

**Court No. - 9**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 3341 of 2017

**Petitioner :-** Anjuman Intazamia Masazid Varanasi

**Respondent :-** Ist A.D.J. Varanasi And Others

**Counsel for Petitioner :-** A.P.Sahai,A.K.

Rai,D.K.Singh,G.K.Singh,M.A. Qadeer,S.I.Siddiqui,Syed Ahmed Faizan,Tahira Kazmi,V.K. Singh,Vishnu Kumar Singh

**Counsel for Respondent :-** C.S.C.,A.P.Srivastava,Ajay Kumar Singh,Ashish Kr.Singh,Bakhteyar Yusuf,Hare Ram,Prabhash Pandey,R.S.Maurya,Rakesh Kumar

Singh,V.K.S.Chaudhary,Vineet Pandey,Vineet Sankalp

**Hon'ble Prakash Padia,J.**

Heard Sri Ajay Kumar Singh, learned counsel for contesting respondents.

Sri S.F.A. Naqvi, learned Senior Counsel assisted by Sri Syed Ahmad Faizan, Advocate and Sri Punit Kumar Gupta, learned counsel for petitioner and Sri Vijay Shankar Rastogi, Sri Sunil Rastogi, Sri Tejas Singh and Sri Chandra Shekhar Seth, learned counsel for contesting respondents are also present.

Today when the matter is taken up, Supplementary counter affidavit on behalf of respondent No.3 is filed in Matter Under Article 227 being Case No.234 of 2021 in the Court today, the same is taken on record.

As prayed by learned counsel for the petitioner, ten days' time is granted to file supplementary rejoinder affidavit to the aforesaid counter affidavit.

Sri Ajay Kumar Singh, learned counsel relied upon Section 3 and Section 4 of the Places of Worship (Special Provisions) Act, 1991. He argued that from the reading of Section 3, it is clear that it relates to the prohibition of conversion of a place of worship and from perusal of the plaint, the plaintiff does not seek conversion of the place. It is argued that the religious

character of the place in dispute is a temple which is in existence from ancient time till today, therefore, for better adjudication of the application under Order VII Rule 11 of C.P.C. the evidence should be led. He also relied upon judgement of Hon'ble Apex Court in the case of P.M.A. Metropolitan & others vs Moran Mar Marthoma & another reported in A.I.R. 1995 SC 2001. He also relied upon another judgement of Hon'ble Supreme Court passed in the case of Vijay Narayan Thate and others Vs. State of Maharashtra and others reported in (2009) 9 SCC 92. In this regard, he placed reliance upon a judgement of Hon'ble Supreme Court passed in the case of Waryam Singh and others Vs. Amarnath and others reported in A.I.R. 1954 SC 215. He argued that the power under Article 227 of the Constitution of India is to be exercised most sparingly and only in appropriate cases in order to keep the Subordinates Court within the bound of their authority and not for correcting mere errors.

**Order on Matter Under Article 227 No.3844 of 2021 & Matter Under Article 227 No.3562 of 2021**

Sri M.C. Chaturvedi, learned Additional Advocate Genera/Senior Counsel assisted by Sri Hare Ram, Advocate is present on behalf of respondent No.8.

Counter affidavit has been filed in the aforesaid cases. The aforesaid counter affidavit is very sketchy. Almost all the paragraphs of the petition, i.e. Paragraphs No.3 to 50 were replied as "**Need no comments.**"

In the circumstances, Additional Secretary (Home) U.P. Government is directed to file his personal affidavit in the matter within ten days.

Insofar the respondent No.7/Union of India, Ministry of Culture though Director General, Archeological Survey of India New

Delhi is concerned, nobody is present when the matter is taken up.

A short counter affidavit has been filed by respondent No.7. The aforesaid counter affidavit is also very sketchy and runs only into two and half pages.

Since the matter is of national importance, the Director General, Archeological Survey of India, New Delhi is directed to file his personal affidavit in the matter within the same period, i.e., ten days.

List this matter on 12.09.2022 at 2:00 P.M.

Interim order, granted earlier, is extended till 30 September, 2022.

**Order Date :- 30.8.2022**

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