

ITEM NO.501

COURT NO.1

SECTION III-A/X/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). 10866-10867/2010

M.SIDDIQ (D) THR. LRS.

APPELLANT(S)

VERSUS

MAHANT SURESH DAS & ORS.

RESPONDENT(S)

WITH

C.A. NO. 4768-4771/2011 (III-A) [ITEM NO.501.1]

C.A. NO. 2636/2011 (III-A) [ITEM NO.501.2]

C.A. NO. 821/2011 (III-A) [ITEM NO.501.3]

C.A. NO. 4739/2011 (III-A) [ITEM NO.501.4]  
(FOR DISCHARGE OF ADVOCATE ON RECORD ON IA 95540/2018)

C.A. NO. 4905-4908/2011 (III-A) [ITEM NO.501.5]

C.A. NO. 2215/2011 (III-A) [ITEM NO.501.6]

C.A. NO. 4740/2011 (III-A) [ITEM NO.501.7]

C.A. NO. 2894/2011 (III-A) [ITEM NO.501.8]

C.A. NO. 6965/2011 (III-A) [ITEM NO.501.9]

C.A. NO. 4192/2011 (III-A) [ITEM NO.501.10]

C.A. NO. 5498/2011 (III-A) [ITEM NO.501.11]

C.A. NO. 7226/2011 (III-A) [ITEM NO.501.12]

C.A. NO. 8096/2011 (III-A) [ITEM NO.501.13]

DIARY NO(S). 22744/2017 (XI) [ITEM NO.501.14]

I.A. NO.69841/2017 - CONDONATION OF DELAY IN FILING

W.P.(C) NO. 294/2018 (X) [ITEM NO.501.15]

(FOR ADMISSION)

I.A. NO.72707/2018 - EXEMPTION FROM FILING O.T.

I.A. NO.72706/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS

W.P. NO.151/2019 (x) [ITEM NO.502]  
FOR ADMISSION AND I.A. NO.24779/2019 - CLARIFICATION/DIRECTION

W.P. (C) NO.105 OF 2016 (X) [ITEM NO.503]

Date : 26-02-2019 These cases were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
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HON'BLE DR. JUSTICE DHANANJAYA Y. CHANDRACHUD  
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WP 294/18

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

Pursuant to the order of this Court dated 10<sup>th</sup> January, 2019, the Secretary General of this Court has submitted a report on 29<sup>th</sup> January, 2019 indicating the state of readiness of the cases [i.e. appeals/writ petitions/special leave petition(s)] for hearing. The said report has been circulated to the learned counsels for the parties in Court today i.e. 26<sup>th</sup> February, 2019.

The report of the Secretary General of this Court is in the following terms.

**"REPORT**

1. This report is being submitted in compliance with Order dated 10.01.2019 passed by the Hon'ble Supreme Court in Civil Appeal Nos. 10866-10867 of 2010, titled as "M. Siddiq. (D) Thr. Lrs. Vs. Mahant Suresh Das and Ors."
2. By virtue of Order dated 10.1.2019 in C.A. Nos. 10866-10867 of 2010, the Hon'ble Court was pleased to issue following directions to the Registry of Supreme Court of India:

*"The orders of this Court, particularly, the order dated 10<sup>th</sup> August, 2015 indicate that though the learned counsels for the parties had attempted to submit some translated version of the evidence there is a dispute with regard to the correctness of the translations made.*

*In these circumstances, the Registry of this Court is directed to physically inspect the records which are lying under lock and key; make an assessment of the time that will be taken to make the cases ready for hearing by engaging, if required, official translators of the requisite number and give a report thereof to the court. The said report will be submitted to this Court by the Registry on 29<sup>th</sup> January, 2019 when the reconstituted*

*Bench (without Uday Umesh Lalit, J.), as may be, will assemble once again to take up the matter for further orders.”*

3. It will be appropriate to mention here that prior to issuing aforesaid directions, the Hon'ble Court in its order had also observed that:

*“.....The Bench has been informed that the original records are lying in 15 sealed trunks in a room which has also been sealed. Whether the depositions and documents which are in Persian, Sanskrit, Arabic, Gurumukhi, Urdu and Hindi, etc. have been translated is not clear.”*

4. To comply above-mentioned directions, the Secretary General on 12.01.2019, has constituted two Committees. Copy of document showing constitution of Committee is enclosed herewith as Annexure I.

5. Accordingly, all the members of both the Committees visited the room where the record is kept. The keys of the room and trunks were in the possession of Registrar (J-I). The same were kept in the sealed envelope. The envelope was opened in the presence of members of both the Committees. The lock with the seal of the room was found to be intact. Thereafter, the lock was opened, by breaking the seal, in the presence of Committee Members. There were 15 trunks in the room. Each trunk was having two locks and all the locks were found properly sealed. Report to that effect was prepared at the spot, and signed by the Committee Members. The charge of the room and sealed boxes was then handed over to the Committee No.2, for further compliance of the order.

6. The members of second Committee with the assistance of officials of Registry, opened all the trunks one after the another. The record was physically inspected. It will be appropriate to mention here that Original record from the High Court of Judicature at Allahabad, Lucknow Bench was received in two consignments, consisting of 8 trunks (numbered 1 to 8) & 7 trunks (numbered 1 to 7) respectively. The first consignment was received on 24.3.2014 and the second on 17.8.2017.

7. The officers and officials of the Registry have physically inspected the entire record kept in the trunks. It was found that the original documents were kept in Trunk Nos.1,2,4,5 & 6 of the first consignment. The scanned copies thereof were found placed in Trunk No.3,7 & 8 of the first consignment. In addition, 7 DVDs containing entire record in digitized form were found kept in Trunk No. 2 of first consignment. The evidence recorded during trial was found kept in Trunk No.1, 2 & 3 of the second consignment, while photocopies thereof were found kept in Trunk No.4. Trunks numbers 5 & 6 of the second consignment consisted of the impugned Judgment. A report of Archaeological Survey of India was found kept in Trunk No.7 of the second consignment.

8. It is revealed that the record consists of 38,147 pages of which 12,814 pages are in Hindi, 18,607 pages are in English, 501 pages are in Urdu, 97 pages are in Gurumukhi, 21 pages are in Sanskrit, 86 pages are in other language scripts, 14 pages contain images and 1,729 pages are in combination of more than one language script viz. Hindi, English, Urdu, Sanskrit and Gurumukhi. The record also includes 4,278 blank pages, though numbered yet not relevant for the purpose of translation.

9. The Judgment runs into 8,170 pages. The deposition is in 14,385 pages, out of these 2,548 pages are in English and 10,907 pages are in Hindi. The deposition also includes various documents of which 97 are in Punjabi (Gurumukhi), 824 are in multiple languages, 5 are in Sanskrit, 2 are in Urdu and 2 are in other language scripts.

10. There are 453 documents which have been marked with exhibits. The said exhibits consist of 3,609 pages which includes 2,188 pages in English, 572 in Hindi, 395 in Urdu, 402 in multiple language scripts and 52 in other language scripts. It has further been noticed that, barring few, the record received from the High Court does not include translation of vernacular documents in English. Thus, the documents/exhibits which are not in English will have to be translated.

11. Thus, record received from the Hon'ble High Court is not in terms of Order XIX Rule 11(i) of Supreme Court Rules, 2013. In this context, it will be appropriate to refer to some of the relevant Rules of Supreme Court Rules, 2013, which are as under:

**Order VIII :**

**Documents**

**Rule 2 :** *No document in language other than English shall be used for the purpose of any proceedings before the Court, unless it is accompanied by:*

- (a) *a translation agreed to by both parties; or*
- (b) *a translation certified to be true translation by a translator appointed by the Court; or*
- (c) *the said document is translated by a translator appointed or approved and notified by the Court.*

*Explanation – The provisions of this rule shall, so far as may be, apply also to a document in English of which a part is in a language other than English.*

**Rule 3 :** *Every document required to be translated shall be translated by a translator appointed or approved and notified by the Court:*

*Provided that a translation agreed to by both parties, or certified to be a true translation by the translator appointed or approved by the Court, may be accepted.*

**Order XIX :****Preparation of Record**

**Rule 11(1)** : *The record shall be printed in accordance with the rules contained in the First Schedule to these rules and, unless otherwise ordered by the Court, it shall be printed under the supervision of the Registrar of the Court:*

*Provided that where the proceedings from which the appeal arises were had in courts below in a language other than English, the Registrar of the Court appealed from shall within six months from the date of the service on the respondent of the notice of petition of appeal transmit to the Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Court, one copy of which shall be duly authenticated. The provisions contained in rules 12 to 17 shall apply to the preparation and transmission to the Court of the said transcript record:*

*Provided further that where the records are printed for the purpose of the appeal before the High Court and the said record be in English, the High Court shall prepare 10 extra copies in addition to the number of copies required by the High Court for use in the Court.*

12. As stated earlier, the record received from the Registry of High Court of Judicature at Allahabad, Lucknow Bench is not in compliance with proviso to Order XIX Rule 11(1) of the Supreme Court Rules, 2013 nor is there translation certificate in terms of Order VIII Rule 2(b). The record received contains about 38147 pages, which includes 12814 pages in Hindi. The record in Hindi language includes the deposition of witnesses which runs into 10907 pages. The above information is tabulated herein under for explicit understanding.

**(A) Table showing details of Record received from Registry of Hon'ble Allahabad High Court, Bench at Lucknow, in terms of language scripts**

<b>Sl. No.</b>	<b>Particulars</b>	<b>Remarks</b>
1.	Number of Pages in Hindi	12,814
2.	Number of Pages in English	18,607
3.	Number of Pages in other languages	2,434
4.	Pages, though numbered, have no contents (Blank Pages)	4,278
5.	Documents containing images	14
6.	Total number of pages found in 15 trucks	38,147



**(B) Table showing bifurcation of above record for the purpose of assessment of time to make case ready for hearing.**

<b>Sl. No.</b>	<b>Particulars</b>	<b>No. of Pages</b>
1.	Deposition of witnesses in English	2,548
2.	<b>Deposition of witnesses in Hindi</b>	<b>10,907</b>
3.	Exhibited documents in English	2,188
4.	<b>Exhibited documents in Hindi</b>	<b>572</b>
5.	Exhibited documents in other languages	849

13. The Supreme Court Registry has one Translation Cell for the limited purpose of translation of documents from Hindi Language to English language, if ordered by the Court. It has sanctioned strength of 10 translators, out of which 5 are Senior Translators and 5 are Junior Translators. At present, the working strength is 8 which includes 5 Sr. Translators and 3 Jr. Translators. Out of them 2 translators are on maternity leave and are likely to join duty in the last week of March, 2019. Thus, as on date, the effective strength of translators in Translation Cell is 6. As per prescribed standard a Senior Translator is required to translate 1600 words per day and a Junior Translator 1300 words per day. Approximately it comes out to be 6-7 pages/day. However, in view of the importance of matter, if the translators are asked to put in more working hours every day, each translator may translate about 12 pages/day.

14. The Registry has also empanelled advocates and other persons for the purpose of translation of 14 vernacular languages in English which includes Punjabi (Gurumukhi), Sanskrit and Urdu. However, the Registry does not have any translator to translate the document which is either in Persian or in Arabic. Therefore, arrangements will have to be made to engage translators to translate the documents which are in Persian or Arabic. Nonetheless, for the purpose of assessment of time to make the matter ready, the Registry intends to take note of data of translation of only Hindi document into English because the documents in other language scripts could simultaneously be translated through the empanelled advocates / translators and by engaging translators. In that sense, translation 10,907 pages of deposition in Hindi and 572 pages of exhibited documents in Hindi will have to be carried out through official translators.

15. In the circumstances, if entire strength of 8 official translators is utilised to translate 11,479 (10,907 + 572) pages, it is likely to take about 120 working days to make the case ready for hearing. The said time may be reduced if the Hon'ble Court permits the Registry to engage services of translators from other departments viz. various High Courts, Government Departments etc., e.g. if 16 translators (8 official translators of Supreme Court and 8 engaged from other sources) are deputed, the translation will be completed in about 60 working days. It may further be reduced by engaging more translators.

16. With the above-mentioned details, the report is submitted for favour of kind perusal, consideration and necessary orders, please.”

**At this stage, it may be useful to extract the relevant parts of certain orders passed by this Court from time to time in the matter of making the cases ready for hearing:**

**“Extracts of earlier proceedings**

1. The relevant part of the proceeding dated 09.05.2011 is as under:-

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

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

2. The relevant part of the proceeding dated 10.08.2015 is as under:-

The Registry shall take steps to provide to the parties CDs containing electronic copies of the digital record summoned from the High Court.

It is pointed out by learned counsel for the parties that record relevant to the hearing of these appeals is voluminous comprising documents in several languages including Persian, Sanskrit, Arabic, Gurumukhi, Urdu and Hindi. It was submitted that translation of these documents has not been very satisfactory and may itself require to be verified and corrected at some stage. It is also urged that lest the hearing of the appeals gets delayed by any deficiency in the compilation of the record, it would be proper if appropriate directions are issued to all concerned to file their compilations of the record in suitable numbers.

It is not in our view possible for us to issue any direction for the present in regard to the compilation of the record and the manner in which it should be done. The proper course appears to be to direct the learned counsel for the parties to appear before the Registrar and to work out a satisfactory and agreeable method by which documents may be translated, collated, compiled and filed by the parties concerned. It is only after this process is completed that the appeals can be listed for final hearing. Heard learned counsel for the parties to do the needful in that direction.

3. The relevant part of the proceeding dated 30.10.2015 is as under:-

We accordingly direct that upon formal applications being made by learned counsel for the parties for grant of copy of the digitised version of the evidence as also pleadings and evidence, the Registry shall take steps to have the said copies furnished to the parties concerned upon payment of charges, if any, payable under the Rules.

4. The relevant part of the proceeding dated 11.08.2017 is as under:-

At this juncture, an issue arose with regard to translation of the exhibited documents. It is submitted by Mr. C.S. Vaidyanathan, learned senior counsel appearing for the appellants in certain appeals that the High Court has produced the translation in the judgment of the exhibited documents. Learned senior counsel for the respondents would submit that all the exhibited documents have not been translated and, in any case, certain extracts have been produced in the judgment and not the entire exhibits. Without getting into the said controversy, we are inclined to direct that the plaintiffs or the defendants in the suits, shall translate their respective exhibits. Mr. Vaidyanathan has submitted that he will be in a position to translate the documents exhibited by the plaintiffs for whom he is appearing within four weeks from today. Mr. Kapil Sibal, Dr. Rajeev Dhawan, Mr. Anoop Chaudhary and Mr. Sushil Kumar Jain, learned senior counsel submit that they would require four months' time to translate the documents.

Regard being had to the complexity of the matter, we are inclined to grant twelve weeks to all concerned to file the English translation of the exhibited documents. It is hereby made clear that no adjournment shall be granted for the aforesaid purpose and both the parties shall be guided by the time frame fixed by us.

Mr. Tushar Mehta, learned senior counsel and Mr. Raghawendra Singh, learned Advocate General for the State of U.P. shall file the English translation of the entire oral evidence within ten weeks. Needless to say, copies of the translation shall be in bound volumes and shall be handed over to all the learned counsel appearing for the parties.

5. The relevant part of the proceeding dated 05.12.2017 is as under:-

Coming back to the filing of documents, as far as the status report is concerned, we think it appropriate to reproduce the same:-

"STATUS OF FILING OF EXHIBITS RELIED UPON BY THE PLAINTIFFS IN SUIT NO. 1 OF 1989, SUIT NO. 3 OF 1989 AND SUIT NO. 5 OF 1989 AND DEFENDANTS IN SUIT NO. 4 OF 1989

1. LIST OF EXHIBITS FILED BY THE PLAINTIFFS IN SUIT NO. 1 OF 1989

Total Exhibits - [34]  
Status: ALL FILED

2. LIST OF EXHIBITS FILED BY THE PLAINTIFFS IN SUIT NO. 3 OF 1989

Total Exhibits - [21]  
Number of Exhibits filed - [10]  
Total remaining: 21-10 = [11]  
Status: 11 EXHIBITS REMAINING

3. LIST OF EXHIBITS FILED BY THE CONTESTING DEFENDANTS IN SUIT NO. 4 OF 1989

Total Exhibits - [83]  
Number of Exhibits filed - [10]  
Total remaining: 83-10 = [73]  
Status: 73 EXHIBITS REMAINING

4. LIST OF EXHIBITS FILED BY THE PLAINTIFFS IN SUIT NO. 5 OF 1989

Total Exhibits - [132]  
Number of Exhibits filed - [81]  
Total remaining: 132-81 = [51]  
Status: 51 EXHIBITS REMAINING

5. LIST OF EXHIBITS FILED BY THE CONTESTING DEFENDANTS IN SUIT NO. 5 OF 1989

Total Exhibits - [11]  
Number of Exhibits filed - [8] Total remaining:  
11-8 = [3] Status: 3 EXHIBITS REMAINING

II. STATUS OF FILING OF EXHIBITS RELIED UPON BY THE CONTESTING DEFENDANTS IN SUIT NO. 1 OF 1989, PLAINTIFFS IN SUIT NO. 4 OF 1989 AND CONTESTING DEFENDANTS IN SUIT NO. 5 OF 1989

1. LIST OF EXHIBITS FILED BY THE CONTESTING DEFENDANTS IN SUIT NO. 1 OF 1989

Total Exhibits not relevant (as per the list of the Hon'ble High Court) - [3]  
Total Exhibits relevant - [70]  
Total Exhibits filed - [61]  
Total Exhibits not filed - [9]  
Status: 9 EXHIBITS REMAINING

2. LIST OF EXHIBITS FILED BY THE PLAINTIFFS IN SUIT NO. 4 OF 1989

Total Number of Exhibits - [128]  
Total Exhibits filed - [34]

Total Exhibits not available - [9] (Awaited from the Registry)  
Status: 94 EXHIBITS REMAINING

3. LIST OF EXHIBITS FILED BY THE CONTESTING DEFENDANTS IN SUIT NO. 5 OF 1989

Total Number of Exhibits - [50]  
Total Exhibits filed - [50]  
Status: ALL EXHIBITS ARE FILED"

The Advocates-on-Record appearing for the parties have assured this Court that they will sit together, work in harmony and will see to it that the documents are filed within a timeframe, if not already filed. If any part of the pleadings are required to be exchanged, that should be exchanged so that there will be no adjournment on this score, and hearing in the case can commence. The documents shall be numbered by the Advocates-on-Record. They shall file a common memorandum when all documents are ready. If there is any problem, they may contact the Registry of this Court. If required, the Registry shall permit inspection of documents by Advocates-on-Record for both sides.

6. The relevant part of the proceeding dated 08.02.2018 is as under:-

The interlocutory applications filed by the parties to the appeals pertaining to filing of additional documents and exemption from filing official translation stand allowed.

Mr.Ejaz Maqbool, learned counsel appearing for the appellants in C.A.Nos.10866-10867 of 2010 has filed a chart indicating Exhibits A37 to A40 which shall be translated by him within two weeks hence.

As far as the appeals arising out of Suit No.4 are concerned, the Exhibits 11, 52/49, 53, 81, 83 and 106 shall also be translated by Mr.Ejaz Maqbool within the said span of time.

It is submitted by Mr.Maqbool that certain books in appeals, arising out of Suit Nos.3, 4 and 5 though have been exhibited before the High Court, are in different languages, and, therefore, the first page of the book and the relied upon portion should be translated and be furnished to the Court. As the books have been exhibited in entirety, it will be open to Mr.Maqbool, after taking assistance from other counsel, to point out to the counsel for the other side the said part so that the same can also be translated in English. The books which are in English, they can be photocopied and can be handed over to the learned counsel for the respective parties.

Be it noted, there are two video cassettes i.e. Exhibits 54 and 55. It is the submission of Mr.Maqbool that copies of the said video cassettes should be made available to the

parties. The Registry is directed to make copies thereof and hand over the same to the learned counsel for the parties on payment of actual cost. The Registry shall assess the cost and intimate about the same to the counsel.

It is to be noted that this Court had already passed an order dated 30th October, 2015, in these appeals with reference to grant of copy of the digitised version of the evidence. This Court further directed vide order dated 30th October, 2015, that interim directions issued by the High Court in terms of its order dated 20th August, 2002, as modified by its order dated 17th February, 2003, shall continue to remain operative pending further orders from this Court.

We also direct that the same restrictions as contained in this Court's order dated 30th October, 2015, shall continue to operate with regard to copies of video cassettes, which have been directed to made available to the parties as above.

Let the aforesaid exercise be completed within two weeks hence."

Pursuant to the several orders passed by this Court indicated above it appears that the State of Uttar Pradesh has submitted translation of the oral evidence in the case which runs into about 13000 pages. Some of the Exhibits have been translated by the parties who propose to rely on the said documents in terms of the orders of this Court.

While the correctness of the translation of the Exhibits may have been gone into by and between the parties as indicated in the order dated 10<sup>th</sup> August, 2015, before commencement of the hearing,

we desired to know from the parties as to whether the translation of the oral evidence brought on record by the State of Uttar Pradesh is acceptable to all the contesting parties so that the requirements spelt out in Order VIII Rule 2(b) and Order XIX Rule 11(1) of the Supreme Court Rules, 2013 can be dispensed with and the translation made available by the State of Uttar Pradesh can be accepted by the Court for the purposes of consideration of the cases/appeals. This we have done to avoid any kind of controversy with regard to accuracy or correctness of translation of the oral evidence once the hearing of the cases begin.

In response, Dr. Rajeev Dhawan and Shri Dushyant Dave, learned Senior Counsels appearing for some of the contesting parties have informed the Court that they have not the occasion to go into the translation made available by the State of Uttar Pradesh and, therefore, they are not in a position to comment upon the accuracy, correctness or the relevance of the translation.

Though Shri C.S. Vaidyanathan and Shri Ranjit Kumar, learned Senior Counsels appearing for some of the contesting parties have tried to urge that it is too late in the day to raise any dispute with regard to the accuracy/correctness of the translation we are of the view that to proceed with the hearing of the cases it is necessary to have on record translation of the depositions as well as the Exhibits on which no controversy can be raised at a later point of time to derail the hearing once the same commences.

We are told that the translated copies of the depositions made available by the State of Uttar Pradesh as well as the translated copies of the Exhibits on record have been made available to the contesting parties. If any party/parties, notwithstanding the above, desires/desire to have additional copies it will be open for him/it/them to obtain the same from the Registry of this Court.



We direct the parties to satisfy themselves with regard to the accuracy, correctness, relevance, etc. of the translation filed in the Registry by the State of Uttar Pradesh as well as the translated copies of the Exhibits made available by the parties and point out their respective agreements/objections stating precisely the part of the translations on which objections/disagreements are being raised. Once the said process is completed, which we expect the parties to do within eight weeks from today, further orders will follow so that hearing of the cases can begin in the right earnest.

We have suggested to the parties that during the interregnum a Court appointed and Court monitored mediation with utmost confidentiality could be initiated to bring a permanent solution to the issues raised in the cases. This, we have done keeping in mind that the period of eight weeks that we have allowed to the parties to go through the

translations of the oral and documentary evidence could be effectively utilized to try and resolve the issues in the manner indicated above. In doing so, we have also kept in mind the mandate of Section 89 of the Code of Civil Procedure, 1908.

While Dr. Rajeev Dhawan, learned Senior Counsel appearing for the appellants (M. Saddiq (D) thr. Lrs. And Misbahuddeen respectively) in Civil Appeal Nos. 10866-10877 of 2010 and 2215 of 2011, Shri Dushyant Dave, learned Senior Counsel appearing for the appellants (Mohammad Hashim (D) Thr. Lrs.) in Civil Appeal Nos.2894 of 2011 and 7226 of 2011, Shri Raju Ramchandran, learned Senior Counsel appearing for some of the contesting parties and Shri Sushil Kumar Jain, learned Senior Counsel appearing for the appellant (Nirmohi Akhara) in Civil Appeal No. 4905-4908 of 2011 are in broad agreement with the aforesaid suggestion of the Court, Shri C.S. Vaidyanathan, learned Senior Counsel appearing for appellants (Bhagwan Sri Ram

Lala Virajman & Ors.) in Civil Appeal No. 4768-4771 of 2011, Shri Ranjit Kumar, learned Senior Counsel appearing for respondent No.1 (Mahant Suresh Das) in Civil Appeal No.10866 of 2010 and other contesting parties and Shri Barun Kumar Sinha, learned counsel for the appellant (Akhil Bharat Hindu Mahasabha) in Civil Appeal No.4739 of 2011 have not concurred pointing out that the Court appointed mediation had failed on earlier occasions.

Keeping in mind that the mediation suggested by the Court is in terms of the mandate under Section 89 of the Code of Civil Procedure, 1908 and in an appropriate case it will always be open for the Court to invoke its power, we deem it proper to observe that the mediation suggested is only to effectively utilize the time of eight weeks that would be taken to make the cases ready for hearing.

We defer passing of orders on the aforesaid suggestion i.e. mediation until 6<sup>th</sup> of March, 2019

(Wednesday) when this Bench will assemble again at 10.30 a.m. for the limited purpose of passing orders on reference of the dispute to a Court appointed mediation process.

List the matters on 6<sup>th</sup> March, 2019

(Wednesday) at 10.30 a.m.

[VINOD LAKHINA]  
AR-cum-PS

[ANAND PRAKASH]  
BRANCH OFFICER