

Gulam Abbas And Ors. vs State Of U.P. And Ors. on 28 September, 1984

Equivalent citations: 1984(2)SCALE427, (1984)4SCC607, AIR ONLINE 1984 SC 1, 1984 (4) SCC 607

Bench: A.P. Sen, D.A. Desai, V.D. Tulzapurkar

ORDER

1. Since the ensuing Muharram festival this year shall commence from 6th October, 1984 and little time is left for undertaking and completing the shifting operation qua the two graves of Lal Mohd. and Smt. Sakina before that date and also as an experimental measure we give the following directions that will be operative during the 58 days of ensuing festival with a view to ensure the peaceful performance of their religious rites, rituals and observances by members of Shia community over the remaining 8 plots in question and the structures standing thereon without any hindrance or obstruction from any one belonging to the Sunni community :

(1) That the grave of Hakim Badruddin shall be cordoned off by barbed fencing on three sides with access thereto only from the road lying on its west and members of Sunni community will be permitted to perform two rituals, namely, recitation of Fathia and laying Chaddar at that grave on specified dates only, such dates to be fixed by the District Magistrate, Varanasi as will not conflict with the performance of the religious rituals, rites and practices by members of Shia community over the said plots and structures thereon during the Muharram festival. In 'case it becomes necessary for the two communities to have their performances on the same day, the District Magistrate, Varanasi shall allot different timing to them.

(2) Each of the two graves of Lal Mohd. and Smt. Sakina shall be cordoned off by barbed wire fencing on all sides and neither the heirs of Lal Mohd. and Smt. Sakina nor any member of Sunni, community will have access thereto for the purpose of performing any ritual whatsoever including recitation of Fathia and laying of Chaddar at any of the two graves. Such barbed wire fencing around the three graves shall be done at the State expense by the Police authorities under the supervision of the District Magistrate, Varanasi before the commencement of the Muharram festival.

(3) It is declared that no member of the Sunni community of Varanasi shall have any right to go upon the 8 plots in question (except plot No. 246 on which the mosque stands) or the structures standing thereon which are forming part of Shia Waqf property, for the purpose of performing any religious rites or rituals or practices on the basis of any existing or supposed rights of a religious nature and they are restrained from going over the said plots or the structures thereon for any such

religious purpose.

(4) Members of the Sunni community are restrained from causing any hindrance or disturbance to the performance of the religious rituals, rites and practices by the members of Shia community over the said 8 plots in question and or structures standing thereon during the entire 58 days of the 1984 Muharram festival and the District Magistrate and the Police authorities shall ensure peaceful performance of such rituals rites and practices by the members of Shia community.

2. Matter is adjourned to 10th December, 1984 for final orders.