

..1

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

2

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

â- S 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.â- \235

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

â- S 1.10 â- 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.

3

1.10.4 - Developed/Under-Developed
Area' means those areas which are
beyond 'Built up areas' but within
developed areas.â- \235

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

4
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

5

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 & 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)