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A.No.3709 of 2021
and C.S.No.126 of 2020

N.ANAND VENKATESH.,J

This application has been filed by the applicant / defendant for a permission to conduct coaching class within 6 Km radius from the respondent's school.

2. A counter affidavit has been filed by the respondent opposing this application mainly on the ground that even though, the period of agreement expired, clause 13 of the agreement clearly stipulates that the applicant will not commit any act, deed or things, which will adversely affect the interest of the respondent. Therefore, according to the respondent, clause 13 r/w the earlier undertaking given by the applicant will dis-entitle the applicant from starting any coaching class within 6 km radius.

3. Heard Mr.P.R.Dhilip Kumar, learned counsel for the applicant and Mr.G.Surya Narayanan, learned counsel for



respondent.

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4. It is an admitted case that the parties were governed by an agreement dated 10.03.2017. The validity of this agreement was for a period of three years, subject to renewal after due mutual consultation. That apart, it is also provided in the agreement that the applicant will not set up any similar center in any school within a radius of 6 kms for a further period of 12 months from the expiry / termination of the contract.

5. During the pendency of the suit, the respondent herein had filed an application for interim injunction in O.A.No.170 of 2020. This application was disposed of by an order dated 06.10.2020. The relevant portions in the order are extracted hereunder :-

6. However, the specific allegation of the plaintiff is that the defendant has conducted the coaching



classes in a school, which is situated less than 6 Kms radius from their school and more particularly in APL Global School. It is also stated that the defendants have commenced coaching classes in their own center and that the said center was also situated within a distance of less than 6 Kms from the plaintiff's school. This contention has been disputed by the learned counsel appearing for the defendant, stating that the center is situated above 6.8 kms away. These are issues for trial and it would be improper for giving a finding on the basis of the statements made by the parties.

7. The learned counsel for the defendant would submit that they have not conducted any classes in and around the institution of the plaintiff. The learned counsel has also pointed to that portion of the counter affidavit as extracted below:

It is hereby made clear that Respondent has



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not conducted any classes for the academic year 2019-2020 within 6 Kms radius of the Applicant schools and no Byjus' own center exist in and around 6 Kms radius of the Applicant School

8. *The learned counsel for the plaintiff would contend on the other hand taking advantage of this statement, that it is a clear admission on the part of the Defendant, which would clearly show that the Defendant had actually conducted the classes for a period of two years within a distance of 6 Kms.*

9. *Since the contention of the defendant is that they have not conducted any classes for the academic year 2019-2020, the said statement is recorded and a direction is issued that the defendant shall not conduct any classes in any of the schools, which are situated within the radius*



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of 6 Kms from the plaintiff's school.

6. It is clear from the above order that this Court took note of the undertaking given by the applicant that they will not conduct any class in any of the schools situated within a radius of 6 kms from the respondent's school.

7. The applicant has filed the present application seeking for permission to conduct coaching class within 6 km radius from the respondent's school only on the ground that the bar that was imposed in the agreement no longer survives and that the period came to an end in March 2021. Therefore, according to the applicant, the earlier order will not come in the way of the applicant to start a coaching class and the respondent will not have any right to stop the applicant from starting such coaching class.

8. The stand taken by the respondent is that clause 13 of the agreement makes it very clear that the applicant shall



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not commit any Act, deed and things, which will adversely affect the interest of the respondent even beyond the expiry of the agreement. Therefore, according to the respondent, if the applicant is permitted to open a coaching class within 6 kms radius, it will adversely affect the interest of the respondent and hence, the applicant is bound by the earlier undertaking given before this Court.

9. In the considered view of this Court, the bar for the applicant to start a coaching class within 6 km radius is only due to the fact that there was a non compete class contained in the agreement which prohibited the applicant from starting any coaching class for a period of three years covered by the agreement and for a further period of 12 months as stipulated under Clause 15. Once this period is over, there is nothing to stop the applicant from starting a coaching class within 6 km radius. The applicant starting a coaching class within 6 km radius cannot be stretched to the extent that



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it will affect the interest of the respondent. The applicant is going to start the coaching class in a different premises and the applicant certainly will have the right to start such coaching class, which cannot be endlessly prevented by the respondent.

10. This Court does not want to give any finding on the *interse* claims made by the parties since it will have an impact while disposing the suit. This application is only confined to granting permission to the applicant to commence coaching class within 6 km radius on the ground that the period of bar imposed under the agreement is already over. Under such circumstances, this Court does not find any ground to restrict the applicant from starting the coaching class wherever they want to. The permission granted by this Court shall not in any

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way affect or prejudice the stand taken by the respondent in



the main suit and the same will be considered on its own merits and in accordance with law.

11. In the result, this application stands allowed. In the facts and circumstances of the case, there shall be no order as to costs.

30.11.2021

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