

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 3158-3159/2026
[Arising out of impugned final judgment and order dated 27-10-2025
in DBCWP No. 14399/2025 26-11-2025 in DBCWP No. 14399/2025 passed
by the High Court of Judicature for Rajasthan at Jodhpur]

DR. ABDUL VAHID KOTA MEMORIAL DARUL ULUM AHLE HADIS Petitioner(s)

VERSUS

JODHPUR DEVELOPMENT AUTHORITY & ORS.

Respondent(s)

IA No. 21050/2026 - EXEMPTION FROM FILING O.T.
IA No. 25514/2026 - EXEMPTION FROM FILING O.T.
IA No. 25512/2026 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

WITH

SLP(C) No. 6480/2026 (XV)

FOR EXEMPTION FROM FILING O.T. ON IA 48712/2026
FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 108849/2026
FOR EXEMPTION FROM FILING O.T. ON IA 108850/2026
IA No. 108849/2026 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 48712/2026 - EXEMPTION FROM FILING O.T.
IA No. 108850/2026 - EXEMPTION FROM FILING O.T.

Date : 27-04-2026 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) : Mr. Abhishek Gupta, AOR
Ms. Sheena Taqui, Adv.

For Respondent(s) :
Mr. Kartikeya Asthana, Adv.
Mr. S.. Udaya Kumar Sagar, AOR

Ms. Herinder Kaur Brar, AOR
Mr. Devesh Mishra, Adv.
Mr. Nitish Kumar, Adv.

Mr. Abhishek Atrey, AOR
Dr. Abhishek Atrey, Adv.
Mr. Moti Singh, Adv.

Ms. Ambika Atrey, Adv.
Mr. Navneet Gupta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The Special Leave Petition (C) Nos. 3158-3159 of 2026 assails interim orders dated 27th October, 2025 and 26th November, 2025 passed by the High Court of Judicature for Rajasthan at Jodhpur in D.B. Civil Writ No. 14399 of 2025, whereby the High Court directed the Jodhpur Development Authority¹ to take complete control of the property bearing Khasra No. 699, Village Chokha, Jodhpur² and, *via* the subsequent interim order, granted further time for ensuring compliance with the said directions, proceeding on the premise that the disputed land vested in the JDA.
2. The Special Leave Petition (C) No. 6480 of 2026 lays challenge to order dated 27th January, 2026 passed by the High Court in D.B. Special Appeal Writ No. 1808 of 2025, along with D.B. Civil Writ No. 14399 of 2025, whereby the High Court dismissed the Special Appeal, preferred by Dr. Abdul Wahid Kota Memorial Darul Ulum Ahle Hadis³, on the ground that a parallel Public Interest Litigation regarding the same property was pending before the Division Bench *i.e.*, D.B. Civil Writ No. 14399 of 2025 and thereby upheld the order passed by the learned Single Judge dismissing the petitioner-society's application for stay of the eviction

1 Hereinafter, referred to as "JDA".

2 Hereinafter, referred to as "subject property".

3 Hereinafter, referred to as "petitioner-society".

order dated 18th June, 2025 passed by JDA.

3. Before proceeding further, it would be apposite and necessary to briefly advert to the relevant facts and circumstances giving rise to the present proceedings.
4. The present matter arises out of a protracted and contentious dispute concerning title, possession, and alleged encroachment in respect of the subject property between the petitioner-society and the JDA. The *lis* centres on petitioner-society's claim of ownership and the authority of the JDA to assert control over the land in question, giving rise to multifarious legal proceedings between the parties before the different fora.
5. The petitioner-society asserts long-standing, continuous, and peaceful possession over the subject property since the year 1983-84. It is contended that such possession has remained uninterrupted over the decades and has crystallised into a lawful and protected interest in the subject property.
6. It is the specific case of the petitioner-society that the land originally belonged to its predecessor-in-interest, Smt. Mehra, from whom the rights in the subject property are stated to have devolved. The petitioner-society avers that Smt. Mehra, during her lifetime, transferred the said property in its favour by way of an oral gift (*Hiba*), coupled with a testamentary disposition in the form of a Will, with the avowed objective of enabling the establishment and running of educational institutions.

7. Pursuant thereto, the petitioner-society claims to have developed and utilized the subject land for educational purposes. It is submitted that, at present, the petitioner-society is running Blue Heaven Public School as well as a madrasa on the said land, catering to a substantial number of students and serving the educational needs of the local community children. The petitioner-society emphasises that such use has been open, continuous, and within the knowledge of the concerned authorities.
8. *Per contra*, the JDA disputes the petitioner-society's claim in *toto* and asserts that the subject property is government land and vested in it. According to the JDA, the petitioner-society is an encroacher, having unauthorisedly occupied the land and raised constructions thereon without any valid allotment, sanction, or approval under the applicable statutory framework. The JDA, therefore, maintains that the occupation and structures raised by the petitioner-society are illegal and liable to be removed in accordance with law.
9. On 18th February, 2025, the JDA issued a notice under Section 67 of the Jodhpur Development Authority Act, 2009, *inter alia* declaring the petitioner-society to be an encroacher upon the subject land and calling upon it to remove the alleged encroachment in accordance with law. The said notice constituted the initiation of proceedings by the JDA against the petitioner-society's occupation of the subject property.
10. Subsequently, on 18th June, 2025, the Authorised Officer

of the JDA passed a final order whereby the petitioner-society was adjudged to be an encroacher, and directions were issued for its eviction from the subject premises within a period of three days. The said order entailed immediate civil consequences and triggered the present round of litigation between the parties.

11. Aggrieved thereby, the petitioner-society assailed the aforesaid eviction order by instituting S.B. Civil Writ Petition No. 14221 of 2025 before the High Court, laying challenge to the legality and validity of the action taken by the JDA.

12. Parallely, on 25th July, 2025, a Public Interest Litigation being D.B. Civil Writ Petition No. 14399 of 2025⁴ came to be instituted before the High Court, seeking removal of the alleged encroachment over the subject property. In the said proceedings, the Division Bench, by order dated 27th October, 2025, directed the JDA to assume complete control over the land in question. This direction was subsequently reiterated by order dated 26th November, 2025, whereby the JDA was granted further time to ensure due compliance with the earlier directions. The petitioner-society has assailed the aforesaid orders by way of Special Leave Petition (C) Nos. 3158-3159 of 2026.

13. In the interregnum, by order dated 5th December, 2025, passed in S.B. Civil Writ Petition No. 14221 of 2025, the learned Single Judge permitted the PIL petitioner to be

⁴ Hereinafter, referred to as "PIL".

impleaded in the writ petition instituted by the petitioner-society and, at the same time, declined to grant any interim protection by dismissing the petitioner-society's application seeking stay of the eviction order.

14. Ultimately, by the impugned order dated 27th January, 2026, the Division Bench dismissed D.B. Special Appeal (Writ) No. 1808 of 2025 preferred by the petitioner-society against order of the learned Single Judge dated 5th December, 2025, thereby affirming the denial of interim relief. The petitioner-society has assailed the aforesaid order by way of Special Leave Petition (C) No. 6480 of 2026.

15. In the backdrop of the aforesaid sequence of events and the multiplicity of proceedings arising therefrom, this Court is called upon to examine the legality and propriety of the impugned orders, as well as the consequential actions taken by the authorities, and to determine the rights and obligations of the parties in respect of the subject property.

16. The Special Leave Petition (C) Nos. 3158-3159 of 2026 first came to be listed before this Court on 30th January, 2026, whereupon notice was issued to the respondents. It was further directed that, in the interregnum, the effect and operation of the impugned orders dated 27th October, 2025 and 26th November, 2025, shall remain stayed.

17. Subsequently, Special Leave Petition (C) No. 6480 of 2026 came to be listed before this Court on 18th February, 2026, whereupon notice was issued to the respondents. It was

further directed that, in the meantime, the effect and operation of the order dated 18th June, 2025 passed by the JDA shall remain stayed. Both the Special Leave Petitions were accordingly directed to be tagged together.

18. The petitioner-society has filed I.A. No. 108849 of 2026, alleging wilful disobedience of the interim orders passed by this Court and seeking appropriate directions. It is the grievance of the petitioner-society that the JDA has acted in a high-handed manner and in clear contravention of the subsisting injunction granted by this Court.

19. It is specifically contended that, despite the order dated 18th February, 2026 staying the effect and operation of the eviction order dated 18th June, 2025, the JDA proceeded to take symbolic/actual possession of the subject property. It is further alleged that the JDA affixed prohibitory notice at the entrance of Blue Heaven Public School declaring the construction to be illegal and unauthorised and asserting that the land had been taken over by the Authority.

20. The petitioner-society submits that it made representations to the competent authorities, including to the Commissioner, JDA, on 2nd February, 2026 and again on 25th March, 2026, specifically invoking the interim protection granted by this Court and requesting restoration of possession as well as removal of the impugned notices. However, according to the petitioner-society, no effective steps were taken by the JDA

in response thereto.

21. *E-converso*, learned counsel appearing for the JDA submitted that possession of the subject property had already been taken in January, 2026, at a point of time when the present proceedings had not yet been instituted before this Court, and thus the Court was not seized of the matter. It was, therefore, contended that the question of any violation of the interim orders passed subsequently does not arise.

22. We have given our anxious consideration to the matter at hand, particularly to the averments and issues arising in I.A. No. 108849 of 2026, in the backdrop of the competing submissions advanced on behalf of the parties and the sequence of events placed on record.

23. We are constrained to observe that the manner in which the authorities concerned have proceeded in the present matter is, to say the least, disquieting. This Court had, by its orders dated 30th January, 2026 and 18th February, 2026, granted interim protection to the petitioner-society. A conjoint reading of the said orders leaves no manner of doubt that the operation and effect of both the High Court's directions requiring the JDA to assume complete control over the subject property, as well as the eviction order dated 18th June, 2025, stood stayed.

24. The purpose and purport of such interim protection is not merely formal, but substantive, namely to preserve the *status quo ante* and to ensure that the subject matter of the

lis is not altered to the prejudice of either party during the pendency of proceedings before this Court. Any action taken in the *interregnum*, which has the effect of defeating or diluting the protection so granted, would strike at the very root of the judicial process and cannot be countenanced.

25. In this backdrop, the conduct attributed to the authorities, if found to be correct, raises serious concerns. Once this Court had intervened and stayed the operation of the impugned directions and orders, it was incumbent upon all concerned to act with due circumspection and in faithful adherence to the mandate of this Court. Any departure therefrom, whether by way of taking or retaining possession, symbolic or otherwise, and altering the factual position on the ground, would *prima facie* amount to rendering the orders of this Court otiose and undermining the rule of law.

26. By affixing prohibitory notices and, in effect, bringing to a standstill the functioning of an educational institution catering to more than 500 students, the authorities appear to have over reached and rendered the interim protection granted by this Court wholly nugatory, reducing it to a mere formality. Such actions have resulted in serious prejudice not only to the petitioner-society but, more significantly, to the students and staff whose educational pursuits and livelihoods stand adversely impacted.

27. In light of the aforesaid discussion, we deem it appropriate to direct the Jodhpur Development Authority to relinquish the symbolic possession allegedly assumed in January, 2026 and to hand over peaceful possession of the subject property to the petitioner-society forthwith, and in any event not later than a period of one week from today.

28. We make it clear that the aforesaid directions are purely interim in nature and shall not be construed as an expression of opinion on the merits of the case, nor shall they create any equities in favour of the petitioner-society. The rights and obligations of the parties shall be governed by the final outcome of the present special leave petitions.

I.A. No. 108849 of 2026 stands disposed off.

(SONIA BHASIN)
ASSISTANT REGISTRAR-CUM-PS

(RANJANA SHAILEY)
ASSISTANT REGISTRAR