बस्ल - ६/
२४१२ | ९८८ | ३४५
२०२२

right title or interest over the said land. The plaintiffs are entitled to a declaration that the land bearing survey No.37/3, CTS No.127 and 127(1) and CTS No.128 lying and being at Akurli Village, Kandivali, Bombay belongs to the plaintiffs as Trustees of Bombay Gow Rakshak Mandali as absolute owners and vest in the Trust as owners having all right title and interest thereupon.

THE SEAL OF THE SUB-REGISTRAR BORIVALI No. 6 BOMBAY SUBURBAN DIST. (BANDRA)

(Y) The plaintiffs are also entitled to the permanent injunction restraining the defendants No. 1 to 3 their servants, agents etc.from

"(a) obstructing and/or interfering with the plaintiffs dealing with, disposing, alienating, enjoying occupying and/or using the said land as they may desire in respect of Survey No.37, Hissa No.3, comprising of CTS No.127, 127-1 and 128 situated at Akurli Village, Kandivali, Bombay.

(b) Dealing with, disposing off, alienating, encumbering, parting with, dealing with and/or allotting the said land or any

part or portion thereof to any other person and/or claim any right to the said land in any manner.

(c) Pursuing the hearing of the proceedings initiated by them before the City Survey Officer pursuant to Notice dt.31st July 2002 in respect of the land CTS No.127, 127A scheduled to be heard on 26th March 2003 and passing orders thereon till the hearing and final disposal of this suit."

Hence the plaintiffs have filed this suit for the abovesaid reliefs.

2. As defendants No.2 to 5 failed to file Written statement, 'No Written Statement' order came to be passed against them vide roznama dt.4.4.2005.

3. The defendant No.1, Government Authorities filed the Written Statement and resisted the suit strongly as under:-

बरल - ६/
२४२९ | १८० | ३५
२४२२

(A) That the suit is not maintainable for:

(i) For want of notice u/s.80 of C.P.C.

(ii) That suit is without cause of action against these defendants in as much as the declaration sought for by the plaintiffs in the suit does not come under the purview of this Court.

(iii) If any order is passed and sought to be challenged under the Maharashtra Land Revenue Code, 1966, this Court has no jurisdiction to entertain and try the present suit.

(iv) The suit is barred by law of limitation.

Hence in view of these grounds suit be dismissed with costs.

(B) With reference to para No.1 to 5 of the plaint, these defendants deny that the plaintiff is the owner and is in possession at the material time. And also denied the plaintiff's continuous and uninterrupted use and occupation of the land bearing Survey

No.37, Hissa No.3, CTS No.127, 127(1) and 128 of Akurli Village for last more than 100 years or that the same admeasures 21 Gunthas or sq.yds. The rest of the contentions in the said paras are not admitted and the plaintiff be put to the strict proof thereof. These defendants submit that as per the revenue records available, 7/12 extract and extract No.6, the said land situate at village Akurli, tal.Borivali, Survey No.37, Hissa No.3, and as per City survey, Tikka No.(Sheet No.4) of 19, 20, CTS Nos.127, 127(1) and 128 admeasuring about 1380 sq.mtrs. 182.2 sq.mtrs and 1748.2 sq.mtrs respectively.

(C) The contents of para No.6 to 9 of the plaint are denied by these defendants.

(D) With reference to para No.10 to 13 of the plaint, these defendants submit that the contentions are not admitted. It is further submitted that at the relevant time Enquiry Officer No.12, Mumbai had held enquiry and given Notices (at Exh. A and B) on 22.10.1966 and called upon to submit necessary papers in

बरल - ६/
२३२८ | ७९१ | ३२५
२०२२

respect of the City Survey. Accordingly representative of the plaintiff by name S.D.Pandya, Superintendent of the plaintiff was present. Similarly Tahsildar, Andheri Shri V.R.Mahadalkar and the plaintiffs on 1.3.1967 have put up their case before the Enquiry Officer in respect of their rights. Accordingly, initial enquiry which had been conducted was confirmed by the Enquiry Officer which was revealed from Enquiry Register and after considering the records available that the Enquiry Officer gave decision as per the procedure under the law. It is pertinent to note that the decision of the Enquiry Officer was wrong. However, this does not come within the purview of the City Survey Officer and therefore by their letter dt.13.3.1984 informed to the plaintiff that no action can be taken since it does not come within their jurisdiction.

(E) With reference to para No.14 to 18 of the plaint, this defendant submits that the contents of these paras are denied. In fact

plaintiff had filed an Appeal before the Superintendent of Land Records, Bombay Suburban District and the said Appeal was dismissed on 15.11.1991 being the decision on the Appeal No.L-N-D/SR-100/SK City Survey No.3/88 the plaintiffs were informed accordingly.

(F) With reference to para No.19 to 25 of the plaint, the contents of these paras are denied in toto by the answering defendant. The statement in para No.20 are correct. The previous suit 1169/1993 was concerning with City Survey No.128 and this was brought to the notice of defendants only on 29.11.2002. It is pertinent to note that the extract Register of Enquiry and the Property Card of CTS Nos.127 and 127(1) name of the plaintiff appear in Other Rights.

4. The contentions in rest of the paras of the plaint are also denied. As per Section 258 of Maharashtra Land Revenue Code, 1966, Superintendent of Land Records, B.S.D. had conducted re-enquiry under CTS 7/Re-enquiry

बरत - ६/
२७१२ ते २७३५
२७२२

Application No.17/1988/2002 dt.15.7.2002. The Re-enquiry was conducted as per the Rules and Regulations prevalent at the material time and opportunity was given to the plaintiffs to put up their case. Accordingly, the plaintiffs submitted their statement dt.29.11.2002 and also made an application for producing additional evidence and requested for a date. After considering request of the plaintiff, date of hearing of re-enquiry was posted on 26.3.2003. The plaintiff remained absent and did not produce any additional papers and instead of appearing before the re-enquiry, the plaintiff preferred to come before this Court and filed the present case and accordingly informed this office on 26.3.2003.

5. The plaintiff also requested through their Advocate to this Court that further re-enquiry which was legally conducted by these defendants should be stayed with the result, these defendants could not take final decision on the said re-enquiry. As per the record and

also property card, and their entires appearing before them along with 7/12 Extract and in respect of Survey No.37, Hissa No.3, and City Survey Nos.127, 127(1) and 128 of Village-Akurli, the land belongs to the Government of Maharashtra and the name of the plaintiff is shown as 'Imla Malik' in CTS No.128. These defendants submit that re-enquiry conducted as per letter dt.31.07.2002, the plaintiffs have not produced any additional evidence though they had taken time for producing the same. Therefore, no final decision was taken in the said enquiry. It is pertinent to note that as per Sec.25, powers which are given to the Enquiry Officer under MLRC, 1966, the said City Survey Officer, Goregaon conducted enquiry according to the rules and regulations by giving opportunity to the plaintiff. But the plaintiff stayed further proceedings of the said enquiry by filing the present suit. The plaintiffs suit is misconceived, bad in law and liable to be dismissed with costs.

6. In view of the above facts and reasons, suit is false, frivolous and vexatious and liable to be dismissed and the same be dismissed with costs.

7. In view of the above rival pleadings of the parties, Issues were already framed by my Ld.Predecessor which are reproduced as under with my findings thereon for the reasons stated hereinafter.

ISSUES	FINDINGS
1. Whether the plaintiffs prove that they are the owner of suit property ?	**In affirmative**
2. Whether plaintiffs prove that they are in legal possession of suit property ?	**In affirmative**
3. Whether plaintiffs prove that defendants have threatened to interfere with their possession ?	**In affirmative**
4. Are plaintiffs entitled to claim relief of declaration and injunction ?	**In affirmative**

5. What order ? **As per final order.**

R E A S O N S

8. To prove his case the plaintiffs examined P.W.1 Jaisukhlal N. Bhutta, Plaintiff No.2 at Exh.3. He relied upon the documents mentioned in the list Exh.4 which are as under:-

(i) Exh.7 - Certificate showing assets issued by Charity Commissioner.

(ii) Exh.10 - Copy of Registered Conveyance dt.22.3.1921.

(iii) Exh.11 - Copy of Order dtd.30.1.60 passed by Addl.Dist.Dy.Commissioner.

(iv) Exh.21 - Exemption order dt.9.4.1953 from Finance Department.

(v) Exh.24 - Order dt.15.11.91 passed by Superintendent of Land Record.

(vi) Exh.26 (colly.)

(a) 7/12 Extract as of 21st October, 1983.

(b) 7/12 Extract as of 16th April 2002.

(c) 7/12 Extract of 20th March 1993.

(d) 7/12 Extract as of 3rd November, 2009.

(e) P.R.Card of C.T.S.No.127, 127/A and 128.

बरल - ६/
31 ge ८ 2022

(f) Survey Extract of Akar Phod Patrak.

(g) Extract from the Enquiry List.

9. The plaintiff closed the evidence by pursis Exh.31. The defendants authority did not examine any witness.

ISSUES NO.1 TO 4

10. Both these issues are inter-related. The plaintiff is supposed to prove that they are the owners of the suit property and in legal possession of the suit property. To answer these issues the plaintiff drew my attention to Exh.7 i.e. Schedule 1 of Public Trust Act. The claim of the plaintiff's trust is that trust is in possession continuously and uninterruptedly of the suit properties bearing survey No.37 Hissa No.3 CTS No.127, 127/1 and 128 for more than 100 years. This property is situated at Akurli village, Kandivali(E) admeasuring 21 guntha. It is used for purpose of raising cattle fodder and cattle grazing. The suit land has access through Akurli Road, Kandivali

(E), Mumbai.

11. As per the case of the plaintiff the Principal Collector of Konkan granted lease of three villages i.e. Chincholi, Dindoshi and Akurli to Laxman Harishchandraji in 1830-31 on terms stated in Lease Agreement dt.12.3.1831 and subsequently modified on 24.2.1841. On 22.3.1887 Kabuliyat in Marathi was executed by which Krishnarao Ramchandra Madganonkar in favour of Vinayak Ramchandra Laxmanji Khot (grand son of original lessee Laxman Harishchandraji) by which Krishnarao Madgaonkar got Akurli village with perpetual Sutidhari Rights on fixed Dhara (Assessment) on Rs.1700/- per year and subject to Government Resolution passed from time to time. Krishnarao Madgaonkar transferred Khoti rights of village Akurli under lease to the Plaintiff Trust vide Conveyance dt.4.5.1899 for payment of Rs.1700/- Dhara per year subject to same rights and powers covenants and conditions mentioned in Kabuliyat dt.22.3.1887 for Rs.10,000/- by

बरत्न - ६/
2992 33 200 3rd

which plaintiff's trust purchased the lease rights from Madgaonkar and subsequently purchased assignment from the original Khot; his Khoti rights and become the absolute owner of village Akurli.

THE SEAL OF THE SUB-REGISTRAR BORIVALI No. 6 ★ SUBURBAN DIST.

12. On 3rd September, 1888 a Deed of Mortgage was executed between Ramchandra Laxamanji, (grand son of original lessee Laxmn Harishchandranji) and Ebrahimbhoy Hassam and Allarakhiabhoy Hassam. On 27th June, 1894 the Deed of Mortgage was transferred by Ebrahimbhoy Hassam and Allakakhiabhoy Hassam to Chhabildas Lallubhai which was registered at the Bombay Sub-Registry under No.126 A at pages 102-114 volume 86 of Book No.1 on 6th July,1894.

13. Vinayakrao Ramchandra Laxmanji committed a default in paying the mortgage debt. Hence suit bearing No.14 of 1895 was filed by Chhabildas Lallubhai against Vinayak Ramchandra Laxmanji and others which was decreed on 13.4.1896, thereby possession of village Akurli

was given to Chhabildas Lallubhai. Warrant for possession was issued by Sub-Judge of Thane dt.20th November, 1897 and actual possession was received by Chhabildas Lallubhai on 25.11.1897.

14. Chhabildas Lallubhai died on 5th December,1914. By codicil dt.20.11.1914 Bai Kesarbai (wd), Janmayjay Chhabildas(son) and Bhadrasen Chhabildas(son) were appointed as Executors and Trustees. These Executors and Trustees became proprietors of villages in the island of Salsette and certain other khoti village including Akurli village.

15. A suit bearing No.817/1920 was filed against Advocate General of Bombay for direction with regard to sale of villages mentioned in the Will. The suit was decreed on 7th April 1920 stating that sale price to be approved previously by Advocate General.

16. Vendors, Bai Kesarbai and others

बरत - ६/ 127
२७१२८ | २०२ | ३४५
२३२२

Executors and Trustees of Chhabildas Lallubhai agreed for absolute sale of village Akurli to the plaintiffs' trust at the price of Rs.1,50,000/- with the previous approval of Advocate General of Bombay.

17. The Government of Bombay, Revenue Department, also sanctioned the transfer of Akurli village to the plaintiffs' trust by their order No.745 dt.17.3.1921. Sale favouring the Trust was subject to terms and conditions and recitals in Kowl dt.21st March, 1831 and modification dt.24.2.1841 and subject to rights of Sutidhars and also that the Trust pay yearly rents/assessments.

18. Thereafter on 22nd March 1921 Sale of Akurli Village property by Conveyance was executed by Kesarbai(wd), Janmayjay Chhabildas (son), Bhadrasen Chhabildas(son) and Plaintiff's Trust.

19. After the introduction of Salsette

कवरन - ६/
२२९८ | २०३ | ३१५

Estates Land Revenue Exemption Abolition Act, 1952 certain land not appropriated by the said Trust were declared as Government lands u/s.4 of this Act without holding formal enquiry u/s.37(2) of the Land Revenue Code.

20. Vide M.E.No.99 dt.15.1.1953 name of plaintiffs' Trust was removed from kabjedar's column and Sarkari Akari Padit was entered. Thereafter enquiry was held and Mamlatdar (the officer on special duty)passed the orders on 15.4.1955 restoring to the Trust all lands except the Survey Nos.37, 45/2, 50/12, 87, 13, 55 and 53. Survey No.37 along with some other lands were declared as vesting in State Government. Therefore the Trust filed Appeal against the order dt.15.4.1955 passed by Mamlatdar. The said Appeal was allowed by the Addl.District Dy.Collector, Andheri vide order dt.30.1.1960(Exh.11) and the order passed by Tahasildar referring the land including Survey No.37 (except Survey No.13 and some portion of Survey No.87) should vest in the name of the

बरत - ६/
२४१२९ २०४३८५
२०२२

plaintiff's Trust and village records should be corrected accordingly. Thus, the said Trust was restored as the owners.

21. On 1.3.1967 Enquiry Officer confirmed the title of the Government of Maharashtra as holder (Kabjedar) as per M.E.99 and made a note in the 'other rights column' that the said Mandali (Plaintiff Trust) was the owner of the super structure paying agricultural assessment. This order was passed because of the non implementation of Appellate Order dt.30.1.1960 passed by the Dy.Collector and as the said order was not appreciated/not brought to the notice of Enquiry Officer, therefore he was misled. Hence he confirmed the Government of Maharashtra as holder. Thus the order of Enquiry officer is illegal, void, inoperative.

22. the plaintiff requested the Tahasildar and other concerned authorities to implement the order dt.30.1.1960 of Addl.Dist.Dy. Collector from time to time but it was not

तरतूद - ६/
२४१२ | २०५ | ३१५

implemented.

23. However on 23.11.1983 the Tahsildar issued notice with regard to the land with Survey No.37/3(C.T.S.No.127 & 128) alleging that Mandli had encroached upon this Government land and that the Trust unauthorisedly used this land. The plaintiff by two letters dt.1.12.1983 and 26.12.1983 brought this fact to the notice of Tahasildar. The Plaintiff's Trust filed an Application before Tahasildar and City Survey Officer vide letter dt.30.1.1984 for correction in land record/record of rights by deleting the name of 'State of Maharashtra' from the Kabjedar's column and entering the name of plaintiff and deleting the name of State of Maharashtra by deleting the words Sarkari Akari Padit from Occupants column and correcting all revenue records.

However, no action was taken. Therefore plaintiff issued reminder dt.17.8.1987 with which copy of earlier application was sent to

अस्तल - ६/ १८
२१९२ | २०६ | ३२५
२०२२

the Tahsildar by the said Trust. The plaintiff received a reply dt.1.9.1987 from the Tahsildar advising the said Trust to go in Appeal against the order of the Enquiry Officer and further stated that he had no authority to change the revenue records and he rejected the plaintiff's application dt.4.2.1984.

THE SEAL OF THE SUB-REGISTRAR BORIVALI No. 6

24. In fact Tahsildar did not take necessary action except giving advise to the plaintiff. The Tahsildar did not appreciate that the Mutation Entry No.99 was made arbitrarily and without giving a hearing to the Trust. It was therefore duty of Tahsildar to give effect and implement the order of the Addl.District Dy.Collector, Andheri, even though the Mutation Entry No.471 was made on the basis of the Order of the Enquiry Officer. In fact record was firstly by unauthorised certification of M.E.No.99 which was confirmed by subsequent M.E.No.471. Thus both entries are null and void.

25. On 30.1.1984 the plaintiff vide their

बारल - ६/—
२४४२९ | २०६३५५

letter to City Survey Officer requested for correction also requested to the District Inspector of Land Record. The District Inspector of Land records vide letter dt.13.3.1984 asked the plaintiff to furnish a copy of the Order dt.30.1.1960 passed by Addl.District Dy.Collector. The plaintiff forwarded the copy of the Order under covering letter dt.24.3.1984. Plaintiff again send reminder dt.17.8.1987 but City Survey Officer did not take any action for correction of Trust Record, as per orders dt.30.1.1960.

26. On 13.12.1985 the Addl.District Dy.Collector issued notice to the plaintiff stating that land bearing CTS No.127 and 127-1 was being unauthorisedly used since 1950 for non-agricultural purposes. The plaintiff vide reply dt.20.1.1986 denied the allegations stating that construction of servants quarters on this land was exempted from N.A.Assessment vide Revenue Department's Endorsement No.LNA/1150/70928-W (Squad) dt.21.7.1959 and

Collector's Order No.C/LND/S.R.V.1130 dt.26.10.1959. The plaintiff states that vide this order of Collector Agricultural Assessment was reimposed. So also the Dy. Secretary to the Government of Bombay, Finance kDepartment was pleased to exempt all lands and buildings of the Trust from the payment of Urban Immovable Property Tax vide letter dt.9.4.1953.

27. The plaintiff filed appeal on 24.3.1988 to SLR and SLR made observations that remedy lay not by way of Appeal before him but plaintiff should approach to the Collector, B.S.D. as he is the custodian of the Revenue/Survey Records and said record could only be corrected or modified by him.

28. The plaintiff vide its letter dt.19.4.1991 to the Collector, B.S.D. Mumbai requested that the concerned Revenue and City Survey officer be directed to correct the respective relevant Revenue and City Survey Records by deleting the words "Sarkari Akari

सरत - ६/
२४९२ ०८ ३५५

Padit" appearing in the Kabjedar's column and by inserting the name of the plaintiffs therein and similarly by inserting the name of the plaintiff's Trust as the Holder in Prooperty Card and for correction of all relevant Revenue City Survey Records including deletion of the Note kept in other rights column of r/R to the effect " Mandali Owner of super structure paying agricultural assessment".

29. On 15.11.1991 the SLR decided the appeal confirming the decision of 1967 of the Enquiry Officer. And advised the plaintiff to take action for correction of 7/12 records and thereafter refer to the City Survey Officer for correction.

30. Plaintiff's trust wrote a letter to the Collector, B.S.D dt.17.2.1993 giving reference to its earlier letter dt.19.4.1991.

31. The plaintiffs have constructed a chawl (servant's quarters) on the said land in

बरत - ६/
२२१८ - २१७३४५
2022

February, 1953 which are in possession of the plaintiff.

32. On considering the submissions of both the sides it appears that the plaintiff has proved his lawful possession, right in respect of suit property bearing Survey No.37 (Hissa No.3 corresponding CTS No.127, 127/1 and 128. To appreciate the rights of the plaintiffs in respect of the suit land following facts are to be taken into consideration.

(a) That as far back on 12.3.1831, Lease Agreement was executed by the Principal Collector of Konkan in favour of L.Harishchandraji modified on 24th February, 1841.

(b) On 22nd March 1987 - Heirs and legal representatives of Laxman by name Vinayak R.Laxmanji was given all right, title acquired by Laxman to Krishnarao Ramchandra Madgaonkar including leasehold rights.

(c) On 4th May, 1989 - K.R.Madgaonkar transferred all his rights to the Plaintiff

बरतर - ६/
2892 | 299 | 3rd

2022

Trust.

(d) In the meantime, on 3.9.1988, mortgage was executed by grandson of original lessee Laxman Harishchandraji which was transferred on 27.6.1894 to E.Hassam and A.Hassam to Shri Lallubhai on 27th June, 1984.

(e) V.L.Laxman defaulted in payment. Suit was filed, decree was passed. On 13.4.1896, warrant of possession was issued and actual possession was received by C.Lallubhai on 25th November, 1987.

(f) C.Lallubhai died leaving behind Will bequeathing the property to the Executors and Trustees in favour of the plaintiffs.

(g) Suit was filed in High Court No.817 of 1920 decreed on 7.4.1920 to sell the villages as per Will subject to approval of the Advocate General.

(h) Government Revenue Department sanctioned transfer of Suit land vide order No.745 dated 17.3.1921 to the plaintiffs.

(i) By Conveyance of 22nd March, 1921, Plaintiffs acquired full rights on the said

बारत - ६/ 10
२७२८ | २७२ | ३२५
२०२२

property.

(j) Error was committed thereafter arising from Enquiry under Section 37(2) of the Land Revenue Code under exemption Abolition Act of 1952.

(k) By M.E.No.99 dt.15.1.1953, land was declared of Government against which order was passed in Enquiry on 15th April, 1955 restoring the trust lands to the plaintiffs except Survey No.37, 47, 54/2, 50/12, 87, 13, 55 and 53.

(l) Plaintiffs filed Appeal before the Additional District Deputy Collector against Mamlatdar's order dated 15.4.1955. Additional District Deputy Collector allowed the Appeal and revised orders passed of all the lands including Survey No.37 vesting the same in the plaintiffs.

(m) All errors have taken place; thereafter though order has been passed by Additional District Deputy Collector, in favour of plaintiff trust, but the Government went on continuing pursuing the order from Enquiry Officer ignoring subsequent orders passed. It

बरतन - ६/
२७१८ | २९३ | ३२५

is a common principle of law that final order passed setting aside the lower Court's orders and any error found in respect thereof has to be rectified.

(n) Plaintiffs have made all efforts to rectify the said error but no steps were taken by the Government and finally, the Plaintiff is therefore dragged to file the present suit unnecessarily and to incur costs, charges and expenses. Plaintiff is a Public Charitable Trust but are suffering at the hands of the Defendants in collusion with some Officers and builders who are interested in taking away the said lands from the plaintiffs.

(o) Plaintiffs have acquired all valuable rights in the said lands. Plaintiffs have acquired rights by sale, by title deeds, by every document required including entries. All these entries have been ignored.

33. In view of the abovesaid facts, I find that the Enquiry conducted by the Enquiry Officer in pursuance of Exemption Abolition

बरल - 6/
२२१२९ | २१४ | ३४५
२६२३

Act, 1952 u/s.37(2) of the Land Revenue Code is meaningless as it appears in the order dt.30.1.1960 passed by Dy.Collector. But the interested officers and some builders unnecessarily issued notices and initiated inquiry against plaintiff without considering abovesaid facts and order passed by Dy.Collector dt.30.1.1960 (Exh.11).

34. Document Exh.7 is very relevant and important document in order to appreciate the claim of the plaintiff. Exh.7 of the copy of Schedule 1. On perusal of Exh.7, Schedule 1 the suit property survey No.37/3 situated at Akurli (127 and 128) stands in the name of plaintiff's trust. Entry of which was taken in the Schedule 1 of the Trust. Exh.7(Schedule 1) is an old document. It was issued on 26.6.1968. So it is a trust property since long. The document Exh.8 is certificate of incorporation under the Company's Act which was issued on 1.5.1931 which shows that the Trust was earlier registered (incorporated) as society on

अदालत - ५/
२२१८ २१५३५५

2022

27.4.1891. Exh.9 is the map issued by district Survey office which shows that access of the suit property is through CTS No.127 i.e. part of Survey No.103. CTS No.127, 128 are the part of Survey No.37/3. Document Exh.10 is the certified copy of registered Conveyance Deed dt.22.3.1921. This document shows that on 22.3.1921 Akurli Village property including the suit property survey No.37/3 and other property was sold to the plaintiff Trust by Kesarbai and others vide registered Conveyance dt.22.3.1921.

35. That in 1952 the Government of Bombay introduced Salsette Estates Land Revenue Exemption Abolition Act, 1952 whereby certain waste land not used by the Trust was declared as Government land u/s.4 of the Act and holding formal enquiry u/s.37(2) of Maharashtra Land Revenue Code and Right M.E. No.99 dt.15.1.1953, thereby names of plaintiff trust was removed in respect of the said land from Kabjedar column and it was shown as Sarkari Akari Padit. In pursuance of the said Mutation entry, an

सरल - ६/
२०१२ 2986 3rd

Enquiry was held and Mamlatdar passed order dt.15.4.1955 restoring to the Trust all lands except the Survey No.37, 45/2, 50/12, 87, 13, 55 and 53. Survey No.37 along with some other land were declared as vesting in the State Government. This is turning point on the right of the plaintiff. Without hearing plaintiff the Mutation Entry No.99 dt.15.1.1953 was taken and name of Plaintiff trust was removed from Kabjedar column and it was shown as Sarkari Akari Padit.

36. Being aggrieved by the order dt.15.4.1955 the plaintiff trust filed an Appeal before the Additional Deputy Collector BSD against the order dt.15.4.1955 passed by Mamlatdar by which Order certain land of Akurli Village was declared as Government Land under Section 4 of S.E.(L.R.P.A.) Act 1952 r/w.section 37(2) of Land Revenue Code were restored to the plaintiff Trust. The Addl.District Collector BSD Andheri upheld the Appeal filed by the Trust and passed an order

dt.30.1.1960 (Exh.11) that all the above referred lands including Survey No.37 existing Survey No.13 and some portion of Survey No.87 are vests in the name of the plaintiff's trust and further ordered that village record should be corrected accordingly. The said trust was restored as owners.

37. It is also surprising to know that revenue authority as well as City survey authority did not take cognizance of the order dt.30.1.1960 passed by the Addl.Deputy Collector, though plaintiff repeatedly requested the authorities by various applications. It is also surprising to note that on the basis of this Mutation Entry No.99 further Mutation Entry No.471 was taken without taking into consideration the order of Dy.Collector dt.30.1.1960 Exh.11. In pursuance to the wrong and incorrect record the Enquiry Officer was misled and made to confirm that the Government of Maharashtra as holder. But no Revenue Authority or Authority from City Survey

बरल - ६/
२२२९ | २१ | ३४५
२०२२

office took the cognizance of the order Exh.11. Therefore plaintiff was unnecessarily dragged into inquiry which was meaningless. It is also surprising to note that when the plaintiff approached to the Revenue authorities to take cognizance of the order dt.30.1.1960 Exh.11 passed by the Addl.Dist.Deputy Collector, but it is surprise to note that Tahasildar vide his letter dt.1.9.87 advised the Trust to go in Appeal against order but Enquiry Officer stated that he has no authority to change the Revenue Record and rejected the application dt.4.2.1984.

38. It is also surprise to note that plaintiff filed Appeal vide his letter dt.24.3.1984 to the SLR and SLR made observations that remedy for the plaintiff is not by way of appeal before him but plaintiff should approach Deputy District Collector as he is in custody of the Revenue Record and said record can be corrected and modified in pursuance of his advise. Plaintiff vide his

letter dt.19.4.1991 approached to the Collector requesting to correct the revenue record and also to the City Survey Officer thereby to delete the words Sarkari Akari Padit appearing in Kabjedar and entered the plaintiff's name as owner in Property registered card. The SLR vide his order dt.15.11.1991 confirmed the decision of 1967 given by Enquiry Officer and advised the plaintiff to take action for correction of 7/12 Extract and referred to the city Survey Officer for correction. The plaintiff addressed letter to the Collector dt.17.2.1993 giving reference to earlier letter of 19.4.1991, but the Collector did not take any action. On the contrary plaintiff was issued notice from the office of Collector dt.18.3.2002 stating therein that land is used by plaintiff unauthorisedly and should be evicted and directed the plaintiff to attend their office on 28.3.2002 at 2.00 p.m. Not only this the City survey officer vide his letter dt.31.7.2002 issued notice to the plaintiff stating therein as to why the name of

बरत - ६/ ...
२१२९ | २२०३४
२०२२

plaintiffs should not be struck off from the column of other rights since the said land belongs to the Government of Maharashtra and directed the plaintiff to attend their office at 3.00 p.m. on 19.8.2002. Plaintiff appeared and filed written submissions before the City survey Officer on 29.11.2002.

THE SEAL OF THE SUB-REGISTRAR BORIVALI NO 6

39. In view of the aforesaid evidence the plaintiff has proved his ownership, title since more than 100 years as discussed above. I therefore answer Issue No.1 to 4 in Affirmative.

BORIVALI

40. The abovesaid discussion also shows that plaintiff has proved Issue Nos.1 to 4. Therefore, I proceed to pass the following order.

ORDER

S.C.Suit No.1758/03 is decreed in following terms:-

(1) It is hereby declared that land bearing Survey No.37 hissa No.3, CTS No.127 and 127(1) and CTS No.128 situated at Akurli Village,

Kandivli, Mumbai belongs to the Plaintiffs Trust namely, Bombay Gow Rakshak Mandali, as absolute owners and vest in the Trust as owners having all right title and interest thereupon.

(2) Issue perpetual injunction restraining the defendants No.1 to 3, their servants, agents etc. from obstructing and/or interfering with the plaintiffs possession, enjoyment of the suit land bearing Survey No.37 Hissa No.3 comprising of CTS No.127, 127-1 and 128 situated at Akurli Village, Kandivli, Mumbai.

(3) In view of the facts of the case no order as to costs.

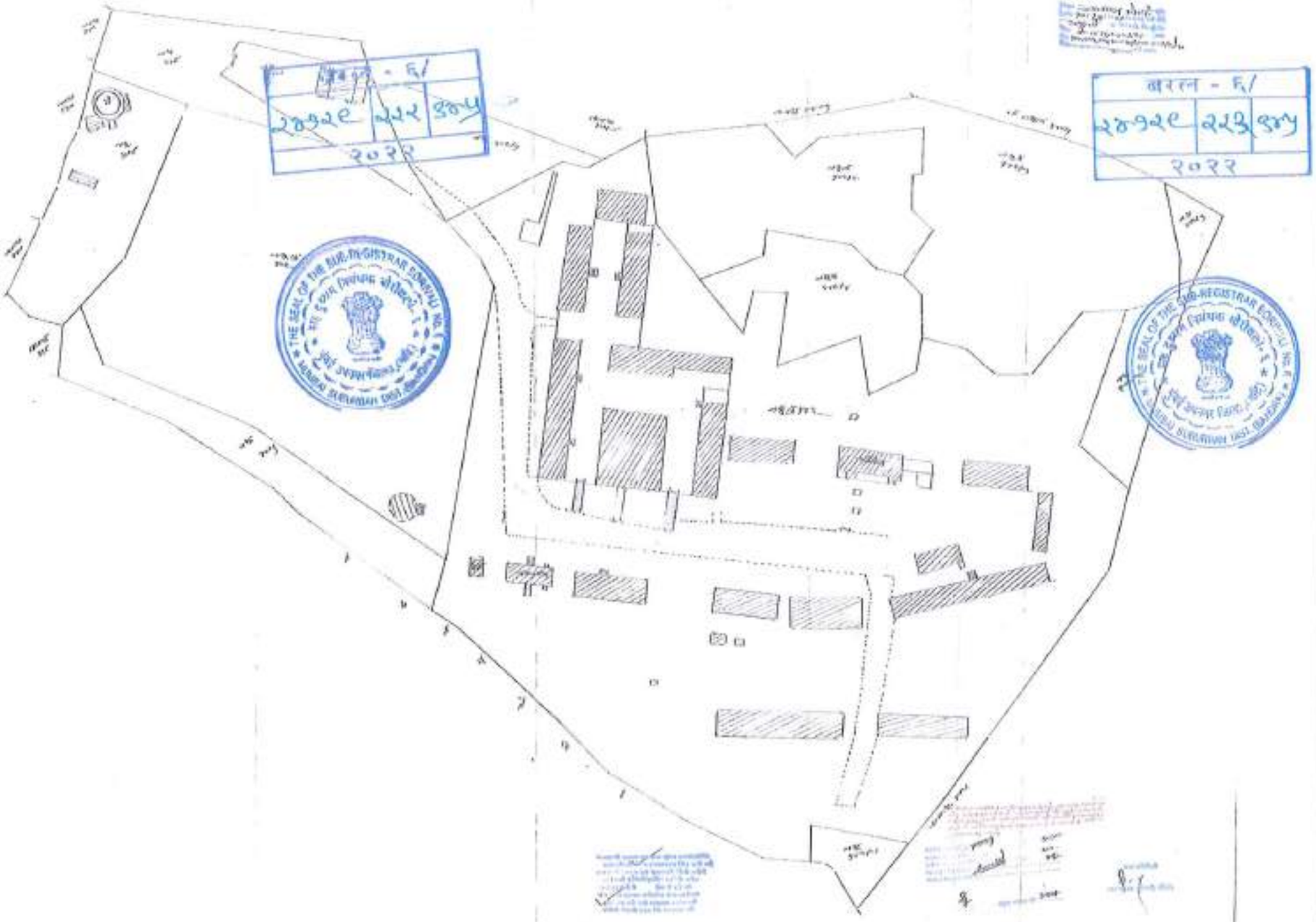
(4) Decree be drawn accordingly.

sd/-

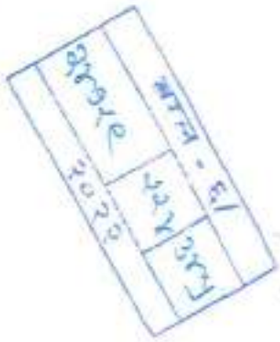
26th April,2011

(V.R.PATIL)
J U D G E
CITY CIVIL COURT,
DINDOSHI, MUMBAI.

Date of dictation : 26.04.2011
Date of transcription by steno: 07.05.2011
Date of order signed by HHJ :
Date of delivery to the
certified Section :









Area of Structures – CTS 124, 127, 127/1, 146.

Details as per Property Tax Capital Value Statements attached herewith.

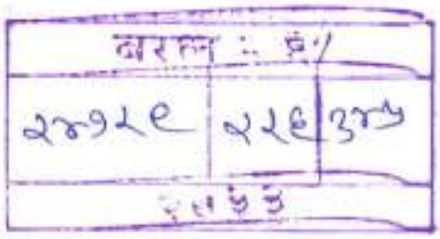
बरल - ६/

१४९२	२२५	३४५
	२०२२	

Sr No	Account No	Area Sq.Mtr Carpet	Area Sq.Mtr Built-up	Type of Use	Semi-Pakka
1	RS0114750000000	158.08	189.696	Residential	Yes
2	RS0114760060000	19.23	23.076	Shop / Commercial	Yes
3	RS0114770020000	237.73	285.276	Shop / Commercial	Yes
4	RS0114780090000	177.33	212.796	Shop / Commercial	Yes
5	RS0114790050000	235.87	283.044	Shop / Commercial	Yes
6	RS0114800030000	277.7	333.24	Shop / Commercial	Yes
7	RS0114810000000	158.74	190.488	Shop / Commercial	Yes
8	RS0114820060000	553.16	663.792	Shop / Commercial	Yes
9	RS0114830020000	156.13	187.356	Shop / Commercial	Yes
10	RS0114840090000	153.35	184.02	Shop / Commercial	Yes
11	RS0114850050000	17.4	20.88	Shop / Commercial	Yes
12	RS0114860010000	151.76	182.112	Residential	Yes
13	RS0114870080000	74.9	89.88	Shop / Commercial	Yes
14	RS0114880040000	349.44	419.328	Residential	Yes
15	RS0114890010000	90.33	108.396	Residential	Yes
16	RS0114910050000	212.45	254.94	Shop / Commercial	Yes
17	RS0114920010000	393.49	472.188	Shop / Commercial	Yes
18	RS0114940040000	158	189.6	Residential	Yes
19	RS0114950010000	197.95	237.54	Shop / Commercial	Yes
20	RS0114960070000	30	36	Shop / Commercial	Yes
21	RS0114970030000	18.96	22.752	Residential	Yes
	Total	**3822**	**4586.4**		

THE SEAL OF THE SUB-REGISTRAR BORIVALI NO. 6 मुंबई उपनगर जिल्हा (वांद्रे) MUMBAI SUBURBAN DIST. (BANDRA)

Total Residential (1+12+14+15+18+21)	1111.88
Total Commercial Balance	3474.52
Total Built-up Area	**4586.40**


बरण : ४/
२७१८
२८३५
२७५३


THE SEAL OF THE SUB-REGISTRAR BOMBAY
SUBURBAN DIST.


COLLECTO
BOMBAY

203

बरल - ६/		
२०१२९	२२६	३४५
२०२२		

STATEMENT OF MUNICIPAL TAXES

PERIOD 01.04.2021 TO 31.03.2022

Sr.No	Account No	Identification	01.04.2021 to 30.09.2021	01.10.2021 to 31.03.2022
1	RSO114750000000	Servant Quarters	84	128
2	RSO114760060000	Tiled Shed Stable No 4 with Calf Shed	1013	1013
3	RSO114770020000	Stable No 6	1151	1151
4	RSO114780090000	Stable No 7	575	575
5	RSO114790050000	Stable No 8	920	920
6	RSO114800030000	Stable No 9	1130	1130
7	RSO114810000000	Tiled Shed	193	193
8	RSO114820060000	Stable No 1-3	2835	2835
9	RSO114830020000	Tiled House	878	878
10	RSO114840090000	Tiled House	1079	1079
11	RSO114850050000	C.I. Shed	101	101
12	RSO114860010000	Tiled Stable No 12	420	420
13	RSO114870080000	Tiled Stable No 13	420	420
14	RSO114880040000	Tiled Shed	658	658
15	RSO114890010000	House	420	420
16	RSO114910050000	C.I Godown No A	1197	1197
17	RSO114920010000	C.I Godown No B	2217	2217
18	RSO114940040000	Tiled House No 11	596	596
19	RSO114950010000	Godown No C & D	1113	1113
20	RSO114960070000	Dispensary	403	403
21	RSO114970030000	kamdenu	0	0
	Total		18003	18047

२३२९	२२८	३२५