

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).718 OF 2016  
(@ SLP(C) NO(S).10629 OF 2011)

SOMENDRA SINGH SOLANKI . . . APPELLANT(S)

VERSUS

SARA PALACE & ORS. . .RESPONDENT(S)

O R D E R

Heard learned counsel/learned senior counsel  
for the parties.

Leave granted.

Pursuant to our order dated 18.01.2016, affidavit  
on behalf of respondent no. 2 has been filed along  
with certain documents, annexures, tabular chart  
showing permissible land use and master plan for the  
year 1991-2011 in respect of the area in question. It  
would be necessary to extract Paragraph 4 of the  
affidavit for the limited purpose for examining the

correctness of the order passed by the High Court which reads thus:

"4. That when it came to the notice of the prescribed authority that the building was being used not for the permitted purposes of Community Centre for which sanction was granted but for running 'Sara Palace' in which the barat/wedding ceremonies were being organized, after due notice, the order dated 4.10.2008 was passed for sealing of the premises. A copy of the sealing order dated 4.10.2008 is enclosed herewith as ANNEXURE D."

Learned counsel appearing for the municipality has also drawn our attention with regard to regulation 1.10 of Zonal Regulations, which reads as under:

"1.10 - Definition

1.10.3 - 'Built up area' means such areas which have been defined in this category in the Master Plan. In the towns where Master Plan has not been prepared or 'Built up area' has not been defined, the development authority board would take early decisions in making provisions for the same. In the developed areas, those urban areas would be defined as built up areas in which the maximum area has been developed as commercial, industrial and residential and further they have the provisions for essential facilities like roads, water distribution, sewerage disposal, electricity etc.

1.10.4 - Developed/Under-Developed Area' means those areas which are beyond 'Built up areas' but within developed areas."

He has further submitted that on the basis of the built up area for land use, it is open for respondent no. 1 to apply to the Committee constituted for the purpose of considering and granting the change of land use in the activities permissible in the built up area.

According to learned counsel appearing for the appellant, Barat Ghar is not permissible under the regulation. Her submission is placed on record.

Having regard to the undisputed fact that in the built up area Barat Ghar, which is not permissible under the land use, as per the documents produced supra, is being presently used by respondent no. 1, it would be contrary to the aforesaid land use permitted in the built up area, as shown in the master plan, therefore, the High Court, permitting respondent no. 1, the use of the premises in question i.e. Barat Ghar, which is not permitted under the Act/master plan/zonal regulations unless special permission for

the same is obtained from the Committee, is contrary to law. Undisputedly, no such permission is obtained by respondent no. 1. Therefore, the impugned judgment and order is liable to be set aside and is accordingly set aside.

It is, however, open for respondent no. 1 for seeking change of land use if it is otherwise permissible under the land use and the maps which are prepared by the municipality under the regulations. If such an application is filed, it is open for the Committee to decide the same after hearing both the parties.

The appeal is allowed with aforesaid direction and liberty.

.....J.  
(V. GOPALA GOWDA)

.....J.  
(UDAY UMESH LALIT)

NEW DELHI,  
FEBRUARY 01, 2016

ITEM NO.43

COURT NO.10

SECTION XI

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). 10629/2011

(Arising out of impugned final judgment and order dated 19/07/2010 in WP No. 58774/2008 passed by the High Court Of Judicature at Allahabad)

SOMENDRA SINGH SOLANKI

Petitioner(s)

VERSUS

SARA PALACE &amp; ORS.

Respondent(s)

(with interim relief and office report)

Date : 01/02/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE V. GOPALA GOWDA  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Ms. Meera Mathur, Adv.

For Respondent(s) Mr. Vinay Garg, Adv.  
Mr. Tanmay Aggarwal, Adv.  
Mr. Sandeep Singh, Adv.  
Mr. Uday Singh, Adv.

Mr. Manoj Prasad, Sr. Adv.  
Mr. Ashutosh Dubey, Adv.  
Mr. Rohit Singh, Adv.

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

Heard learned counsel/learned senior counsel for the parties.

Leave granted.

The appeal is allowed in terms of the signed order.

(VINOD KUMAR)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

(Signed order is placed on the file)