

ABSTRACT

In a country like India, which is a secular country, everybody has the right to follow their religion and is free to choose any religion. In India, the Hindu population is 79.8% and the Muslim population is 14.2% approx. which is the second-largest religious population in India. So, there are extreme chances of disputes between both religions (Hindu and Muslim). And there are so many religious dispute cases related to mandirs and mosques. The most highlighted cases are “RAM MANDIR” and the other one is “THE KRISHNA JANAMBHOOMI AT MATHURA”.

This paper would drill down and assess cases and laws that are heavily towards the Janambhoomi case. This research shall try to analyze the case deeply and highlight some burning issues. Keywords: - Hinduism, Religious controversy, Krishna birthplace, Mandirs vs mosques, Mathura case.

INTRODUCTION

The Krishna Janambhoomi case is a controversial dispute and complex one also because of issue related to history, religion, and legal interpretation over a religious place in Mathura, a city in the northern state of Uttar Pradesh between many Hindus and Muslims. Hindus are considered as a birthplace of the lord Krishna and Muslims are considered as a place of mosque, the shahi masjid, which was built in the 17 th century by the Aurangzeb (Mughal emperor). The dispute came to the force in the 1980s, when Hindu activists group started demanding to replace the Shahi Idgah mosque from this site and dedicated to the temple of lord Krishna where the Hindu community believed that lord Krishna was born there, one of the most revered Hindu deities. Mainly this dispute revolves around a mosque, the Shahi Masjid, built by the Mughal emperor. One more similar case regarding the Hindus and Muslims dispute over mandir and mosque which is the “Ram Mandir dispute”. Ram Mandir dispute case also known as the Ayodhya dispute, involved a legal battle over the ownership of Ayodhya, Uttar Pradesh. But in 2019, the Ram Mandir dispute was resolved and the Supreme Court of India gave the land to Hindus for the Ram Mandir temple for construction.. After the demolition of the Babri Masjid, the Krishna Janam Bhoomi case gained more attention. Both the cases (Krishna Janam Bhoomi and Ram Mandir) dispute has been ongoing for several years in the Indian court and has been the subject of intense debates, controversies, numerous legal battles and so much more.

RELEVANT CASE LAWS

Krishna Janambhoomi’s case refers to the dispute over the management and ownership of a religious site in Mathura, India. Here are some relevant case laws to this case:-

1. **The Gyanvapi-** Kashi Vishwanath Case Several petitions have been filed before the Supreme Court, Allahabad High Court, and Varanasi Court alleging that the mosque was built by Mughal emperor Aurangzeb by demolishing the Kashi Vishwanath Temple in the 16th century. The petitioners of 1991 had said the mosque was built on the orders of Aurangzeb by demolishing a part

of the Kashi Vishwanath Temple during his reign in the 16th century. A Varanasi-based lawyer, Vijay Shankar Rastogi, had filed a petition in the lower court claiming illegality in the construction of the Gyanvapi mosque and sought an archaeological survey of the mosque. On the May 17 last year, the top court passed an interior order directing the Varanasi district magistrate to ensure the protection of the area inside the Gyanvapi shrinkage Gauri complex where the structure claimed to be a “Shivling” was found during a video survey ordered by the Civil Judge (senior division) in Varanasi.

This case is still going on.

2. M. ismail Faruqui v. Union of India (1994)

In this case, the Supreme Court held that the government can assest any religious places and does not mean to violate the fundamental right that is the “right to practice any religion” and that the government can acquire any property, including religious places(temples, mosques, churches, and gurudwaras) for public purposes.

3. Ayodhya verdict {2019}

The Supreme Court in this case, a landmark judgment case ended the long-standing dispute over the ownership of the religious property of Ram Janambhoomi(mandir)- Babri Masjid(mosque) site in Ayodhya, Uttar Pradesh. The apex court asserted that the disputed land was the birthplace of Rama as per the faith and beliefs of the Hindu religion and Babri masjid was built after the demolition of the Ram temple. The court held that the disputed land belongs to the Hindu religion and directed the government to set up a trust to manage the construction of a Ram temple at the site. The court was able to give this judgment as it was an outside preview of the Place of worship act, of 1991. The ASI report has stated that remains of a Hindu mandir structure were found beneath the Babri masjid. The foundation of the mosque was based on the walls of a large pre-existing structure that dates back to the 12th century. ASI team did the recovery and suggested that found is related to the origin of the Hindu religion temple.

4. Shrikrishna Janamboomi case (1968)

This case was filed by the Vishwa Hindu Parishad in 1968, seeking the removal of a mosque that was built by the Mughal emperor Aurangzeb which was next to the Krishna Janambhoomi temple in Mathura. The case was dismissed by the Allahabad High Court, which ruled that the mosque was a protected monument under the Ancient Monuments Preservation Act, of 1904. This case was again refilled in the Indian court and is still ongoing and the court has not yet issued a final judgement.

5. Shah Bano Case (1985) This case is not directly related to the Krishna Janambhoomi dispute, but it has implications for the interpretation of the law regarding “Religious Rights in India”. This case involved a Muslim woman who was divorced by her husband and claimed maintenance from him under Muslim Personal Law. The Supreme Court ruled that she was entitled to maintenance under the law, even though it went against the traditional interpretation of Muslim law.

It's important to note that the Krishna Janambhoomi dispute is still ongoing, and there may be further legal developments in the future.