

## EL YAWM

**Ayodhya Judgment: It guaranties to all religious communities the freedom of belief, faith and worship.**

- **The Government of India is committed to the Constitution of India**

(By M.KH, p.10)

***The Supreme Court of India has delivered its judgment on the Babri masjid - Ram Janmabhumi Title Suit on 9 November 2019. The judgment was unanimous judgment by 5-Member Bench chaired by the Chief Justice of India and Justice BOBDE, Justice BHUSHAN, Justice NAZEER and Justice CHANDRACHUD. The Bench had a Muslim Justice. The Judgment is based on law and not on faith; and is the culmination of a long standing judicial process.***

This dispute originated in historical times. The dispute was in existence before the Independence of India. There are historical accounts by European travellers in the 17th and 18th centuries on the existence of the dispute. Probably, the first such reference to this dispute was made by William Finch, a British merchant who visited India between 1608 and 1611. There are legal records to establish that petitions were filed before the District Judge and the Judicial Commissioner in the United Provinces in 1885-1886, when India was ruled by the British Colonial Government. In January 1885, Raghubar Das, the Hindu priest presiding over the worship of idols on the platform, sought permission of the court to erect a permanent structure above the Ram chabutra - in effect a temple. The mutawalli (Muslim caretaker) of the mosque opposed this, while arguing that the entire site (including the chabutra/platform) belonged to the mosque, that was constructed around 1528 following the demolition of an already existing Hindu Temple. Over two years, the sub-judge, the district judge and finally the judicial commissioner rejected the petition. Meanwhile, it is to be noted that in March 1886, the district judge, F.E.A. Chamier, wrote: "It is most unfortunate that a masjid should have been built on land specially held sacred by the Hindus, but as that event occurred 356 years ago, it is too late now to remedy the grievance."

After Indian independence on 23<sup>rd</sup> December 1949, between 2.00 and 3.00 am, the idols were moved from the platform outside to within the mosque/shrine. Following this, the state administration attaches the property, the District Magistrate (DM) was appointed the receiver. DM imposed Section 145 of the Indian Penal Code, prohibiting "joining or continuing in unlawful assembly, knowing it has been commanded to disperse". Worship stopped, with the idols inside the building. Both Hindu and Muslim groups demanded the shrine. The District Magistrate had now to adjudicate upon: "Which party was in peaceful possession of the building up to two months before the event?" In January 1950, Gopal Singh Visharad, a Hindu activist, filed a case before the Faizabad district court (Faizabad is the administrative district within which lies the town of Ayodhya). This legal case superseded the dispute pending before the District Magistrate since the morning of December 23, 1949. This became the first of four "title suits" - to determine who owns the title to the property.

In 1959, the Nirmohi Akhara, an order of monks that had right of worship at the Ram chabutra since 1850s and had filed the original complaint to the DM in 1949, went to court claiming ownership of the property. Similarly, in 1961, the Sunni Central Wakf Board filed a similar case, claiming ownership of the property on behalf of Muslims. In 1989, Deoki Nandan Agarwal, a retired judge, filed the final property case in the Ayodhya dispute before the Allahabad High Court on behalf of the deity, who was represented as a Juristic entity. He did so in his capacity as “next friend” of the deity Ram Lalla. Hence Ram Lalla Virajman became the fourth contender of the disputed land. The four Ayodhya cases were clubbed together as a Title Suit and transferred to the Lucknow bench of the Allahabad High Court.

Following the Babri Masjid Demolition (the case is under separate criminal investigation and legal process continues; further the issue has no connection with the judgment delivered by the Supreme Court on 9 November 2019), on 6 December 1992, the Union Government of India (GOI) passed the “Acquisition of Certain Area at Ayodhya Act” in 1993, and took over ownership of the Ramjanmabhomi/Babri Masjid complex. The land acquired by the GOI subsumes:

(I) The 60 feet by 40 feet area where the shrine stood till December 6, 1992; (II) The 0.313 acres that is the core disputed area – including the mosque, the Ram chabutra/platform, and Sita Rasoi, another religious site; (III) The land near the disputed area acquired by the Uttar Pradesh government in 1991 and comprising a wider mandir-masjid complex; and (IV) The area near and around the disputed area.

The logic for acquiring this large area by the Government was that in case the Courts determined that no temple had ever existed, and therefore the mosque needs to be rebuilt, the government’s ownership of surrounding land would make it possible to ensure unfettered access.

In, 1994, following the appeals against the “Acquisition of Certain Area at Ayodhya Act” filed in the Supreme Court, it adjudicated that while overall the Act was constitutional, the specific provision that dissolved all title suits was unconstitutional. Hence, the title suits pending before the Allahabad High Court stood revived. In 2003, SC further reiterated that the land outside the disputed area are the absolute property of the Union government. However, SC added that the government cannot facilitate any religious activity on this land – or transfer any part of this land to anyone else (such as a religious trust) – till the title suit determining ownership of the core disputed area has been decided.

In 2003, the Allahabad High Court asked the Archaeological Survey of India (ASI) to help determine whether the site of the Babri Masjid had previously hosted another building. On March 12, 2003, a team from ASI started the excavation. The archaeologists, officials and workers were carefully chosen to represent an equal number of Hindus and Muslims. The ASI established that a pre-existing structure which is indicative of remains those are distinctive features found associated with the temples of north India, that was not Islamic, underlies the disputed structure.

On September 30, 2010, the Allahabad Court delivered its judgement dividing the disputed area into three: (I) One third to the Nirmohi Akhara, including the Ram chabutra and Sita Rasoi, both traditionally associated with it; (II) One third to Ram Lalla Virajman; and (III) One third to the Sunni Wakf Board

An appeal was filed against the judgement, and the matter went to the Supreme Court. As mentioned earlier the SC delivered the judgment on 9 November 2019. The judgment was based on law and not on faith. The Judgment is solely to determine the Title Suit (i.e. ownership) of land in Ayodhya (1482 sq.yds.) on which the structure was located. The Title was in favour of RAM LALLA VIRAJMAN. The court held that RAM LALLA VIRAJMAN is a juristic entity in accordance with Indian law and the property will be handed over to a Trust, formed by the Central Government within three months, that will build the Temple; and An alternate 5-acres land will be allotted to the SUNNI WAQF BOARD for construction of a Mosque in Ayodhya.

The issue essentially is a domestic matter of India that has well documented historical underpinning dating back to the pre-independent India. This is a legal issue relating to Title Suit concerning ownership of land and had been addressed by Supreme Court within the framework of the Constitution and spirit of law where all the parties were heard patiently. The independence of the Supreme Court, which has a proven track record, is a basic structure of the Indian Constitution and is not amenable to any amendment.

The Parliament of India has passed the Places of Worship (Special Provisions) Act 1991, which prohibited any change in the religious and denomination character of Places of Worship, which existed on the date of the Independence of India, 15 August 1947. This Act did not include Babri Masjid Ram Janambhoomi title dispute. Hence, this issue remained in the domain of Indian Judiciary. The current judgement cannot be applied to any issues relating to Places of Worship in India as a precedence in contravention of the Act of Parliament of 1991.

It is to be well noted that Government of India is committed to the Constitution of India that guarantees all religious communities equal freedoms of faith, belief and worship under Article 25(1) of the Indian Constitution (Right to Freedom of Religion). Prominent voices in public life, including the All India Muslim Personal Law Board, have appealed to citizen to respect the judgment and to maintain calm. Members of different political parties including the Indian National Congress welcomed the judgement and hoped that this settles the age long dispute. The Prime Minister of India, in the aftermath of the verdict, said that the decision resolves the decades old case amicably and is neither the victory nor the defeat for anybody. The Prime Minister pitched for harmony, brotherhood, friendship, unity and peace amongst all Indians; and called for strengthening of the spirit of Nationalism.