

A FRAUGHT TIMELINE: ON AYODHYA TITLE SUIT

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The [Supreme Court's refusal to refer some questions of law](#) in the Ram Janmabhoomi-Babri Masjid dispute to a seven-judge Bench has one immediate consequence: it could expedite the final hearing in the appeals against the Allahabad High Court's compromise judgment of 2010 in the main title suit. The two-judge majority opinion has fixed the date for the hearing as October 29, a development that may mean that a final verdict is not far off and it could have a bearing on political events in the run-up to the general election due next summer. The final hearing ought to have begun a year ago, but was delayed because some parties wanted the reference to a larger Bench so that certain observations in a Constitution Bench decision in *Ismail Faruqui* (1994) could be reconsidered. The apprehension was that remarks to the effect that "a mosque is not an essential part of the practice of Islam" and that *namaz* can be offered anywhere, even in the open, would influence the outcome of the appeal. Justice Ashok Bhushan's main opinion has sought to give a quietus to the controversy by declaring that "the questionable observations" were to be treated only as observations made in the context of whether land on which a mosque stood can be acquired by the government. It should not be taken into account while deciding suits and appeals. It is difficult to fault this approach, as it is a fact that the respective claims of the U.P. Sunni Central Wakf Board, Nirmohi Akhara and Ram Lalla, the deity, can only be tested against evidence adduced during trial and not by pronouncements on the significance of places of worship or practices in a particular religion.

At the same time, can one brush aside the possibility that observations on a sensitive religious issue would be exploited by one side to gain legal advantage? In his dissenting opinion favouring a reconsideration of *Ismail Faruqui*, [Justice Abdul Nazeer](#) notes that its observations have permeated the High Court judgment. *Ismail Faruqui* was a ruling on petitions challenging the validity of a Central law that acquired the land on which the Babri Masjid stood before it was razed by a frenzied and fanatical mob on December 6, 1992. The judgment was notable for upholding the rule of law by restoring the title suits that had been declared as having "abated" in the Act. It also declined to answer a Presidential reference on whether a Hindu temple stood on the disputed site before the mosque was built. Any observation made in the course of such a decision is bound to have a profound impact on the courts below. It is easy to contend that courts should work to their own timelines and not be influenced by such things as election season. But in the life of this nation, the Ayodhya dispute has gone through dark political phases and been more than a mere legal issue. The onus is on the apex court to dispose of the appeals at its convenience without giving any scope for the exploitation of religious sentiments.

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