**[A sordid game](https://www.dawn.com/news/1613560/a-sordid-game)**

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THE long-expected event has happened as many had feared. On March 12, a bench of the Indian supreme court comprising Chief Justice S.A. Bobde and Justice A.S. Bopanna issued notices to three ministries of the government of India — home, law and justice and culture on a petition filed by Ashwani Kumar Upadhyaya, a leader of the ruling Bharatiya Janata Party (BJP), challenging the constitutional validity of the Places of Worship (Special Provisions) Act, 1991, which came into force on Sept 18, 1991.

According to the act, “No person shall convert any place of worship of any religious denomination or any section thereof into a place of worship of a different section of the same religious denomination or of a different religious denomination or any section thereof. ... It is hereby declared that the religious character of a place of worship existing on the 15th day of August 1947 shall continue to be the same as it existed on that day.”

The act did not apply to any “place of worship which is an ancient and historical monument” or was covered by the Ancient Monuments and Archaeological Sites Act or Remains Act, 1958. Had this act been applied to the Babri Masjid promptly, the mosque would have been saved. The 1991 act says that nothing contained in it would apply to the Babri Masjid and to the litigation concerning it pending in the courts.

The spirit of faith has evaporated with the rise of Hindutva.

Other exceptions to the1991 act are acquiescent in the conversion before this act came into force. Most important of all, the act will not apply to “any dispute with respect to any such matter settled by the parties amongst themselves before such commencement” of the Act of 1991. As it happens, dispute regarding one of the two mosques which the BJP and Rashtriya Swayamsevak Sangh (RSS) hope to destroy concerned Krishna Janamasthan at Mathura, Krishna’s birthplace according to Hindu belief.

But the matter was settled nearly half a century ago by an elaborate, detailed agreement on Oct 12, 1968. It sought to “settle the long-standing disputes between the Shri Krishna Janamasthan Sangh and the Shahi Masjid Eidgah Trust”. Documents to authorise it by the parties were mentioned. A written iqrarnama was registered. The signatories acted in a representative capacity at the instance of “both Hindu and Muslim communities”. The core of the agreement was peaceful coexistence between the eidgah and the Krishna Janamasthan (birthplace.)

In Mumbai, there is a traffic island which houses a mosque, temple and a church. This spirit evaporated with the rise of Hindutva for political ends. The BJP rose from two seats in the Lok Sabha in1985 to power in 1987.

This sordid game was long in the planning. The RSS set up the Vishwa Hindu Parishad (VHP) at Mumbai on Aug 29, 1984. In 1986 at Allahabad, a World Hindu Sammelan (conference) was held.

Eventually, the VHP adopted an 18-point code of conduct which explicitly called for the ‘liberation’ of the birthplaces of Ram at Ayodhya and of Krishna at Mathura and also for the Kashi Vishwanath Mandir at Varanasi to be ‘liberated’ from the Gyanvapi Masjid.

In August 1990, L.K. Advani promised that if Muslims surrendered the Babri Masjid, the BJP would give up its demands for the other two at Mathura and Varanasi. Places of worship were being used as bargaining counters.

The 1991 act was praised by a five-member bench of the Supreme Court in the Babri Masjid case as recently as November 2019. Only a seven-member bench can overrule it now.

The issue, however, is more political than legal. The leader of the opposition in the UP Assembly and senior Samajwadi Party leader Ram Govind Choudhary said: “BJP and its forces that support it are busy in these kind of things — how to play with Hindu sentiments and encash it. All the more for all these years they could not and did not do any public interest, welfare, development works. Price rise is unprecedented, unemployment has reached highest in 45 years. So they are back to usual tricks.”

This is a replay of the tactics used in the Babri Masjid case. There is already a debate in the courts and on public platforms about the danger of political problems being discussed in courts of law. In this case, as in the Babri Masjid case, to the political dimension is added the vastly more charged dimension namely religion. This is not insuperable. In the Shaheed Ganj Masjid case in Lahore, the premier of Punjab Sikandar Hayat Khan refused to bring in legislation to override a hostile judgement of the high court. He was then a member of the Muslim League. Mohammad Ali Jinnah backed him completely. So did the council of the All India Muslim League. They were much smaller men who played around with the Babri Masjid case.

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