

## Ayodhya Verdict - UPSC Notes

### Context

- The Supreme Court delivered a landmark judgment in the Ayodhya land dispute case.
- The five-judge Supreme Court bench led by Chief Justice Ranjan Gogoi read out a unanimous judgment and ruled in favour of the Ram Janmabhoomi and said there will be a Ram Mandir at the disputed site and Muslims will be given an alternate 5 acre land for their mosque.

### What is the crux of the dispute?

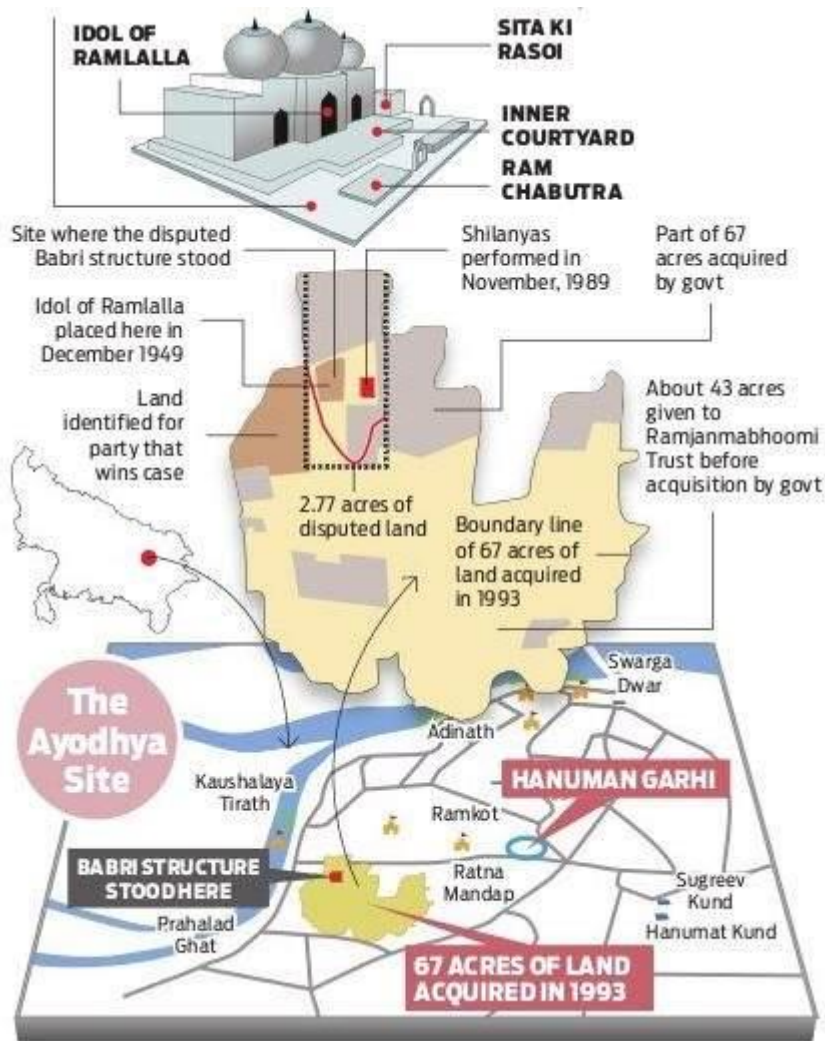
- At the crux of the matter is the belief among sections of **Hindus** that the Babri Masjid, named after Mughal emperor Babur, was built in Ayodhya **after destroying a Ram Temple that marked the birthplace of the deity**.
  - The Hindu parties **wanted the land to themselves**, contending that Lord Ram was born at a spot on which later the central dome of the mosque was built.
- The **Muslim parties**, however, contended that the mosque was constructed in 1528 by Mir Baqi, a commander of Babur's army, **without demolishing any place of worship** and since the land rights had not been transferred to any other party, the space was rightfully theirs.

### Chronology of the Ayodhya dispute

- **1528:** First Mughal Emperor Babur is believed to have constructed Babri Masjid.
  - The three-domed mosque built by Mir Baqi, commander of Mughal emperor Babur, in 1528 is in the Jaunpuri style.
- **1885:** Mahant Raghubir Das moves Faizabad court seeking permission to construct a temple in the vicinity of the Babri Masjid. The plea is declined.
- **1949:** Idols of Lord Ram were mysteriously found inside the mosque.
  - The Muslim side claimed it was the handiwork of the Hindus, while the Hindus wanted to worship the idol.
  - Violence broke out, and the administration locked the premises with the idol inside.
- **1950:** Gopal Visharad and Ramachandra Das moved to Faizabad court for permission to worship the idols.
  - Though one of the first civil suits in this matter was filed in the 1950s, **the legal battle can be traced back to the British era**.
    - In a bid to quell communal clashes between Hindus and Muslims, the colonial administration even built a fence to allow both communities to worship in the area.
- **1959:** Nirmohi Akhara files plea seeking possession of the disputed land.
- **1961:** Central Sunni Waqf Board, U.P., moves court for declaration of title of the disputed land and removal of the idols inside the mosque.
- **1986:** Faizabad court allows Hindus to worship the idols.
  - No parties were allowed inside the premises until February 1, 1986, when the Faizabad district administration allowed Hindus to offer darshan alone.
  - They were not allowed to perform any other ritual.
- **1989:** Allahabad High Court takes over the title dispute. Orders status quo.
- **1989:** The Rajiv Gandhi government allows Vishwa Hindu Parishad (VHP) to perform puja near the disputed site.
- **1992:** Kar sevaks demolish Babri Masjid. Justice Liberhan Commission appointed to probe.
- **1993:** P.V. Narasimha Rao government acquires 67 acres of land adjoining the disputed site. The Supreme Court upholds the acquisition in its Dr. Ismail Faruqui judgment.
- **2002:** Allahabad High Court commences hearing the title suits.
  - The Allahabad High Court directed the Archaeological Survey of India (ASI) to conduct excavations at the disputed site.
  - In August 2003, the ASI submitted the report stating that remains of a large structure existed

before the Babri Masjid.

- **2010:** High Court delivers a majority judgment for three-way partition of the disputed property among Hindus, Muslims and Nirmohi Akhara.
- **2011:** SC stays the high court judgment on cross-appeals filed by the parties.
- **2019:** A Constitution Bench of five judges led by Chief Justice of India Ranjan Gogoi resumes hearing the title appeals but suggests mediation first.
- **2019:** Mediation committee led by former Supreme Court judge, Justice F.M.I. Kalifulla fails to draw a consensus and court hearing commences.
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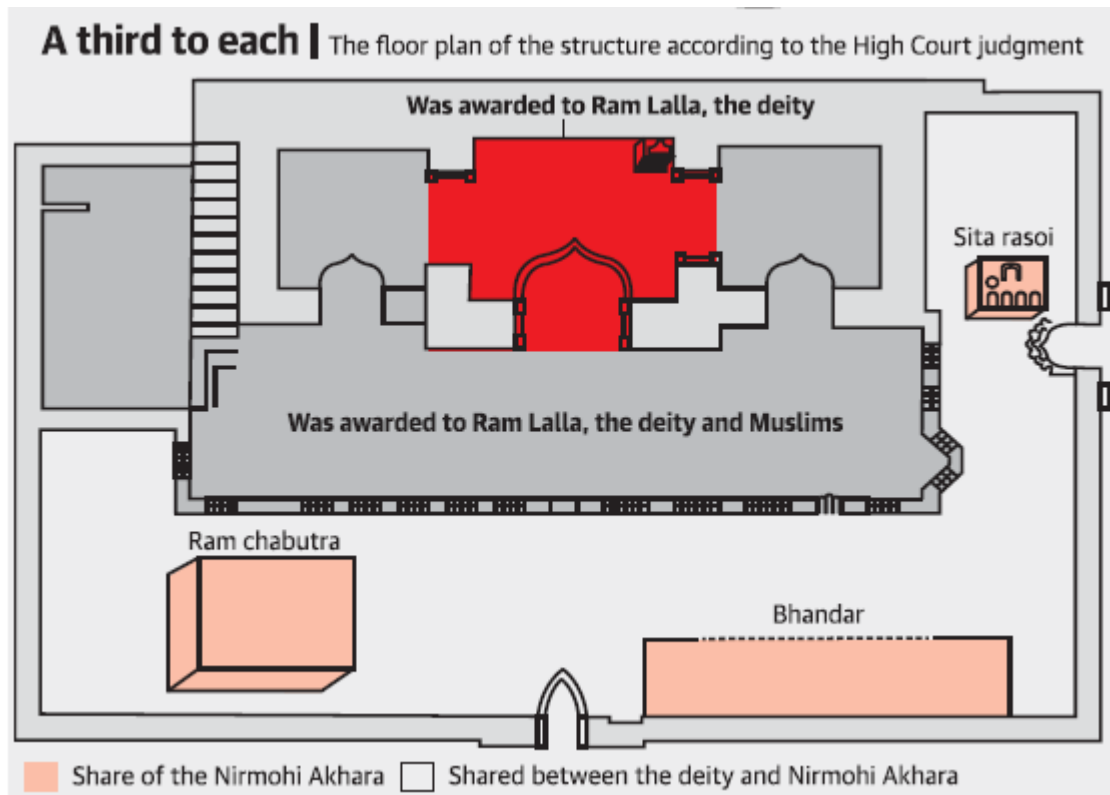
### Allahabad High Court Judgment

The Allahabad high court's verdict on the Ram Janmabhoomi-Babri Masjid land title case was passed by a three-judge bench.

- The judgment which was pronounced with majority decision of 2:1 held that the 2.77 acres land located in Ayodhya will be divided into a three-way division — one-third for the Sunni Waqf Board, one-third for the Nirmohi Akhara and one-third to the party for 'Ram Lalla' or infant Ram represented by the Hindu Maha Sabha.
- According to the judgment, the central dome of the three-domed structure, where the makeshift idol was kept was the "place of birth of Lord Ram as per faith and belief of the Hindus" and so was **allotted to the Hindus**.
- The **Nirmohi Akhara, a religious denomination**, who was seeking the construction of Ram temple and wanted the complete management rights of the premises, was allotted the Ram Chabutra, Bhandar and Sita Rasoi structures located in the outer courtyard.
- The **Muslim party** had sought directions for the restoration of the Babri Masjid as it was before it was

demolished in 1992. They were allotted the remaining area amounting to a share of 1/3 both from the inner and outer courtyard.

- The order had also clarified that all the three parties have been allotted one third share each, however if while allotting exact portions some minor adjustment in the share is to be made then the same will be made and the adversely affected party may be compensated by allotting some portion of the adjoining land which has been acquired by the Central Government.



- As one can see, in the 2.77 acre of disputed land, both **Ram Chabutra** and **Sita Rasoi** are outside of the inner courtyard of Babri Masjid structure.
  - Sita ki Rasoi** is a temple turned royal kitchen of Goddess Sita.
- The **Ram Lalla idol** was placed at the site where the dome of Babri Masjid once stood.
  - The Muslims worshipped inside the mosque, while the Hindus prayed at Ram Chhabutra, a platform built within the mosque compound.

**Takeaways from the landmark judgment by the Supreme Court in the Ayodhya case:**

- The Supreme Court said the Allahabad High Court's remedy of a three-way bifurcation of the disputed premises among the Ayodhya deity, Sri Bhagwan Ram Virajman, Nirmohi Akhara and the Sunni Central Waqf Board "defied logic". It did not "secure a lasting sense of peace and tranquillity".
- The court said that the faith of the **Hindus** that Lord Ram was born at the disputed site where the Babri Masjid once stood cannot be disputed.
  - The court held there was both oral and documentary evidence to support the Hindus' faith that the Janmasthan was located where the Babri Masjid was constructed.
  - The court said there was proof of extensive worship offered by the Hindus, especially in the outer courtyard where the Ram Chabutra and Sita Rasoi are located, even before the annexation of Oudh by the British in 1857.
  - What tipped the scales in favour of the Hindu parties seems to be the prevalence of worship by Hindu pilgrims from a much earlier era, whereas, the offering of namaaz has been established only from around 1856-57.
- The Supreme Court also said that the 1992 demolition of the 16th century **Babri Masjid Mosque** was a violation of law.
  - But while reading out its judgment, the Supreme Court said that the UP Sunni Central Waqf Board had failed to establish its case in Ayodhya dispute case and Hindus have established their

case that they were in possession of outer courtyard of the disputed site.

2. The five-judge Constitution Bench that delivered the judgment in the Ayodhya case said that while Muslims never lost possession of the disputed land, **they could not assert the right of adverse possession.**
  - The Muslim side had claimed that the mosque was built 400 years ago by Babar – and that even if it is assumed that it was built on the land where a temple earlier existed, Muslims, by virtue of their long exclusive and continuous possession – beginning from the time the mosque was built, and up to the time the mosque was desecrated – they had perfected their title by adverse possession.
  - This argument has now been rejected by the Supreme Court
    - In fact, a similar view was taken by the two judges of the Allahabad High Court.
      - Justice D V Sharma had said that Muslims cannot claim adverse possession against the said property because it was an open place and everybody was visiting including Muslims.
4. Hence the Supreme Court has granted the entire 2.77 acres of disputed land in Ayodhya to deity Ram Lalla. As compensation of sorts for the destruction of the mosque in 1992, the Muslim parties are set to get a five-acre plot elsewhere.
  1. The Supreme Court, implicitly referring to the demolition of the Babri Masjid at the disputed site, said that it was **invoking Article 142** “to ensure that a wrong committed must be remedied”.
    1. The provision that vests sweeping powers in the Supreme Court for the end of ensuring “complete justice” has been used generally in cases that involve human rights and environmental protection.
    2. This was the **first time that the court invoked this power in a case involving a civil dispute** over an immovable property, involving private parties.
    3. It said that while the court’s power under Article 142 “is not limitless”, it “embodies both the notion of justice, equity and good conscience as well as a supplementary power to the court to effect complete justice”.
  2. In fact, it wasn’t just for the Muslim parties that the SC invoked Article 142. The same article was invoked in the case of the Nirmohi Akhara, who was a party to the case.
5. The court dismissed the Akhara’s petition as time-barred and rejected its suit claiming shebaiti (managerial rights) over the property.
  1. However, the court invoked its extraordinary powers to ask the government to give Nirmohi Akhara, considering the sect’s historical presence at the disputed site, to provide it with an “appropriate role in the management” of the property.

#### **Directions to the centre and the state Govt**

- Supreme Court has directed the **Centre and Uttar Pradesh government to allot an alternative 5 acre land** to the Muslims at a prominent place to build a mosque.
- Supreme Court has directed the Union government to set up a trust in 3 months for the construction of the Ram Mandir at the disputed site where Babri Masjid was demolished in 1992.
- The court has asked Centre to consider granting some kind of **representation to Nirmohi Akhara in setting up of the trust.**
  - Nirmohi Akhara was the third party in the Ayodhya dispute.
  - The Supreme Court dismissed the plea of Nirmohi Akhara, which was seeking control of the entire disputed land, saying they are the custodian of the land.

#### **What else did the Judgment say?**

- The judges declared that the demolition of the 16th century Babri Masjid on December 6, 1992, was “an **egregious violation of the rule of law**” and “a calculated act of destroying a place of public worship”.
- The Muslims have been wrongly deprived of a mosque which had been constructed well over 450 years ago, the Bench said.
- The Court referred to the **Places of Worship (Special Provisions) Act of 1991**, which prohibits the



conversion of the status of any place of worship, to say that all religions are equal.

- After giving the disputed land to Hindus and a separate five acres for construction of a mosque in Ayodhya, the SC shut the door for fresh litigation to alter status quo of sites such as those in Kashi and Mathura, which have also seen discord over worship.
  - “The Constitution does not make a distinction between the faith and belief of one religion and another. All forms of belief, worship and prayer are equal.”
  - The Bench said the Act “speaks to the future by mandating that the character of a place of public worship **shall not be altered**”.
  - “Places of Worship Act is an affirmation of the solemn duty which was **cast upon the State to preserve and protect the equality of all faiths as an essential constitutional value**, a norm which has the status of being a basic feature of the Constitution,” the Supreme Court addressed the government.

### Concerns and Hope

- Ayodhya in the past was the centre stage for communal politics and a tool for polarization before elections. The high-pitched events not only disrupted daily life and business, but also endangered communal harmony in the region.
- Lack of jobs and investment, poor infrastructure and an underdeveloped tourism economy have kept Ayodhya far behind other important Hindu religious centres like Mathura and Varanasi.
- In the future, with the acrimony between communities settled by the intervention of the Supreme court and the Democratic institutions supporting this landmark judgment, a new era of Economic progress in the region, exploration of tourism and giving wings to business development should be the priority of the Govt and all the stakeholders in the region.

### Conclusion

- Chief Justice of India Ranjan Gogoi said “Law must stand apart over political considerations, religion and beliefs”
- The judgment will be remembered for the victory of faith over the rule of law as the Supreme Court considered religious beliefs even in deciding a property dispute, and despite conceding that faith cannot confer title, it still went ahead to give property to worshippers on the basis of faith
- The fact that an unambiguous verdict has been delivered by the highest court of the land through a rigorous judicial process extends to the outcome a legitimacy that would have otherwise been difficult if it was arrived at through legislation or mediation.
- In the times to come and given India’s demographic and cultural complexity, the judgment may prove to be an invaluable legal treatise that upholds “justness” and delivers impartial treatment to a vexed and emotional case.

### Doctrine of Adverse Possession

- Under the “doctrine of adverse possession”, a person who is not the original owner becomes the owner because of the fact that he has been in possession of the property for a minimum of 12 years, within which the real owner did not seek legal recourse to oust him.
- Adverse possession is possession of a property – which has to be **continuous, uninterrupted and peaceful**.

### Preponderance of probabilities

- In criminal cases, the established standard of proof is for the prosecution to prove the claim beyond reasonable doubt.
- “Preponderance of probability” is a lesser standard of proof required in **Civil Cases** — and is generally accepted as probability to lean towards one side being greater than leaning to the other side.
- A court weighs the available evidence and determines which of the competing claims is more likely to be true. The Ayodhya judgment applies this standard.

### How did the SC conclude?

The court looked at three timelines to determine possession of the disputed area to award the title — **prior to**

1856; between 1856 and 1934; and after 1934.

- The possession of Muslims **is accepted readily from 1856** — when Oudh was annexed by the British — relying on land revenue records, court documents and police reports during riots.
- However, the court notes that the **mosque was constructed in 1528** “by or at the behest of Babur, there is no account by them of possession, use or offer of namaz in the mosque between the date of construction and 1856-7.”
  - “For a period of over 325 years which elapsed since the date of the construction of the mosque until the setting up of a grill-brick wall by the British, **the Muslims have not adduced evidence to establish the exercise of possessory control over the disputed site.**
  - Nor is there any account in the evidence of the offering of namaz in the mosque, over this period,” the court said.

### Tilt towards Hindus

- On the contrary, the court notes the travelogues of Tieffenthaler, William Finch and Montgomery Martin in the 18th century — prior to the construction of the grill-brick wall in front of the mosque — **to provide a detailed account both of the faith and belief of the Hindus** based on the sanctity which they ascribed to the place of birth of Lord Ram and of the actual worship by the Hindus at the Janmasthan.
- The bench observes 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 in 1857**; it further points out that Muslims have offered no evidence to indicate they were in exclusive possession of the inner structure prior to 1857 since the date of the construction in the sixteenth century.

### Conclusion

- Reliance on records of European travellers, lack of evidence from the Muslim side to prove continuous, uninterrupted and exclusive possession prior to 1856, treating the outer and inner courtyard of the disputed structure as one unit in a significant departure from the Allahabad High Court verdict — a combination of these factors tilted the Constitution Bench verdict in the Ayodhya title dispute against the Muslim side.

### SC Says Nirmohi Akhara Not a Shebait

- The Nirmohi Akhara — a group of Hindu ascetics who worship Ram wanted a temple to be built at its location.
- The group have been devotees of Lord Ram for centuries and wanted shebait rights over the temple (the one in which the property of temple is vested) and argued that they had rights in the capacity of a manager of the deity's property.
- But the Supreme Court said in its verdict that the Nirmohi Akhara suit was barred by limitations and the Akhara is not a shebait or devotee of the deity Ram Lalla.

### Places of Worship (Special Provisions) Act of 1991

The law was intended to deter politico-religious movements to change the nature of existing religious places elsewhere.

2 (c). “**Place of worship**” means a temple, mosque, gurudwara, church, monastery or any other place of public religious worship of any religious denomination or any section thereof, by whatever name called.

3. **Bar of conversion of places of worship.**—No person shall convert any place of worship of any religious denomination or any section thereof into a place of worship of a different section of the same religious denomination or of a different religious denomination or any section thereof

Offences under the Act are punishable with a jail term which may extend up to three years as well as a fine. Even making an attempt to change any place of worship, abetting it, or being a party to a conspiracy to do so would invite a jail term.

### A new chapter for ‘New India’: Modi ‘Unity in diversity’

- “The whole world already knew that India was the largest democracy, but today it has been proven that it is also vibrant and strong,” he said.
- “The way all sections of people have accepted the verdict with open hearts, it shows the strength of our unity and national character. Even after thousands of years, unity in diversity is very much in evidence and today’s verdict, and the whole event, will be referred in this context for years to come.”

### **‘Fall of Berlin Wall’**

- The date on which the verdict had been delivered, November 9, was particularly significant as it was on that day that the Berlin Wall, dividing East and West Germany, had been brought down “and people on opposite sides reconciled”, Mr. Modi said.
- “We also saw the opening of the Kartarpur Sahib Corridor. Ayodhya verdict on this day, therefore, is telling us that the message from the **date is to be united in harmony and amity**,” he added.

### **Who is the author of the judgment?**

The judgment is unanimous, with the Bench headed by Chief Justice of India Ranjan Gogoi and comprising Justices SA Bobde, DY Chandrachud, Ashok Bhushan and S Abdul Nazeer, all concurring. But, just who among the five judges has actually authored the judgment?

- In a departure from general practice, Ayodhya Verdict does not specify who the author is.
  - The established practice is to specify the name of the judge who has authored the judgment on behalf of a bench.
- There is nothing in law saying that a judgment must bear the name of the author. The **Supreme Court Rules, 2013** are silent on this aspect.
- The name of the author has probably been withheld in order to prevent judges from being singled out. The Ayodhya Case, after all, is perhaps the most sensitive case that has been adjudicated by the Supreme Court.

### **What is a Swayambhu Deity?**

- A Swayambhu deity is the **revelation of God in a material form** which is subsequently worshipped by devotees.
- The recognition of a Swayambhu deity is based on the notion that God is omnipotent and may manifest in some physical form. This manifestation is worshipped as the embodiment of divinity. In all these cases, the very attribution of divinity is premised on the manifestation of the deity in a material form.
- Undoubtedly, a deity may exist without a physical manifestation, example of this being the worship offered to the Sun and the Wind.
- But a **Swayambhu is premised on the physical manifestation of the Divine** to which faith and belief attaches.

