

ITEM NO.6+51

COURT NO.12

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 10866-10867 OF 2010
(for Prel. Hearing)

M.SIDDIQ@H.M.SIDDIQ,JAMIAT ULAMA-I-HIND

Appellant (s)

VERSUS

MAHANT SURESH DAS & ORS.ETC.ETC.

Respondent(s)

(With appln(s) for ex-Parte stay,substitution,exemption from filing c/c of the impugned Judgment,exemption from filing O.T.,intervention,c/delay in filing substitution appln.,permission to file lengthy list of dates and office report)

With

Civil Appeal NO. 821 of 2011 (for Prel. Hearing)

(With appln. for ex-parte stay and exemption from filing O.T. and office report)

S.L.P.(C)...CC NO. 3600 of 2011 (for Prel. Hearing)

(With appln. for exemption from filing c/copy as well as plain copy of the impugned order and permission to file SLP without c/copy as well as plain copy of impugned order and office report)

WITH Civil Appeal NO. 2215 of 2011 (For Prel. Hearing)

(With appln. for exemption from filing O.T. and interim relief and office report)

SLP(C) NO. 7815-7818 of 2011 (For Prel. hearing)

(With appln. for exemption and permission to file lengthy list of dates and office report)

Civil Appeal NO. 2636 of 2011 (For Prel. Hearing)

(With applns. For ex-parte stay and substitution and exemption from filing O.T. and c/delay in filing substitution appln. and permission to file synopsis and list of dates and office report)

(With I.A, Nos. 7 & 8 - applns. For permission to file additional documents and directions)

Civil Appeal NO. 2894 of 2011 (For Prel. Hearing)

(With appln. for ex-parte stay and substitution and exemption from filing O.T. and c/delay in filing substitution appln. and office report)

...2/-

Appeal Civil D NO. D38217 of 2010 (For Prel. Hearing)

(With applns. for permission to file appeal and office report)

Civil Appeal No.4192/2011

(With appln. for substitution and interim relief and permission to file synopsis and list of dates and exemption from filing O.T. and office report)

Appeal Civil D NO. D3828 of 2011

(With office report)

Date: 09/05/2011

These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s) Mr. P.P. Rao, Sr. Adv.
Mr. Anis Suhrawardy, Adv.
C.A.Nos.10866-67/2010 Ms. Shamama Anis, Adv.
Mr. S. Mehdi Imam, Adv.
Mr. Tabrez Ahmad, Adv.
Mr. Atif Suhrawardy, Adv.
C.A. No.821/2011 Mr. Rajiv Dhawan, Sr. Adv.
Mr. Zafaryab Jilani, Adv.
Mr. M.A. Siddiqui, Adv.
Mr. Shakil Ahmed Syed, Adv.
Mr. Syed Kafeel Ahmed, Adv.
Mr. Syed Ahmad Saud, Adv.
Mr. M. Taiyab Khan, Adv.
Mr. Shuaib-uddin, Adv.
Mr. Mohd. Parvez Dabas Adv.
Mr. Zaki Ahmed Khan, Adv.
C.C. No.3600/2011 Mr. Varinder Kumar Sharma, Adv.
C.A. No.2215/2011 Mr. P.P. Rao, Sr. Adv.
Mr. Huzefa Ahmed, Adv.
Mr. Ejaz Maqbool, Adv.
Mr. Nakul Dewan, Adv.
Mr. Sagheer Ahmed Khan, Adv.
Mr. Jawed Patel, Adv.
Mr. Karan Lahiri, Adv.
Mr. Mrigan Prabhaker, Adv.
Mr. Zaki Ahmad Khan, Adv.
SLP(C)Nos.7815-7818/2011 Mr. Sushil Kumar Jain, Adv.
Mr. Puneet Jain, Adv.
Mr. Anil Kumar Verma, Adv.
Mr. U.N. Goyal, Adv.

3

Ms. Trishna Mohan, Adv.

...3/-

C.A. No.2636/2011 Mr. P.S. Narasima, Sr. Adv.
Mr. Vivek Sharma, Adv.
Mr. Bankim K. Kulshreshtha, Adv.
Mr. R.C. Gubrele, Adv.
C.A. No.2894/2011 Mr. Rakesh Dwiwedi, Sr. Adv.
Mr. Zafaryab jilani, Adv.
Mr. Mushtaque Siddiqui, Adv.
Mr. Amit Sibal, Adv.
Mr. M.R. Shamshad, Adv.
Mr. Irshad Ahmad, Adv.
Mr. Zaki Ahmad Khan, Adv.
Mr. Md. Taiyab Khan, Adv.
Mr. Ahmad S. Azhar, Adv.
Mr. Nikhil Sharma, Adv.
Mr. Faisal Sherwani, Adv.
Mr. T. Ahmad, Adv.
Ms. F. Iqbal, Adv.
Mr. Aamir Naseem, Adv.
C.A.D.No.38217/2010 Mr. C.S. Vaidaianathan, Sr. Adv.
Mr. Ravi Shankar Prasad, Sr. Adv.

Mr. K.N. Bhat, Sr. Adv.
Mr. Madan M. Pandey, Adv.
Mr. S.S. Shamsbery, Adv.
Mr. Bhupender Yadav, Adv.
Mr. P.V. Yogeswaran, Adv.

C.A.D.No.3828/2011 Mr. Ranjit Kumar, Sr. Adv.
Mr. P.S. Narasimha, Sr. Adv.
Mr. Vikramjit Banerjee, Adv.
Ms. Ruchi Kohli, Adv.

C.A. No.4192/2011 Mr. Anup George Chaudhari, Sr. Av.
Ms. June Chaudhari, Sr. Adv.
Mr. Syed Shahid Hussain Rizvi, Adv
Mr. Zafaryab Jilani, Adv.
Mr. Mushtaq Ahmad Siddiqui, Adv.
Mr. Taiyyab Khan, Adv.
Mr. Zaki Ahmad Khan, Adv.
Mr. T. Srinivasa Murthy, Adv.
Mr. Md. Irshad Hanif, Adv.
Ms. Rifat Ara, Adv.
Mr. Danish Sher Khan, Adv.
Ms. Sumita, Adv.

4

For Respondent(s)

C.A.Nos.10866-67/2010 Mr. R.C. Gubrele, Adv.
C.A.D.No.38217/2010
C.A. No.2215/2011
C.A. No.2894/2011
C.A. No.821/2011
SLP(C)Nos.7815-7818/2011

...4/-

C.A.Nos.10866-67/2010 Mr. B.K.Satiya ,Adv
C.A.D.No.38217/2010 Mr. Barun Kumar Sinha, Adv.
C.A.D.No.3828/2011 Ms. Pratibh Sinha, Adv.
C.C. No.3600/2011 Mr. Chander Prakash Kaushik, Adv.
SLP(C)Nos.7815-7818/2011

C.A.Nos.10866-67/2010 Mr. Syed Shahid Hussain Rizvi ,Adv
C.A.D.No.38217/2010 Mr. Md. Irshad Hanif, Adv.
C.A. No.2215/2011 Ms. Rifat Ara, Adv.
C.A. No.2894/2011 Mr. Danish Sher Khan, Adv.
C.A. No.821/2011 Mr. Manoj V. George, Adv.
C.C. No.3600/2011 Mr. Alex Joseph, Adv.
SLP(C)Nos.7815-7818/2011
SLP(C)Nos.7815-7818/2011

C.A.Nos.10866-67/2010 Mr. M.N. Krishnamani, Sr.Adv.
C.A.D.No.38217/2010 Mr. S.S. Shamsbery, Adv.
C.A. No.2215/2011 Mr. P. Parmeshwaran, Adv.
C.A. No.2894/2011 Mr. Sharad Singhanian, Adv.
C.A.D.No.3828/2011 Mr. K.K. Venugopal, Sr. Adv.
C.A. No.2636/2011 Mr. Pallav Sisodia, Asr. Adv.
C.A. No.821/2011 Mr. D. Bharat Kumar, Adv.
C.C. No.3600/2011 Mr. Balasubramanyam Kumarsu, Adv.
SLP(C)Nos.7815-7818/2011 Ms. Deepshikha Bharati, Adv.
Mr. Anish Kumar Gupta ,Adv

C.A.Nos.10866-67/2010 Mr. Amit Pawan ,Adv,
C.A.D.No.38217/2010 Mr. Prafulla Behera, Adv.
C.A. No.2894/2011 Ms. Ranjana Agnihotri, Adv.
SLP(C)Nos.7815-7818/2011 Mr. R.K. Tiwari, Adv.
Ms. Dolly Prabhakar, Adv.
Mr. Prakash T.A., Adv.
Mr. Brahmajeet Mishra, Adv.

C.A.Nos.10866-67/2010 Md. Shahid Anwar ,Adv

C.A.D.No.38217/2010 Mr. Minhajul Rashid, Adv.
C.A. No.2215/2011 Mr. Aamir Naseem, Adv.
C.A. No.821/2011 Mr. Syed Rehan, Adv.
SLP(C)Nos.7815-7818/2011 Mr. Naved Khan, Adv.
Mr. Rakesh Joshi, Adv.

C.A.Nos.10866-67/2010 Mr. Zaki Ahmad Khan, Adv.
C.A.D.No.38217/2010 Ms. F. Iqbal, Adv.

5

C.A. No.2215/2011 Mr. M.R. Shamshad ,Adv
C.A.D.No.3828/2011 Mr. Aamir Naeem, Adv.
C.A. No.2636/2011 Mr. T. Ahmad, Adv.
C.A. No.821/2011
C.C.No.3600/2011
SLP(C)Nos.7815-7818/2011

C.C. No.3600/2011 Mr. A.S. Pundir, Adv.

For Interveners Mr. Vijay Hansaria, Sr.Adv.
Mr. Sanjay Sarin, Adv.
Ms. Manjusha Wadhwa, Adv. ...5/-

UPON hearing counsel the Court made the following
O R D E R

CIVIL APPEAL NOS. 10866-10867 OF 2010
The appeals are admitted for hearing.

During the pendency of the appeals, the operation of the judgment and decree passed by the Allahabad High Court shall remain stayed.

Further, we are pleased to note that there is complete unanimity on maintaining status quo and all the parties are in agreement that order may be passed for maintaining status quo on the disputed site and on the adjoining land.

We, therefore, pass the following orders :-

During the pendency of the appeals, the parties shall maintain status quo in regard to suit land, as directed by an earlier judgment and order passed by this Court in 'Dr. M. Ismail Faruqui & Ors. vs. Union of India & Ors.' (1994) 6 SCC 360 vide. paragraphs 86, 87, which are reproduced below :-

86. The best solution in the circumstances, on revival of suits is, therefore, to maintain status quo as on 7-1-1993 when the law came into force modifying the interim orders in the suits to that extent by curtailing the practice of worship by Hindus in the disputed area to the extent it stands reduced under the Act instead of

6

conferring on them the larger right available under the court orders till intervention was made by legislation.

87. Section 7(2) achieves this purpose by freezing the interim arrangement for worship by Hindu devotees reduced to this extent and curtails the larger right they enjoyed under the court orders, ensuring that it cannot be enlarged till final adjudication of the dispute and consequent transfer of the disputed area to the party found entitled to the same. This being the

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purpose and true effect of Section 7(2), it promotes and strengthens the commitment of the nation to secularism instead of negating it. To hold this provision as anti-secular and slanted in favour of the Hindu community 420 would be to frustrate an attempt to thwart anti-secularism and unwittingly support the forces which were responsible for the events of 6-12-1992.

Further, as regards the land adjacent to the suit land which was the subject matter of acquisition by the Central Government, the parties shall maintain status quo, as directed by the order of this Court in 'Mohd. Aslam Alias Bhure vs. Union of India and Others', (2003) 4 SCC 1 vide. paragraphs 4 and 5 read with paragraph 17 of the report, which read as follows :-

4. In this proceeding, which is initiated as public interest petition, several reliefs were claimed but after the interested parties were impleaded and their pleading were put forth what has crystallized is as to the manner in which the adjacent land should be (SIC) final decision in the title suit pending in the High Court of Allahabad. This Court, on 13.3.2002, while issuing the rule, made the following order:

"In the meantime, we direct that on the 67.703 acres of land located in revenue
7

plot Nos. 159 and 160 in village Kot Ramchandra which is vested in the Central Government, no religious activity of any kind by anyone either symbolic or actual including bhumi puja or shila puja, shall be permitted or allowed to take place.

Furthermore, no part of the aforesaid land shall be handed over by the Government to anyone and the same shall be retained by the Government till the disposal of this writ petition nor shall any part of this land be permitted to be occupied or used for any religious purpose or in connection therewith.

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This is subject to further orders which may be passed in this case."

5. The aforesaid order was clarified by another order dated 14.3.2002 in the following terms:

"After hearing the learned Attorney General, as there was some ambiguity in para 3 of our order dated 13-3-2002, we correct para 3 of our order as follows:

'In the meantime we direct that on the 67.703 acres of acquired land located in

various plots detailed in the Schedule to Acquisition or Central Area at Ayodhya Act, 1993, which is vested in the Central Government, no religious activity of any kind by anyone either symbolic or actual including bhumi puja or shila puja, shall be permitted or allowed to take place."

17. On consideration of the entire matter, we are of the view that the order made by this Court on 13.3.2002, as modified by the order made on 14.3.2002, should be operative until disposal of the suits in the High Court of Allahabad not only to maintain communal harmony but also to fulfil other objectives of the Act. The writ petition shall stand disposed of accordingly.

8

Mr. P.P. Rao, learned senior advocate appearing for the appellant requested the Court to make some further directions. There is no objections from any side to the request made by Mr. Rao. Hence, we make the following directions :

Call for the records of other Original Suit
No.4/1989 and other connected suits (being OOS No.1/1989,
OOS No.3/1989 and OOS No.5/1989) from the High Court of
Judicature at Allahabad;

Call for the digitized versions of the impugned
judgment and order dated 30.9.2010 in Microsoft Word format
and not in PDF format;

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Call for the digitized versions of the record
prepared by the Registry of the High Court of Judicature at
Allahabad, containing the scanned copies of the record in
OOS No.1/1989, OOS No.3/1989, OOS No.4/1989 and OOS
No.5/1989, and compact discs (CDs) containing the same;

The Registry of this Court is directed to provide to
the parties CDs containing electronic copies of the
digitized record summoned.

Applications for substitutions, that are free from
defects will be taken up for orders after the ensuing
summer vacation.

In the meanwhile, the other side(s) may examine the
question whether or not they would raise any objection in
regard to any substitution petitions.

Appropriate directions for translation of the High
Court records will be given later on.

Permission to file lengthy list of dates and events
is granted.

Application for exemption from filing certified
copy of impugned order is allowed.

9

Copies of the judgment is not required to be
accompanied with the process fee and spare copies.

Application for intervention is rejected.

Caveat filed by Mr. R.C. Gubrele, and Mr. B.K.
Satiya, counsel is rejected.

Civil Appeal NO. 821 of 2011
Civil Appeal NO. 2215 of 2011
Civil Appeal NO. 2636 of 2011
Civil Appeal NO. 2894 of 2011
Civil Appeal NO.4192 of 2011

Appeals are admitted for hearing.
Interim orders in the same term as passed in
appeal nos. 10866-10867/2010.

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S.L.P.(C) NOS. 7815-7818 of 2011

S.L.P.(C)...CC NO. 3600 of 2011

Permission to file Special leave petition is
granted.

Delay condoned.

Leave granted.

Interim orders in the same term as passed in appeal
nos. 10866-10867/2010.

Civil Appeal D NO. D38217 of 2010

Civil Appeal D NO. D3828 of 2011

Permission to file civil appeals is granted.

Delay in refiling is condoned.

The appeals are admitted for hearing.

Interim orders in the same term as in appeal nos.
10866-10867/2010.

10

(Neetu Khajuria)
Sr.P.A.

(S.S.R. Krishna)
Court Master