

Case No 884 – Eviction of Nihang Singh Faqir from Masjid premises:

- (i) On 28 November 1858, Thanedar Sheetal Dubey filed an application stating that one Nihang Singh Faqir Khalsa resident of Punjab, organised hawan and puja of Guru Gobind Singh and erected a symbol of 'Sri Bhagwan' within the premises of the Masjid. The Thanedar requested that action, as deemed necessary, may be taken;
- (ii) On 30 November 1858, Syed Mohammad Khatib (Moazzin of the Babri Masjid) lodged a complaint, being case number 884, before the Station House Officer about the installation of a Nishan by Nihang Singh and requested its removal. In the application, he stated that:
 - a) Nihang Singh is creating a riot in the masjid;
 - b) He had forcibly made a Chabutra inside the masjid, placed a picture of the idol inside the masjid, lit a fire and was conducting puja. He had written the words "Ram Ram" with coal on the walls of the masjid;
 - c) The masjid is a place of worship of Muslims and not Hindus, and if someone constructs anything forcibly inside it, he should be punished;
 - d) Previously also the Bairagis had constructed a Ramchabutra overnight of about 1 ballisht height (about 22.83 cms), until injunction orders were issued;
 - e) The application stated:

"Previously the symbol of janam sthan had been there and Hindus did puja"
 - f) It was therefore prayed that:

- i. The spot may be inspected, and the new construction be demolished; and
 - ii. Hindus be ousted from the masjid and the symbol and the idol may be removed and the writing on the walls be washed.
- (iii) A dispute has been raised about the translation of the above document by Mr Pasha, learned Counsel appearing on behalf of the plaintiffs in Suit 4.

The document was translated thus:

“You are the master of both the parties since the Shahi ear (sic) if any person constructs forcibly he would be punished by your honour. Kindly consider the fact that Masjid is a place of worship of Muslims and not that of Hindus. **Previously the symbol of Janamsthan had been there for hundreds of years and Hindus did puja.**”

(Emphasis supplied)

The correct translation, according to Mr Pasha, should read thus:

“It is evident from the clear words of the Shah that if any person constructs forcibly he would be punished by the government and your honour may consider the fact that Masjid is a place of worship of the Muslims **and not the contrary position** that previously the symbol of Janamsthan had been there for hundreds of years and Hindus used to perform puja.”

(Emphasis supplied)

The words “and not the contrary position” in the submissions of Mr Pasha are contrived. They militate against the tenor of the letter of the Moazzin. The complaint was against the erection of a Ramchabutra inside the Masjid and in that context it was stated that though previously the symbol of the Janmasthan has been there for hundreds of years and Hindus conducted puja, a construction had been made inside the Masjid for the first time.

- (iv) An order was passed on 30 November 1858, pursuant to which Sheetal Dubey, Thanedar visited the disputed premises and informed Nihang Singh about the order but he replied that the entire place is of Nirankar and the government of the country should impart justice;
- (v) On 1 December 1958, Sheetal Dubey, Thanedar submitted a report in case number 884, describing that when he took the summons order dated 30 November 1858 addressed to Nihang Singh Faqir for leaving the place, he received no reply. He reported what had actually transpired and sought instructions from the higher authorities;
- (vi) An order dated 5 December 1858 was issued in case number 884 wherein a direction was issued by the court in furtherance of the order dated November 30, 1858 (wherein it was directed that the Faqir sitting in Babri Masjid should be ousted) directing the Police Sub-Inspector Avadh that in case the Faqir is not removed from the spot, he must be arrested and presented in court;
- (vii) On 6 December 1858, a report was submitted by Sheetal Dubey, Thanedar Oudh recording the appearance of the Faqir in court; and
- (viii) On 10 December 1858, an order was passed recording that the Jhanda (flag) was uprooted from the masjid and the Faqir residing therein was ousted.

684. **Case no 223 filed on 5 November 1860 by Mir Rajjab Ali:** On 5 November 1860, an application was filed by Mir Rajjab Ali against Askali Singh in Case number 223 complaining about a new "*Chabootra*" being constructed in the graveyard. In this application it was stated that: