

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 18267 of 2023**

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RITU VALLABH GOSWAMI
Versus
KIDZEE PRE-SCHOOL AND MOONSTAR DAY CARE

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Appearance:

MR DEEP B KOTHARI(12220) for the Petitioner(s) No. 1,2
for the Respondent(s) No. 1,2,3,4

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CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN**Date : 17/10/2023****ORAL ORDER**

Learned advocate for the petitioners has tendered a draft amendment. Amendment is allowed in terms of the draft. Same shall be carried out forthwith.

2. Mr Satyam Y. Chhaya, learned advocate with Mr Deep B. Kothari, learned advocate for the petitioners submitted that the commencement letter issued to the private respondent was residential and now, it has started a pre-school. It is submitted that construction of the said residential building, is over. The pre-school run by the respondent no.1 is over plot no.181/1 which, is connected to 6 meters wide road. Therefore, considering the provisions of Comprehensive General Development Control Regulations, 2017, the pre-school, is permitted in Dwelling-3 (DW3); however, if one is to consider the regulation 6.4 titled "use control as per road width", DW3 is permitted only on the road having the width of 9 meters and less than 12 meters.

3. Clearly, the width of the road connecting plot no.181/1, is hardly 6 meters and therefore, as per regulation, the said use,

would not be permitted. Request was made to the Ahmedabad Municipal Corporation, so also the respondent no.1; however, the respondent no.1 has not given any heed and the Corporation, has not taken any steps.

4. Considered the submissions. Issue notice to the respondents, returnable on 12.12.2023.

5. Direct service is permitted.

BINOY B PILLAI

(SANGEETA K. VISHEN,J)