than Va, Fa-2 because the distance of diagonal will always be more some. The windows are shown amid Va, Fa-2 in the drawing of my report, they are shown as based on scale after taking the measurement. In my drawing 1 inch is taken as 10 feet. Four windows are visible between Va and Fa-2. I do not remember whether there was any door between Va and Fa-2 in the drawing prepared by me. The witness was shown

the Photo No. 37 of the black and white album, paper No. 201 C-1 and asked whether the window and wall shown between Va, Fa-2, are visible in this drawing? The witness replied that it is the same window and wall. A tree is visible in Photo No. 37 and a policeman is shown behind it, I do not see any door towards the western side of the tree in Photo No. 37. The witness was shown Photo No. 65 of the of coloured album 200 C-1 and asked whether the same wall and windows are visible which have been shown between Wa, Aa-2 in the drawing prepared by you. After seeing the photo No. 75. of this album the witness said that the same wall and windows are visible in it. A tree is also visible in it. This tree must have be there at the time of my site- verification, because it seems to be very old. I do not see any door in the west side of the tree in Photo No. 75. The witness was shown the Photo No. 77 of this album and asked whether any door was visible to western side of the tree. Seeing this Photo, the witness replied that door is visible in the west of the tree. The wall and the windows shown between Va and Fa-2 by me in my drawing attached with my report are also visible in drawing No. 77. Windows have been mentioned in my drawing, but the door between Va-Fa-2 has not been shown because the parties must not have told anything about it. The witness himself told that he h mentioned in his report what the parties emphasized on the windows and the wall during his measurement, so he mentioned the windows in his report. The witness was also shown Photo Nos. 63, 64 and 65 of this album and asked whether the wall and windows were shown in these Photos are the same, which have been.mentipned in his report? The witness told that these are the same windows & wall. The witness himself told that he had shown four windows in his drawing report, but 4 windows are visible in Photo No. 65 which had been mentioned by me in drawing No. 108 C-1/35. The witness said that in Photo No. 63 he can only see three windows in the wall and one window in

another wall. The witness himself said that the Fatak shown by him in his drawing paper No. 108 C-1/35, at the entry door, opposite to that in the west, in the Northern wall of bars Va, Fa 2, I have shown four windows. I do not know about the direction of the wall visible in Photo No. 63, I am unable to tell whether the wall and windows shown in the paper No. 108 C-1/35 prepared by me, are the same as visible in drawing No. 63 and 64 or not.

Question. What I mean to say is that the wall and windows as shown amid Va, Fa-2 in the drawing No. 108 C- 1/35 prepared by you, whether the windows and wall which are visible in Photo No. 63 and 64?

Answer. I have no idea about the position of that time. I mean to say that the line up to 'Wa' shown in the North of Fatak-2 which starts from the west of Fatak-I, I have shown 4 windows in that. If there had been more windows, then I have no knowledge of that.

I have no idea whether the windows visible in the South of the Fatak to the East of Fa-2 shown by me in the drawing prepared by me are visible or not in drawing No. 63 and 64. Every window mentioned by me in wall Gh-1, Gh-2, Gh-3 and Gh-4 in the thirteenth line of para 3 of page 5 in my report, is the same window, which have been shown in the drawing prepared by me the West of Chabutara below thd letter Va in the West., Gh-3 is written twice in my report which is incorrect. The window Gh-I mentioned in my report, is the same window as shown in Photo No. 76 of coloured album paper No. 200 c-1 or not. I am unable to say whether any of the windows Gh-1, Gh-2, Gh-3, Gh-4 shown in my report, have been shown in Photo No. 76 or not. The witness was shown Photo No. 38 of the black and white album paper No. 201 C-1 and asked whether the report mentioned in his report from Gh-I to Gh-4 and asked whether among them, is there any one of the window as shown in your

report ? The witness said that he is unable to say this on seeing the Photo Gh-4 is the Northern part of the wall of Iron Bars. The witness said certainly that it can not be said as Northern part. This is the Western part. of the place Va. The witness has not shown any window after Gh-4. After reading his report the witness told that no window has been shown after Gh All the windows from Gh-I to Gh-4 have been shown on the basis of the scale. He said that as he has shown the windows between Va to Fa-2 in his drawing paper No. 108 C-1/39, he has not marked those windows as Gh-I to Gh-4 in the wall in his report. The witness was shown Photo No. 38 of the black and white album and asked whether the door visible in the Southern side is the door of Northern wall of disputed building The witness said 'yes', that was the door of Northern wall of disputed building. In Photo No. 38 the windows are visible in the wall of Iron Bars in the disputed building. One of these windows is just opposite the above Fatak and another is behind it. Chabutara is visible, which is made of Tin shade and stretched between the middle of the window of above wall of Bars and the Northern Fatak mentioned above, which was known as Kousha!ya Rasoi. I have shown the above Fatak La (La-1) between and Va in the Northern wall of the Disputed Building in the drawing prepared by me. Chabutara has been shown in the Southern side of the Fatak in the drawing prepared by me. The distance of the wall with a turn has been shown as 1 feet 10 inch in the South of the Chabutara in the drawing prepared by me. This wall with a turn is not visible in the Photo No. 38, the turned part can not be shown in the Photo. The distance of the Fatak upto the letter 'Ba' has been shown as 30 feet 6 inches, which is stretched upto the end of outer Northern wall. After that the wall adjoins West- Northern corner of the wall of the Bhawan, which has been shown by the letter 'Aa'. From Aa to East, where I have written 1 feet 10 inch, that distance has been

shown as 30 feet in the drawing prepared by me. The witness was shown the Photo No. 54 of the black and white album paper No. 201 c-1 and asked about the distance shown as 1 feet 10 inches in the drawing prepared by him. Where is that in this Photo? After seeing the drawing, the witness told that I cannot say that where was the place located at the distance of 1 feet and 10 inches in the drawing. The witness was asked about the two windows visible in Photo No. 54 in the North side whether they are the same window which are visible in Photo No. 38 on the south side of the Chabutara (Koushalya Rasoi). The witness said that he can not tell after seeing the Photo that the two windows visible in the North at Photo No. 54 are the same which have been shown in the Southern side of the Chabutara (Koushalya Rasoi) or not.

The distance La (La-1) between North-East corner of the disputed building (Sant Niwas) and up to 'Ba' has been measured as 9.6 feet in the drawing No. 108 C-1/35. The breadth of the Fatak is shown in it as 8 feet. The distance of the Fatak from West upto 'Ba' was 30.6 feet and the distance upto North-Eastern corner was 41 feet. The length of the Northern wall of the disputed building was 79.6 feet as per my measurement. The length of the Southern wall of the disputed building is not indicated clearly in the drawing prepared by me. The Eastern wall of the disputed building in which there was a Fatak, has not been shown in the certified copy of the drawing, paper Nd. 108 C-1/35 prepared by me. It might have been indicated in the earlier drawing prepared by me. The breadth of the Fatak located in the Eastern side was 7.7 feet. After calculating the various distances shown in the certified copy of his drawing, the witness said that the total length of the East side of the disputed building was 135 feet. This length of 135 feet has been calculated by me which is a distance of Ra to La-1 (La), in which the length of Sant Niwas has been shown as 18.11 feet. In this a door of 4.6



feet has been shown separately. The length of both the Rasoighar and the Baithak taken together was 33.3 feet, in which the length of the Baithak was 10.9 feet. After it, the indicated distance is 37.8 feet, that is the length of the open space. After this the le of west of the Parikarma Marg was 20.2 feet. He said that this distance of 20.2 feet seem be incorrect, because before 20, the digit 8 has been indicated. I have shown the distance from Fatak to 'Ra' has been shown as 56.6 feet. The distance of Fatak and Baithaka has been shown 7.9 feet. In this way, the total length of the Eastern part of the disputed building Iron North to South has been shown as 135 feet. No windows have been shown in front of the Fatak located to the West of Gh-4. While the witness was shown the Photo No. 38 of the Black and White album paper No. 201 C-I and asked whether he can see the window visible opposite to the North Fatak. Whereas this window has not been shown in the drawing. The witness was asked the reason for this. There the witness replied that he is unable to locate the things shown in the drawing prepared by him, because after seeing the drawing he is not able to recognize whether that was the photo of that place or not. He said that he himself has said that he has shown the places in his drawing after being conveyed by the parties. If anything has been left in my drawing, the reason for that is parties did not put any emphasis to show them in the drawing. The witness was shown Photo No. 70 of the coloured album paper No. 200 C-1 and told that the Chabutara and fatak visible below the tin shade has been shown as the name of fatak and Chabutara in his drawing, but the two windows visible in the southern side of the Chabutara and where have not been shown in his drawing, or have been shown at an improper place at Gh-3 and Gh-4. The witness was asked what has he to say about it? The witness said that windows are not visible to him in Photo No. 70 of the coloured album in front of the Fatak. The

windows about which I am being asked, are shown somewhere on Eastern side instead of being located exactly in front of the Fatak. The witness himself said that the it may be possible that out of 4 windows visible in his drawing, the two visible in the Photo No. 70 in front of the Fatak, might be the same from the 4 windows shown by me in the drawing prepared by me. It may be possible that the windows shown in Photo No. 70 in front of the Fatak, they might the windows which have been shown at Gh-3 and Gh-4 in the drawing prepared by me. The place given to Gh-3 and Gh-4 in my drawing, it may be possible that Gh-3 and Gh-4 might have been shown in some what side by in this certified copy. The extract in which the Northern wall of the Mandir has been shown as Va and La in the Dristi Chitra in third para of page No. 5 of the certified copy of my report paper No. 108 C-1, that is visible in Photo No. 71 and 72 of the coloured album. The attention of the witness was drawn towards the extract of page No. 5 of his certified copy "In the Northern wall of the Mandir..... is written on it" and it was asked whether the facts mentioned in the above extract are visible in Photo No. 71 and 72 of the right side wall. The witness said that the wall on which these facts were written, was visible in Photo No. 71 and 72. The witness was shown the extract of page No. 6 of the certified copy of his report "The defendant said that..... was written," and it was asked whether the fact conveyed by the defendant were the same, which have been mentioned at page No. 5 & 6. The witness said yes, the defendant told about the same facts. The places mentioned by me as Sant Niwas and Rasoi and baithaka in my report, have been mentioned by me after being told by the parties. The witness was asked about the word Mandir written in the Seventh line from the downwards of the ilird para of page No. 5 of his certified copy 108 C-1, by this the witness means the place which has been shown in the drawing

prepared by him as “cooked and under the jurisdiction of police” has been written or he means that temple which has been shown on the Chabutara as Ram Lala Mandir. The witness told that he is unable to recollect properly which Mandir in the above mentioned two Mandirs among above extract at page No. 5. The witness himself said that he has mentioned the location of that Mandir in his drawing by the letter Va and La. Wherever I have mentioned the word ‘Mandir’ that has been used by me in my report after being told by the parties. I do not know whether the cooked place was Babari Masjid or not. Similarly I am unable to tell whether the wall mentioned by me as the wall of Mandir was the wall of Masjid or not I said myself that I was told by the parties and the same was written by me. The witness was shown the extract of page No. 6 and 7 of the certified copy of his report paper No. 108 C-1--” Special Notice (in red ink) Jaitu Shri Ram Janm Bhoomi, please have the Darshan of Shankar Bhagwan behind the temple “Narain” and he was asked about the board on which the above ibarat has been written, where it was fixed on the Chabutara. The witness said that this board was placed in the Eastern Gufa of Ram Lala Mandir. He has read that ibarat on that board after entering the Eastern Gufa. I do not remember in the light of what thing, I had the above ibarat. There was no sufficient place in the Gufa to stand, so I had read that ibarat while sitting. The witness was shown Photo No. 57 of the coloured album 200 C-1 and asked whether the Gufa visible in that was the same which has been mentioned in above statement. The witness said that he does not remember whether he has seen that Gufa or not. He is unable to remember about the Gufa whether it was like the one as visible in the Photo or a different one. At page No. 6 of the certified copy of my report in the last para “there are two big boards on the Eastern and Western Gufa of Sh. Ram Lala Mandir”, by this he meant the big boards placed in

the Gufa on the Chabutara. I do not remember how much feet high the Chabutara was from the ground. I do not remember whether the board was arranged in North-South or East-West direction. This board was in front of the Idol or behind in the Gufa, that I do not remember. The witness said there is no justification of placing the board in front of the Idol.

The statement attested after reading  
Sd/-

Pateshwari Dutt Pandey  
19.4.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented on 20.04.2004 for further cross examination in this sequence. Witness be present.

S d./-  
Han Shankar Dubey  
Commissioner  
19.4.2004

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**Dated 20.4.2004**

**D.W. 3/10 Sh. Pateshwari Dutt Pandey**

In the presence of Sh. Hari Shankar Dubey, Commissioner / OSD Hon'ble High Court, Lucknow Bench, Lucknow.

(Commissioner appointed by Hon'ble full Bench vide their order dated 16.4.2004 in the other original suit No. 3/89 (original suit No. 26/59) Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others.)

(Sh. Zafaryab Jilani, Advocate begins the cross examination of D.W.3/10 Sh. Pateshwari Dutt Pandeyund oath on behalf of Sunny Central Board of Wakf, Uttar Pardesh Defendant No. 9 Wakf in continuation to dated 19.4.2004.)

The witness was asked about the page No. 7 and 8 (paper No. 108 c-1/32) of the certified copy of his report- which information was displayed on the Western Board of Ram Lala Mandir? The witness told that the information mentioned on the page 7 & 8 of the certified copy of his report was from "Special Notice" to "Please have the Darshan of Bhagwan towards lower side". I am unable to tell it whether the information mentioned in English on page No. 8, was on paper or on the notice board. The witness said that the Notice in English must be on the board. It ii igit have been written on the Western board or on some other board at that very place. The Western board must have been in West Gufa, but I do not remember its exact position at this time.

Question: You have told confidently on page No. 79 in your statement that the Eastern board was in

Eastern Gufa. Why have you become confused on whether the Western board was placed in the Gufa or not, that you do not remember.

Answer. I am giving this statement on the basis of my memory, I can not say anything with confidence

Question. My specific question is that as per your statement about both the boards recorded on page No. 79 on 19.4.2004, whether that was false one?

(The learned advocate Sh. Ajay Kumar Pandey in other original suit 5/89 objected to this question saying that asking the same question again and again in different-ways is to disturb, harass and mislead the witness. This should not be allowed.)

I have given my statement yesterday on page No. 6 which was based on the extract- "There are two big boards on the Eastern and Western Gufa as Shriram Janni Bhoomi, Nirmohi Akhara, Ayodhyaji. Sh. Ram Lalla Mandir'? "There are to big boards on the upper side of' Guf by that I mean that these boards were fixed on the Chabutara in these Gufas.

Question. I mean to say that you are giving the false statement knowingly because yesterday you had written this in page 79 made to write that this as- There are two big boards on the Eastern and Western Gufa of Ram lala Mandir and today you are reading 'in' instead of 'of in this sentence, what have you to say about it?

Answer. Yesterday also I told of being two big boards on the Eastern and Western Gufas of Sri Ram Lala

Mandir and today also I am telling of being two boards.

Question. Yesterday, whatever statement was got written (typed) by you in the court, you signed that only after reading the same and today, this morning you are telling nothing like that. In the beginning of your statement, it is not conveyed that some part has been written incorrect in your statement, so today at this time how you are telling that yesterday you said 'in' instead of 'of'?

Answer. I am not aware of what was written in my yesterday's statement so, it might be possible of the mistake of 'of' and 'in'.

Question. Yesterday you told the meaning of this sentence on page No. 79 as by the two big boards means two big boards were fixed on the Chabutara in the Gufas, but today you have given the statement that the Western board might have been in Western Gufa, but you do not remember delinitely, so should I take it granted that you Forget the fact given by you yesterday?

(Sh. Ajay Kumar Pandey the learned advocate of Plaintiff in other original suit No. 5/89 objected on this question saying that the statement of the witness has already been taken yesterday in reply to this question, therefore asking the same question again and again is to harass the witness and it is not good to violate the rules of the evidence.)

Answer: I am a human being and there may be some mistake on my part because I am a human being, so I may forget.

The fact of being a board in the Western Gufa might have been written by me only after entering the Gufa. The information mentioned in English at page No. 8 in the certified copy of my report, there is a possibility of its having been written on the third board. I am unable to tell whether this board was in the Gufa or outside it. The witness was shown the extract of the certified copy of his report - "The east side adjoining the Ram Lala Mandir..... Charan Sewak Poojari Siya Raghav Saran" and it was read out before him and then asked where that was written? The witness said it was written on the temple in the Gufa, it was written by the side of the chokhat, on the stone fixed on the land.

Question: "There is Mandir in the Gufa, which is written above" in this extract, do you mean the above writing was seen in the Gufa?

Answer. After reading the report it seems that it is written in the Gufa.

The size of this Gufa was equal to that Eastern Gufa or not, I am unable to tell anything about it with clarity. The above Ibarat written in the Gufa was read by me in the Gufa while sitting there. There was no space in the Gufa to stand. I do not remember by which thing it was lightened.

The witness was shown Photo No. 29 of the black and white album 201 C-1 and it was asked whether the Gufa was seen in the West side, is this the same Gufa which has been mentioned in the above extract of my report at page No. 8. After seeing the above photo I am unable to tell that whether this Ibarat was written in the Gufa or not.



The witness was shown the Photo No. 58 of the coloured album 200 c-1 and asked whether the photo visible in it, pertains to any of the two Gufa mentioned by you? The witness said that he shall not be able to tell definitely whether it pertains to any of the Gufas as told by him. Idols are visible to him in Photo No. 58. Such Idols he has seen in one of the Gufas. He does not remember whether the stones visible in Photo No. 58, were fixed in any of the Gufa or not, at the time of his verification of the site.

The witness was shown the Photo No. 29 and 30 of the black and white album 200 c-1 and it was asked where the policeman is visible in this photo. What was written on the board fixed beside it? The witness said that he is unable to tell what has been written on the board. After that a board is also visible which is Fixed on the Dar of the Chabutara, but I am unable to tell what has been written on that. I do not remember whether the boh above boards were there or not at the time of my site- verification. I said myself that it is not clear to me to which place the two boards belong to. Something like Gufa is visible in Photo No. 31. Such type of Gufa was seen by me at the time of site-verification. Idols are also visible in this Gufa. But these Idols are not clear, but Koushalyaji has taken Ram Chandraji or somebody else in Her lap. After seeing Photo No. 31, I am unable to tell to who these Idols pertain to. It might be possible that the above 2 Idols might have been mentioned in my report. Two other Idols are also visible in Photo No. 31 in addition to the Idol of Koushalyaji, whose Idols are these? Nothing is mentioned about it in my report. whether the 2 windows visible in Photo No. 31, were there at the time of my site-verification of the area or not, I do

not remember. On seeing them, it is felt that they were about four feet. After seeing this photo, I am unable to tell the depth of the Gufa visible in this photo. As far as I remember, the depth of the Gufa is also not mentioned in my report. I am unable to tell about this on the basis of my memory also. The witness was shown the extract of page No. 8 of the certified copy of his report- 'Below the Ram Lala Mandir it is written on the stone in the East side' and it was asked where that stone was placed, the witness replied that this stone has been mentioned as placed below the Ram Lala Mandir in his report, but I do not remember whether this stone was fixed on the Gufa or inside the Gufa. After reading the report it seems that- "Vidhi Badan Vilokat again and again..... Payo Naniye" was written on this stone. The wall Sa, Sa-I mentioned on page No. 9 of my certified copy of the report is the same wall which has been shown 29.10 feet in my drawing attached to my report. I do not remember whether the Daan-Patra mentioned on this page that was Sa or near to Sa-I, the Notice Board mentioned in the North side of the Daan-Patra on the above page No. 9, I do not remember on which place this Notice Board was arranged in the North of the Daan-Patra. I even do not remember the second Notice Board in the North, where it was arranged. In the last line of this very page Daan-Patra is mentioned I do not remember where it was placed. The Daan-Patra is mentioned in the eighth line of page No. 10 of certified copy of my report that I do not remember where this Daan-Patra was placed. In the tenth and eleventh line of this page No. 10 the Board is mentioned as hanged where the Board hanged, I do not remember. In the third line of this very page Daan-Patra is mentioned. I do not remember where this

Daan-Patra was placed. In the fifth and sixth line of page No. 11 of this certified copy of my report, mention of a Board has been made which has been shown hanged. I do not remember where it was hanged. The Board mentioned as hanged in the tenth and eleventh line from downwards on this very page which has been mentioned by me in the North of the Board fixed on the Fatak of the coorked Mandir in my report. I have not shown this board in my drawing. I even do not remember where this Board was fixed? The shops mentioned in 4th to 6th line from downwards at page No. 12 of this report, whom these shops belonged to was mentioned by me after being conveyed by the plaintiffs, I have no personal knowledge of it. The places where I have used the word Plaintiff. By that I mean the Perokar of Nirmohi Akhara, but I am unable to tell the name of this Perokar.

Regarding the place mentioned in the Affidavit of my main examination's para No. 3 "Disputed Mandir Shri Ram Janambhoomi, Ayodhya" it has been written about that very place, when I had visited for the work of Commission, and this very temple is called as disputed. The disputed temple mentioned in the Article 3 of my Affidavit, is involved in litigation between the Hindus and the Muslims. I do not know when this Disputed Bhawan was coorked, I do not know what the Hindus and the Muslims have to say about it. I have not heard the name of disputed Bhawan as Babari Masjid I have heard that there is a Babari Masj id at Ayodhva, but at what place it is located, I do not know. I was told by the parties that there was a dispute regarding this place between the Hindus and the Muslims at the time of verification of that area. The place where I went for the work of the Commission, after the issue of order-book regarding that Commission, there were no

talks with any person, saying this place as Babari Masjid, where I had gone for the work of Commission. It is incorrect to say that I am giving the mis statement, that there is a Babari Masjid which was not known to me at the place where I went for the work of the Commission. It is also incorrect to say that the report of Commission attached to the Affidavit submitted by me is not the Xerox of true copy. Then, he said that the fact mentioned in Article 4 of the Affidavit of my main examination, the original Report submitted by me with signature, the true copy of same is at List-I which is not correct. In reality it is the copy of the certified copy of the original. Because the true copy attached to my main examination is not the true copy of the original, but that is the, copy of the certified copy, so there are mistakes in that at many places and some facts have been left. Similarly there are mistakes in the certified copy of the original drawing prepared by me and some letters have been written incorrectly. It is wrong to say that I am hiding this fact knowingly that the place where I had gone for site verification of the area, Babari Masjid is there and the Muslims used to offer Namaj there until to 1949.

(Sh. Zafaryab Jilani completes the cross examination on behalf of Sunny Central Board of Wakf, Uttar Pradesh, defendant No. 9).

Verified the statement attested after reading it.

Sd/-

Pateshwari Dutt Pandey  
20.4.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented on 21.04.2004 for further cross examination in this sequence. Witness be present.

(Hari Shankar Dubey)  
Commissioner  
20.4.2004

**Dated 21.4.2004**

**D.W. 3/10 Sh. Pateshwari Dutt Pandey**

In the presence of the Commissioner Sh. Hari Shankar Dubey, Additional District Judge/OSD Hon'ble High Court, Lucknow Bench, Lucknow.

(Commissioner appointed by Hon'ble Full Bench vide their order dated 16.4.2004 in other original suit No. 3/89 (original suit No. 26/59) Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others.)

(Sh. Mustaq Ahmed Siddiqui, Advocate on behalf of defendant No. 5 Mohd. Hashim, comences the cross examination of D.W. 3/10 Sh. Pateshwari Dutt Pandey under oath in sequence to dated 20.4.2004, other original suit No. 4/89 defendant No. 7 and other original suit No. 5/8 9.)

The attention of the witness was invited to article 3 of the Affidavit of his main examination and asked whether the disputed Mandir as mentioned in this article is relates to the suit in which you are giving the statement. The witness said yes, the land of the same temple is under dispute in which I have come as a witness. In the section 3 of my Affidavit "Disputed temple Shriram Janm Bhoomi Ayodhya is written by which I mean both, the disputed land and the Bhawan. I can tell it after seeing its Chouhaddi Report. What is in the East or in other directions of Chouhaddi as mentioned in article 3 of my Affidavit regarding the disputed Bhawan mentioned in it, that is not verified from the drawing prepared by me. The drawing attached to the Report, the photocopy of which is with me, no Chouhaddi of disputed land is given in it. I am unable to tell about the Chouhaddi of Disputed land on the

basis of memory, I am not aware in which Mohala or Mauja, this disputed land is located.

Question. Can you tell the measurement or length & breadth of Srirarn Janambhoomi Mandir as mentioned by you in the article 3 of the Affidavit of your main examination?

(On this question the learned advocate of Plaintiff in other original suit 3/89 objected saying that the same question is being asked again and again and reply to which has already been given and in which the length and breadth has already been conveyed as 135 feet x 135 feet. So this question can not therefore, be asked again).

Answer. After seeing the certified copy of the drawing attached to my report, it is clear that the length in the East from the letter "La" to the letter "Ba" is 79.6 feet.

This is the suit in which I was appointed as Commissioner, so, I can tell the length and breadth of the same. In the West its length was 18.10 feet. The total length of the disputed land was 134.2 feet. The total length of the Southern side of the Eastern part has not been shown in the certified copy of drawing prepared by me, in which only 32 feet has been indicated, the length of Shankar Chabutara located near by has not been given. The total Western length of the disputed land has not been given. The length of the Southern part has not been given in the certified copy of drawing prepared by me. I have prepared this drawing based on the scale. The places, distance of which has not been indicated, that can also be calculated by measuring it.

(The learned advocate of the Plaintiff in other original suit No. 3/89 objected that as the drawing has been prepared by the witness on based on the scale, the verification of the distance can be done by the court or the cross-examining the witness advocate only, such question may be asked in case of any mistake).

The witness measured the certified copy No. 108 C-1/35 of the drawing prepared by him by scale and told that the length of disputed land from East to West is 90.3 feet. In this, the length of 66.3 feet has been indicated in the drawing, remaining distance is not indicated. The length of 66.3 feet is of the Western part only, it does not include the total length. The distance is only from letter 'A' to 'B'. It is mentioned in the affidavit of my main examination about the land of Sriram Janambhoomi Mandir, Ayodhya, in which I was appointed as Commissioner. This is not the land of other original suit No. 3/89. I have said myself that I do not know about the land of other original suit No. 3/89. The extract of my statement was recorded today, in which I have mentioned the disputed Mandir as the land of other original suit No. 3/89 in article 3, it was due to confusion. I mean that I was giving the statement about the same disputed land, in which I had visited that place for verification as a Commissioner. The suit in which my statement has been taken, what is the disputed land of that Suit, I have no knowledge of that. The suit in which I am giving my statement, the Unwan of that is not in my memory at this time, the unwan of it is mentioned in the summon sent to me.

Question. In the affidavit of your main examination, High Court of Allahabad, Lucknow Bench, Lucknow is

indicated at the Top and below that is recorded the No. of this suit, leading case No. and the Name and virsus of this suit is indicated. Seeing it, have you come to know in which suit you are giving the statement?

(The advocate Sh. Ranjit Lal Verma objected on ground that the witness is giving his statement in connection with the Cornmissioner's report in the context to original suit No. 9/73 and in this very direction the witness is telling that the summon received by him, the details of that suit was indicated in this suit and that suit is also mentioned in the Affldavit submitted by him in which he had gone as a Commissioner, then asking about the same questions from the witness, is to disturb him and it is to prolong the proceedings of the suit, such permission should not be given):

Answer. After seeing the photocopy of the Affidavit submitted by me attached to my main examination, I have come to know about suit for which I am giving the witness.

I am firm on my previous statement now also, in which I said that I have no knowledge of the disputed land of the suit, in which I am giving the witness. Nirmohi Akhara has been mentioned by me in the name of parties, I have no knowledge about it. I am aware that Nirmohi Akhara is in Ayodhya and I also know Priya Dutt Ram is a royal person of Faizabad. Whether Priya Dutt Ram was the Chairman of Faizabad Municipality or not, I am not aware of it.



Question:What is the point of dispute in this suit? Have you any knowledge about the nature of that?

(The learned advocate Shri Ranjit Lal Verma of Plaintiff of other original suit 3/89, objected to this question on the ground that the witness has not given any statement regarding this Fact, No question can be asked about the fact that has not been mentioned in his main examination. All the facts of the suit are contained in the causes of Vad, so on this ground also, questions should not be asked about it.)

Answer. I can not tell the nature of the dispute of the suit.

Question. Whether there is any dispute between the Hindus and the Muslims in this suit?

(The learned advocate, Shri Ranjit Lal Verma on behalf of Plaintiff of other original suit- 3/89 objected to this question saying that such questions should not be asked by the witness because the subject in which the witness is giving his statement, he is the technical expert of that and such question may create hatred and there is no dispute between the Hindus and the Muslims in this suit.)

Answer. I have no knowledge whether there is any dispute between the Hindus and the Muslims or not.

Both the parties are Hindus in the suit in which I am giving the statement, I don't think if there is any question of dispute between the Hindus and the Muslims in this suit. I have no knowledge whether there is any dispute of Mandir or Masjid in this suit or not. I

have said myself that both the parties are Hindus in this suit. In this case yesterday my statements are written the witness was told about the extract of para 2 of page No. 88 written on dated 20.4.2004 "Disputed Mandir Shri Ram janm Bhoomi, Ayodhya has been written about the same place in article 3 of Affidavit or of my main examination where I had gone for the work of the Commission and that Mandir is called disputed. The Disputed Mandir which has been mentioned in the article 3 of my Affidavit. The Dispute of that temple is between the parties of that suit, Hindu and Muslim". It was announced the witness said that this statement is correct. The extract of recorded statement of dated 20.4.2004 was read out before me and the extract of the statement given by me today, in which I have said that -"The suit in which I am giving the statement parties are Hindus, so I don't feel any question of dispute between the Hindus and the Muslims. I am not aware whether there is any dispute of Mandir or Masjid in this suit or not. I have said myself that both the parties are Hindus in this suit." I do not see any difference between both the statements. The both statements of mine above are correct. The name of Priya Dutt Ram has been recorded as a defendant. So, I have given the statement that both the Parties are Hindus in this suit. I am not aware who are the other defendants in this suit in addition to Priya Dutt Ram. In the name of parties, defendants are recorded in the Affidavit of my main examination, but I did not try to know who are the other defendant in this suit in addition to Priya Dutt Ram. Priya Dutt Ram believed in Qod or not, I have no knowledge about the worship and beliefs of Priya Dutt Ram. I have not heard that Priya Dutt Ram does not believe in God.

The witness was shown the names of the parties indicated in the Vaad-Patra of other original suit No. 3/89 and asked whether the names of Sunni Central Board of Wakf and the other Muslims are recorded as defendants in this. The witness said, yes Muslim people are the parties and Sunni Central Board of Wakf are against the parties.

I do not remember when I was appointed the Commissioner for the first time. I had been Commissioner for many days. I have been Survey-Commissioner also. For how many years, I was not Commissioner, I am unable to tell it. After issuing the commission copy of the Application and copy of order with other Abhivachans are given to the Commissioner. If commission is issued on the date of submitting the suit, then naturally for not being receiving the Prativad-Patra at that time, it is not available with the Commissioner. The suit in which I am the witness, in which I went as a Commissioner, the copy of the Prativad-Patra was received by me or not before going for the Commission's work, I do not remember this. The disputed land which I have mentioned in the article 3 of my Affidavit of my main examination, I have worked only in (I) suit which is related to that. The unwan of that suit has been mentioned in the article 4 of the Affidavit of my main examination. This suit is, original suit No. 9/73 Nirmohi Akhara virsus Baba Ram Lakhn Saran Das. My signature is there at the bottom of page 1, 2, 3, of the Affidavit of my main examination. On page No. 3, the name of introducing advocate is marked, I do not recognize his signature, but his name is written below that. The name of advocate Shri Ranjit Lal Verma is

indicated, I think he must have recognized me. True copy has not been written in English on page No. 3/1. On page No. 3/16 of affidavit T.C. (True Copy) has not been written. Original suit No. 9/73 has been written on page No. 3/1. Original Suit No. 9/71 has been written on page No. 3/15.

Question. Whether it is possible that report may be put up for suit No. 9/73 and drawing might have attached that of suit No. 9/71?

Ans. I think it is a clerical error.

There is my signature on page No. 3/1 enclosure 3/4, this signature is there on every page. There is a stamp of Oath Commissioner on every page.

T.C. (True Copy) has been written in English at the bottom of (Bench Copy) 3/16 and photocopy No. 3/1 of the Affidavit of my main examination, T.C is not written on others. Signature is put below the words T.C. on page No. 3/1 and 3/16. I am not able to identify who has signed there. I can not identify the signature of Sh. Ram Lal Verma, Advocate, so below the word 'T.C., signature has been put up by Sh. Ram Lal Verma or not on page No. 3/1 and 3/16. Sh. Abdul Mannan, the advocate who during his cross examination on behalf of defendant while submitting paper No; 49 c-1/2 showed the same to the witness and asked whether T.C. and signature are marked there ? The witness replied that T.C. has been written on that in English and signature is also there. The witness was shown the Bench copy of page No. 3/15 and 3/16 of the affidavit of his main examination and the following question was asked.

Question. Whether the photocopy of the drawing on paper No. 49 C-1/1 and 49 C-1/2 in original suit No.

O-9/71 Nirmohi Akhara (Plaintiff) virsus Baba Ram Lakhan Saran Das (defendant) in the photocopy of the drawing is the same copy which is at paper No. 3/15, 3/16 attached to the list of Bench copy of your main examination?

(The learned advocate in other original suit No. 3/89 objected saying that paper No. 49 C-1/1 and 49 C-1/2 are two separate papers, and different No. has been given to them, so asking question by joining the two papers together regarding the facts that is the photo copy of the original suit No. O-9/71, such question can not be asked jointly and paper No. 3/15 and 3/16 are also different papers and different No. has been given to them, their context can not be taken in one question. The context of this question has been asked by the cross-examination advocate and paper No. 3/15 and 3/16 have already been submitted.)

Answer. Both are the same drawings.

The witness was shown the certified photocopy of the drawing and report and was asked whether original suit No. O-9/71 has been written on the paper No. 108 c-1/35. The witness said, 'yes' suit No. O-9/71 is written on it and the paper No. 3/15 and 3/16 are the photocopy of the same. Paper No. 49 C-1/1 and 49 C-1/2 are the photo copies of the same.

I had not taken the measurement of the place mentioned in the drawing prepared by me as 'That part of Mandir which is cooked and is under the custody of Police'. By seeing the part of the Bars from outside the Idols were visible from there. I did

not measure that place. How many rooms and Dars were there, I have no knowledge of that. How much space was open and how much was covered with ceiling, I have no knowledge of that. From outer-side it seemed to be Gumbads in this building. It is mentioned in the prastar 5 of page No. 2 of Affidavit of my main examination. While doing the Commission's work there in 1973. I measured the inner courtyard of three Gunihad portion's East, North and South side or the area of Bars, it is correct. Whatever measurement was done by me I have mentioned the same in my report and shown that in the drawing prepared by me. The witness was asked the measurement of the southern part of three Gumbad portion, the witness said that he took the measurement in front of Sa, Da, Ya, Sa up to the South, I have shown the same in the drawing prepared by me. Their distances are also indicated. The distance between Sa and Da is shown as 12 feet 10 inches, from Da to Ya is shown as 16 feet 10 inches, the distance in front of Sa up to the south about 12 feet and 10 inch, because whatever was North, the same was South, this was an open space. I am unable to say, what was in the south of that. Similarly what was in the West of that, I am unable to say that. The Disputed Land of the suit was there in the East. That land was open space, in the North of that there was the Bhawan of three Gumbad portion, which was cooked. I do not know whether there was any door or not on that, I do not remember that, I have not mentioned anything about that in my report. It is not like this, as I did not measure the southern part of Three Gumbad portion. The witness was shown article 3 of the affidavit of his main examination and it was asked whether this Affidavit was verified on 23.3.2004

at 9.40 A.M. The witness replied 'yes', it was verified at the same time. Before the Oath Commissioner also, my idea is that it might have taken 10 minutes in verification. It is wrong to say that earlier there attached a different report to the affidavit of my main examination, which was changed and attached with it later on. The learned advocate cross-examining the witness asked to submit a paper at this stage. In the compliance of order passed by the Hon'ble Full Bench, by raising objection on this paper, it may be put up to the Hon'ble Full Bench. The witness was asked about the submitted list Paper No. 50Ga1/1 whether the signature of the witness was there ? The witness said that it was the photocopy of my signed paper. There is a stamp of Oath Commissioner on it paper No. 50 C-1/1, 50 C-1/2, 50 C-1/4, 50 C-1/6, 50 C-1/8, 50 C-1/10, 50 C-1/12, 50 C-1/14, 50 C-1/16, 50 C-1/18 are the photo copies of the same paper, and my signature is on them. 50 C-1/1, 50 C-1/2, 50 C-1/4, 50 C-1/6, 50 C-1/8, 50 C-1/10, 50 C-1/12, 50 C-1/14, 50 C-1/16, 50 C-1/18 bear the stamp of Oath Commissioner and are the photocopies of Hastakshar Lekh Paper. What is the difference between the copy of my report submitted with the Affidavit of my main, examination and the report submitted today during the cross-examination by the learned advocate cross-examining the witness, I shall be able to tell that only after comparing the both.

Verified the statement attested after reading it.

Sd/-Pateshwari Dutt Pandey  
21.4.2004

Typed by the stenographer in the open court as dictated by me. The case may be presented on 27.04.2004 for further cross examination in this sequence. Witness be present.

Sd-(Hari Shankar Dubey)  
Commissioner  
21.4.2004

**Dated 27.4.2004**

**D.W. 3/10 Sh. Pateshwari Dutt Pandey**

In the presence of Commissioner, Sh. Hari Shankar Dubey, Additional District Judge/OSD Hon'ble High Court, Lucknow Bench, Lucknow.

(Commissioner appointed by Hon'ble full Bench vide their order, dated 16.4.2004 in the other original suit 3/89 (original suit 26/59) Nirmohi Akhara and others virsus Babu Priya Dutt Ram and others).

(Sh. Mushtaq Ahmed Ali Siddiqui advocate commences cross examination on behalf of defendant No. 5 Moh. Hashim in the sequence of 21.4.2004 in the case of D.W. 3/10 Sh. Pateshwari Dutt Pandey under oath and other original suit No. 4/89 Plaintiff No. 7 and other original suit No. 5/89.)

The copy of report submitted by me alongwith the affidavit of my cross examination and the documents submitted by the learned advocate during cross examination were matched and there is difference between the two. The photocopy of the drawing prepared by me is not there in the documents submitted during the cross-examination. Both reports are one, but there is clerical error between the two. The report submitted by me with drawing attached to the affidavit of my cross examination on the paper No. 3/1 in the margin 6/17.3.82 is recorded and below that is written the name of advocate Sh. Ranjit Lal Verma on the copy of application, the date of application and the name of the person who submits the application is indicated, On page No. 1 the number and date of application and the name of the advocate is written. The witness was shown the last page of this paper No. 3/18 and it was asked



whether the date of tracing was marked as 15.4.82? The witness told that 15.4.82 has been marked underneath the signature, just below the word traced. This paper No. 3/16 is the part of drawing. This is not clear what has been written in the margin of the first page of the paper submitted during the cross-examination by the learned advocate who was cross-examining the witness. Something is written on that, which is not legible. On the bottom of last page of this paper (paper No. 50 c-1/18) 'pratilikartta', 'milankarta' and 'janchkartta' have been written and below that there is a stamp on which dated 15.1.74 has been recorded. Both copies are of the same report. One copy was taken in 1982 and other in 1974.

The witness was shown Article-3 of the Affidavit of his main examination and was asked on basis of which he has written "Disputed temple, Ram Janm Bhoomi, Ayodhya". The witness said that the suit in which he was appointed as commissioner, after being conveyed by those parties he has used this terminology. The attention of the witness was drawn to page No. 11 and he was asked about the word Aastha (Belief!) whose Aastha is indicated in the extract-." It is believed that the Bhawan of Three Gumbad portion, the place below the middle Gumbad is the place of birth (Janambhoomi ) of Ram Chandarji. In above written past you've mentioned as the (belief) it is related to whom? The witness said that this Aastha is my own belief. The suit in which I was appointed as Commissioner in that "the Bhawan of three Gumbads" was not a disputed one. By the disputed Bhawan used in the above extract of my statement, I mean the disputed land of suit No. 9/73. There is no connection of the above extract of my statement to the land of present suit in which I am giving the witness. I have told that there is difference in my report and the drawing prepared with it

and the certified copy, during my cross examination conducted by Sh. Zafaryab Jilani, Advocate. The difference told by me between the letters or facts mentioned by me in this report and the letters mentioned in the drawing, which extract (part) is correct in the report or drawing, I can reply this only after seeing the original report or drawing. In my report it is mentioned at various places that there is a discrepancy in the use of letters. So the drawing may be some defective, but report may be correct. I have said myself that the drawing may be some defective. The 'reason which has caused defect in the drawing may be that some letters are marked very small while preparing the drawing and difficulty is faced while reading them, similarly some letter may have been left at the time of writing, so defect might have arisen due to that.

The witness was shown the drawing 45 C-1/2 attached to the paper No. 45 C-1 submitted on 29.2.2003 by Sh. M.A. Siddiqui and he was told to match the drawing prepared by the witness at the certified photocopy of that drawing. The witness said that both drawings are about the same land. The extract - "That part of the Mandir is cooked and is now in the custody of police" in the drawing prepared by him is about portion of the three Gumbads, which has been mentioned in my statement at page No. 11. The same part is shown in paper No. 45 C-1/2, but the language of 45 C-1/2 is Urdu. So, I am unable to tell what has been written in this drawing. Masjid Babari is written below the Urdu writing of paper No. 45 C-1/2A. What ever facts have been given in my drawing, they are not given in paper No. 45 C-1/2A. There is no pragmatic (sarwan) difference between the drawing prepared by me and 45 C-1/2A. Paper No. 45 C-1/1 seems to be the application of Negotiation, the suit No. 95/41 regarding which has been

put up to the Court of Ba-adalat Additional Civil Judge, Faizabad, the Unwan of which are Mahant Ramcharan Das virsus Raghu Nath Das etc.

Question. Whether in Article I of above application mahant Raghu Nath Das Defendant No. I has been called as the real Mahant of Nirmohi Akhara.

(Sh. Ranjeet Lal Verma the learned advocate of original suit No. 3/89 objected to this question saying that it relates to the inner points (Antarvastu), which has no connection with the witness, such questions should not be asked by him. So, it should not be allowed.)

Answer The Urdu words used in this Article are not known to me. I am unable to understand whether Mahant Raghu Nath Das has been conveyed as the real Mahant of Nirmohi Akhara or not.

After reading paper No. 45 c-1, it is not clear who is the officer in these 'Feriken' or who is not the officer or all people are officers or all are not the officers. Some people of Fariken seem to be from Nirmohi Akhara. I have no Vakfiyat of Urdu language. By Vakfiyat I mean that knowledge of that language or not. I know some Urdu words, I have learnt those words through conversation with other people and listening to them.

At the beginning of the fourth line below the paper No. 45 C-1/1/1 the word 'Dafa' is written, I understand the meaning of it. It is used for Dhara (Section). I also understand the four lines of it. Garib Nawaj Salamat word is written in the five lines above the Dafa-I and below 'Dawa Istakrar-

Haq' in this I understand the meaning of each word separate in care of Garib Niwaj and Salarnat, but I do not understand the meaning when the three words are taken together as "Garib Niwaj Salamat" I do not understand the meaning of 'Masalahat' properly. Similarly I know the meaning of Tabey in "Tabey Sarayat", but I understand the meaning of sarayat I know the meaning of 'Sangmarmar', 'Paimais' and 'Dastakhati'.

I do not understand the meaning of the above main word "Mutallika" in the first line of the six lines of the para I of paper No. 45 C-1/2. I have said myself that I know the meaning of 'Mutallik', but I do not know the meaning of 'Mutallika'. I do not know the meaning of second line "Haye Mazkur". I do not know the meaning of 'Muhalik' in the third line "Mulhik Akhara". I do not know the meaning of 'Tabey Sharayat' in the fourth line. There is no word in the fifth and sixth line, the meaning of which is not known to me. After seeing the paper No. 45 c-1/1 with 45 C-1/9 it becomes clear that there was a dispute of land of Nirmohi Akhara in this suit and the decision seems to be taken in this regard. In the part paper No. 45 C-1/1/6 with 45 C-1/1/9 of Negotiation, there seems to be the details of the land. The land mentioned at No. 2 in paper No. 45 C/1/1/6, its 'Chouhaddi' is given. I understand the parati in the Chouhaddi of East at No. 2, here kabristan is not seen. Babari Masjid is written in the West, but I was told about it at the time of verification of the site. That it is the remaining part of the Temple which is coorked and is under police custody. The Northern Pokhta Road is shown correctly. But the Kabristan in the south side was not in to my notice at the time of

verification of the site. The personal belief (Aastha) used by me in my above statement, is the same Aastha which was told to me at the time of verification of the site. I myself said that I was shown the Idols from outside area. The Aastha which has arisen, I possess the same Aastha now also. I did not try to confirm it.

It is not correct to say that the cooked land mentioned in my report is Babari Masjid and its Sahan. I said myself that I am unable to tell that the cooked land mentioned by me is that Babari Masjid or not.

Question. I mean to say whether till the night of 22 December, 1949, Namaz of Five Times, Namaz of Jumme, namaz of Taraveeh, Ajaamat saying Ajaah were offered by the Muslims?

(Sh. Ranjit Lal Verma the learned Advocate of other original suit 3/89 objected to this saying that the same question pertaining to various facts should not be asked by the witness. Even for the sake of suggestion, such question should not be asked and the witness has not said any word in his cross examination, so it is not possible to give such suggestion.)

Answer. I was told that this place was a Temple, so being a temple Namaz can not be offered there.

There was no Kabristan in the liast of the land shown in the drawing attached to the Affidavit of my main examination and I did not go to the Southern side, so I am therefore, unable to say whether there was any Kabristan in the. South or not. The things as shown in this drawing could not be made or written by me at the time of my verification of the site.

(Sh. Mushtaq Abmad Siddiqui, Advocate concludes the cross-examination on behalf of Moh. Hashim defendant No. 5 in other original suit No. 4/89 Plaintiff No. 7 and other original suit No. 5/89.

(Sh. Irfan Ahrned Advocate on behalf of Plaintiff No. 6/1, Sh. Fazale Aalam Advocate, accepted the cross-examination done by Sh. Abdul Mannan, Advocate, Sh. Zafaryab Jilani Advocate, Sh. Mushtak Ahmed Siddiqui Advocate, on behalf of defendant No. 6/2.

The cross-examination concluded on behalf of all Plaintiffs and defendants. The witness is relieved herewith.

Statement attested after reading

Sd/-

Pateshwari Dutt Pandey

27.4.2004

Typed by the Stenographer in the open court as dictated by me.

(Hari Shankar Dubey)

Commissioner

27.4.2004