
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

AYODHYA JUDEMENT: PAST, PRESENT, AND THE FUTURE

- Sharwan Kumar Garg & Pragya¹

ABSTRACT

This article stands to explore, analyze and scrutinize various sides of one of the longest civil property cases, which was finally resolved by a 5-Judge Bench of the Apex court of the country, with no dissenting opinion on the case. The case is popularly known in the public domain as "The Ram Janmabhumi case" or "The Ayodhya Dispute" it has always been able to find its place in the print or electronic media, making it open for the media trial, in both political and religious domain as a result of which everyone in our country is aware about this case. This article reviews the judgments delivered by both the Allahabad High Court and the Supreme Court in order to understand the contentions, which were laid down by different parties before the court, in order to prove their respective case. Further, it explores the reasons that made this civil dispute as one of the longest civil dispute of the country and how strongly does it stand on the popular legal maxim of "Justice delayed is Justice denied". It also examines the view of the court on "Bhagwan Sri Ram Lalla Virajman", i.e. the deity as a party to the suit as well as the constitutional aspects of the dispute, which lead it into wider legal discussion and the application of the legal minds are being broadly discussed.

INTRODUCTION

Admittedly in a civil suit, the onus to prove title is on the person asserting title to the property following this rule undoubtedly it is the claimant or the person filing the case before the court who needs to prove that the property belongs to him. Further the religion to which either of the party belongs, does not concern the court and likely the related provisions in the constitution cannot be brought into question in a title suit of a property on any of such grounds. For a dispute

¹ 3rd year Amity Law School, Noida

to become a question of constitutional importance there must be some issues vis -a-vis constitutional provisions relevant for the adjudication of the matter or an inclusion of the substantial question of law in the dispute. Only in such circumstances, the constitutional provisions can be brought into the motion, rest all discussion and debates relating to the religion of the parties remain a matter of academic stimulation and not a matter to be taken inside the courtrooms.

The most controversial event in this case was the demolition of the disputed structure in the year 1992. No civilized person believing in the concept of democracy can support the demolition of the structure illegally. The history also embarks on the event of conducting of the Rath Yatra under the leadership of Lal Krishna Advani, which gave this issue the political aspect and the space in the primetime debates in the newsrooms throughout the country. The statement given by Lal Krishna Advani during the initiation of the Rath Yatra is worth **quoting** *“Ram and Ramayana are precious invaluable part of the Indian National culture.”* The statement though seems to be in relation of the national integration, but surely involved the question of secularism and it further shows his intentions of conducting the Rath Yatra. The judgment delivered by the Allahabad High Court regarding the distribution of the land into three equal proportions raised many questions in minds of the people who had faith in our legal system as the judgment did not seem to be delivered beyond the question of demolition and no reliefs prayed were granted by the court.

THE PAST: HISTORICAL BACKGROUND OF THE DISPUTE

Historical facts of this case have remained in the public domain for a very long time. A case was first initiated in the Faizabad District Court and ended with the delivery of the judgment by the Constitutional bench comprising of 5-Judges of the Supreme Court of India. There were a number of events that unfolded in between this period, making it the longest Property related dispute of this country. In total, there were five lawsuits which were filed between 1951-1961 by both the parties. Out of these five suits, some of them were filed claiming the Right to pray, while some of them were filed claiming the Right to possession. Also, out of these five lawsuits one of the suits was withdrawn on the grounds of procedural issues. Therefore, in total there were only four lawsuits left for the adjudication before the courts. Most of these lawsuits were filed originally before the court, which had the territorial jurisdiction of the matter; in this case, Ayodhya is located in Faizabad (now Ayodhya), and therefore filed before the Faizabad District Court.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

In 1989, the Allahabad High Court passed an order whereby taking into account the nature of the case, the court invoked the power under section 24 of the Code of civil procedure, 1908, i.e. the power to transfer suits and ordered that the Allahabad High Court will hear these matters and therefore the same shall be transferred to it for the purpose of adjudication. Thus the order makes the Allahabad High Court the court of first instance. The High court constituted three Judge Bench for the adjudication of this particular matter. Therefore, an appeal from here can only go to the Supreme Court. The Allahabad High Court passed its judgment on 30th September 2010 and then an appeal impugning the judgment was made to the Supreme Court. In March 2019 the Supreme Court formed a panel of 3-members and sent the matter for mediation to resolve the dispute. The mediation failed to amicably resolve the dispute and later the 5-Judge Bench of the Supreme Court, holding over the dissenting opinion, finally gave its judgment on 9th November 2019, after the completion of the proceedings of the case through 40-days daily hearing of the case.

JUDGMENT ANALYSIS

- **Relevancy of faith of the parties to the dispute**

The term "faith" holds out a different meaning for each and every person. In our country the constitution framers enshrined the term "faith" in the preamble of the Constitution of India. The Constitution of India gives the people of our country liberty of faith and worship and the faith of one person might be different from the others. However, in any case the faith of the person does not concern the state to deal with that person in any sense due to reason that India being a secular country has no faith or religion of its own.

Therefore, the faith of the parties to a civil suit shall not be brought into question in front of the court or rather give the court a right to deal with a party favorably on the basis of the faith it belongs to, or the idol it worships. No person, institution, or organization that fought for the disputed land in front of the court, never claimed that they are doing it for the Rights of the Hindus because if such a contention were being made out by them, it would have diluted the scope of their position. On the contrary, the parties fought in a position as custodian of the disputed land and continued to believe to have faith in their preposition that the disputed land is the birthplace of lord Rama.

The term “Faith” here now becomes relevant because that faith is the only reason for a person, institution, or the organization to contest for that particular place, as a place of faith for a particular faith. For instance, it is not possible for a Parsi to come and say that I, as a Parsi has the right to defend this particular piece of property on behalf of all the Hindus for Lord Ram; such a submission would make no sense at all because this is what the concept of locus standi deals with, i.e. with what authority is the party adjudicating upon this particular issue, or the right or capacity of the party to bring an action or to appear in a court. This is the only reason why faith becomes relevant. The faith of the party answers the question of whether the party is entitled to defend this particular piece of property or not and the same is the case with the opposite party also. Therefore, this case was between two sets of parties and not between two sets of communities because a political differences between two set of communities is not a matter of legal issue, rather it is an extra-legal issue that is for the media houses, book writers, etc to discuss.

- **Deity as a party to the suit**

The entire dispute had a number of parties on both sides for establishing their claims as to the ownership and title of the piece of property. One of the parties to this whole case is the deity itself, i.e., the “Bhagwan Shri Ram Lalla Virajman”.

A rule which is rooted in Hindu law as well as recognized by the Indian law, that the deity should be treated as a minor and not just as a juristic person. Since a minor can sue or be sued only through its guardian. Therefore, the guardians of the minor or trustees of that particular piece of property or next friend will have to initiate litigation or defend litigation. It is therefore on this particular basis, that the custodians of that particular piece of property representing the Ram Janmabhumi can be said to be effectively representing “Bhagwan Shri Ram Lalla Virajman” in this particular case. Furthermore, many a times the respondents have brought the very existence of Bhagwan Shri Ram into question on several occasions.

The party representing the "Ram Janmabhumi" and “Bhagwan Shri Ram Lalla Virajman” gave various arguments and submissions, in order to defend the questions, which were being raised by the respondents. *Shlokas* and *Chaupaiyas* from the Ram Charit Manas, Vishnu Puran, and other historical books of Hindus were quoted, which were written years ago, it had the same location of the Janmasthan of Bhagwan Shree Ram as of the disputed land.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

The reports submitted by the Archaeological Survey of India (ASI) strongly believed that there is an existence of a structure beneath the disputed structure, which was similar to the structure of a Hindu temple. Also the originally crafted text of the Constitution of India has an existence of the Ram Darbar picture at the beginning of the chapter of Fundamental Rights. Therefore, Bhagwan Shree Ram remains an integral part of this Indic culture of our country.

- **Place of worship**

Each and every faith or religion has its spiritual place for worship, so is the case for Hindus and Muslims. For Hindus, ideally, their place of worship is a temple, but for Muslims, whether a mosque is treated as a place of worship is a question of fact. This is so because there is a fundamental difference between a temple and a mosque in theology (Dharmashastra) as to what is the nature of that particular place.

Under Hindu Dharmashastras in a temple, there is a consecration of the deity, i.e. the process of *Pran Pratishtha* takes place before the idols of the deity are being located inside that particular temple. Consecration of the deity or Pran Pratishtha of deity means that the deity is invited to make that particular place as his abode. This process despite having ritualistic relevance also has a legal significance. Legal significance means that a fiction is created that the place has now become the abode of a living deity. This fiction further adds that being an adobe of the living deity, this particular position can never be altered for all times to come because the belief is that the deity would not leave his abode unless it is asked to leave.

Therefore as a legal consequence of the above-stated facts, no amount of demolition or forcible possession can ever dispose of the deity of his place. This concept is based neither on the abstract concept of time and space, nor a philosophical thing. Rather this is the principle well established under the Hindu law which is recognized by the Indian law for the purpose of adjudication of this case. On the other hand, a place can become a mosque without carrying out a number of rituals. This is because of a simple reason that the object of the mosque is not to treat it as an abode of a certain deity, but as a place of assembly.

Here the judgment delivered by the Supreme Court in the year 1994 in the case of M. Ismail Faruqui (Dr.) v. Union of India becomes relevant which was delivered with the context of the Babri Masjid, after demolition, where the court asked itself as to the nature of the mosque to form a clear opinion.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

The Court upon the reading of the Islamic scriptures concluded that a Mosque is not a place of worship but it is a place of assembly for prayer. The judges said, “A mosque is not an essential part of the practice of the religion of Islam, and Namaz(prayer) by Muslims can be offered anywhere, even in open. Accordingly, its acquisition is not prohibited by the provisions in the Constitution of India.”ⁱⁱⁱ

- **Appeal before the Supreme Court**

The Allahabad High Court delivered its judgment on this case on 30th September 2010 of splitting the disputed property into three equal parts, i.e., one-third to the “Bhagwan Shri Ram Lalla Virajman”, one-third to the Nirmohi Akhara and one-third to the Sunni Wakf Board. Soon after that, the representatives of the Ram Janmabhumi made an appeal to the Supreme Court, on the ground that when the Allahabad High Court has concluded that the Sunni Wakf Board was neither able to prove title, possession, or adverse possession, then on what grounds they were given one-third of the land. The apex court took into consideration the contentions made by the party by making the appeal admissible. Subsequently, the Court stayed the order of dividing the property into three equal parts delivered by the Allahabad High Court.

- **Decision of the Apex Court**

A bench led by Justice Ranjan Gogoi along with Justice S.A. Bobde, Justice D.Y. Chandrachud, Justice Ashok Bhushan and Justice S.A. Nazeer was delivered a unanimous judgment on November 9, 2019. The judgment held that the entire land i.e. the 2.77 acres of land, where the disputed structure once stood, shall be given to deity i.e, Ram lalla and the Muslims will be given an alternative land of five acres either in the surplus of 67 acres or in any other prominent place.

POTENTIAL OF THE JUDGMENT: SHAPING THE LAW AND RELIGIOUS JURISPRUDENCE

The question as to the allocation of one-third of the disputed land by the Allahabad High Court or 5-acres of land by the Supreme Court, respectively which were ordered to be given to the respondents even after failing to establish their case raises concerns. Was it for the prevention of riots or was it to prevent communal tension? This decision of the court seems to be

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

unprecedented by its nature. Also if this is the case, then any party who loses the case can threaten the court and have a piece of land. If a party is not able to prove its case and still being given a piece of property, only to ensure that nothing undue happens and so that the communities can live in harmony, then this raises a serious question as to who is threatening the harmony of this country. Therefore it is the losing party that becomes a threat to democracy, secularism, constitutional patriotism, and rule of law.

If a party has proved its case on the basis of evidence, with respect to a place of worship in which it has believed for centuries altogether; for the court to give one-third of the land from that property to somebody else is a violation of Article-25 and 26 for that particular community. The people of that particular community are then capable of saying in the public domain that the panel is loaded against it, rather it is nothing but an act of appeasement and sanctioned neither by the executive nor by the parliament.

CONCLUSION

On 9th November 2019, the 5-judge bench of the Supreme Court of India finally settled the longest property dispute, i.e. "The Ram Janmabhumi". This case is also filled with many controversial questions that shall be answered in the times to come, but one thing the case has clearly established, is the belief of the people of the country in the judicial system.

Therefore being a student of law, it becomes essential for me to respect the Rule of Law, the well-settled principles of law, and the inclusion of principles that apply to the civil suit. Then, if we bring the religious aspect into it, the concept of secularism into it, this is nothing but merely vitiating the atmosphere or rather communalizing the disputed matter subjudice before the court. So basically, the people primarily bringing the aspect of secularism, leading to the widespread controversy between the two communities are the ones responsible for the delay of the judgment being delivered by the Supreme Court of this country. The judgment deals with the detailed Archeological Reports, which states that there was a temple beneath the disputed structure hence the question as to which god the temple belongs to become irrelevant. The controversy surrounding this case is well capable of showing the nature of discourse in this country and shall always remain a matter of analysis and study for every person willing to understand the political and legal system of this country.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

Every case that is brought before the court should be dealt with on the basis of the facts and circumstances of that particular case. The words written in the Constitution of India should be strictly dealt with in every situation and no preference can be given on the basis of a particular faith, to which the party to the suit belongs. Due to delays in the settlement of the disputes, many other aspects get added to the case, which causes distress in the society and delay in the delivery of justice. Therefore the judicial system must avoid this unnecessary delay and must keep itself at a distance so that the case is not dragged into the debate of failure to provide justice. The legislature had the opportunity to end the dispute a long time ago because the construction of a temple by passing a bill was not unprecedented for parliament as the Somnath temple was built on the same line.

ⁱR.V.E.VenkatachalaGounder vs. ArulmiguViswesaraswami&V.P.Temple and Anr. AIR 2003 SC 4548

ⁱⁱ*Ismail Faruqui v. Union of Indisa, (1994) 6 SCC 360*