



INTERPRETATION OF THE AYODHYA JUDGMENT

Edited By:

1) Saumya Tripathi

(Editor)

Saumya.judicateme@gmail.com

+91 9044382618

2) Ravikiran Shukre

(Student Editor)

ravikiran.judicateme@gmail.com

+91 9561735023

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INTERPRETATION OF THE AYODHYA JUDGMENT

*By Shalmoli Ghosh, BBA-LLB(H) & Shalini
Dey, BBA-LLB(H)
From, Amity University Kolkata*

ABSTRACT

The Hindu community claims it as the birthplace of Lord Ram, an incarnation of Lord Vishnu. The Muslim community claims it as the site of the historic Babri Masjid built by the first Mughal Emperor, Babur. The Supreme Court allotted the disputed land to Hindus and 5 acres of land to Muslims. Can it be said that it is a win for Hindus and loss of Muslims! The author argues in negative. The author argues that it is the secularism, law and the social fabric which won the case. The Supreme Court rightly interpreted the law and its intersection with religion maintain the auspicious nature of secularism. The author in her article discusses about how the dispute unfolded and how the Court came to a balanced

approach while interpreting the evidences, the theological theories, religious texts and the basic structure of the Constitution.

INTRODUCTION

The apex court of the country, in a unanimous verdict decided to hand over the entirety of the 2.77 acres of disputed Ayodhya land to the Hindu Community. The dispute was long drawn. On one side Muslims claimed the existence of Babri Masjid, constructed by Babur and on the other hand, the birthplace of Ram. The Supreme Court allotted 5 acres to Muslim for the construction of Masjid. Now was this a balance to maintain secularism or a mode of restitution becomes the bone of contention.

The dispute was more than a century old and the aggravated version took place from the day when the mosque was vandalised. The dispute saw many failed dialogues and the last resort left to it was adjudication that was finally done by the Supreme Court in *M Siddiq (D) Thr Lrs V. Mahant Suresh*

*Das & Ors*¹. The real question which the author addresses below is the aspect of interpretation i.e. how the court balanced law and religion to maintain the flavour of secularism.

THE AYODHYA JUDGMENT

The judgment revolves around a 2.77 acre in the town of Ayodhya which is claimed by two religious sects. This piece of land is of monumental importance to both Hindus and Muslims. This dispute dates us back to the days where Hindus believe that this place is Ramjanmabhoomi meaning the place where Ram was born. However, the Muslims believe that there was a Masjid here mad by the first Mughal Emperor, Babur.

In 1859, the colonial the British Rulers built a grill dividing the temple into two. The inner courtyard was given to Muslims to worship and the outer Courtyard was given to Hindus. Mahant Raghur Das in 1885 filed Civil Suit claiming to build a Hindu temple in the outer courtyard, but that was denied citing law and order issues.

On December 22-23, 1949, Hindu community placed idols of Ram Lalla under the central dome but was dispossessed by

the Muslim community. The Faizabad civil court directed to put a lock at the mosque. Then in 1986, District Judge of Faizabad Court orders unlocking of the gates to allow Hindus to worship. On 6th December 1992, the Babri Masjid was demolished by karsewaks.

Uttar Pradesh Sunni Central Board of Waqf in 1961 claimed their title in the land. In 1989, a suit by deity itself (known as Bhagwan Ram Lalla Virajman) through the next friend and former Allahabad HC Judge Deoki Nandan Agarwal.

Now these suits along with few other Hindu worshippers were heard by the Allahabad HC who issued a direction to Archaeological Survey of India (ASI) to carry out a scientific investigation and have the disputed site surveyed by Ground Penetrating Technology or Geo-Radiology (GPR). A committee was later constituted to conduct the excavation process. After the procedural excavation was completed, the High Court by a 2:1 majority decided that both the Hindus and Muslims are joint holders of the property. Each of them was held entitled to one third of the disputed property. The Nirmohi Akhara was granted the remaining one third.

¹ *M Siddiq (D) Thr Lrs V. Mahant Suresh Das & Ors Civil Appeal Nos 10866-10867 Of 2010*

None of the three parties were satisfied and appealed in the Supreme Court. However, after an extensive hearing, the Supreme Court granted the entire land for construction of Hindu temple. Along with that, the Apex Court also directed the Centre and the Uttar Pradesh Government to allot 5 acres of land at a prominent place in Ayodhya for building a mosque.

INTERPRETATION ASPECT OF THE AYODHYA VERDICT

Religious issues are one of the most sensitive aspects in contemporaneous plural societies. These are highly controversial and usually the courts are inclined in their decisions to fully argument what the State's role is and in which degree can it intervene in the freedom sphere of the people that can be translated in a general interpretation of the role of the State and its relation with the people.

On the same veins, the Supreme Court in Ayodhya verdict took a leap of faith and delved in one of the most controversial aspect of the Indian Society- the religion and the Hindu-Muslim feud over the land in Ayodhya.

The Court while coming to the judgment observed that

The Supreme Court, as a secular institution, set up under

a constitutional regime must steer clear from choosing one among many possible interpretations of theological doctrine and must defer to the safer course of accepting the faith and belief of the worshipper.

The “safer course” being discussed in the judgment reflects in the verdict by way of restitution. The verdict while allotting the disputed land to the Hindus, gave 5 acres’ land to the Muslim Wakf Board as a mode of restitution. The Court stated

The Constitution postulates the equality of all faiths. Tolerance and mutual co-existence nourish the secular commitment of our nation and its people. While determining the area of land to be allotted, it is necessary to provide restitution to the Muslim community for the unlawful destruction of their place of worship. Having weighed the nature of the relief which should be granted to the Muslims, we direct that land admeasuring 5 acres be allotted to the Sunni Central Waqf Board either by the Central Government out of the acquired land or by the

*Government of Uttar Pradesh
within the city of Ayodhya.*

This safer course takes us to the discussion and interpretation of the term “secular” enshrined in the Constitution of India. Secularism is regarded as the basic structure of the constitution² and the Supreme Court rightly quoted:

The law is a legislative instrument designed to protect the secular features of the Indian polity, which is one of the basic features of the Constitution. Non-retrogression is a foundational feature of the fundamental constitutional principles of which secularism is a core component.

When we talk about secularism, we directly hit the topic of religion. The Constitution does not define ‘religion’. It does not direct the courts on how to interpret the myriad questions that arise from the interaction between law and religion. So, how are the courts supposed to deal with these?

The Courts have done it many instances, and one of the first being in 1954 in the case of *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra*

*Thirtha Swamiar of Sri Shirur Mutt.*³ In this case, a seven judge bench of the Supreme Court held that rituals and practices are an essential aspect of religion and it is covered by the term “religion”. This was the inception where the judiciary stepped in to define religion. This paved way for the Courts to delve into the arena of religion and characterising “Hinduism or Hindutva” as a “way of life” and legitimising its role in election campaigns.⁴

India harbours and boasts of having founded four of the world’s major religions - Hinduism, Buddhism, Jainism, and Sikhism along with being the largest constitutional democracy in the world. When the Constitution was drafted, a special care was given to come up with a framework where liberal constitutionalism and religious pluralism could co-exist.⁵

Secularism was one of the ultimate issues to be deliberated and added to the Constitution. In 17th of October, the Preamble was discussed and added. Almost all the members had come to a common agreement that a secular state was the inevitable foundation of a liberal

² SR. Bommai v. Union of India, (1994) 3 SCC 1, 232,

³ The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, on April 16, 1954, Supreme Court of India.

⁴ Sen, R. 2016. 'Secularism and Religion Freedom', in *The Oxford Handbook of the Indian Constitution*, Oxford University Press.

⁵ Abeyratne, R. A. 2018. Privileging the Powerful: Religion and Constitutional Law in India, *Asian Journal of Comparative Law*, 13 (2018), pp. 307–331.

democracy. After a lot of debates and deliberations, the framers came to a consensus that fostering equal respect for every religion should be the key essence.

While the striking the right balance is touched upon, the author will discuss further that how the Ayodhya dispute took the balancing interpretation to meet both law and religion halfway.

So the real debate of interpretation is the debate on secularism that did the apex court take the right call in deciding that the disputed land belongs to Ram Lalla. So to answer that the author will quote

Religious diversity undoubtedly requires the protection of diverse methods of offering worship and performing religious ceremonies. However, that a method of offering worship unique to one religion should result in the conferral of an absolute title to parties from one religion over parties from another religion in an adjudication over civil property claims cannot be sustained under our Constitution. This would render the law, which ought to be the ultimate impartial arbiter, conferring a benefit on a party with respect to her or his legal claims, not on the basis of the merits of a particular case,

but on the basis of the structure or fabric of the religion to which they belong.

In other words, the Court gave primacy to the black and white characters of the law over any belief or religious practices. It said that religious sentiments over law and evidence is not envisaged by the Constitution of India. The Court consciously safeguarded the essence of secularism in a pluralistic like India. A religious sect if got an upper hand over the law based on their belief then that would have violated the essence of secularism and not the other way round. The theories of interpretation states that a law needs to be read in its own sense and in the light of the object it sought to achieve. In the same context, the word “secular” sought to achieve harmony and the aim of property laws was to confer the right title to the right owner and eventually both the aspects have met each other half-way.

While the Court decided the land to be belonging to Hindus based on evidence and law, the Court however did not look past the real motive of the Constituent Assembly in adding the word “secular” i.e. equal treatment for all religions. To meet this requirement as well and in order to do complete justice, the Court allotted 5 acres’ land to the Muslin Wakf Board which

portrayed the aspect of equal treatment towards each religion.

To substantiate more the Court goes on to add:

The court cannot adopt a position that accords primacy to the faith and belief of a single religion as the basis to confer both judicial insulation as well as primacy over the legal system as a whole.

In a country like India, secularism is equality of all religions and the Courts cannot take an approach of primacy of one religion over another or in that case over legal system as well.

There have been counter opinions as well. Many argue that the Ayodhya Judgment stamped over the concept of secularism enshrined in the Constitution. However, a careful interpretation of the text of the judgment gives a view to the contrary. The context of secularism is amply visible in the text and spirit of the Ayodhya verdict.

The Court time and again mentioned the long standing dispute over the land at Ayodhya since 1990's. So it would have been impractical to expect that Supreme Court will not be mindful of this fact. The Supreme Court did a careful analysis of the facts and the evidences put forth while setting the Allahabad High Court order of equally dividing the land between the 3

parties- Hindu group, Muslim group and the Nirmohi Akhara.

While setting aside the Court observed that equal division of the disputed will not serve the purpose of long lasting peace and tranquillity and quoted in para 799 of the judgment that

“Even as a matter of maintaining public peace and tranquillity, the solution which commended itself to the Allahabad High Court division of the property into three parts is not feasible. Dividing the land will not subserve the interest of either of the parties or secure a lasting sense of peace and tranquillity.”

While delivering the landmark judgment, the Supreme Court took note of the Places of Worship Act, 1991 as well that safeguards the integral values of the Constitution itself. The Ayodhya judgment went on to note that,

“The Places of Worship Act imposes a non-derogable obligation towards enforcing our commitment to secularism under Indian Constitution; this Act is thus a legislative intervention, which preserves

non-retrogression as an essential feature of our secular values.”

The Supreme Court in manner failed to endorse secularism and this should put all apprehensions to rest doubting its secular credentials. The Supreme Court did not only go by the words of law but also took into account the social fabric of the Indian society. The fact that the land of Ayodhya bears a special status to be seen as the birthplace of Lord Ram would certainly have sowed the seeds for strife and discord perennially between the Hindus and Muslims. Hence the Supreme Court tried to strike the right chord of balance between secularism, freedom to practice religion and even the social fabric of the present Indian society.

The Court did not disregard that keeping Ram Lalla idols in the Babri Mosque on December 22, 1949, was wrong. It also took note that the demolition of the Babri Masjid on December 6, 1992 was unlawful.

The court has held that clandestinely keeping Ram Lalla idols in the Babri Mosque on December 22, 1949, was wrong. It has also held that the wanton destruction of the mosque on December 6, 1992, was unlawful. The restitution to this effect was done by the Supreme Court by granting 5 acres of land to the Muslim community as well.

The next aspect of the interpretation in the context of the Ayodhya judgment is that was the Supreme Court entitled to order a secular state to construct a temple. To answer this, the author will place reliance on the section 6 of Acquisition of Certain Area at Ayodhya Act, 1993 which allows the Supreme Court to vest the authority of the land to a trust or authority. So the Supreme Court did not bypass laws or did not take a majoritarian view in allowing the Hindus to construct a Ram temple in the disputed land.

The Supreme Court relied on religious texts, reports of ASI and other witnesses and evidences to come to the conclusion and there was no instance when the court deviated from the concept of importance of facts, evidences and witnesses. To this in para 555, the court states:

Once the witnesses have deposed to the basis of the belief and there is nothing to doubt its genuineness, it is not open to the court to question the basis of the belief.

Scriptural interpretations are susceptible to a multitude of inferences. The court would do well not to step into the pulpit by adjudging which, if any, of competing interpretations should be accepted. Faith is a matter for

the individual believer. Once the court has intrinsic material to accept that the faith or the belief is genuine and not a pretence, it must defer to the belief of the worshipper.

There had been arguments flowing when it was contended that a mosque was constructed by Babur on the same land which was lying underneath. To this the Court moved to examine the veracity of the archaeological evidences produced by the ASI and it has rightly held that

Archaeology as a discipline cannot be belittled as unreliable. The value of archaeology cannot be diluted in the manner which has been suggested by laying a claim to its being a weak form of evidence.

Lastly, when the Court states that *The court does not decide title on the basis of faith or belief but on the basis of evidence. The law provides us with parameters as clear but as profound as ownership and possession. In deciding title to the disputed property, the court applies settled principles of evidence to adjudicate upon*

which party has established a claim to the immovable property.

It becomes all the more evident that the judgment is not deliberate attempt to deviate from the idea of secularism in India and neither did the Court failed to interpret law and religion together.

CONCLUSION

Indian Constitution guarantees both secularism and freedom to practice religion. However, it does not give a watertight formula about the intersection of both and especially the role played by the law regarding balancing the same.

When the Court has no other resort, it resorts to “justice, equity and good conscience” enshrined in Article 142 of the Constitution of India. And the judgment does exactly the same. It interprets law with religion with the essence of “justice, equity and good conscience”.