

# Krishna Janmabhoomi case

May 21, 2022

**In news-** Recently Mathura court has allowed an appeal by the Shri Krishna Janmabhoomi Trust and other private parties seeking ownership of the land on which the Shahi Idgah mosque is built.

## **Order of Mathura court & other Litigations-**

- **The dispute essentially involves ownership of 13.37 acres of land, which the petitioners claim belongs to the deity Lord Shri Krishna Virajman.**
  - Apart from looking into revenue records, the **court will also have to decide the validity of a 1968 “compromise agreement” between the Shri Krishna Janmasthan Seva Sansthan** – the temple management authority, which is a registered society under law – and the Trust Masjid Idgah, by which the temple authority conceded the contentious portion of land to the Idgah.
  - A common thread in all the petitions is the prayer seeking the **removal of the Shahi Idgah mosque from the 13.77-acre complex, which it shares with the Katra Keshav Dev Temple.** Lord Krishna is believed to have been born on the premises of the temple.
  - Other prayers in the petitions include a **video survey of the mosque** on the lines of the survey allowed by the Varanasi court at the Gyanvapi mosque, and the right to offer prayers on the premises.
  - **The Allahabad High Court is hearing a PIL by advocate Mehek Maheshwari demanding that the Shahi Idgah mosque be acquired by the government.** It is now expected to be heard on July 25.
- **In a separate case, the Allahabad High Court on May 12**

**directed the Civil Judge (Senior Division), Mathura, to expeditiously (within four months) decide cases on the Krishna Janmabhoomi issue.**

- Justice Salil Kumar Rai was hearing a case filed by Manish Yadav, who also claims to be next of kin to the deity, seeking a **temporary injunction against the Shahi Idgah from entering the premises.**
- The petitioners argued that the **original kaaraagar (prison) where Lord Krishna is believed to have been born “lies beneath the construction raised by Committee of Management Trust Masjid Idgah”** and that the “true fact will come out before the Court after excavation”. (According to legend, the Lord’s parents Devaki and Vasudev had been imprisoned by the evil king Kansa, after it was prophesied that Devaki’s child would be his nemesis.).

### **What was this 1968 “compromise”?**

- **According to court records, prior to 1968, the complex was not very structured,** and there were several inhabited hutments on the 13.77-acre piece of land.
- **Through the settlement, Muslim inhabitants of the premises were asked to vacate, and boundaries were drawn for the mosque and the temple to operate simultaneously.**
- **The agreement also ensured that the mosque would not have any window, door, or an open drain towards the temple.** The two places of worship are essentially separated by a wall.
- The petitioners have argued that the compromise agreement was made fraudulently, and is invalid in law.
- In any case, the rights of the deity cannot be extinguished by the agreement, since the deity was not part of the proceedings, they have argued.

### **Shri Krishna Janmabhoomi and Shahi Idgah mosque-**

- **The Shahi Idgah mosque was built in 1670 on the orders of Emperor Aurangzeb adjacent to the Krishna Janmasthan** – believed to be the place where Lord Krishna was born – after demolishing a temple.
- **The Idgah is next to the Shri Krishna Janmabhoomi Sthal**, where the deity Krishna is believed to have been born.
- **The area was regarded as “nazul” land – non-agricultural state owned land by the Marathas**, and then the British.
- **In 1815, Raja Patni Mal of Benaras bought the 13.77 acres of land which houses the mosque and is believed to be the birthplace of Lord Krishna**, in an auction from the East India Company.
- The descendants of the Raja Patni Mal sold the land to Jugal Kishore Birla, and the **land was registered in the names of Pandit Madan Mohan Malviya, Goswami Ganesh Dutt, and Bhiken Lalji Aattrey**.
- A trust, the **‘Shri Krishna Janma Bhoomi Trust’**, was formed, which acquired the ownership rights over the **Katra Keshav Dev temple**.

### What are the “rights” of a deity?

- **Under law, a deity is considered a juristic person as opposed to a “natural person”**.
- It is a legal fiction developed to give certain rights and liabilities to the entity with regard to the holding of property, paying taxes, and the right to sue and be sued.
- **A deity is equivalent to a minor under the law, and can be represented in court through the person holding shebait rights**, usually the priest managing the affairs of the temple.
- However, **in ‘Bishwanath And Anr vs Shri Thakur Radhaballabhji & Ors’ (1967)**, the Supreme Court held that a suit can be filed by the idol represented by a **worshipper** in a case where the shebait was found to be “alienating the idol’s property”.