

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.6301 OF 2009

MUNICIPAL COUNCIL, UDAIPUR & ORS.

.....APPELLANTS

VERSUS

MADARSAH TAIYABIAH SOCIETY

.....RESPONDENT

O R D E R

Heard Ms.Aruna Gupta, learned counsel for the appellants and Mr.Surya Kant, learned counsel for the respondent.

Learned counsel for the parties have filed the Consent Terms which are to the following effect:

"In the larger public interest and in support of the Udaipur Smart City program, the Appellants and the Respondents have mutually agreed to amicably settle the above referenced Civil Appeal and put an end to all disputes between them relating to all that piece and parcel of land admeasuring 6361 square feet or thereabouts and allotted by the Urban Improvement Trust, Udaipur to the Respondent, vide allotment letter No.57/Sales/UIT dated 19.2.1985 and another land admeasuring 6,756 square feet or thereabouts and purchased by the Respondent vide Sale Deed dated 26th December, 1989 from Municipal Corporation Udaipur, both collectively marked with a red boundary/outline in the annexed Plan and more particularly described in Schedule I hereunder written (hereinafter referred to as "Parcel X"), in accordance with the terms set forth in these Consent Terms. Accordingly, the Appellants and the Respondent have agreed as follows:

- 1) Respondent shall hand over to the Appellants, all of its legal and possessory rights, title and interest in and to, including physical possession

of, Parcel X, on the overreaching general principle that the Appellants shall use or cause to be used, Parcel X, solely for the purpose of improving and facilitating the movement of light motor vehicles, pedestrian movement and parking of two wheelers and the beautification of the general area in which Parcel X is situated, strictly in accordance with the conditions, design guidelines and restrictions specified below which have been mutually agreed to between the parties.

2) Appellants shall ensure or cause to be ensured that the entire Parcel X shall, in general, be kept clean and safe and free and clear of all encroachments, slums, hutments, squatters, urchins, etc., and shall not be allowed to be used for any commercial activity or hawking. Without limiting the generality of the foregoing, the Appellants shall ensure or cause to be ensured that no person or group of persons, whether organized or unorganized, political or apolitical, are permitted or allowed, at any time or for any reason, even temporarily:

(a) To set up, install or erect any stalls, temporary or permanent, on any part of Parcel X at any time of the year;

(b) to display, exhibit, market, sell or hawk, any goods, wares, items, big or small, drinks, services, etc., on any part of Parcel X at any time of the year; or

(c) to gather for public, private, political, religious or non-religious, agitations, demonstrations, rallies, dharnas, sit-ins, morchas, celebrations, speeches, etc., on any part of Parcel X at any time of the year.

3) Appellants shall ensure or cause to be ensured that the entire Parcel X is properly illuminated at night with street lights and appropriate signage is placed or installed at strategic points in and around Parcel X to indicate speed limits, parking rules, school district conditions, silence zone, drug free zone, no-hawking zone, etc., as detailed below.

Section A of Parcel X

- 4) The portion of Parcel X which is marked and shaded in green in the annexed Plan is a ten feet (10') wide continuous strip of land within Parcel X, abutting and touching the land on which the Respondent's school building/boundary wall currently stands. This ten feet (10') wide continuous strip of land is hereinafter referred to as Section A of Parcel X.
- 5) Appellants shall permanently cause to be kept or keep Section A of Parcel X delineated and earmarked as a footpath/sidewalk.
- 6) Appellants shall allow the Respondent and/or the management of the school, to design, develop, beautify, landscape with greenery, secure by aesthetically pleasing railings for the safety of the school children and maintain Section A of Parcel X, at the Respondent's and/or the school managements's cost, in accordance with a beautification plan to be conceived and developed by the Respondent and/or the management of the school, in accordance with the applicable rules of the Municipal Corporation.
- 7) Appellants shall ensure or cause to be ensured that Section A of Parcel X is allowed one or more curb cuts as required to create and position the school entrance gates, which shall be controlled by the management of the school, who shall also have authority to change the positions as required for the school's convenience.
- 8) Appellants shall cause to be kept or keep Section A of Parcel X free and clear of all hawkers, squatters and encroachments of any kind.

Section B of Parcel X

- 9) The portion of Parcel X which is marked and shaded in yellow in the annexed Plan is a twenty-five feet (25') wide continuous strip of land within Parcel X, abutting and touching Section A of Parcel X. This twenty-five feet (25') wide continuous strip of land is hereinafter referred to as Section B of Parcel X.
- 10) Appellants shall cause to be kept or permanently keep Section B of Parcel X delineated, earmarked and developed as a straight vehicular road for light motor vehicles traveling between Delhi Gate and Ashwini

Bazaar Road and for related pedestrian movement, and shall not allow any portion of Section B of Parcel X for temporary stopping or parking of any vehicles.

- 11) Appellants shall ensure or cause to be ensured that no heavy vehicles, goods or transport vehicles, SUVs, MUV or buses, except school buses used by or for the school located on the land abutting Section A of Parcel X, are allowed to ply or stop on Section B of Parcel X, at any time of the day or night.
- 12) Appellants shall ensure or cause to be ensured that the traffic policy set and enforce a maximum speed limit on Section B of Parcel X of no more than 10 km/hour. For this purpose, Appellants shall ensure that sufficient speed breakers or rambblers are built on Section B of Parcel X.
- 13) Appellants shall ensure or cause to be ensured that Section B of Parcel X is designated a no-parking school zone, a silence or no-honking zone and a drug free zone and for this purpose shall cause appropriate signage to be displaced at strategic locations along the entire stretch of Section B of Parcel X.

Section C of Parcel X

- 14) The portion of Parcel X which is marked and shaded in blue in the annexed Plan is a twenty-six feet (26') wide continuous strip of land within Parcel X, abutting and touching Section B of Parcel X. This twenty-six feet (26') wide continuous strip of land is hereinafter referred to as Section C of Parcel X.
- 15) Appellants shall use or cause to be used, Section C of Parcel X, exclusively and solely for constructing at its cost, or on a public-private partnership, build, own, operate (BOO) basis, a two-level public parking structure of RCC for parking small cars on the street level and two wheelers on the upper level/elevated podium, as per the annexed design/architect's drawing.
- 16) Appellants shall ensure or cause to be ensured that the overall design and external facade/elevation of the parking structure is aesthetically compatible and in harmony with the school building's design and elevation.
- 17) Appellants shall cause to be kept or keep the parking structure and its access points/ramps and surrounding

area, clean, safe, secure and well-lit at all times, and shall ensure or cause to be ensured that the parking structure is not used for any illicit, immoral or illegal activities or any activities that may bring the general area into disrepute.

- 18) The parties have agreed and desire that these Consent Terms be filed in this Hon'ble Court and an appropriate order in terms of these Consent Terms be so ordered by this Hon'ble Court, and the appeal be marked as settled and disposed off accordingly."

Be it stated that the parties have filed a Schematic Indication of Parcel X for Delhi Gate, Udaipur. That is taken as a part of the record. As we find that the Consent Terms are not contrary to public interest and also meant for saving an operational institution running for the last 40 years, we accept the same.

The appeal is disposed of in terms of the settlement. There shall be no order as to costs.

.....CJI.
(DIPAK MISRA)

.....J.
(A.M.KHANWILKAR)

.....J.
(Dr.D.Y.CHANDRACHUD)

NEW DELHI;
OCTOBER 5, 2017.

ITEM NO.103

COURT NO.1

SECTION XV

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

Civil Appeal No(s).6301/2009

MUNICIPAL COUNCIL, UDAIPUR & ORS.

Appellant(s)

VERSUS

MADARSAH TAIYABIAH SOCIETY

Respondent(s)

Date : 05-10-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Appellant(s) Ms.Aruna Gupta, Adv.
 Mr.V. N. Raghupathy, AOR

For Respondent(s) Mr.Surya Kant, AOR

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

The appeal is disposed of in terms of the
settlement. There shall be no order as to costs.

(SATISH KUMAR YADAV)
AR-CUM-PS

(H.S. PARASHER)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

(NB: Original Consent Terms are enclosed with the R/P)