Appeals on Ayodhya Site – II

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Why in news?

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The Supreme Court decided recently that the Ram Janmabhoomi-Babri Masjid land dispute case will be taken up only in January, citing other priorities.

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How do the appeals evolve?

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- The Allahabad High Court judgment in 2010 had ordered a three-way division of the disputed 2.77-acre site in Ayodhya, awarding a third each to the Nirmohi Akhara, the Sunni Central Wakf Board of UP and Ramlalla Virajman.
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- Appeals have been filed against the ruling in the Supreme court.
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- On September 27 this year, a SC bench in a 2-1 verdict, rejected demands to send the matter to a larger bench and ordered that the title suit appeals be listed “in the week commencing 29th October,2018” for hearing.
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- The appellants who also wanted the court to reconsider its 1994 ruling in the Dr M Ismail Faruqui etc. vs Union of India and Others.
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- In that ruling, a Constitution Bench had observed that “a mosque is not an essential part of the practice of the religion of Islam and namaz (prayer) by Muslims can be offered anywhere, even in open”.
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- The SC said that the context for making the above observation was on the **claim of immunity** of a mosque from acquisition.
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- However, the petitioners had claimed that all the earlier decisions in the

Ayodhya case were influenced by this observation in the Ismail Faruqui verdict and hence needs re-consideration.
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- Considering all these, the SC, while observing its own priorities ordered listing of appeals before an appropriate bench in the first week of January 2019 to fix a date for hearing.
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Is the adjournment necessary?

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- In the eyes of the law, the Ram Janmabhoomi-Babri Masjid land dispute case may be just a title dispute.
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- However, the Ram temple movement has had divisive effects on the country's politics and history for a long time.
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- It would be unwise to equate this with any other judicial matter that can come up for disposal in due course.
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- Regardless of which way the case goes, any verdict would polarise the nation.
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- Also, aggressive proponents of Hindutva have also been expecting a favourable verdict for the construction of a Ram temple in Ayodhya.
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- Thus the adjournment is both welcome and necessary, as it pushes back the prospect of any judgment in the run-up to the polls.
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- Through this the Supreme Court has also judiciously diminished the possibility of a final verdict before the next Lok Sabha election.
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- While it is true that courts should not tailor their timelines to election dates, it is equally important that religious sentiments are not stoked and exploited during election season.
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- Hence the decision of the SC to put off even the exercise of fixing a date for the final hearing is quite pragmatic.
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What should be done?

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- Postponement of the hearing is viewed as a delay by the appellants in achieving their objective of building a temple at the disputed site.
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- Hence, there are voices clamouring for an ordinance to enable the construction of a temple.
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- These must be resisted and the judiciary must be vigilant and resourceful in ensuring that the dispute remains within its jurisdiction.
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- Only a judicially driven solution is likely to command constitutional legitimacy in this case.
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- The Supreme Court in 1994 had resolutely refused to answer a controversial Presidential reference on whether a temple pre-existed the demolished masjid.
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- It had restored the title suit and made it clear that the government is only a receiver of the land it had acquired in Ayodhya.
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- It holds the land in trust, only to be handed over to the party that succeeds in the suit.
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- It will not be legitimate for anyone to demand a pre-emptive law, in the form of an ordinance, in favour of a temple.
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- Thus recourse to a judicial remedy which has been followed so far in this case should not be circumvented.
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Source: The Hindu

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