

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 7478/2026

Shri Mahaveer Sadhna Sansthan, Through Secretary/mantri
Suresh Kumar Jain, Aged About 67 Years, Resident Of 402,
Mahaveer Nagar-1, Tonk Road, Jaipur.

-----Petitioner

Versus

1. Smt. Shashi Mathur Wife Of Late N.c. Mathur, Aged About
78 Years, Plot No.509, Mahaveer Nagar-1, Tonk Road,
Jaipur.
2. Commissioner, Zone-4, Jaipur Development Authority,
Jaipur, Indra Circle, J.l.n. Marg, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. RK Agrawal, Sr. Adv. with Mr. NK Maloo, Sr. Adv. with Mr. Nitin Jain Mr.Kamal Paraswal Mr. Sarvesh Jain Mr. Vaibhav Pareek
For Respondent(s)	:	Mr. Manish Sharma Mr. Ashish Guwalani

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

1	Arguments concluded on	27/04/2026
2	Judgment Reserved on	27/04/2026
3	Full Judgment or Operative Part Pronounced	Full Judgment
4	Pronounced on	06/05/2026

1. That the present writ petition has been instituted
assailing the judgment and order dated 02.04.2026 passed by the
learned Additional District Judge No. 1, Jaipur Metropolitan-I,
Jaipur, whereby the appeal preferred by the petitioner against the
order dated 25.03.2026, passed by the learned Additional Civil

Judge and Judicial Magistrate No. 2, Jaipur Metropolitan-I, Jaipur, in Temporary Injunction Application Case No. 127/2025, whereby the second temporary injunction application moved by the petitioner came to be allowed, has been dismissed.

2. At the outset, learned counsel for the petitioner contended that the respondent has repeatedly suppressed the material and chequered history of litigation pertaining to the subject matter and has approached the learned civil courts with unclean hands, actuated by ulterior motives. It was further contended that the petitioner is a duly registered society under the provisions of the Rajasthan Societies Registration Act, possessing a valid registration certificate as well as a governing constitution. For the sake of brevity, the relevant extract from the constitution of the petitioner-sansthan is reproduced hereinbelow:

- “1. श्री महावीर साधना संस्थान महावीर नगर के अधीनस्थ जैन धर्मशाला, स्वाध्याय शाला, वाचनालय, सरस्वती (विद्या) भवन, सामुदायिक भवन, औषधालय, चिकित्सालय, उदासीन आश्रम, त्यागीवृत्तियों के ठहरने का स्थान, जिनालय आदि का निर्माण कराना व संस्थाओं को उनकी परम्परागत व आम्नाय के अनुसार समुचित व्यवस्था व इनकी तथा उनसे संबंधित चल व अचल संपत्ति की सुरक्षा व सुव्यवस्था करना।
2. धार्मिक, उत्सव, अनुष्ठान समारोह, संगोष्ठी का आयोजन व प्रबंध करना।
3. जिनवाणी का प्रचार प्रसार प्रकाशन व अनुसंधान करना व करवाना, छात्रवृत्तियों तथा आर्थिक सहायता देना।
4. समान उद्देश्य वाली अन्य संस्थाओं के सदस्य बनना, उनको सदस्य बनाना उनको सहयोग देना।
5. छात्रों, विधवाओं, असमर्थों एवं वृद्धों को आर्थिक सहायता देना व सामाजिक कुरीतियों का निवारण करना।
6. ध्यान केन्द्र स्थापित करना।
7. नैतिक शिक्षा एवं कम्प्यूटर ज्ञान की जानकारी देना।”

3. It was submitted that the genesis of the present matter lies in the order dated 03.02.2001, whereby the State Government accorded sanction for allotment of land admeasuring 726 square yards in favour of the petitioner and 1000 square

yards in favour of another society, namely Hadoti Samaj, Jaipur, out of the facility area adjacent to Plot Nos. 508 and 509, Mahaveer Nagar, Tonk Road, Jaipur. Pursuant thereto, the Jaipur Development Authority (hereinafter referred to as "JDA"), after approval by the Building Plan Committee (hereinafter referred to as "BPC"), allotted land admeasuring 591 square meters to the petitioner, followed by execution and registration of the lease deed on 03.08.2001. The said allotment was subsequently challenged by Mahendra Singh and others by way of D.B. Civil Writ Petition No. 1270/2001 before the Division Bench of this Court, which came to be disposed of vide order dated 22.05.2015 on the basis of a settlement arrived at *inter se* the parties. In terms of the said settlement, it was agreed that Mahavir Sadhna Sansthan would suitably modify the allotment and that equivalent land admeasuring the same area would be provided adjacent to Plot Nos. 508 and 509 within the same facility area, subject to certain setbacks. It is pertinent to note that the husband of the present respondent was also a party to the said settlement. In furtherance of the judgment dated 22.05.2015, the petitioner society amended its bye-laws on 18.01.2016 with the predominant objective of aligning its functioning with the mandate of the said judgment, and submitted the amended bye-laws to the JDA for issuance of a modified *patta*. Consequently, a revised *patta* along with a revised site plan was issued in favour of the petitioner on 12.02.2016.

4. It was further contended that this Court, vide judgment dated 22.05.2015, categorically upheld the legality of the

allotment made in favour of the petitioner society and the action of the JDA in executing the lease deed. Notwithstanding the same, the respondent preferred D.B. Civil Contempt Petition No. 10326/2016 alleging disobedience of the directions contained in the said judgment, which also came to be dismissed vide order dated 06.09.2016. It was submitted that despite the aforesaid, the respondent, exhibiting a pattern of vexatious and frivolous litigation, instituted Civil Suit No. 81/2016 before the Court of Civil Judge and Metropolitan Magistrate (East), Jaipur, seeking declaration, permanent injunction and cancellation of the *patta*. The petitioner herein, in response thereto, preferred an application under Order VII Rule 11 CPC for rejection of the plaint; however, the same came to be dismissed vide order dated 28.09.2016.

5. It was further submitted that the parties have been embroiled in litigation for over a decade without any substantive resolution. In continuation of such conduct, the respondent instituted yet another suit in the year 2023 seeking permanent injunction, alleging that the petitioner had illegally dug a borewell in the setback area adjoining the respondent's property and had continued such alleged illegal construction despite objections and complaint dated 05.06.2023. In response thereto, the petitioner categorically averred before the learned civil court that the said suit was a gross abuse of the process of law and further contended that it was, in fact, the respondent who had raised constructions in violation of JDA norms, including maintaining an open window towards the petitioner's allotted land. It was also specifically stated that the petitioner had carried out all

constructions strictly in compliance with applicable rules and regulations, after obtaining due approval from the JDA on 17.08.2022.

6. In the aforesaid backdrop, it was contended that the borewell in question had been dug approximately three months prior to the institution of the suit, to the full knowledge of the respondent and her family members, and that no permission is required under the applicable norms for digging a borewell for domestic use. It was further submitted that, driven by oblique motives, the respondent instituted successive suits seeking temporary injunctions, and vide order dated 25.03.2026, the learned Additional Civil Judge and Judicial Magistrate No. 2, Jaipur Metropolitan-I, Jaipur, allowed the temporary injunction application, inter alia directing that the petitioner shall not install any idol of the Jain religion and shall not use the suit property for any specific religion.

7. It was contended that the learned trial court gravely erred in construing the 'suit property' as a 'community center', as the same does not fall within such classification. It was further submitted that the allotment letter dated 28.07.2001 does not stipulate that the land in question is to be utilized exclusively as a community center. It was also pointed out that the Division Bench of this Court, in its judgment dated 22.05.2015, had unequivocally held that the allotments made in favour of Hadoti Samaj and Mahavir Sadhna Sansthan were in accordance with law and within the authority of the JDA. The said judgment also considered the definition of 'public utility purpose' as envisaged under Rule 6-k of

the Rajasthan Urban Improvement (Disposal of Urban Land) Rules, 1974. For the sake on convenience the same is reproduced hereinbelow:

"(6-K) "Public Utility Purpose" means use of any premises or open land or play ground for a school, college, hostel, dharmashala, public guest house, religious place, gaushala, public park or any other place of public utility excluding use of medical facilities;"

8. It was thus contended that the learned trial court failed to appreciate that installation of Jain idols in a portion of the building does not *ipso facto* amount to exclusive religious use of the premises. It was further submitted that, pursuant to the amendment of the bye-laws, the governing stipulation is that the facilities provided by the petitioner are to remain open for use by the general public of the locality. In this regard, it was demonstrated that the subject property has been regularly utilized for a variety of activities, including yoga classes conducted between 01.08.2025 and 03.01.2026, as well as for hosting condolence meetings, third-day ceremonies, birthday functions, social gatherings, and diverse religious and cultural events, without any discrimination on the basis of religion or caste.

9. In summation, it was contended that by virtue of the judicial pronouncements as well as the governing statutory and contractual framework, the petitioner has been duly authorized to utilize the allotted land and raise construction thereupon for the benefit of the general public, with the predominant objective of advancing the aims and objects of the society as enshrined in its

bye-laws. The impugned orders, therefore, suffer from manifest illegality inasmuch as they unjustifiably restrict the lawful use of the property by the petitioner, contrary to the settled legal position and the factual matrix on record.

10. *Per contra*, learned counsel appearing for the respondents have vehemently opposed the contentions made by learned counsel for the petitioner, and had submitted that the present writ petition filed under Article 227 of the Constitution of India is wholly misconceived and not maintainable, inasmuch as it seeks interference with concurrent findings of fact recorded by the learned courts below vide orders dated 02.04.2026 and 25.03.2026 passed in T.I. Application No. 127/2025, sans considering the fact that the said orders are well-reasoned, based on material available on record, and do not suffer from any jurisdictional error or perversity. It is settled law that the supervisory jurisdiction under Article 227 cannot be invoked for re-appreciation of evidence or substitution of findings merely because another view is possible.

11. It was further submitted that the land in question was allotted pursuant to the State Government order dated 03.02.2001, followed by allotment, execution of lease deed and issuance of *patta* in favour of the petitioner. The said allotment was subjected to challenge before this Court in D.B. Civil Writ Petition No. 1270/2001, which came to be disposed of vide judgment dated 22.05.2015, whereby the allotment was upheld; however, it was categorically directed that the facility area shall not be used exclusively by followers of any particular religion and

must remain accessible to all residents. Thus the core issue in the present matter pertains to the nature and permissible use of the land, qua which it was submitted that the land forms part of a facility area meant for institutional/public use, and the said position stands conclusively established from official records of the Jaipur Development Authority obtained under the Right to Information Act, by the respondent.

12. Further, it was contended that the inspection report (Annexure R/1) records the purpose of allotment as Dharamshala/Hotel, reflecting institutional use. The office note forming part of official record (Annexure R/4) records the land as “सामुदायिक केन्द्र” (community centre), clearly establishing that the sanctioned use is institutional and not religious. Further, communication dated 21.09.2022 issued by the Deputy Commissioner, Zone-4, JDA (Annexure R/9) categorically clarifies that the sanctioned use of the land is ‘institutional (community hall)’. These official records conclusively demonstrate that the land is not meant for religious purposes.

13. In this backdrop, it was submitted that the petitioner had no authority whatsoever to install idols or convert the premises into a place of worship. The installation of idols in a property sanctioned as a community centre/institutional facility is per se impermissible, as it alters the very character of the land; and that the material available on record further establishes active misuse by the petitioner. The approved layout and building plan (Annexure R/5) clearly provides for stilt parking; however, the petitioner has illegally converted the same into a hall, which is

evident from the photographs (Annexure R/6). It was apprised to the Court that the competent authority has also taken cognizance of such violations and issued statutory notices to the petitioner (Annexure R/7) recording unauthorized construction and deviation from the sanctioned plan. It is further borne out from the record that on or about 01.08.2025, the petitioner installed idols and commenced religious activities within the premises/property in question, and that the photographs annexed as Annexure R/8 clearly depict installation of idols, including a large idol, along with deployment of bouncers and private security personnel, thereby restricting access to the general public and converting the premises into a controlled religious space. It was stoutly contended that such conduct is *in toto* inconsistent with the concept of a public facility area and clearly demonstrates misuse of the land.

14. Subsequently, it was argued that without prejudice to the above, even assuming *arguendo* that the petitioner seeks to justify such acts under the guise of the objects of the society, the issue is squarely governed by the binding judgment dated 22.05.2015, which categorically mandates that the facility area cannot be used exclusively by followers of the Jain/particular religion and must remain accessible to all residents of the society concerned. The said judgment, having attained finality upon dismissal of the Special Leave Petition (Annexure R/2) and rejection of the clarification application (Annexure R/3), is binding upon the petitioner. However, the petitioner has installed idols exclusively of the Jain religion, and no idols or symbols of any

other religion have been installed. Therefore, the selective installation clearly establishes that the premise is being used for exclusive propagation of a particular religion, which is directly contrary to the said judgment. It was further submitted that the revised *patta* dated 12.02.2016 incorporates a specific condition that the land and facilities shall be used by the general public irrespective of religion, and the petitioner had also furnished an undertaking dated 23.07.2022 (Annexure R/10) agreeing to abide by such conditions. However, the present conduct of the petitioner, involving religious conversion of the premises, installation of idols and restriction of access, is in direct violation of the *patta* conditions as well as the undertaking, thereby disentitling the petitioner from any equitable relief.

15. Upon a meticulous and comprehensive examination of the record, and having regard to the aforesaid facts and circumstances of the case, as well as the submissions advanced by learned counsel for the respective parties, this Court, at this stage, considers it apposite to delineate the following incontrovertible facts qua the prolonged litigation revolving around the property in question:

S. No.	Title	Issue	Ratio (relevant extract reproduced)
1.	DB Civil Writ Petition No. 1270/2001 (Decided vide judgment dated 22.05.2015)	Filed by one Mahendra Singh, assailing the allotment made by JDA in favor of the	"23. We find that the petitioners have not been able to establish that the land in dispute was reserved as park.

		petitioner and one Hadoti Samaj.	Reliance on the members list, published by the JDA in its Booklet, in which plot Nos.803 to 808 have been shown as park, does not establish that the land was left for park. In the layout plan, as submitted and approved by the JDA, the land was admittedly reserved as facility, which may include park, but that it cannot be said that the facility area can only be used as park, and not for any other community purposes. The disputed land was never declared as park under the Rajasthan Public Park Act, 1956. The "Public Utility Purpose", under Rule 6-K of the Rules of 1974, means use of any premises or open land or playground for a school, college, hostel, dharamshala, public guest house, religious place, gaushala, public park, or any other
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		place of public utility excluding use of medical facilities. The layout plan submitted by the Society on 23.11.1983, delineated the land as facility area. The Building Plan Committee-II, in its 23rd meeting dated 12.04.1984, reserved the plot as facility area. The building plan of Mahaveer Nagar has 11 more plots, of different sizes, left/reserved for facility area, and thus, we do not find any merit in the submission that the land left in plot Nos.803 to 808, can be used only as a park, and for no other purposes. 27. We may further observe that the Mahaver Sadhna Kendra cannot usurp the facility area only for followers of Jain religion. Once the area has been earmarked as facility area, it means that all the residents of the colony have a right to use the facilities established on such land. The allotment
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			of plot measuring 708.33 sq. yds. to Mahavir Sadhna Kendra, would not allow it exclusive use of the plot and its building by the Jain Community only. 28. <i>The Mahavir Sadhna Kendra, the respondent No.4, is therefore, directed to amend the bye-laws of the Society, to allow the use of their land and building by the general public, with predominant purpose of propagating the objects of the Society, as provided in the bye-laws. The property and its facility should be allowed to be used by the residents of the colony. The use of land for exclusive purpose of Jain religion, may give cause of action to any resident of the colony to file a civil suit against such use."</i>
2.	DB Contempt Petition	Civil No.	Filed by the respondent herein, qua the <i>Indisputably, the present petitioner was not party to the proceedings</i>

	10326/2016 (decided vide order dated 06.09.2016)	disobedience of the directions enumerated in the order dated 22.05.2015.	<i>and that apart her petition is in respect of assailing the order impugned dt.22.5.2015, but what is being directed by this Court, if has not been complied with by the concerned respondents under order impugned dt. 22.5.2015, the person who is party to the proceedings may avail the remedy.</i>
3.	Civil Suit No. 81/2016 before the Court of Civil Judge and Metropolitan Magistrate (East), Jaipur (decided vide order dated 28.06.2016)	Instituted by the respondent herein against the petitioner, for declaration of permanent injunction and cancelation of <i>patta</i> , wherein the petitioner herein, moved an application under Order VII Rule 11 for rejection of plaint.	
4.	SB Civil Revision Petition No. 185/2016 (decided vide judgment dated 23.02.2017)	Filed by the petitioner herein, against the order dated 28.09.2016	<i>12. From the above emerging position this Court is at a loss as to how the plaintiff can attack the allotment in the instant civil suit on the basis that her</i>

		<i>husband's presence on 24.04.2007 was wrongly recorded, when the Division Bench of this Court has already settled such issue. This court is of the firm view that such controversy cannot be reopened or agitated again or can be made the basis of a suit, when the plaintiff respondent has not even challenged such a finding by the Division Bench of this court. Thus the respondent-plaintiff was not entitled to file the instant suit on the basis of such alleged non-presence on meeting dt 24.4.2007.</i> <i>15. The directions given by the Division Bench displays that the allotment and issuance of lease-deed to the petitioner defendant Mahaveer Sadhna Kendra, was held to be made in accordance with law, but it was directed that use of the land and building constructed by the society had</i>
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		<i>to be primarily for general public with participation of the residents of the colony. The Hon'ble Division Bench did not pass directions as to the inclusion or non-inclusion of members of any sect or religion, as members of the petitioner society. Thus, the plaintiff's allegation that non inclusion of the plaintiff or any member of the colony as member of the petitioner society, was infringement of the Division Bench judgment providing the plaintiff cause of action to institute the instant suit, fails, and on this count no cause of action can be said to have accrued to the plaintiff to institute the instant suit.</i> <i>16. The next ground raised is the assertion in the plaint that the defendant petitioner was directed to amend the bye-laws and the defendant has not amend the bye-laws to include participation by members who are</i>
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		<i>not follower of Lord Mahaveer in the affairs of defendant petitioner. To evaluate such assertion, para 28 of the Division Bench judgment in verbatim deserved to be mentioned :-</i> <i>"28. The Mahavir Sadhna Kendra, the respondent No.4, is, therefore, directed to amend the bye-laws of the Society, to allow the use of their land and building by the general public, with predominant purpose of propagating the objects of the Society, as provided in the bye-laws. The property and its facility should be allowed to be used by the residents of the colony. The use of land for exclusive purpose of Jain religion, may give cause of action to any resident of the colony to file a civil suit against such use."</i> <i>"17. The above para also discloses that the Division Bench only passed direction with respect to use of the land and</i>
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		<i>building under the patta held by the defendant petitioner society. Directions were not issued with respect to the membership of the petitioner defendant society. The right to file a civil suit was given only in case of breach in user of the land and building by the defendant society. The plaintiff has nowhere asserted in the plaint that the defendant society is using the land building contrary to the directions given by the Division Bench. The plaintiff has categorically asserted in the plaint itself that no permanent building has been constructed upon the land and in absence of such construction, question of user contrary to the directions did not arise at all. Thus even if such plaint averments are taken in its face value and for the sake of arguments urging to be true at the stage seeking</i>
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			<i>direction u/O.7 R.11 CPC the same did not provide the plaintiff cause of action to institute a suit for declaration and injunction as claimed.</i>
5.	Civil Suit No. 72/2023 before the Court of Additional Civil Judge and Metropolitan Magistrate No.2, Jaipur Metropolitan-I	Instituted by the respondent herein, for permanent injunction against the plaintiff; alleging that the plaintiff had illegally dug a borewell in the setback area, adjoining the respondent's property.	
6.	Temporary Injunction Application No. 56/2023, before the Additional Civil Judge No. 2, Metropolitan -I	Moved by the respondent herein, under Order XXXIX Rule 1 and 2 of CPC. (Dismissed vide order dated 20.07.2023)	प्रार्थीया अधिवक्ता द्वारा दौराने बहस यह कथन किया कि अप्रार्थी ने सेटबैक एरिया पर बोरवैल का निर्माण करवाया है जो कि माननीय राजस्थान उच्च न्यायालय के निर्णय दिनांक 22.05.2015 के विपरीत है। इसके संबंध में अप्रार्थी अधिवक्ता द्वारा कथन किया कि विवादित सम्पत्ति पर जो सेटबैक छोड़ा गया है वो ओपन टू स्काई छोड़ा गया है, बोरवैल करवाया जाना अस्थाई व स्थाई निर्माण में सम्मिलित नहीं है। इसके संबंध में राजस्थान भवन विनियम 2020 के नियम 10.8(ख) में अपनी बहस के समर्थन दर्शाया गया। इस संबंध में न्यायालय का मत यह है कि राजस्थान भवन निर्माण विनियम 2020 के नियम 10.8 (ख) में यह उपबंधित है कि कुआं और कुएं की संरचना

		जिनकी उंचाई 2.1 मीटर से अधिक नहीं हो, को आच्छादन नहीं माना जा सकता। उपरोक्त नियम में बोरवैल, कुएँ अथवा इससे संबंधित निर्माण को आच्छादन निर्माण नहीं माना है। प्रार्थना पत्र में बोरवैल की उंचाई 2.1 मीटर से अधिक होने के तथ्य अंकित नहीं किए हैं। आगे यह भी उल्लेखनीय है कि अप्रार्थी संस्था द्वारा जवाब जिसका कोई खंडन प्रार्थी द्वारा नहीं किया गया है। बोरवैल का निर्माण चार माह पूर्व किए जाने के तथ्य अंकित किए हैं। परंतु इस अवधि के दौरान प्रार्थीया द्वारा कोई विधिक कार्यवाही जयपुर विकास प्राधिकरण अथवा संबंधित प्राधिकरण में की गई हो ऐसे तथ्य प्रार्थना पत्र में उल्लेखित नहीं हैं। जयपुर विकास प्राधिकरण द्वारा दिया गया नोटिस दिनांक 06.07.2023 भूखंड संख्या 509 के सामने निर्माण सामग्री रखे जाने से संबंधित है। उपरोक्त नोटिस में जयपुर विकास प्राधिकरण द्वारा उनको अनुमोदित मानचित्र के विपरीत जाकर निर्माण कार्य किए जाने के संबंध में कोई तथ्य अंकित नहीं है। प्रार्थीया द्वारा प्रस्तुत न्यायिक दृष्टांत हस्तगत प्रार्थना पत्र के तथ्यों से भिन्न होने के कारण हस्तगत प्रकरण पर चर्चा नहीं होते हैं। प्रार्थीया द्वारा केवल मात्र कयास/ संभावनाओं के आधार पर निर्माण को समुदाय/समाज विशेष का मंदिर बताते हुए यह अस्थाई निषेधाज्ञा प्रार्थना पत्र प्रस्तुत किया जाना प्रथमदृष्टया दर्शित होता है। अप्रार्थी द्वारा प्लिंथ लेवल की उंचाई स्वीकृति अथवा नियमों के विपरीत किए जाने के संबंध में कोई दस्तावेज पेश नहीं किए साथ ही इसकी शिकायत जयपुर विकास प्राधिकरण में की गई हो ऐसे भी कोई दस्तावेज पेश नहीं किए हैं। अतः उपरोक्त प्रथम दृष्टया मामला प्रार्थीया अपने पक्ष में साबित करने में असफल रहें हैं। (2) सुविधा का सन्तुलन व (3) अपूर्णनीय क्षति:-
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		 सत्यमेव जयते	7. सुविधा की दृष्टि से व तथ्यों की पुनरावृत्ति से विरत रहने के लिए उक्त दोनों बिन्दुओं का निस्तारण एक साथ किया जा रहा है। चूंकि उपरोक्त प्रथम दृष्टया मामला प्रार्थीया स्वयं के पक्ष में साबित करने में विफल नहीं है इस वजह से प्रथम दृष्टया मामला का बिंदु प्रार्थीया के विपक्ष में तय किया गया है। साथ ही यह भी उल्लेखनीय है कि अप्रार्थी द्वारा जवाब प्रार्थना पत्र में यह तथ्य अंकित किए गए हैं कि निर्माण कार्य सामान्य जन प्रयोग की राशि से निर्माण करवाया जा रहा है एवं सेटबैक भी अनुमोदित मानचित्र से अधिक छोड़ा गया है। ऐसी स्थिति में यदि प्रार्थी के पक्ष में अस्थाई निषेधाज्ञा प्रार्थना पत्र का अनुतोष स्वीकार किया जाता है तो अप्रार्थी को प्रार्थीया की तुलना में अधिक असुविधा एवं ऐसी अपूर्णनीय क्षति होगी जिसकी धन के रूप में पूर्ति नहीं की जा सकती अतः उपरोक्त दोनों बिंदु सुविधा का संतुलन एवं अपूर्णनीय क्षति भी प्रार्थीया के विपक्ष में तय किए जाते हैं। 8. चूंकि प्रकरण में प्रथमदृष्टया मामला, सुविधा का संतुलन एवं अपूर्णनीय क्षति संबंधी बिन्दुओं को प्रार्थीया के विपक्ष में तय किया गया है। अतः प्रार्थीया का प्रार्थना पत्र बाबत अस्थाई निषेधाज्ञा अस्वीकार किए जाने योग्य है।
7.	Civil Misc. Appeal No. 12/2023 before the Additional District Judge No. 2 Jaipur Metropolitan- I	Preferred by the respondent assailing the order dated 20.07.2023. (Dismissed vide order dated 14.08.2023)	13. अप्रार्थी का यह भी उज्र रहा है कि जेडीए द्वारा स्वीकृत नक्शे में 22 पिलर ही हैं जबकि अप्रार्थी संस्थान द्वारा 34 पिलर का अवैध निर्माण मौके पर किया गया है। अप्रार्थी ने स्वीकृत से अधिक पिलरों का निर्माण मंदिर बनाने की बदनीयती से किया है, इस संबंध में मौके के फोटोग्राफ्स भी अप्रार्थी द्वारा प्रस्तुत किये गये हैं, उन फोटोग्राफ्स को देखे जाने से प्रथमदृष्टया इस स्तर पर यह प्रकट नहीं होता है कि अप्रार्थी संस्थान द्वारा आवंटित क्षेत्र में मंदिर का निर्माण किया जा रहा हो। जहां तक प्रार्थीया का यह कथन कि अप्रार्थी द्वारा स्टील्ट पार्किंग का निर्माण 1.3 फीट की उंचाई के स्थान पर 1.5 फीट की

		उंचाई पर किया गया है तथा स्टील्ट पार्किंग के अनाधिकृत रूप से 12 पिल्लर नक्शे के विपरीत बना दिये गये हों, जिससे उक्त स्टील्ट पार्किंग के काम नहीं आयेगी। अप्रार्थी द्वारा स्टील्ट पार्किंग का निर्माण निर्धारित उंचाई से अधिक किये जाने के संबंध में प्रार्थीया द्वारा कोई तकनीकी रिपोर्ट न्यायालय के समक्ष इस स्तर पर प्रस्तुत नहीं की है। जहां तक अप्रार्थी द्वारा आवंटित क्षेत्र में नियमों के विपरीत किये गये निर्माण के संबंध में प्रार्थीया द्वारा जेडीए में शिकायत किये जाने तथा जेडीए द्वारा कार्यवाही किये जाने का संबंध है, इस संबंध में पत्रावली पर उपलब्ध दस्तावेजों से जेडीए द्वारा अप्रार्थी के विरुद्ध नियमों के विपरीत किये गये अवैध निर्माण के संबंध में की गई शिकायत पर जेडीए की नोटशीट दिनांकित 27.07.2023 के अनुसार उक्त शिकायत पर जेडीए द्वारा उपायुक्त जोन-4 जविप्रा, जयपुर के कार्यालय से इस संबंध में रिपोर्ट तलब की गई है। जेडीए द्वारा अप्रार्थी को प्रार्थीया द्वारा की गई शिकायत दिनांक 06.07.2023 को भूखण्ड के सामने निर्माण सामग्री रखे जाने के संबंध में नोटिस है, ना कि अवैध निर्माण किये जाने के संबंध में। इस प्रकार इस स्तर पर अप्रार्थी द्वारा आवंटितशुदा भूखण्ड पर अवैध निर्माण किये जाने के संबंध में कोई जेडीए की रिपोर्ट पत्रावली पर नहीं है। 14. प्रार्थीया की ओर से प्रस्तुत न्यायिक दृष्टांत एआईआर 1985 देहली 293 में मामननीय उच्च न्यायालय द्वारा म्यूनिसिपल बायलॉज के विरुद्ध किये गये अवैध निर्माण के विरुद्ध पडौसी को निर्माण रोके जाने के संबंध में निषेधाज्ञा प्राप्त करने का अधिकारी होना माना है। न्यायिक दृष्टांत आरएलआर 1988(1) राज. 850, आरएलआर 1988(2) राज. 871 एवं डब्ल्यूएलसी 2002(2) राज. 362 में माननीय उच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि टी.आई का
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		 सत्यमेव जयते	निस्तारण करते समय न्यायालय को पक्षकारान के मध्य विवादों का अंतिम रूप से निस्तारण नहीं किया जाना चाहिये। जहां पक्षकारान के मध्य गंभीर विवाद विद्यमान हो, वहां वाद के अंतिम निस्तारण तक मौके की यथास्थिति बनाये रखा जाना आवश्यक है। माननीय उच्च न्यायालय द्वारा प्रतिपादित सिद्धान्तों से यह न्यायालय पूर्ण सहमत है, परन्तु उक्त न्यायिक दृष्टांत हस्तगत प्रकरण के तथ्यों एवं परिस्थितियों से भिन्नता के कारण प्रार्थी पक्ष को कोई सहायता प्रदान नहीं करते है। 15. उपरोक्त विवेचनानुसार विद्वान विचारण द्वारा प्रथमदृष्टया मामला, सुविधा का संतुलन एवं अपूरणीय क्षति के बिन्दु अपीलार्थी/प्रार्थीया के पक्ष में बनना नहीं पाये जाने में किसी प्रकार की कोई विधिक एवं तात्त्विक त्रुटि नहीं की है एवं विचारण न्यायालय द्वारा दिया गया निष्कर्ष पूर्णतः विधिक एवं न्यायोचित है, जिस निष्कर्ष में हस्तक्षेप किये जाने का कोई न्यायोचित आधार नहीं होने के कारण अपीलार्थी/प्रार्थीया की ओर से प्रस्तुत अपील अस्वीकार कर खारिज किये जाने योग्य है।
8.	II Temporary Injunction Application (CIS No. 446/2025) for grant of mandatory and temporary injunction	Moved by the respondent herein; without impleading JDA as a party respondent, therein. (Allowed vide order dated 25.03.2026)	5. हस्तगत द्वितीय अस्थाई निषेधाज्ञा प्रार्थना पत्र के माध्यम से प्रार्थी का मुख्यतः यह कथन रहा कि अप्रार्थी सं. 1 को सामान्य आमजन के उपयोग हेतु सामुदायिक केंद्र के लिए आवंटित भूमि पर स्वीकृत मानचित्रों के विपरीत निर्माण कार्य पूर्ण करवाया जा चुका है एवं अप्रार्थी सं.1 द्वारा उक्त भूमि को सामान्य आमजन के उपयोग में नहीं लेकर मात्र जैन धर्म के अनुयायियों हेतु उपयोग में लिया जा रहा है जिसके खंडन करते हुए अप्रार्थी का मुख्यतः यह तर्क रहा कि अप्रार्थी द्वारा अनुमोदित मानचित्रों के अनुरूप निर्माण कार्य करवाया गया है एवं उक्त भूमि का उपयोग किसी भी प्रकार से किसी धर्म विशेष/ जैन धर्म का प्रचार प्रसार करने के लिए नहीं किया जा रहा है एवं संस्था के

			उददेश्यों के अनुरूप सामुदायिक केंद्र के लिए आवंटित भूमि को संस्था विधान पत्र में निर्धारित उददेश्यों के अनुरूप ही उपयोग उपभोग में लिया जा रहा है। जहाँ पर वर्तमान में योग केंद्र संचालित किया जा रहा है जिसमें सामान्य आमजन द्वारा हिस्सा लिया जा रहा है। पत्रावली पर यह स्वीकृत तथ्य है कि महावीर साधना केंद्र को जेडीए द्वारा सामुदायिक केंद्र /धर्मशाला के लिए वादग्रस्त भूमि आवंटित की गई है एवं जिस पर जेडीए द्वारा अनुमोदित मानचित्रों के अनुरूप उक्त भूमि का उपयोग माननीय राज. उच्च न्यायालय के आदेश दिनांक 22.05.2015 के अनुरूप सामान्य आमजनों के उपयोग में लिये जाने के शर्त के साथ संशोधित साईट प्लान व निर्माण स्वीकृति जारी की गई। 9. सुविधा की दृष्टि से व तथ्यों की पुनरावृत्ति से की रहने के लिए उक्त दोनों बिन्दुओं का निस्तारण एक साथ किया जा रहा है। चूंकि प्रथम दृष्टया मामला प्रार्थी अपने पक्ष में साबित करने में सफल रहा है एवं प्रकरण में आवंटित भूमि आमजन के प्रयोजनार्थ हेतु आवंटित की गई है ऐसे में यदि सुविधा का संतुलन एवं अपूर्णनीय क्षति यदि प्रार्थी में विपक्ष में तय किए जाते है तो प्रार्थी को अप्रार्थी तुलना में अधिक असुविधा में अपूर्णनीय क्षति कारित होगी। अतः उपर्युक्त प्रथम दृष्टया मामले के बिंदु के प्रकाश में उपर्युक्त दोनों बिंदु भी प्रार्थी के पक्ष में तय किए जाते है। 10. चूंकि प्रकरण में प्रथमदृष्टया मामला, सुविधा का संतुलन एवं अपूर्णनीय क्षति संबंधी बिंदुओं प्रार्थी के पक्ष में तय किया गया है। अतः प्रार्थी द्वारा प्रस्तुत प्रार्थना पत्र निम्न प्रकार से स्वीकार किए जाने योग्य है।
9.	Civil Misc. Appeal No. 11/2026 before	Preferred by the petitioner herein, against	<u>2 व 3 सुविधा का संतुलन व अपूर्तनीय क्षति :-</u> प्रकरण में जहाँ तक उक्त दोनों बिन्दुओं का संबंध है। चूंकि प्रथम दृष्टया मामला प्रार्थीया के पक्ष में

	the Additional District Judge, No.1 Jaipur Metropolitan – I, Jaipur	the order dated 25.03.2026. (dismissed vide order dated 02.04.2026)	विनिश्चित किया गया है। ऐसी स्थिति में विवादित आवंटित भूमि में अप्रार्थीगण को किसी धर्म विशेष की नूर्तियां स्थापित करने से नहीं रोके जाने व विवादित भूमि को धर्म विशेष के उपयोग–उपभोग में लेने से नहीं रोके जाने की स्थिति में प्रार्थीया को अप्रार्थी संख्या 1 के विरुद्ध अधिक असुविधा व अपूरणीय क्षति होगी। अतः उक्त दोनों बिन्दु भी विद्वान विचारण न्यायालय ने सही रूप से प्रार्थीया के पक्ष में तय किए हैं। उपरोक्त विवेचन के अनुचार मेरे विनम्र मत में विद्वान विचारण न्यायालय ने तीनों बिन्दु सही रूप से विनिश्चि किए गए हैं। अतः अपीलार्थी की ओर से प्रस्तुत यह अपील सारहीन पायी जाने से अस्वीकार की जाकर खारिज किए जाने योग्य है।
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(Emphasis supplied)

16. Having undertaken a scrupulous examination of the record and an assiduous scrutiny of the protracted litigation pertaining to the matter at hand, this Court is of the considered view that the issues arising for its determination may be delineated as whether the learned trial courts have committed a jurisdictional error, perversity, or patent illegality in passing the impugned orders dated 25.03.2026 and 02.04.2026; whether the nature and permissible use of the land in question, being part of a ‘facility area’, permits its utilization for community purpose albeit, there is installation of idols; whether the petitioner has acted in violation of the obligatory judgment dated 22.05.2015, the amended bye-laws dated 18.01.2016, and the revised *patta* dated 12.02.2016; and whether the installation of Jain idols and the alleged user of the premises constitutes exclusive religious use, or remains within the ambit of permissible public/institutional use.

17. The foundational dispute pertains to the nature and permissible use of the land allotted to the petitioner pursuant to the State Government order dated 03.02.2001. It is undisputed that the allotment made in favour of the petitioner attained finality in terms of the judgment dated 22.05.2015 passed by the Division Bench, wherein the allotment was upheld. However, a significant rider was imposed that the 'facility area' in question shall not be used exclusively by followers of any particular religion and must remain accessible to all residents. This Court further observes that the petitioner, in furtherance of the said judgment, obtained a revised *patta* dated 12.02.2016 and amended its bye-laws on 18.01.2016. The material placed on record reflects that the subject property has been utilized for multiple community-oriented purposes, including yoga classes being conducted between 01.08.2025 and 03.01.2026, as well as for social, cultural and community gatherings, conducting condolence meetings etc. without discrimination any discrimination on the basis of religion or caste.

18. The contention of the respondent who is not even appearing in the representational capacity qua bunch of aggrieved people, as the property in question is located in a society and even momentarily it cannot be assumed that the respondent herein, shall be sole aggrieved persons, and is herself having construction which is in violation to the governing JDA guidelines qua the set-backs of a property, that the installation of idols *ipso facto* alters the nature of the land to an exclusive religious use does not appear to be borne out from the entirety of the record,

as no documents/complaints of what so ever nature against the petitioners herein is placed on record. Mere installation of idols in a part of the premises, in absence of cogent material demonstrating complete exclusion of the general public, cannot be conclusively held to amount to exclusive religious conversion of the property. India is a country known for its diversity and peaceful survival of all the communities, thus, there are various sites which, though possess religious attributes, but are widely recognized as public, cultural and tourist spaces, accessible to persons of all faiths and frequently utilized for purposes extending beyond mere religious worship. Thus, in the considered opinion of this Court, the determinative test is not the mere existence of idols or religious symbols, but the dominant purpose and actual usage of the property.

19. At this juncture, it is apposite to note that equity leans in favour of substance over form, and the true test lies in the dominant purpose of usage rather than isolated acts. The record indicates that the dominant use of the premises continues to be for public and community purposes. In the present case, this Court finds that the learned trial courts have proceeded on an erroneous premise by equating the 'facility area' with a 'community centre' in a restrictive sense, and by presuming that installation of idols necessarily leads to exclusive religious use, without appreciating the broader factual matrix and the continued public usage of the premises. Withal, it can be jot down that the impugned orders suffer from non-application of mind and misinterpretation of the binding judgment dated 22.05.2015. The

said judgment does not impose an absolute embargo on any religious activity, but only prohibits exclusive use by followers of a particular religion.

CONCLUSION

20. In view of the foregoing analysis, this Court holds that the impugned orders dated 25.03.2026 and 02.04.2026 are vitiated by perversity and misapplication of law; that the learned trial courts have failed to appreciate the true import of the judgment dated 22.05.2015 and the nature of permissible use of the land; that the material on record does not establish exclusive religious use so as to warrant the restrictions imposed; that the nature of allotment is relevant, but must be read with actual usage, as installation of idols alone is not determinative unless it leads to exclusive religious appropriation; that the correct test is whether the property continues to serve public/community purpose, which aligns with your finding regarding yoga classes, public functions, and open access; that courts must avoid mechanical interpretation and instead adopt a holistic, purposive approach; that the construction as made by the petitioner qua Saraswati Bhawan, Jinalaya, Yoga Center-hall, pustakalya, is in abidance of the building plan, as approved by the JDA on 17.08.2022, and is open for general public; that the JDA was not impleaded as a party in the injunction suits by the respondent herein, despite the fact that the said authority is a proper party; that the learned trial courts, whilst considering the injunction applications have manifestly acted ultra vires to the jurisdiction, as they have granted directions restraining the petitioner from

installing any idol or using the premise for Jain religion, albeit it virtually resulted in deciding of suit whilst passing interim orders, and the same being beyond the prayers as asked therein; that the respondent herein has approached the Court with unclean hands, and is rather just one out of umpteen people who reside in the same vicinity of the property in question, and have never made any complaints against the petitioner, as no such material is placed on record.

21. Accordingly, the present petition deserves to be, and is hereby **allowed**, and the impugned orders dated 02.04.2026 passed by Additional District Judge, No. 1, Jaipur in CMA No. 11/2026 and order dated 25.03.2026 passed by Additional Civil Judge and Judicial Magistrate No. 2, Jaipur in Temporary Injunction Application No. 127/2025 are hereby quashed and set aside.

22. The parties shall, however, remain bound by the condition that the premises shall not be used in a manner that excludes access to the general public or converts the facility area into an exclusively religious domain, in terms of the binding judgment dated 22.05.2015.

23. No order are made as to costs. Pending applications, if any, shall stand disposed.

(SAMEER JAIN),J