IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

CURATIVE PETITION [C] NO. _____ OF 2020

IN

REVIEW PETITION (C) diary no 44086 OF 2019

IN

CIVIL APPEAL No. 10866-10867 OF 2010

Arising out of the final Order in Review Petition dated 11.12.2019 in Civil Appeal No. 10866-10867 of 2010 passed by this Hon'ble Court.

IN THE MATTER OF:

DR. MOHAMMAD AYUB PETITIONER/APPLICANT

VERSUS

MAHANT SURESH DAS & ORS. … RESPONDENTS

WITH

I.A. NO. OF 2020

[APPLICATION SEEKINGEXEMPTION FROM FILING THE TYPED COPY OF JUDGMENT IN REVIEW]

PAPER BOOK
(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR PETITIONER: ABHINAV SHRIVASTAVA

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OFFICE REPORT ON LIMITATION

1. The Petition is/are within time.

2. The Petition is barred by time and there is delay of ____days in final Impugned Judgment& Orderdated 09.11.2019 in Civil Appeal No. 2894 of 2011 passed by this Hon'ble Court filing the same and petition for condonation of ____ days delay has been filed.

BRANCH OFFICER

New Delhi.

Dated : January, 2020

IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

CURATIVE PETITION [C] NO. _____ OF 2020

IN

REVIEW PETITION (C) diary no 44086 OF 2019

IN

CIVIL APPEAL No. 10866-10867 OF 2010

IN THE MATTER OF:-

POSITION OF THE PARTIES

CURATIVE PETITION (C) No. of 2020 IN REVIEW PETITION [C] diary no 44086 OF 2019 ARISING OUT OF CIVIL APPEAL NO. 10866 OF 2010]		**IN THE APPEAL**	**IN THIS PETITION**
1.	Dr. Mohammad Ayub aged about 64 years, S/o Late Ashik Ali resident of Zohara Complex, Barhalganj	Not a party	Petitioner /Applicant
	Versus		
1.	MAHANT SURESH DAS, Chela of Sri Param Hans Ram Chandra Das, R/o. DigambarAkhara, Ayodhya City, District Faizabad, Uttar Pradesh	Respondent No. 1	Contesting Respondent No.1
2.	NIRMOHI AKHARA, Through Mahant Rameshwar MahantSarbarakar, R/o. NirmohiAkhara, Mohalla Ram Ghat, City Ayodhya, District Faizabad, Uttar Pradesh	Respondent No. 2	Contesting Respondent No.2
3.	THE STATE OF UTTAR PRADESH, Through its Chief Secretary to the State Government, Uttar Pradesh	Respondent No. 3	Contesting Respondent No.3

4.	THE COLLECTOR, Faizabad, Uttar Pradesh	Respondent No. 4	Contesting Respondent No.4
5.	THE CITY MAGISTRATE, Faizabad, Uttar Pradesh	Respondent No. 5	Contesting Respondent No.5
6.	THE SUPERINTENDENT OF POLICE, Faizabad, Uttar Pradesh	Respondent No. 6	Contesting Respondent No.6
7.	B. PRIYA DUTT (SINCE DECEASED) Through his Legal Heir (i) JYOTI PATI RAM MohallaRakabganj, Faizabad, Pradesh	Respondent No. 7	Contesting Respondent No.7
8.	PRESIDENT, ALL INDIA HINDU MAHA SABHA, Read Road, New Delhi	Respondent No. 8	Contesting Respondent No.8
9.	PRESIDENT, ARYA MAHA PRADESHIK SABHA, BaldanBhawan, Shradhanand Bazar, Delhi.	Respondent No. 9	Contesting Respondent No.9
10.	PRESIDENT, ALL INDIA SANATAN DHARAM SABHA, Shop No.35, GeetaBhawan, Ground Floor, A-Block, Kirti Nagar, Delhi	Respondent No. 10	Contesting Respondent No.10
11.	DHARAM DAS ALLEGED CHELA BABA ABHIRAM DAS, Resident of Hanuman Garhi, Ayodhya, Faizabad, Uttar Pradesh	Respondent No. 11	Contesting Respondent No.11
12.	SRI PUNDRIK MISRA, S/o. Raj NarainMisra, Resident of BalrampurSarai, Rakabganj, Faizabad, Uttar Pradesh	Respondent No. 12	Contesting Respondent No.12
13.	RAMESH CHANDRA TRIPATHI, S/o. Sri Parsh Rama Tripathi, Resident of Village: Akbarpur, ParganaMijhaura, TahsilAkbarpur, District:	Respondent No. 13	Contesting Respondent No.13

	Faizabad, Uttar Prades\		
14.	MADAN MOHAN GUPTA, Convener of AkhilBhartiya Sri Ram Janam Bhoomi PunarudharSamiti, E-7/45, Bangla, T.T. Nagar, Bhopal, Madhya Pradesh	Respondent No. 14	Contesting Respondent No.14
15.	UMESH CHANDRA PANDEY, S/o. Sri R.S. Pandey, R/o. RanupalliAyodhya, District Faizabad, Uttar Pradesh	Respondent No. 15	Contesting Respondent No.15
16.	UMESH CHANDRA PANDEY, S/o. Sri R.S. Pandey, R/o. RanupalliAyodhya, District Faizabad, Uttar Pradesh	Respondent No. 16	Contesting Respondent No.16
17.	THE SUNNI CENTRAL BOARD OF WAQFS, through its Secretary, Shah GhayasAlam, Moti Lal Bose Road, P.S. Kaiserbagh, City Lucknow, Uttar Pradesh	Respondent No. 17	Contesting Respondent No.17
18.	MISBAHUDDEEN, S/o. Late ShriZiauddin, R/o. MohallaAngooriBagh, Awadh City, District Faizabad, Uttar Pradesh	Respondent No. 18	Contesting Respondent No.18
19.	MOHAMMAD HASHIM (DEAD) THR. LRS. MOHAMMAD IQBAL ANSARI S/o.Late Mohammad Hashim,Residing at 4/318, Kotia, AyodhyaCity, District Faizabad, Uttar Pradesh	Respondent No. 19	Contesting Respondent No.19
20.	MAULANA MAHFOOZURAHMAN, S/o. Late MaulanaVakiluddin, Resident of Village Madarpur, Pargana and TahsilTanda, District Faizabad, Uttar Pradesh	Respondent No. 20	Contesting Respondent No.20

21.	FAROOQ AHMAD, S/o. Late Sri Zahoor Ahmad, Resident of MohallaNaugaziQabar, Ayodhya City, District Faizabad, Uttar Pradesh	Respondent No. 21	Proforma Respondent No.21
22.	M. Siddiq. (D) Thr. LRs. MAULANA SYED ASHHAD RASHIDI, S/o. Maulana Syed RashiduddinHamidi, President, JamiatUlama-i-Hind, SubhashMarg, AhataShaukati Ali, Lucknow, Uttar Pradesh	Appellant	Proforma Respondent No.22

CURATIVE PETITION (C) No. of 2020 IN REVIEW PETITION [C] diary no 44086 OF 2019 ARISING OUT OF CIVIL APPEAL NO. 10867 OF 2010]		**IN THE APPEAL**	**IN THIS PETITION**
1.	Dr. Mohammad Ayub aged about 64 years, S/o Late Ashik Ali resident of Zohara Complex, Barhalganj	Not a party	Petitioner /Applicant
	Versus		
1.	BHAGWAN SRI RAM VIRAJMAN AT SRI RAMA JANAM BHUMI AYODHYA, also called Bhagwan Sri Rama LalaVirajman, Represented by next friend, Sri TrilokNathPandey, S/o. Late AskrutPandey, R/o. KarsewakPuram, District Faizabad, Uttar Pradesh	Respondent No. 1	Contesting Respondent No.1
2.	ASTHAN SRI RAM JANAM BHUMI AYODHYA, Represented by next friend, Sri TrilokiNathPandey, S/o. Late AskrutPandey, R/o. KarsewakPuram, District Faizabad, Uttar Pradesh	Respondent No. 2	Contesting Respondent No.2
3.	TRILOKI NATH PANDEY,	Respondent	Contesting

	S/o. Late AskrutPandey, R/o. KarsewakPuram, District Faizabad, Uttar Pradesh	No. 3	Respondent No.3
4.	SRI RAJENDRA SINGH, S/o. Late Sri Gopal Singh Visharad, at present residing at Gonda, Care of the State Bank of India, Gonda Branch, Gonda, Uttar Pradesh	Respondent No. 4	Contesting Respondent No.4
5.	MAHANT SURESH DAS, Chela of Late MahantParamRamchandraDas, R/o. DigambarAkhara, Ayodhya City, District Faizabad, Uttar Pradesh	Respondent No. 5	Contesting Respondent No.5
6.	NIRMOHI AKHARA MOHALLA RAM GHAT, AYODHYA, through its MahantJagannath Das, Chela of Vaishnav Das Nirmohi, R/o. Mohalla Ram Ghat, NirmohiBazar Pargana Haveli Awadh, Ayodhya City, District Faizabad, Uttar Pradesh	Respondent No. 6	Contesting Respondent No.6
7.	SUNNI CENTRAL BOARD OF WAQFS, through its Chairman, Moti Lal Bose Road, Lucknow, Uttar Pradesh	Respondent No. 7	Contesting Respondent No.7
8.	STATE OF UTTAR PRADESH, through the Secretary, Home Department, Civil Secretariat, Lucknow, Uttar Pradesh	Respondent No. 8	Contesting Respondent No.8
9.	THE COLLECTOR ANDDISTRICT MAGISTRATE, Faizabad, Uttar Pradesh	Respondent No. 9	Contesting Respondent No.9
10.	THE CITY MAGISTRATE, Faizabad, Uttar Pradesh	Respondent No. 10	Contesting Respondent No.10
11.	THE SENIOR SUPERINTENDENT OF POLICE, Faizabad, Uttar Pradesh	Respondent No. 11	Contesting Respondent No.11

12.	THE PRESIDENT, ALL INDIA HINDU MAHASABHA, New Delhi	Respondent No. 12	Contesting Respondent No.12
13.	THE PRESIDENT, ALL INDIA ARYA SAMAJ, Dewan Hall, Delhi	Respondent No. 13	Contesting Respondent No.13
14.	THE PRESIDENT, ALL INDIA SANATAN DHARMA SABHA, Delhi	Respondent No. 14	Contesting Respondent No.14
15.	DHARAM DAS, Chela Baba Abhiram Das, Resident of Hanuman Garhi, Ayodhya, Faizabad, Uttar Pradesh	Respondent No. 15	Contesting Respondent No.15
16.	SRI PUNDRIK MISRA, S/o. Raj NarainMisra, Resident of BalrampurSarai, Rakabganj, Faizabad, Uttar Pradesh	Respondent No. 16	Contesting Respondent No.16
17.	RAMESH CHANDRA TRIPATHI, S/o. Sri Parsh Rama Tripathi, Resident of Village: Akbarpur, ParganaMijhaura, TahsilAkbarpur, District: Faizabad, Uttar Pradesh	Respondent No. 17	Contesting Respondent No.17
18.	UMESH CHANDRA PANDEY, S/o. Sri Uma ShankerPandey, R/o. RanopaliAyodhya, District Faizabad, Uttar Pradesh	Respondent No. 18	Contesting Respondent No.18
19.	SRI RAMA JANAM BHUMI NYAS, Through its Trustee, Mr. ChampatRai, having its office at SankatMochan Ashram, Sri Hanuman Mandir, Rama KrishanPuram, Sector VI, New Delhi	Respondent No. 19	Contesting Respondent No.19
20.	SHIA CENTRAL BOARD OF WAQFS, U.P. LUCKNOW, through its Chairman,	Respondent No. 20	Contesting Respondent No.20

817,Indra Bhawan,
AshokMarg,
Lucknow, Uttar Pradesh

21.	VAKEELUDDIN (DEAD) through his Legal heir MAULANA MEHFOOZ REHMAN, S/o. Late ShriVakeeluddin, R/o. MadarpurPargana and Tehsil Tanda, District Faizabad, Uttar Pradesh	Respondent No. 21	Proforma Respondent No.21
22.	M. Siddiq. (D) Thr. LRs. MAULANA SYED ASHHAD RASHIDI, S/o. Maulana Syed RashiduddinHamidi, President, JamiatUlama-i-Hind, SubhashMarg, AhataShaukati Ali, Lucknow, Uttar Pradesh	Appellant	Proforma Respondent No.22

CURRATIVE PETITION BY PETITIONER AGAINST THE ORDER DATED 11.12.2019 PASSED IN REVIEW PETITION [C] diary no 44086 OF 2019 PASSED BY THIS HON'BLE COURT, SEEKING REVIEW OF JUDGMENT DATED 09.11.2019 IN CIVIL APPEAL No. 10866-67 OF 2010 AND OTHER CONNECTED APPEALS.

To,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS COMPANION JUDGES OF THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE PETITIONER ABOVE-NAMED

MOST RESPECTFULLY SHOWETH:-

1. That petitioner is filing the present Curative Petition against the order dated 11.12.2019 passed by this Hon'ble Court in Review Petition [C] diary no 44086 OF 2019 arising out of judgment dated 09.11.2019 pronounced by this Hon'ble Court in the batch of

matters, wherein the lead matter was Civil Appeal No. 10866-67 of 2010. The said batch of matters related to the Ramjanambhoomi/Babri Masjid civil dispute in terms whereof OOS No. 5/1989 has been decreed and OOS No. 4/1989 has been partly decreed.

2. The petitioner has not filed any other Curative Petition before this Hon'ble Court against the order dated 11.12.2019 passed by this Hon'ble Court in Review Petition [C] diary no 44086 OF 2019 arising out of judgment dated 09.11.2019 of the pronounced by this Hon'ble Court in the batch of matters, wherein the lead matter was Civil Appeal No. 10866-67 of 2010.

3. The petitioner herein was not the party before this Hon'ble Court in the impugned Civil Appeal No. 10866/2010, but since the judgment impugned passed by this Hon'ble Court dated 09.11.2019 was not only a descriptive judgment which describes various historic facts and dealt with the approval pertaining to the same, but also affects the sentiments of large number of persons of one community & religion. Due to this reason petitioner herein as a responsible and law abiding citizen of his native area and also as a socially active figure attempting continuously to raise the bonafide cause on his part.

4. That the primary reason leading to file the present Curative Petition in brief are that the originally Suit No.4 of 1989 was filed and was tried under Order I Rule 8 of CPC and even if the Sunni Central Board of Waqfs U.P. which was the Original Plaintiff No.1 in O.S. No. 4 of 1989 had not preferred properly the Review Petition before this Hon'ble Court but the said Suit was filed in a the representative capacity for the entire Muslim

Community and the present curative petitioner is entitled to approach this Hon'ble Court because there are patent errors on the face of the record in the judgment in review, passed by this Hon'ble Court dated November 9, 2019 reported in 2019 (15) Scale 1

5. That the judgment contains several errors apparent on the face of the record which go to the root of the matter.

6. That the judgment relies upon patent errors and creates rights based on illegal acts which is incorrigible in light of settled law.

7. That there has been a violation of Principles of Natural Justice (nemodebetesscjudex in propriacausa) and the Rule of Law.

8. That the material errors in the judgment in review, manifest on the face of the order, undermines its soundness and results in miscarriage of justice

9. It is evident from the facts and submissions hereinabove that the judgment in reviewcontains patent factual and legal errors, which sufficiently make out a case for review in the Open Court. Inter alia, following are the grounds which establish a case for review by this Hon'ble Court:

10. That the grounds taken in the Curative Petition has already been raised in the Review Petition which has been dismissed by circulation and no new ground has been taken in the Curative Petition, the present Curative Petition before this Hon'ble Court on the following amongst others:

GROUNDS

A. NON APPRICIATION OF FACTS REGARDING POSSESSION, MANIFEST ON THE FACE OF THE JUDGMENT DATED 09.11.2019 PRONOUNCED BY THIS HON'BLE COURT IN CIVIL APPEAL NO. 10866-67 OF 2010

A1. A claim to possessory title must be based on exclusive and unimpeded possession which has to be established by evidence, which was never the case for the Hindus whether we consider the outer or the inner courtyard, and hence such a finding is contrary to observations in the judgment itself.

1.1. The judgment holds that Hindus were in exclusive possession of the outer courtyard and that the Muslims were not in the exclusive possession of the inner courtyard, which may be erroneous in light of the following:

a. The fact that the inner courtyard was "landlocked" [@ **Para 720 (viii)**] and Muslims had not completely lost access to or abandoned the disputed property [@ **Para 718**] brings us to the logical conclusion that the Hindus could not have been in exclusive possession of the outer courtyard.

b. The finding that there is an absence of any evidence to indicate that the Muslims had asserted any right of possession or occupation over the area of the disputed property beyond the railing [@ **Para 720 (iv)**] is without any basis and completely disregards the Suit of 1885 which was essentially decreed in favour of the Muslims.

c. With respect to the suit of 1885, it is essential to keep in mind S 33 of the Indian Evidence Act, 1872 which reads as under:

> *"Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.—Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable: Provided— that the proceeding was between the same parties or their representatives in interest; that the adverse party in the first proceeding had the right and opportunity to cross-examine; that the questions in issue were substantially the same in the first as in the second proceeding."*

1.2. The judgment records that '*…As regards namaz within the disputed site, the evidence on record indicates that namaz was being offered until 16 December 1949. However, the extent of namaz would appear to have been confined to Friday namaz particularly in the period preceding the events of December 1949…*' [@ **Para 771**]

1.3. The judgment also records that '*…a reasonable inference that there was no total ouster of the Muslims from the inner structure prior to 22/23 December 1949though their access was intermittent and interrupted; and…*' [@ **Para 786(xi)**]

A2. The present case relates to title or ownership of this composite place of worship for which the court factored in

the length and extent of use of the site, and on balance of probabilities, the evidence presented by the plaintiffs in Suit 4, especially when it comes to a finding of possession/title stands at a better footing and presumption of title (u/S 110 Evidence Act, 1872) must be held in favour of the Muslims who were in lawful possession till the premises were attached.

A3. That the judgment in review despite making note of the various judicial cases [@**Para 46**], has wrongly concluded that the Muslims made no assertion on the outer courtyard after the grill wall was built on direction of the British Government for maintaining law and order. This is evident from the following:

3.1. On December 10,1858, an order was passed in Case No. 884 recording that Jhanda (flag) was uprooted from the Masjid and the Faqir, who had trespassed into the Babri Mosque and affixed a flag therein, residing therein was ousted

3.2. On 25.9.1866, an application was filed by Mohd. Afzal (Mutwalli Masjid Babri) against Tulsidas and other Bairagis, praying for demolishing the new Kothari which has been newly constructed by the Respondent for placing idols etc. inside the door of the Masjid where Bairagis have constructed a Chabootra.

3.3. On August 26, 1868, an Order was passed by Major J. Reed Commissioner, Faizabad in the case of Niyamat Ali and Mohd. Shah Vs. GangadharShastri. This case was filed by the Muslims against one Ganga Dhar alleging that he was encroaching on

the North West Corner of the Masjid, however the encroachment could not be proved.

3.4. In November 1873, an Appeal was filed by Mohd. Asghar against placing of an Idol on platform of Janamsthan. MahantBaldev Das was directed by an Order of the Court to remove the idol i.e. CharanPaduka which he failed to comply with. Its pertinent to note that even this was done illegally.

3.5. Appeal against the permission of opening of the Singh Dwar in 1877 was dismissed on the ground that it doesn't interfere with the worship of Muslims. It's important to note that it wasn't done at the behest of their worship, however, as has been read in the judgment in review.

3.6. On November 2, 1883, Mohd. Asgar filed a case (being Case No. 19435) before Learned Assistant Commissioner stating that he is entitled to get the wall of the mosque white-washed but is being obstructed by Raghubar Das.

3.7. The 1885 suit- In this case the Hindu parties pleaded that the Ram Chabutara was being worshipped as the birthplace of Lord Ram and that they be permitted to construct a temple on the same. The case of the Hindu parties was dismissed by the Learned Sub Judge on December 24,1885 and subsequently even the first appeal and second appeal were dismissed on March 18/26,1886 and November 2,1886 respectively. While the suit of the Hindu parties was dismissed, it was categorically held that Ram Chabutara was the birthplace of Lord Ram and that the Hindu parties had very limited prescriptive rights over the Ram Chabutara,

SitaRasoi and Bhandara. The same has been inferred to have been evidence as to exclusive possession of the Hindus in the outer courtyard which goes completely against the judgments of 1886.

B. BECAUSE THE JUDGMENT HAS OTHER ERRORS APPARENT ON THE FACE OF THE RECORD

B1. <u>*Burden of Proof on Plaintiffs in Suit 5 Not Discharged*</u>. This Hon'ble Court in ***A. Raghavamma and Anr. v. A. Chenchamma and Anr.*** **AIR 1964 SC 136** has held that, "*There is an essential distinction between burden of proof and onus of proof; burden of proof lies upon the person who has to prove a fact and it never shifts but the onus of proof shifts.*"

B2. Thus, while the onus of proof can shift, the incidence of the burden of proof does not. Suit 5 is not a suit by a worshipper, it's a suit by a next friend on behalf of the deity and is a title suit. The plaintiffs in Suit 5 have failed to discharge their burden of proof, in so far as they need to establish their title to the disputed property. The Hindus as the Muslims alike were supposed to establish their Possessory Title (apart from Worship) in terms of point **(ix)** of sub-section **F**, "*Points for Determination*". However, besides having recorded that the inner courtyard saw infrequent disputes, and those to be evidence of worship, if any, it still does not amount to a Possessory Title having been established by the Hindus. The evidence presented by plaintiffs in Suit 5 must also be scrutinized through the same lens which has been used to appreciate the evidence in support of Suit 4. Anything short of this would be manifestly

arbitrary and be a violation of Article 14 of the Constitution of India.

B3. The judgment at one place states that '…*At the outset, before setting out in detail the evidence on behalf of plaintiffs in Suit 5, it is pertinent to note that this Court records that in order to establish their case, the plaintiffs in Suit 5 need to prove that:*

(i) There existed an ancient Hindu temple at the disputed site;

(ii) The existing ancient Hindu temple was demolished in order to construct the Babri Masjid; and

(iii) The mosque was constructed at the site of the temple.

The burden of proof to establish a positive case lies on the plaintiffs in Suit 5 in terms of Sections 101 to 103 of the Evidence Act 1872. **[@ Para 485]**

B4. Further, the submission that the existence of an ancient Hindu temple below the disputed property was evidence that the title to the disputed land vested in the plaintiffs in Suit 5 was rejected and the judgment in review concluded that, "*This Court cannot entertain or enforce rights to the disputed property based solely on the existence of an underlying temple dating to the twelfth century*." **[@ Para 649].**

B5. This is because no argument other than a bare reliance on the ASI report was put forth. No evidence was led by the plaintiffs in Suit 5 to support the contention that even if the underlying structure was believed to be a temple, the rights that may flow from it were recognized by subsequent sovereigns. The mere existence of a structure underneath the

disputed property cannot lead to a legally enforceable claim to title today.

B6. Subsequent to the construction of the ancient structure in the twelfth century, there exists an intervening period of four hundred years prior to the construction of the mosque. Further, it is admitted by all parties that at some point during the reign of the Mughal Empire, a mosque was constructed at the disputed site. Lastly, that even if this Court was to assume that the underlying structure was in fact a Hindu temple which vested title to the disputed site in the plaintiff deities, no evidence was led by the plaintiffs in Suit 5 to establish that upon the change in legal regime to the Mughal sovereign, such rights were recognized. **[@ Para 648].**

B7. The remit of the Archaeological Survey of India (ASI) and the conclusions arrived by the ASI Report assume importance in this light. The question referred to the ASI was *"whether there was any temple/structure which was demolished and mosque was constructed on the disputed site"*[@ **Pg 2, ASI Report, 2003]**. The judgment makes the following important observations with respect to the ASI Report:

A. The report is an opinion; nevertheless of an expert governmental agency in the area of archaeology. **[@ Para 487**]

B. There is the presence of pillar bases above the circular shrine. This aspect must be taken into account while ascertaining the overall weight to be ascribed to the ASI report. **[@ Para 501**]

C. According to the ASI team, what remains of the sculpture indicates a ―waist, thigh and foot of a couple... But, calling it a ―divine couple is beyond the stretch of imagination. **[@ Para 503**]

D. The possible linkages of Buddhist or Jain traditions cannot be excluded... The excavation in the present case does in fact suggest a confluence of civilisations, cultures and traditions...The statement that some of the fragments belong to an Islamic structure has in fact been noticed in the ASI report. **[@ Para 504**]

E. Caveats:

a. The circular shrine (conceivably a Shiva shrine) and the underlying structure with pillar bases belong to two different time periods between three to five centuries apart;

b. There is no specific finding that the underlying structure was a temple dedicated to Lord Ram; and

c. Significantly, the ASI has not specifically opined on whether a temple was demolished for the construction of the disputed structure. **[@ Para 509**]

F. The High Court had inferred that since the foundation of the erstwhile structure was used for the construction of a mosque, the builder of the mosque would

have been aware of the nature of the erstwhile structure. This is an **inference** which the High Court has drawn though that is not a specific finding which the ASI has returned in the course of its report. **[@ Para 510**]

G. ASI's inability to render a specific finding on- whether a Hindu temple had been demolished to pave way for the construction of the mosque- is certainly a significant evidentiary circumstance which must be borne in mind when the cumulative impact of the entire evidence is considered in the final analysis. **[@ Para 511]**

B8. Having marshalled through the entirety of evidence, this Court specifically finds that a finding of title cannot be based in law on the archaeological findings which have been arrived at by ASI. **[@ Para 788 III]**.Apart from this, it concludes on the ASI Report as follows:

1. A reasonable inference can be drawn on the basis of the standard of proof which governs civil trials that:

   (i) The foundation of the mosque is based on the walls of a large pre-existing structure;

   (ii) The pre-existing structure dates back to the twelfth century; and

   (iii) The underlying structure which provided the foundations of the mosque together with its architectural features and recoveries are suggestive of a Hindu religious origin

comparable to temple excavations in the region and pertaining to the era. **[@ Para 788 I]**.

2. However, in light of the claim of the plaintiffs in Suit 5 and the remit of the ASI, the Caveats seem to be more significant and are as follows:

(i) While the ASI report has found the existence of ruins of a preexisting structure, the report does **not** provide:

(a) The reason for the destruction of the pre-existing structure; and

(b) Whether the earlier structure was demolished for the purpose of the construction of the mosque.

(ii) Since the ASI report dates the underlying structure to the twelfth century, there is a time gap of about four centuries between the date of the underlying structure and the construction of the mosque. No evidence is available to explain what transpired in the course of the intervening period of nearly four centuries;

(iii) The ASI report does not conclude that the remnants of the preexisting structure were used for the purpose of constructing the mosque (apart, that is, from the construction of the mosque on the foundation of the erstwhile structure); and

(iv) The pillars that were used in the construction of the mosque were black Kasauti stone pillars. ASI has found no evidence to show that these Kasauti pillars are relatable to the underlying pillar bases found during the course

of excavation in the structure below the mosque.**[@ Para 788 II]**.

B9. Furthermore, it is pertinent to note that the judgment is required to record a finding for the questions set out in sub-section F, "*Points for determination*". However, having recorded the findings for Points (iii)(b) and (iii)(c) in the negative, i.e., overturning the majority judgment of the Allahabad High Court, the judgment doesn't come to a logical conclusion when it comes to Point (iii)(d) i.e. "*What, if any are the legal consequences arising out of the determination on (a)(b) and (c) above*. The relevant Points for determination are reproduced as under:

"(iii)(b) *Whether the temple was demolished by Babur or at his behest by his commander Mir Baqi in 1528 for the construction of the Babri Masjid;*

(iii)(c) Whether the mosque was constructed on the remains of and by using the materials of the temple;"

B10. The Court also answered Point (xiii) – *"Whether the plaintiff in Suit 5 have established their title to the disputed property"* - in sub-section F, "*Points of Determination*" in the affirmative, despite holding that no evidence which could establish Title has been adduced by the plaintiffs in Suit 5. Apart from the Oral testimonies which were recorded half a decade after the reprehensible and illegal acts of 1949, the Court has considered the following submissions/evidence and held as follows:

Submission/Evidence	Finding w.r.t. Title of Disputed Property

B1.	**Parikrama:**	
	"It was urged that the performance of the parikrama (circumambulation) around the disputed property delineated the property which was worshipped as the Janmasthan and it is this property, being divine, upon which the status of a juristic person must be conferred." **[@ Para 163]**	*"The performance of the parikrama, which is a form of worship conducted as a matter of faith and belief <u>cannot be claimed as the basis of an entitlement in law to a proprietary claim over property</u>."* **[@ Para 164]**
B2.	**Travelogues, Gazetteers and Books**	
	"Issues of title cannot be decided on the basis of historical work, treatises and travelogues" **[@ Para 584]**	*"Consequently, where there is a dispute pertaining to possession and title amidst a conflict of parties, historical accounts cannot be regarded as conclusive. The court must then decide the issue in dispute on the basis of credible evidentiary material."* **[@ Para 591]**
		"While we have made a

reference to the accounts of travellers and gazetteers, we read them with caution. The contents of these accounts cannot be regarded as being conclusive on the issue of title which has necessitated an adjudication in the present proceedings." **[@ Para 594]**

B3. **ASI Report** *"A finding of title cannot be based in law on the archaeological findings which have been arrived at by ASI."* **[@ Para 788 III]**.

B11. With respect to the oral evidence, it is essential to note that the judgment makes note of three significant areas of dispute:

(i) The presence of idols under the central dome of the three domed structure, which was a part of the Babri Mosque to the Muslims and the "GarbhGrih" to the Hindus.

(ii) Second, there are variations in regard to the statements of the Hindu witnesses on whether and, if so the nature of the prayers,

that were offered inside the inner sanctum prior to 22-23 December 1949. The case that prayers were offered at the railing is inconsistent with the claim that prayers were being offered inside the three domed structure by the Hindus between 1934 and 1949. According to the Muslim witnesses, no prayers were being offered inside the three domed structure by the Hindus; and

(iii) Third, there is a variation between the statements of the Hindu and Muslim witnesses on whether *namaz* was offered inside the three domed structure of the mosque between 1934 and 1949. **[@ Para 532]**

B12. The above stated significant areas of dispute must be seen in light of the fact thatthere is no dispute in regard to the faith and belief of the Hindus that the birth of Lord Ram is ascribed to have taken place at Ayodhya. What is disputed is whether the disputed site below the central dome of the Babri Masjid is the place of birth of Lord Ram. And, it was categorically submitted that there is no evidence of the area below the central dome being worshipped as the place of birth of Lord Ram before 1949. [@ **Para 591**]. And, the judgment seems to have held that there, in fact, was no evidence to suggest that the Ramchabutra was ever under the central dome or that the idols existed inside the mosque prior to December 1949. [@**Para 391**]

B13. Lastly, with respect to granting title **only** on the basis of faith and belief, the judgment holds as follows:

a. *"Title cannot be established on the basis of faith and belief above."* [@**Para 788 IV**].

b. *"The adjudication of civil claims over private property must remain within the domain of the secular if the commitment to constitutional values is to be upheld."* [@**Para 204]**

c. *"From Shahid Gunj to Ayodhya, in a country like ours where contesting claims over property by religious communities are inevitable, our courts cannot reduce questions of title, which fall firmly within the secular domain and outside the rubric of religion, to a question of which community's faith is stronger."* [@**Para 205**]

Thus, in effect, there is no evidence to prove title or possessory title in favour of plaintiffs in Suit 5 and therefore, the finding for sub-section F, "Points of Determination", (xiii) could not have been in the affirmative. At best, the appreciation of evidence establishes worship at the dispute site (in the outer courtyard prior to December 1949), and not possessory title. Thus, the answer to the second limb of "Point of Determination", (xi) could also not been in the affirmative, and hence, the judgment must be reviewed.

C. BECAUSE OF THE ERROR IN NOT CONSIDERING MATERIAL FACTS THAT RAISE PERTINENT LEGAL ISSUES, AND VIOLATION OF PRINCIPLES OF NATURAL

JUSTICE (NEMO DEBET ESSC JUDEX IN PROPRIA CAUSA) AND RULE OF LAW

C.1. *The connivance/negligence of the authorities which led to the desecration of the mosque and violation of this Court's order which led to its demolition have been held to be illegal acts. No right can flow from such illegal and reprehensible acts of 22nd and 23rd December 1949, when the mosque was desecrated by surreptitiously installing idols inside it, and thereafter, the planned demolition of 6th December 1992.*

1.1. The Court asked if the surreptitious installation of the idols on the night between 22 and 23 December 1949 created a right in favour of NirmohiAkhara, but didn't not have to answer the question because NirmohiAkhara denied the event altogether. [@**para 268**] However, having held that idols were surreptitiously placed under the central dome [@**para 302, 388, 719**], this is a pertinent question of law which should have then been answered while deciding Suit 5 and Suit 1.

1.2. The judgment in reviewrecords that there is no controversy as to precise date of construction of the mosque- "*Hence, both in the pleading in Suit 4 and in Suit 5, there was essentially no dispute about the fact* that the mosque was raised in 1528 A.D. by or at the behest of Babur." [@**Para 68**] - and that there is evidence on record to hold that Muslims offered Friday namaz at the mosque and had not completely lost access to or abandoned the disputed property. [@**Para 718**]

1.3. Further, that during the pendency of the suits, the entire structure of the mosque was brought down in a calculated act of destroying a place of public worship. The judgment further holds that, "*The Muslims have been wrongly deprived of a mosque which had been constructed well over 450 years ago.*" [@**Para 798**]. Furthermore, it holds that, "*the Muslims were dispossessed upon the desecration of the mosque on 22/23 December 1949 which was ultimately destroyed on 6 December 1992. There was no abandonment of the mosque by the Muslims.*" [@**Para 799**]

1.4. The judgment in fact holds that the Muslims were deprived of the mosque otherwise than by the due process of Law and thereafter the premises were attached under S 145 CrPC. The finding has been reproduced as under:

"The events preceding 22/23 December 1949 indicate the build-up of a large presence of Bairagis in the outer courtyard and the expression of his apprehension by the Superintendent of Police that the Hindus would seek forcible entry into the precincts of the mosque to install idols. In spite of written intimations to him, the Deputy Commissioner and District Magistrate (K KNayyar) paid no heed and rejected the apprehension of the Superintendent of Police to the safety of the mosque as baseless. The apprehension was borne out by the incident which took place on the night between 22/23 December 1949, when a group of fifty to sixty persons installed idols on the pulpit of the mosque below the central dome. This led to the desecration of the mosque and

the ouster of the Muslims otherwise than by the due process of law. The inner courtyard was thereafter attached in proceedings under Section 145 CrPC 1898 on 29 December 1949 and the receiver took possession;" [@ **Para 788 XVI**]

1.5. Thus, the judgment holds that Muslims were in possession of the Mosque till it was desecrated and the Hindus came to be in possession of the Mosque by illegal acts and the same cannot be equated to lawful possession. It is unprecedented, unconscionable and against the principles of Rule of Law to equate the two and hold that the evidence in favour of plaintiffs in Suit 5, stands at a better footing than that of plaintiffs in Suit 4, when it comes to establishing possession of the inner courtyard. [**@para 800**]

1.6. In ***Northern India Caterers v Lt Governor of Delhi*****, AIR 1980 SC 674,** it was held that, "*the court may also review a judgment if a manifest wrong has been done and if it is necessary to pass an order to do full and effective justice"*. No right (possession, ownership, prayer) can be claimed if it was founded on an illegality in which the claimant was or was not complicit. [@ **A68**]. The trespass of 1949 was pre-meditated, pre-planned to desecrate the mosque, which has been accepted by this Court. However, the judgment while recognizing the illegality of these acts, fails to consider the consequences of the illegal ouster, and hence, the judgment must be reviewed.

C2. Moreover, it is settled law that*Ex dolomalo non orituractio i.e. 'no right of action can have its origin in fraud'.*

2.1. The law was stated as far back as 1775 by Lord Mansfield in **Holman v. Johnson [(1775) 1 Cowp 341, 343 : 98 ER 1120, 1121]** in the following words:

> *"The principle of public policy is this; ex dolomalo non orituractio. No Court will lend its aid to a man who founds his cause of action upon an immoral or an illegal act. If, from the plaintiff's own stating or otherwise, the cause of action appears to arise ex turpicausa, or the transgression of a positive law of this country, there the Court says he has no right to be assisted. It is upon that ground the Court goes; not for the sake of the defendant, but because they will not lend their aid to such a plaintiff."*

C.3. In **KedarNathMotani v. PrahladRai, AIR 1960 SC 213**, having referred to Holman v. Johnson, this Court held as under:

> *15. The correct position in law, in our opinion, is that what one has to see is whether the illegality goes so much to the root of the matter that the plaintiff cannot bring his action without relying upon the illegal transaction into which he had entered. If the illegality be trivial or venial, as stated by Williston and the plaintiff is not required to rest his case upon that illegality, then public policy demands that the defendant should not be allowed to take advantage of the position. A strict view, of course, must be taken of the plaintiff's conduct, and he should not be allowed to circumvent the illegality by resorting to some subterfuge or by mis-stating the facts. If, however, the matter is clear and the illegality is not required to be pleaded or proved as part of the cause of action and the plaintiff recanted before the illegal purpose was achieved, then, unless it be of such a gross nature as to outrage the conscience of the Court, the plea of the defendant should not prevail."*

C.4. No right of action can have its origin in fraud, and the claim of plaintiffs in suit 5 cannot stand without the illegally desecrating the mosque in 1949 and demolishing it in 1992. What relief would this Court have given if the mosque still stood at the disputed site?

C.5. Another legal maxim of considerable import is- *Ex turpicausa non oritur action i.e. from a dishonorable cause an action does not arise.* The dishonourable cause of action in this case is the shifting of idols from the Ram Chabutra (which was believed to be the birth place of Lord Ram until 1949) to be placed under the central dome in order to desecrate the mosque in sheer violation of Rule of Law.

5.1. In **ImmaniAppaRao v. GollapalliRamalingamurthi, AIR 1962 SC 370**, this Court held as under:

"13. Out of the two confederates in fraud Respondent 1 wants a decree to be passed in his favour and that means he wants the active assistance of the Court in reaching the properties possession of which has been withheld from him by Respondent 2 and the appellants. Now, if the defence raised by the appellants is shut out Respondent 1 would be entitled to a decree because there is an ostensible deed of conveyance which purports to convey title to him in respect of the properties in question; but, in the circumstances, passing a decree in favour of Respondent 1 would be actively assisting Respondent 1 to give effect to the fraud to which he was a party and in that sense the Court would be allowed to be used as an

instrument of fraud, and that is clearly and patently inconsistent with public interest."

5.2. Recently, in**Narayanamma and Anr v. Govindappa and Ors, 2019 SCC OnLine SC 1260**, this Court held as under:

> *"19... 21. To the same effect is the opinion of Story [Story's Equity Jurisprudence, Vol. I, s. 421; English edition by Randall, 1920, s. 298.] : "In general, where parties are concerned in illegal agreements or other transactions, whether they are mala prohibita or mala in se, courts of equity following the rule of law as to participators in a common crime will not interpose to grant any relief, acting upon the known maxim in pari delicto potiorestconditiodefendentis et possidentis. The old cases often gave relief, both at law and in equity, where the party would otherwise derive an advantage from his inequity. But the modern doctrine has adopted a more severely just and probably politic and moral rule, which is, to leave the parties where it finds them giving no relief and no countenance to claims of this sort."*
>
> *20. It could thus be seen that, although illegality is not pleaded by the defendant nor is relied upon by him by way of defence, yet the court itself, upon the illegality appearing upon the evidence, will take notice of it, and will dismiss the action ex turpi causa non oritur actio. It has been held, that no polluted hand shall touch the pure fountain of justice. It has further been held, that where parties are concerned in illegal*

agreements or other transactions, courts of equity following the rule of law as to participators in common crime will not interpose to grant any relief, acting upon the maxim in pari delicto potiorestconditiodefendetis et possidentis.

26. However, the ticklish question that arises in such a situation is: "the decision of this Court would weigh in side of which party"? As held by Hidayatullah, J. in KedarNathMotani (supra), the question that would arise for consideration is as to whether the plaintiff can rest his claim without relying upon the illegal transaction or as to whether the plaintiff can rest his claim on something else without relying on the illegal transaction. Undisputedly, in the present case, the claim of the plaintiff is entirely based upon the agreement to sell dated 15.05.1990, which is clearly hit by Section 61 of the Reforms Act. There is no other foundation for the claim of the plaintiff except the one based on the agreement to sell, which is hit by Section 61 of the Act. In such a case, as observed by Taylor, in his "Law of Evidence" which has been approved by Gajendragadkar, J. in ImmaniAppaRao (supra), although illegality is not pleaded by the defendant nor sought to be relied upon him by way of defence, yet the Court itself, upon the illegality appearing upon the evidence, will take notice of it, and will dismiss the action ex turpicausa non orituractioi.e. No polluted hand shall touch the pure fountain of justice. Equally,

as observed in Story's Equity Jurisprudence, which again is approved in ImmaniAppaRao (supra), where the parties are concerned with illegal agreements or other transactions, courts of equity following the rule of law as to participators in a common crime will not interpose to grant any relief, acting upon the maxim in pari delicto potiorestconditiodefendentis et possidentis."

5.3. Thus, it is settled law that no cause of action can arise based on illegal acts. What makes the cause of action in the present case even more dishonourable is that it was in violation of Orders of Courts, including this one, and no polluted hand shall touch the pure fountain of justice.

C6. *The Juristic Personality of the Plaintiff No 1-Idol was not admitted by the plaintiffs in Suit 4, and as such the admission on the basis of which the juristic personality of the first plaintiff in Suit 5 has been proceeded is incorrect and fails to take into account the fact that, while the idol was shifted within a distance of 100 feet, it was done so illegally and in a place of worship of a people of different faith and in violation of Rule of Law. <u>Can illegally shifted idol(s) claim and be accorded the status of a juristic personality?</u>*

6.1. While discussing that legal personality which is conferred on Hindu idols to provide courts with a conceptual framework within which they practically adjudicate disputes involving competing claims over disputed property endowed to or appurtenant to Hindu idols, this Court noted that the law thus protects the properties of the idol even absent the

establishment of a specific or express trust. However, it further proceeds on the premise that no submissions were made challenging the legal personality of the first plaintiff. Significantly, it records that the plaintiffs in Suit 4 admitted the juristic personality of the first plaintiff. [@**Para 128**]

6.2. The above stated position is incorrect and a wrong premise as is evident from the position noted in Para 318 which reads as under:

"The Sunni Central Waqf Board has opposed the suit of the plaintiff-deities. In its written statement, it denies the juridical status of the first and second plaintiffs and the locus of the third plaintiff to act as a next friend. According to the Sunni Central Waqf Board, no deities were installed within the premises of Babri Masjid until the idol was surreptitiously brought in on the night between 22-23 December 1949. The written statement denies the presence of a presiding deity or of any Asthan."

6.3. Furthermore, the allegation that their existed any temple at the site of Babri Masjid or that the mosque was constructed after destroying it, with the material of the alleged temple was denied, and the same has been upheld by this Court in the judgmentin review. Thus, the basis for the assertions made by plaintiff in suit 5 have been negative by this Court and it leaves no premise to give them any relief.

C7. Another important facet of the judgmentin review is that while it holds that "*The Muslims have been wrongly deprived of a mosque which had been constructed well over 450 years ago.*" [@**Para 798**], it also holds in the same

para that, "*As regards the inner courtyard, there is evidence on a preponderance of probabilities to establish worship by the Hindus prior to the annexation of Oudh by the British*." This is incorrect because the travelogues upon which the Court relies to establish the worship by Hindus also notices the presence of the Mosque. And, according to *S 114 of the Indian Evidence Act, 1872, Court may presume existence of certain facts.*

7.1. S 114 of the Indian Evidence Act, 1872 and the relevant illustration reads as under:

> *"Court may presume existence of certain facts —The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.*
>
> *Illustration (f): That the common course of business has been followed in particular cases;"*

7.2. Thus, if a mosque existed at the site for 450 years, then it can be reasonably presumed that it was being used for worship by the Muslims. The mosque has always been used as a mosque since its construction during the regime of Babur, and the travelogues upon which the plaintiffs in Suit 5 rely upon also notice the same and hence it cannot be said there is no evidence prior to 1860 of worship by the Muslims at the mosque. And, as far as title goes, as has been detailed Para 3, there is no evidence whatsoever to assert "title" by the plaintiffs in Suit 5.

D. BECAUASE THE JUDGEMENT HAS ERRORS OF CONSEQUENTIAL IMPORT

D1. *The judgment has also held in favour of the plaintiffs in Suit 5 on the basis of an incorrect translation. The undersigned has taken the effort to get the exhibit translated by various recognized and reputed universities and no claim can be based on an incorrect translation done by the Judge of the High Court on his own accord which was also submitted before this Hon'ble Court.*

1.1. The relevant extract has been reproduced as under:

> *"Case No 884 – Eviction of Nihang Singh Faqir from Masjid premises*
>
> *(iii) A dispute has been raised about the translation of the above document (application) by Mr Pasha, learned Counsel appearing on behalf of the plaintiffs in Suit 4. The document was translated thus:*
>
> *—You are the master of both the parties since the Shahi ear (sic) if any person constructs forcibly he would be punished by your honour. Kindly consider the fact that Masjid is a place of worship of Muslims and not that of Hindus.* ***Previously the symbol of Janamsthan had been there for hundreds of years and Hindus did puja.***
>
> *The correct translation, according to Mr Pasha, should read thus:*
>
> *—It is evident from the clear words of the Shah that if any person constructs forcibly he would be punished by the government and your honour may consider the fact that Masjid is a place of worship of the Muslims* ***and not the contrary position*** *that previously the symbol of Janamsthan had been there for hundreds of years and Hindus used to perform puja*

> ***The words —and not the contrary position in the submissions of Mr Pasha are contrived. They militate against the tenor of the letter of the Moazzin.*** *The complaint was against the erection of a Ramchabutra inside the Masjid and in that context it was stated that though previously the symbol of the Janmasthan has been there for hundreds of years and Hindus conducted puja, a construction had been made inside the Masjid for the first time."* [@ **Para 683**]

1.2. The judgment in review considers the incorrect translation of the Application of the Moazzin to be an admission on his part, which is incorrect and an error apparent on the face of the record. The relevant para is reproduced as under:

> *The Moazzin admitted that previously the symbol of Janamsthan had been there for hundreds of years and Hindus did puja inside the three domed structure.* [@ **Para 773**]

E. BECAUSE OF OTHER COGENT REASONS

E1. A judgment may be delivered unanimously or it may be divided into a number of majority, concurring, plurality, and dissenting opinions. However, curiously, while the judgment was delivered unanimously and signed by all the five judges, of them seems to have recorded a different reasoning. The purpose of such an addenda is unknown. Does it form a part of the judgment and law under Article 129? In normal practice, an addenda specifies if it's an integral part of the main document. A reasonable inference that can be drawn is that since there is no

such declaration, it is not an integral part of the judgment. However, it begs the question- what is the purpose of adding an addenda, if the judgment is unanimous and not a concurring opinion?

E2. It is incumbent upon the Courts to show that their judgments are consistent with the Constitution and/or with the laws in force, which cannot be done without giving reasons for their decision. And, a decision cannot be based on two different and contrary reasons.

11. That the Petitioner herein has not filed any other Review Petition in this Hon'ble Court earlier for similar relief. Further, the Petitioner herein seeks an audience in Open Court before the present Petition is adjudicated upon. Further, as the government's application for modification is really an application for Review under disguise, it would be appropriate to treat it as such, and a hearing in the open court should be provided to both sides.

12. That the present case, as pleaded in the present petition, is a fit case for review and this Hon'ble Court may please consider reviewing the order passed by this Hon'ble Court on 09.11.2019.

P R A Y E R

In the facts and circumstances of the case and in the interest of justice, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

(i) Allow the Curative Petition from the order dated 11.12.2019 of this Hon'ble Court in Review Petition [C] diary no 44086 OF 2019 arising out of the Final Order and Judgment dated 09.11.2018 passed by

this Hon'ble Court Civil Appeal Nos. 10866-67/2010 passed by this Hon'ble Court; and

(ii) Pass such other and further order as this Hon'ble Court may deem just and proper in the premises of this case.

AND FOR THIS ACT OF KINDNESS THE REVIEW PETITIONERS DUTY BOUND SHALL EVER PRAY.

FILED BY:-

[ABHINAV SHRIVASTAVA]
ADVOCATE FOR THE CURATIVE PETITIONER

DRAWN ON: January, 2020

FILED ON: January, 2020

IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

CURATIVE PETITION [C] NO. _____ OF 2020
IN
REVIEW PETITION (C) diary no 44086 OF 2019
IN
CIVIL APPEAL No. 10866-10867 OF 2010

IN THE MATTER OF:

DR. MOHAMMAD AYUB PETITIONER/APPLICANT

VERSUS

MAHANT SURESH DAS & ORS. …

RESPONDENTS

CERTIFICATE

"Certified that the Present Curative Petition from the order dated 11.12.2019 of this Hon'ble Court in Review Petition [C] diary no 44086 OF 2019 arising out of the Final Order and Judgment dated 09.11.2018 passed by this Hon'ble Court Civil Appeal Nos. 10866-67/2010 passed by this Hon'ble Court; and it is based on the grounds admissible under the Supreme Court Rules, 2013. No additional facts, documents or grounds have been taken therein or relied upon in the Review Petition which was not part of the Special Leave Petition earlier.

Filed by

FILED ON January, 2020

NEW DELHI

ABHINAV SHRIVASTAVA
ADVOCATE FOR THE PETITIONER

IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

CURATIVE PETITION [C] NO. _____ OF 2020
IN
REVIEW PETITION (C) diary no 44086 OF 2019
IN
CIVIL APPEAL No. 10866-10867 OF 2010

IN THE MATTER OF:

DR. MOHAMMAD AYUB PETITIONER/APPLICANT

VERSUS

MAHANT SURESH DAS & ORS. …

RESPONDENTS

APPLICATION FOR EXEMPTION FROM FILING CERTIFIED COPY OF THE IMPUGNED ORDER.

To

The Hon'ble the Chief Justice of India and His Companion Justices of the Supreme Court of India at New Delhi

The humble petition of the Petitioners abovenamed

MOST RESPECTFULLY SHOWETH :

1. The petitioner is filing the present Curative Petition against the order dated 11.12.2019 passed by this Hon'ble Court in Review Petition [C] diary no 44086 OF 2019 arising out of judgment dated 09.11.2019 of the pronounced by this Hon'ble Court in the batch of matters, wherein the lead matter was Civil Appeal No. 10866-67 of 2010. The said batch of matters related to

the Ramjanambhoomi/Babri Masjid civil dispute in terms whereof OOS No. 5/1989 has been decreed and OOS No. 4/1989 has been partly decreed.

2. That the petitioner herein respectfully prays before this Hon'ble Court that the judgement passed in the present case dated 09.11.2019 passed in various batch of matters and since it is very lengthy and much in pages, therefore, it is respectfully prayed that the same set of web copy of the impugned judgment may kindly be allowed to file along with this Curative petition, in the interest of justice.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to exempt the Petitioner from filing certified copy of the judgment dated 09.11.2019 passed by this Hon'ble Court in the interest of justice; and

Pass such other or further order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.

DRAWN & FILED BY:

ABHINAV SHRIVASTAVA
Advocate for Petitioner

Drawn on _____January, 2020
Filed on _____January, 2020