IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.22020 OF 2026

1. Sir Mohammed Yusuf Trust,]
a Private Family Trust,]
having its Registered Office at]
Nhava House, 65, Maharshi Karve Road,]
(Queens Road), Mumbai – 400 002.]

2. Rabiabanu Mohamed Trust,]
a Private Family Trust,]
having its Registered Office at]
Nhava House 65, Maharshi Karve Road,]
(Queens Road), Mumbai – 400 002.]

3. Shabanu Siddick Waqf (Trust),]
a Private Family Trust,]
Having address at: Samunder Mahal,]
Samunder Point, Dr. A. B. Road,]
Opp. NSCI Club, Mumbai – 400 002.]

4. Shairbanu Mohhamed]
Agboatwala Trust,]
a Private Family Trust,]
having its Registered Office at]
Nhava House, 65, Maharshi Karve Road,]
(Queens Road), Mumbai – 400 002.]

5. Pravin Bansilal Bhoi]
Age: 48 years, Indian Inhabitant,]
Residing at: 2102, Basilius,]
Rodas Enclave, Hiranandani Estate,]
Ghodbunder Road, Kolshet,]
Thane – 400607.] … Petitioners

V/s.

1. The State of Maharashtra,]
through Principal Secretary, Revenue]
and Forest Department, Mantralaya,]

SUMEDH NAMDEO SONAWANE
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Mumbai – 400 032.]

2. The Collector,]
10th Floor, Administrative Building,]
near Chetna College,]
Government Colony,]
Bandra East, Mumbai,]
Maharashtra 400 051.]

3. Superintendent of Land Records]
10th Floor, Administrative Building,]
near Chetna College,]
Government Colony,]
Bandra East, Mumbai,]
Maharashtra 400 051.]

4. The City Survey Officer,]
Topiwala College Building,]
Sarojini Naidu Marg,]
Mulund (West), Mumbai – 400 080.]

5. The Tahsildar (Kurla-2)]
1st Floor, Topiwala College Building,]
Sarojini Naidu Marg,]
Mulund (West), Mumbai – 400 080.]

6. The Talathi (Taluka-Kurla)]
1st Floor, Topiwala College Building,]
Sarojini Naidu Marg,]
Mulund (West), Mumbai – 400 080.]

7. Indian Institute of]
Technology Bombay,]
Powai IIT Campus, Mumbai – 400 076.] … Respondents

WITH
INTERIM APPLICATION (L) NO.30226 OF 2026
IN
WRIT PETITION (L) NO.22020 OF 2026

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Indian Institute of Technology Bombay] … Applicant

In the matter of:

Sir Mohamed Yusuf Trust & Ors.] … Petitioners

V/s.

State of Maharashtra & Ors.] … Respondents

Ms. Ankita Singhania a/w. Adv. Priyanka N. Hegde for the Petitioners.

Ms. Jyoti Chavan, Addl. G.P. a/w. Smt. Gauri Sawant, AGP, for Respondent Nos.1 to 6-State.

Mr. Ram Apte, Senior Advocate a/w. Adv. Siddharth Wakankar, Adv. Harshal P. Nahata i/by Adv. D.K. Sawalkar for Respondent No.7 and for the Applicant.

Smt. Kalpana Gode, Sub-Divisional Officer, Easter Suburban, present.

CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.
RESERVED ON : 8th October, 2026.
PRONOUNCED ON : 2nd November, 2026

Judgment (Per : Kamal Khata, J) :-

1) By this Petition under Article 226 of the Constitution of India, the Petitioners seek a writ of Mandamus directing Respondent Nos. 1 to 7, through competent revenue and survey Authorities to conduct a joint survey and demarcation of the subject property to identify and segregate the lands not covered by any acquisition and upon such demarcation, the Respondents Nos. 2 to 6 to record the name of Petitioner Nos.1 to 4 as owners of the property located at Villages Paspoli, Powai and Tirandaz,

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Taluka Kurla, Mumbai Suburban District ('the subject property') in the Property Card, City Survey Records and all connected revenue records in accordance with the title documents and original revenue records.

Background facts:

2) The Petitioner Nos.1 to 4 are Private Family Trusts and Petitioner No.5 claims to be a Transferee or Assignee of their right, title and interest, claims benefits in the subject property. The Petitioner Nos.1 to 4 ('the Trusts') hold interests in a larger landed property known as the Powai Estate comprising lands situated in the eight villages, namely, Sankee, Tonguey, Compree, Powai, Tirandaz, Paspoli, Vikroli and Kanjur. The trusts and the individual trustees being the owners of the lands described in the Indenture dated 06.07.1938 which inter alia include the lands in the two villages of Paspoli and Tirandaz i.e., subject matter of the present Petition.

2.1) The subject property has devolved upon the Petitioners as more elaborately described in paragraph Nos.5 (a) to (aaaa) of the Petition.

2.2) Briefly stated, by separate Indentures dated 06.07.1938, 23.04.1941 and 08.07.1941 the individuals namely Sir Mohamed Yusuf Khot, Rabiabanu Mohamed, Shairbanu Mohamed Agboatwala and Shahbanu Siddick transferred their undivided share, right, title and interest in the lands in eight Villages of Sankee, Tonguey, Compree, Powai, Tirandaz, Paspoli, Vikroli and Kanjur in favour of Petitioners No. 1 -4.

2.3) In view thereof, the said Petitioner No.1 along with the

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individual trustees filed a Suit in this High Court in the year 1953, being Suit No. 316 of 1953, challenging the applicability of the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951 to the said lands.

2.4) On 19th June 1963, a Consent Decree was passed by this Court in Suit No.316 of 1953, recording compromise between Sir Mohamed Yusuf Khot and others and the then State of Bombay. The Petitioners' ownership rights to the subject properties were acknowledged and categorized as follows:

> Schedule 'A': Properties were declared to be waste lands vesting in the Government.
>
> Schedule 'B': Properties were declared to have been appropriated and thus, continue to vest with the original landholders, namely, Sir Mohamed Yusuf Ismail Khot and others.
>
> Schedule 'C': properties either classified as waste or appropriated lands were subject to an independent formal inquiry under section 37(2) of the Land Revenue Code read with Section 4 of the Salsette Estate (Land Revenue Exemption Abolition) Act.

2.5) By virtue of the Consent Decree dated 19th June 1963, both parties consented to the above declaration that, the lands specified in Exhibit 'B' to the Consent Decree are not vested in the Government and are

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appropriated by Plaintiffs therein being the trustees of the Petitioners Nos. 1-4 hereinabove. The said lands specified in Exhibit 'B' of the Consent Decree admittedly includes the lands which form a part of the captioned Petition.

Petitioner's submissions:

3) Ms. Singhania, learned counsel for the Petitioners, reiterates the aforesaid facts and submitted that, the said Consent Decree is valid subsisting and binding on all concerned till date and therefore, the Petitioners No. 1-4 are entitled to mutation in the property card, city survey records and all connected revenue records maintained in respect thereof and are entitled to bring on record the names of the owners and/or persons entitled to the lands more particularly described in Exhibit "A" hereto, as per the prayers sought for in this Petition.

3.1) She submits that, the issue in this Petition is covered by the unreported Judgment of this Hon'ble Court dated 22nd September 2026 passed in W.P. (L) No. 21113 of 2026.

3.2) Relying upon a decision of this Court in the case of *Meena A. Rizvi v. The State of Maharashtra & Ors.* reported in *2026 SCC OnLine Bom 818.*, she submitted that, this Court has unequivocally held that the rectification sought by persons on the basis of acknowledgement of their title as owners in a decree passed by this Hon'ble Court is maintainable and must be affected in favour of such persons by the revenue Authorities.

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3.3) She submitted that, the Respondents have for the first time, given to the Petitioners the status and probably entire records of the acquisition by producing the Land Acquisition Awards of the Petitioners' lands that were later granted to IIT-Respondent No. 7. Relying upon (i) the report of the Special Land Acquisition Officer dated 12.10.2001, (ii) the report of the Sub-Divisional Officer dated 31.03.2003, (iii) the report of the District Collector dated 07.10.2006 she submitted that, in none of these prior proceedings have the said records been produced. In these circumstances, the Petition was amended with the leave of this Court, granted vide Order 31st August 2026.

3.4) She submitted that, the Petitioners have without prejudice to their rights and contentions that, the data furnished by the Respondents regarding the purported acquisition is not accurate and while reserving their right to take appropriate proceedings in respect of the balance survey numbers under the Consent Decree dated 19th June 1963, accepted for the purposes of the present Petition, the chart furnished by the Respondent No. 16 under the cover of its letter dated 21,08.2026 regarding the purported area acquired by them ("Acquired Lands").

3.5) She submitted that, even after deducting the said Acquired Lands from the original holding in Exhibit 'B' to the Consent Decree, there are balance lands in the villages of Paspoli and Tirandaz set out in Tables 1 and 2 in Exhibit 'A' to the Petition namely, 58 Acres 9 Gunthas 9 Annas in

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Village Tirandaz and 19 Acres 32 Gunthas in the Village Paspoli ("balance Lands") for which the Petitioners are seeking reliefs. This calculation of the balance Lands emanates after close examination of Respondent's own documents and hence cannot be now disputed. She submitted that the Petitioners reserve their right to take appropriate proceedings in respect of other areas.

3.6) She relied upon the following Judgments in support of her contention :-

i. *Sir Mohammed Yusuf Trust & Ors. vs. State of Maharashtra (BHC-OS:209240-DB)*.

ii. *Meena A. Rizvi vs. The State of Maharashtra* (supra).

iii. *Sheikh Abdul Kayum & Ors vs. Mulla Alibhai & Ors* reported in *1962 SCC OnLine SC 159*.

iv. *J.P. Srivastava & Sons (P) Ltd. & Ors. vs. Gwalior Sugar Co. Ltd. & Ors.* reported in *(2005) 1 SCC 172*.

v. *Sree Mukhya Pranaswami vs. T. K. Raghavendra Rao & Ors.* reported in *1996 SCC OnLine AP 620*.

vi. *Fazaa Foundation Trust vs. Shaheda H. Mehdi & Ors* reported in *2009 SCC OnLine AP 362*.

vii. *R.S. Puran Mull Trust vs. Dyal Sons* reported in *2013 SCC OnLine HP 5355*.

viii. *Shankar Padam Thapa vs. Vijaykumar Dineshchandra Agarwal*

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reported in *2025 SCC OnLine SC 2194*.

3.7) She submitted that for all the aforesaid reasons, the Petition deserves to be allowed.

Respondent's submissions:

Inconsistent stands

4) *Per Contra,* Ms. Jyoti Chavan, learned Addl. GP, appearing for the Respondent Nos. 1 to 6 vehemently opposed the Petition. Relying upon the unamended Petition and the amendments carried out thereafter, she submitted that the Petitioners were changing goal posts which cannot be permitted. During the pendency of the Petition, the Petitioners have enhanced their claims to lands set out in the amended Exhibit A to the Petition.

4.1) She submitted that, while the Petitioners earlier claimed that, the State Government had acquired approximately 503 Acres 09 Gunthas, they have acknowledged that the State Government had validly acquired 546 Acres 1 Guntha 12 Annas of land under various Awards and that the said lands now stand in the name of Respondent No. 7 i.e. Indian Institute of Technology, Bombay (IIT, Bombay). That, the Petitioner Nos. 1 to 4 have no right, as property stands transferred.

4.2) She submitted that, having made a categorical statement on oath in paragraph 2 of the Petition that the Petitioner Nos. 1 to 4 have transferred the rights in respect of the said property to Petitioner No. 5,

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they no longer have the right to file the present Writ Petition.

4.3) She submitted that, the Petitioners being a private family Trust/Waqf are not a juristic entity and/or legal person and therefore cannot file the Petition in its sole name without the Trustees/Mutawallis. The Petition could therefore be filed only by its Trustees/Mutawallis on behalf of Petitioner Nos. I to 4. In support of her contention she relied upon the decision of the Full Bench of the Hon'ble Gujrat High Court in *Atmaram Ranchhodbhai v. Gulam Mohiyaddin*, reported in *AIR 1973 Guj 113*, affirmed by the Hon'ble Supreme Court in *Sankar Padam Thapa v. Vijaykumar Dineshchandra Agarwal (supra),* which held that a Suit or legal proceeding filed by one of the trustees without joining other co-trustees is incompetent and not maintainable unless expressly provided in the trust deed.

4.4) She submitted that, the Petitioners have relied upon Section 1 of the Indian Trusts Act, 1882 to demonstrate that, the provisions of the Indian Trusts Act, 1882 are not applicable to the Petitioner Nos. 1 to 4. However, since the Petitioner Nos.1 to 4 are relying on the registered Indenture of Waqf dated 08th July 1941 and 23rd April 1941, they will be governed by the provisions of the Waqf Act, 1995, particularly, Section 2 which states that the provisions of the said Waqf Act, 1995 will be applicable to all the Waqfs whether created before or after commencement of the said Act. Hence, all the present Mutawalis/ Trustees are proper and

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necessary parties without which the Petition cannot be filed only in the names of the Trusts.

Power of Attorney

4.5) She submitted that, the Petition was filed and amended by the Petitioner No. 5 on the basis of Power of Attorneys dated 03.05.2026 and 04.06.2026. According to her the Petition is not maintainable because:

> i. Both Powers of Attorney (dated 03.05.2026 and 04.06.2026) relate only to the 546 acres acquired for the Indian Institute of Technology (IIT), as the annexed resolutions (dated 23.03.2026 and 28.03.2026) confirm. They do not cover the remaining land in Schedule B of the consent terms or the amended Exhibit A. Petitioner No. 5 therefore has no authority to amend the Petition or seek reliefs in respect of any other land.
>
> ii. A Power of Attorney on behalf of a Trust or Waqf must be granted by all the Trustees or Mutawalis, who constitute one collective trustee in law and must act jointly. Both Powers of Attorney were executed only through the Chairman of each Trust or Waqf.
>
> iii. Clause 6 of the Indentures of Wakf dated 8th July 1941 (Shairbanu Mohamed Agboatwala Trust) and 23rd April 1941 (Rabiabanu Mohmad Trust) permits delegation of the Mutawalis' powers only to a Co-Mutawali. The Chairman could not delegate those powers to a third party such as Petitioner No. 5.

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iv. The resolutions annexed to the Power of Attorney dated 03.05.2026 refer to an MOU and a sale in favour of the grantees, and the Power of Attorney dated 04.06.2026 is likewise insufficiently stamped. Both should be impounded under Section 33 of the Maharashtra Stamp Act, 1958 and sent to the Competent Authority for adjudication, and the Petition cannot be filed on their strength (*G.M. Shahul Hameed v. Jayanthi R. Hegde*, 2024 INSC 493).

v. No Power of Attorney on behalf of Petitioner No. 2 was produced when the Petition was filed, so Petitioner No. 5 could not file the Petition on its behalf.

vi. Petitioner Nos. 1 to 4 contend that they are private family Trusts or Waqfs, yet the Trustees or Mutawalis are not parties. Such a Trust or Waqf is not a juristic person and cannot sue in its own name. On this ground alone the Petition is liable to be dismissed.

4.6) Ms. Chavan submitted that the Petitioner's reliance upon the said Consent Decree is without any merits, baseless, misconceived and unsubstantiated and cannot be considered as the document for title of the Petitioners for following reasons:

(a) The said Suit No. 316 of 1953 filed in this Hon'ble Court was filed by 6 individual people claiming to be owners in respect of properties mentioned in the EX- A, EX-B and EX-C to the said Consent Decree and not by the Petitioners especially Petitioner No. 1 to 4 who

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are private family Trusts. The typed Copy of the Consent Decree is at Exhibit "H" to the Petition.

(b) It is the case of the Petitioners that in view of Indenture dated 06.07.1938, Indentures of Waqfs dated 08.07.1941, 23.04.1941, 08.07.1941 which are Exhibit B, C, D and E to the Petition, the Petitioner Nos. 1 to 4 have got title, yet much later in the year 1953 the suit No. 316 of 1953 was filed by individual persons without any reference to the said Indentures of Waqfs or family Trusts and therefore the Petitioners cannot rely on the said Consent Decree.

(c) The Schedule of properties mentioned in Ex-A, Ex-B and Ex-C to the Consent Decree is in respect of New Survey Numbers however the Schedule of property at Exhibit "A" (amended) to the Petition, the survey numbers are not in consonance with the description of the survey numbers in the consent terms and therefore there is improper identification of property, thus, the Petitioners cannot rely upon the same.

(d) The Respondent No.1 to 6 have produced on record during the course of argument two charts in respect of survey numbers reflected in amended Exhibit A of the Petition and demonstrated that after the consent decree the names of the Plaintiffs as per the consent decree were mutated in the 7x12 extracts.

(e) According to the Petitioners their alleged right to Property

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crystalized on 19.06.1968, the date of the Consent Decree, and for almost 60 years the Petitioners have done nothing in the matter nor taken steps to execute the Consent Decree and thus, on the ground of inordinate delay and laches also the above Petition is liable to be dismissed with costs.

(f) It is settled law that the Petitioners ought to have gone for execution of Consent Decree in appropriate Civil Court if they had any executable rights under the said Consent Decree and the execution of Consent Decree under Article 226 of Constitution of India is impermissible in law especially when the said remedy is barred by law of limitation. The law is well settled, that while there is no fixed limitation period under Article 226, this Hon'ble Court will not permit an indolent litigant to resurrect a dead cause of action. A Writ Petition under Article 226 cannot be converted into an execution proceeding for a stale civil court decree, especially when standard execution remedies are barred by the Law of Limitation. The Petition is deeply hit by the doctrine of laches.

4.7) Ms. Chavan submitted that the prayer of the Petitioners especially "Directing Respondent Nos. 2 to 6 to enter, record and certify the names of Petitioner Nos. 1 to 4 being the owners and/or persons entitled to the lands more particularly described in Exhibit "A" hereto, in the Property Card, City Survey Records and all connected revenue records maintained in

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respect thereof, in accordance with the title documents and original revenue records" cannot be granted for following reasons:

I. As stated above, the Petitioner Nos.1 to 4 have not produced any title documents save and except the said unregistered Consent Decree.

II. There is no averment in the Petition as to how the title devolved upon the Petitioners after the Consent Decree was executed. Neither the Petitioners have given details of the current Trustees/Mutavalis and therefore the blanket relief " averring and/or of persons entitled to the said lands" cannot be granted.

III. Apart from the above the Plaintiffs in the Suit No. 316 of 1958, whose names were mutated on the 7x12 extracts have sold some of the lands to third parties and therefore such disputed issues cannot be gone into under Article 226 of Constitution of India and neither can this Hon'ble Court pass blanket directions in terms of prayer clause (a) and/or (d).

IV. As per the provisions of the Maharashtra Land Revenue Code, 1966, an applicant who desires to mutate his name is required to make application to the Competent authority, make necessary payment of Non-Agricultural Taxes (premium) thereafter notices are issued, the exercise of measurement survey number upon payment of necessary charges is required to be carried out unless, the Original

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owners have expired, then the current legal heirs require to obtain appropriate orders from Competent Court in respect of Succession. Thus, for mutating the names of the Owners in property card entire process as mandated under MLRC, 1966 needs to be done. Therefore, the relief as prayed for by the Petitioner cannot be granted.

V. The Petitioners have failed to demonstrate that they had made any application to the Competent Authority for mutation of names in property card in respect of lands mentioned at amended Exhibit "A" to the petition as mandated by law. In fact, the Reports minutes of meeting and Application/representations made by the Petitioners are only in respect of 546 Acres of land acquired for Respondent No.7 (IIT-B).

VI. Hence, the names of Petitioners cannot be mutated in property card.

4.8) In so far as the reliance of the Petitioner on the judgment passed by this Hon'ble Court in Writ Petition (L) No. 21113 of 2026 is concerned and the statement recorded by this Court in paragraph No. 20 of the said Judgment, the said statement is made by the Advocate and cannot be binding on State Government and this a settled proposition of law as observed by the Hon'ble Apex Court in matter of *Director of Elementary Education, Odisha and Others Versus Pramod Kumar Sahoo* reported in (2019) 10 SCC 674. Furthermore, on facts of that case, it observed that the

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State Government was unable to produce the acquisition records, however in the instant case the Respondent Nos. 1 to 6 have produced all the Awards and given details in its Affidavit in Reply dated 11th August, 2026.

4.9) In view of the above submissions, Ms. Chavan submitted that, this Hon'ble Court be pleased to dismiss the above Petition.

5) Mr. Apte, learned Senior Counsel for IIT - Respondent No.7 submitted that, the Respondent No.7 was put in possession of an area admeasuring 546 Acres 1 Guntha 12 Annas, pursuant to the Award dated 15th March, 1962, as demarcated in map and taken over by the City Surveyor on behalf of Special Land Acquisition Officer (2), Mumbai and Mumbai Suburban District. He further submitted that, in event of any dispute regarding identity or area of the lands, the Award dated 15th March, 1962 shall prevail.

Reasons and Conclusion:

6) Record indicates that, this is the second Petition filed by the Petitioner seeking similar reliefs for lands owned by them that are situated at a different location from the earlier one. This Court has passed a Judgment dated 22nd September 2026 in *Sir Mohammed Yusuf Trust and Ors. v State of Maharashtra & Ors.* (supra) considering the same issue.

7) We heard Ms. Singhania, learned counsel for the Petitioner, and Ms. Chavan, learned Addl. GP, for the Respondents and have carefully perused the entire record.

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8) We are extremely displeased and disappointed with the obdurate stand that the Respondent – State continues to adopt. We are also constrained to note that, despite our recent Order dated 22nd September 2026, deprecating the stand adopted by the State, it has persisted in adopting a position befitting a private litigant rather than a public Authority. Such an approach is not merely impermissible but wholly unacceptable.

9) The State appears to have shown little inclination to mend its ways. We would have expected the AGP to have been instructed to reconsider the State's position in the light of the Judgment in a similar matter against the same party and to address the Court appropriately in the light of that order. To our dismay, however, an obdurate and wholly untenable stand was again adopted by the Respondent State Authorities. It only displays State's scant respect for and recalcitrance towards, the judiciary. The usual assertion that the State has utmost respect for the judiciary is clearly belied by such conduct. We are unable to accept any of Ms. Chavan's contentions.

10) The defense raised by Ms. Chavan in the present Petition is essentially as follows: (i) The Petitioners do not have locus to file the Petition owing to the transfer of the subject property to Petitioner No. 5, (ii) Petition is barred by Limitation for failure to seek execution proceedings of the Consent Decree, (iii) The Power of Attorney (PoA) holder does not

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possess specific power to seek reliefs beyond the resolution dated 23rd March 2026, and (iv) The Petitioners are not entitled to reliefs based on a Consent Decree, because it is not a document of title.

11) The rival submissions in this Petition too bring forth a fundamental question, as to whether a Decree acknowledging the Plaintiffs in the suit (Petitioner Nos.1 to 4 herein) as owners of certain properties by the State of Bombay can effectively be rendered nugatory for not seeking its execution in the Court of law on the ground that it is barred by limitation. In our view, the answer is clearly in the negative. The aforesaid contentions are aptly dealt with in the following paragraphs of our Judgment in *Sir Mohamed Yusuf Trust* (supra). The relevant paragraphs are set out herein below for ready reference.

> "14. … **A Decree passed against the State of Bombay cannot be disregarded by the Municipal Corporation, which is a creature of the State of Bombay under a statute, on the ground that it was not a party to the proceedings.** The State of Bombay must be taken to encompass all the statutory bodies constituted under it. **A Consent Decree passed against the State of Bombay cannot, therefore, be entirely disregarded and said to be unenforceable or not binding against the statutory bodies.** In this regard, Ms. Singhania's reliance on the decision of the Single Bench of this Court in *Meena A Rizvi v State of Maharashtra & Ors* (supra) which held that **a consent decree, until set aside in appropriate proceedings, continues to operate in law and must be reflected in revenue records for fiscal and**

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administrative purposes does assist her contention. A Consent Decree by which the State, or any Statutory Authority, grants a declaration in respect of the subject matter operates in rem, and not merely in personam.

15. In the present case, the State of Bombay (as it then was) deemed to have had knowledge of all the actions of its statutory bodies and the converse holds equally true. Nothing prevented the State of Bombay from seeking impleadment of the Municipal Corporation, had it considered that title had vested in the Municipal Corporation by virtue of acquisition, vesting, or otherwise at the relevant time. We take support from the decision of the Supreme Court in the case of *Vadilal Chemicals Ltd. v. State of A.P.*, reported in (2005) 6 SCC 292 : (2005) 142 STC 76 : 2005 SCC OnLine SC 1118 at page 299, where it is held that the State, acting through its several departments, can speak only with one voice. The Municipal Corporation, being a body constituted by and under the State, cannot adopt a position at odds with it.

16. Pertinently, the State of Bombay as it then was, now being the State Government, has not taken a stand that the subject property was acquired and thereafter has vested in the Municipal Corporation, in the present Writ Petition.

17. **As regards** Mr. Godbole's contention concerning the **locus of the Petitioner No.5 to file the present Petition, we find it unimportant and irrelevant**, **inasmuch as the prayer seeks only the recording of the names of the Petitioner Nos.1 to 4 in the records of the concerned Authorities.** Had the Petitioner No.5 sought correction of the records to insert his own name, Mr. Godbole's submission would have had relevance.

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21. In view of the above, we conclude that the pendency of the Suit claiming right, title and interest before the Civil Court, in respect of the same subject property, was an entirely unnecessary exercise, which the Petitioners were directed to undertake on the mere assertion of disputed questions. An assertion which does not, by itself, establish that the disputed question of fact exists. We are satisfied that no evidence is required to be led in the present case for the Petitioners to establish their ownership rights to the subject property, in the face of the Consent Decree of this Court, which declared that the subject lands specified in the list annexed thereto that were appropriated prior to 14th August 1947 were not vested with the Government, which remains unchallenged till date.

22. The State cannot now disown its role and rightly has not sought to, nor can the Municipal Corporation feign ignorance of this Court's Judgment, whether on the ground that it was not a party thereto, or that the Consent Decree was unregistered. **The State must be taken to have communicated the Orders of this Court to all concerned Authorities and those Authorities cannot feign ignorance thereof.** Any objection, on this score ought to have been raised by the State of Bombay before the Court passing the Decree, had it considered that the Municipal Corporation needed to be joined in respect of any matter concerning it. The State cannot claim ignorance of the vesting or the lease. A party cannot take advantage of its own wrong.

23. In our view, going forward preferably at the earliest, the State must devise a mechanism, such as a shared portal or a website, for instance, by which all its statutory authorities and

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departments that function under its umbrella, are simultaneously apprised of all matters concerning them, such as land acquisitions, perpetual leases granted over State lands and judgments passed in favour or against it. For these decisions, once conclusive, are binding on all Statutory Authorities and are unquestionably and undisputedly required to be implemented forthwith.

24. **In our view, the Decree of a Court, whether passed by consent of parties or upon final adjudication, cannot be thwarted or rendered nugatory or disregarded or frustrated in any manner or form, save and except being set aside by a superior Court. Particularly, a Decree declaring title in favour of a party cannot be rendered infructuous on the ground of limitation, or for want of seeking execution for recording their names on the Property Card or any Government record. Once such decree is confirmed by the Court or remains unchallenged, it attains finality and must be implemented."**

(Emphasis Supplied)

12) We find no merit in Ms. Chavan's contention that the Petitioners have taken inconsistent stands, or that they have enhanced their claims and amended the Petition accordingly.

13) In our view, the State was obliged to identify and demarcate the lands that would continue to belong to the Petitioners after the acquisition. The Petitioners could not have demarcated the lands according to their own understanding or whims and fancies. That task lies with the concerned Authorities and not with the Petitioners or the landowners. Once

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the lands were identified and segregated, the measurements and survey numbers ought to have been verified, and the findings entered in all the necessary records, along with the names of the Petitioners as owners, specifying the areas that belong to them.

14) Ms. Chavan's submission that, the State had incorporated the names of the Petitioners in the 7/12 extract is clearly insufficient. That is precisely the cause for the filing of the Petition, since the State itself recognises only the property cards as the documents that would show the Petitioners as owners.

15) It was the bounden duty of the State to make the necessary entries and to forward or intimate the same to the Petitioners. It does not lie in the mouth of the State being an Authority under Article 12 of Constitution of India to contend that the Petitioners ought to have initiated execution proceedings after obtaining the Consent Decree. Such contentions would ordinarily be expected only from dishonest private entities or individuals who find ways and means to thwart or nullify a decree passed by the Court. The State cannot take a stand that private litigants generally take and we are therefore unable to accept this contention of Ms. Chavan.

16) With regard to Ms. Chavan's contention that the Petitioners originally sought an area of 43 acres in the Petition and are now claiming a larger area, we find this contention wholly unacceptable. The Petitioners claim to be the owners of 8 villages, as stated in the Petition. The State

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sought to acquire some of those lands for a public purpose and the concerned Authority measured them and passed appropriate Awards as provided under the statute.

17) Only the State would know what it acquired and what it did not. It was therefore the State's fair and lawful duty to carve out the balance lands, to identify and demarcate those acquired and those not acquired, and to record the same in all the revenue records in the names of the respective parties, and to inform the Petitioners accordingly. It could not have been the other way round. The Petitioners have sought precisely these reliefs, so as to enable them to enjoy the balance lands and we do not find any anomaly in the relief so sought.

18) It is not the case of the State that it was for the Petitioners to demarcate the lands acquired by the State and retain the balance for themselves. We therefore reject Ms. Chavan's contention that the Petitioners are changing the goalposts and cannot claim lands other than those claimed in the Petition.

19) Since the issues of locus and Power of Attorney have already been dealt with in the passages extracted in paragraph No. 11 above, we do not propose to comment on them again, for the sake of brevity. To put it plainly, the objections to the Petitioners' locus and the limitations of the Power of Attorney are unwarranted, as the prayer seeks only the recording

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of names of the Petitioner Nos. 1 to 4, the owners, in the records of the concerned authorities and not that of the Power of Attorney holder.

20) We do not find the Judgments cited by Ms. Chavan to be relevant to the facts of this matter and have therefore not commented on them.

21) Regarding the lands acquired and allotted to the IIT as per the Award dated 15th March, 1962, admeasuring 546 Acres 1 Guntha and 12 Annas, Ms. Singhania submitted, on instructions, that the Petitioners are not claiming any part of those lands and claims only those lands which are not covered by any Award and as particularly stated in the amended Annexure 'A' at pages 83 and 83A of the Petition. Her statement is accepted.

22) In view of the aforesaid discussion, we allow the Petition in terms of prayer clauses (a) to (e). Additionally, the Respondent Nos. 2 to 6 are directed to demarcate the subject property by metes and bounds within a period of six weeks from the date of uploading of this Judgment on the official website of High Court of Bombay.

23) The Petition is accordingly allowed, with no order as to costs.

24) In view of disposal of Petition, Interim Application does not survive and is accordingly disposed off.

(KAMAL KHATA, J.) (A.S. GADKARI, J.)

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