# IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

CIVIL REVISION No. 65 of 2019

CNR No.: MPHC020026042019

*SYED HAFIZ ALI AND OTHERS*

*Versus*

*MP WAKF BOARD AND OTHERS*

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Appearance:

*Shri Takmeel Nasir - Advocate through V.C. with Ms. Shweta Tuteja - Advocate for the petitioners.*

*Shri Moeed Ali Bohra and Shri Murtaza Bohra - Advocate for the respondents No.1, 3 & 4.*

*Shri Amit Khatri - Advocate for the respondent No.6 appearing through V.C.*

*Shri Vikas Loomba - Panel Lawyer for the respondent No.2 / State.*

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WITH

CIVIL REVISION No. 168 of 2019

CNR No.: MPHC020063202019

*THE M.P. WAQF BOARD THROUGH CHIEF EXECUTIVE OFFICER M A KHAN AND OTHERS*

*Versus*

*SAIYYED HAFIZ ALI AND OTHERS*

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Appearance:

*Shri Moeed Ali Bohra - Advocate and Shri Murtaza Bohra - Advocate for the petitioners.*

*Shri Takmeel Nasir - Advocate appearing through V.C. with Ms. Shweta Tuteja - Advocate for the respondents No.1 to 6.*

*Shri Vikas Loomba - Panel Lawyer for the respondent No.7 / State.*

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*Shri Amit Khatri - Advocate for the respondent No.6 appearing through V.C.*

**Reserved on** : 22.09.2026

**Pronounced on** : 04.11.2026

**ORDER**

This order will dispose of Civil Revision Nos. 65/2019 & 168/2019, as the order impugned in both the civil revisions is one and same.

02. Civil Revision No. 65/2019 has been preferred by Syed Hafiz Ali and others, those were plaintiffs in Case No. 8/2010 before M.P. State Waqf Tribunal, Bhopal and their plaint preferred under Section 83(2) of the Waqf Act, 1995 was dismissed by the Chairman vide order dated 25/10/2018 and by the State Member vide order dated 15/11/2018. Civil Revision No. 168/2019 has been preferred by the Madhya Pradesh Waqf Board impugning the order dated 15/11/2018 passed by State Member of the Tribunal. For the sake of convenience, facts are taken from Civil Revision No. 65/2019.

03. Syed Hafiz Ali and five others preferred a suit for declaration of title, possession and permanent injunction with respect to the properties bearing survey No. 7156 area 0.024 hectare and survey No. 7157 area 0.018 hectare, total admeasuring 0.042 hectare situated at Kidwai Marg, Barwali Chowki, Indore (M.P.) and further seeking the cancellation of the entry of correction/addition dated 22/10/1997 in the Waqf registration register at serial No. 621/602. The suit was filed under Section 83(2) of the Waqf Act, 1995 before the M.P. State Waqf Tribunal, Bhopal stating that the subject properties bearing survey No. 7156 and survey No. 7157 are the properties owned by the ancestors of the plaintiffs namely Mir Mohammad Ali Hasan,

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Signing time: 04-11-2026 15:32:20

who was the grandfather of the plaintiffs, whose ownership has been duly recorded in the City Survey sheet of the year 1910, wherein it is mentioned that there is a way to mosque on survey No. 7158 and survey Nos. 7156 & 7157 belonged to Mir Mohammad Ali Hasan. The case of the plaintiffs are that they have inducted some tenants in both the houses (survey No. 7156 & 7157). These houses were not recorded as Waqf property at the time of original survey of the Waqf and later on, on the basis of the report of auditor, the entry of the Waqf properties in Waqf register at serial No. 621/602 has been amended and details of these two houses and two shops have been added in the entry of registered Waqf properties on 22/10/1997, the said action has been challenged by the plaintiffs in the subject suit.

04. The further case of the plaintiff is that Masjid Dhooldhoye has been situated at Kidwai Marg, Barwali Chowki, Indore and the original survey has been conducted for registration of the properties of Masjid Dhooldhoye by the M.P. Waqf Board and on 25/08/1989 after following the due process at serial No. 621/602, the properties of Masjid Dhooldhoye have been recorded in the Waqf Register with a description i.e. khasra number 663/1/1 having one Masjid and one house. The Masjid is admeasuring 72 X 70 = 5040 square feet and the house is of 100 X 75 = 7500 square feet, total admeasuring 12540 square feet properties have been registered as Waqf property in the year 15/8/1989. The plaintiffs have not challenged the original registration of Masjid Dhooldhoye on 25/08/1989 in the subject suit nor has not been challenged by anyone in any proceeding.

05. Further, the plaintiff pleaded that in the month of July 2009, when

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Signing time: 04-11-2026 15:32:20

the plaintiff planed to construct new house by demolishing house No. 48 (survey No. 7156 & 7157), the tenants those were residing therein informed to the plaintiffs that this is a registered Waqf property. Thereafter, the plaintiff approached to the Waqf Board in the month of August 2009 and for the first time came to know that a survey chart has been prepared on the basis of auditors' report that there are two more houses and two shops and the same should also be included in the list of the properties of the registered Waqf and on the basis of the said survey report, the then CEO directed to include the two shops and two houses in the list of the properties of registered Waqf Masjid Dhooldhoye on 22/10/1997 and the properties were included without issuance of any notice to plaintiffs or anyone else. No notice was issued to any occupier and consequently, the said addition in the list of the property dated 22/10/1997 is illegal, void and liable to be set aside. The plaintiffs are aggrieved by the said addition of the properties in the list of properties of Register Waqf.

06. The defendant No. 1 / M.P. Waqf Board, Bhopal initially filed the written statement of admission before the Waqf Tribunal, but when it was objected and brought on record that the then CEO, who instructed to file the reply of admission, was the real brother of the plaintiffs, the M.P. Waqf Board filed the second written statement with the permission of the Tribunal. In the second written statement, the M.P. Waqf Board has denied the plaint allegations in toto and it is stated that Khasra No. 663/1/1 is a part of Khasra No. 663, which is a very big Khasra of Abadi and total 12540 square feet land were registered as Waqf properties of Masjid Dhooldhoye on

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Signing time: 04-11-2026 15:32:20

25/08/1989 consisting of the house and Masjid mentioned in the survey sheet of 1910 at survey Nos. 7156, 7157 & 7158, out of which the houses are situated on survey Nos. 7156 & 7157 and masjid is situated on the part of survey No. 7157 and survey No. 7158. There is RCC house situated adjacent to the masjid, wherein some shops have been constructed and the masjid has inducted tenants in those shops and the amount of the rent is being used for the purpose of maintaining the masjid. It is submitted by the Waqf Board that the claim of the plaintiffs that their grandfather Syed Mir Mohammad Ali Hasan was the owner of these properties is completely false, as in the year 1910 when the survey was conducted by the Municipality, he was manager (Nigran) of the masjid and, therefore, his name has been recorded, but only on the ground of recording his name in survey sheet, he has not attained any title in the subject properties. The Waqf Board prayed for dismissal of this suit.

07. The defendant Nos. 3 & 4 / Niagar Samaj Indore Dhooldhoye Samaj and Anjuman Ahle Sunnat have filed the joint written statement, wherein they have stated that there are three houses situated on Kidwai Marg, Barwali Chowki, Indore and out of three houses in the middle house there is masjid named as Dhooldhoye masjid and two adjacent houses are the properties of the masjid since long. Earlier, in the survey sheet of 1910 of Indore Abadi done by Municipality, the houses were recorded at survey No. 7156, 7157 & 7158. Later on, Municipal granted house no. 37, 38 & 39, which were changed to 46, 47 & 48 and now the new numbers are 10, 11 & 12. All the three houses are Waqf properties since beginning and there are

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Signing time: 04-11-2026 15:32:20

several tenants of masjid those are paying rent to the defendant No. 3 & 4 and defendant No. 3 & 4 are managing the said masjid. It is mentioned in the written statement that the suit was filed in collusion with the CEO M.P. Waqf Board, who is the real brother of the plaintiffs. The masjid applied to the Municipal Corporation in the year 1929 for exemption from the payment of property tax and the same was allowed considering the fact that the income of these three houses are being used for the purpose of maintenance of masjid. The manager of the Mutwalli Committee of the masjid applied to the Municipal Corporation seeking permission to reconstruct the houses, which was also allowed by the Municipal Corporation and the father of the plaintiffs challenged that order in appeal in the year 1949 and the appeal was dismissed by appellate authority by holding that these properties belong to Waqf Masjid. Now after a long period by way of subject suit, the plaintiffs have challenged the correction entry of 1997, in the year 2010, which is not permissible in law.

08. It is also stated in the written statement that the father of the plaintiffs were working in the Indore Municipal Corporation itself on the post of Overseer. He never raised any objection. Later on, the brother of the plaintiffs, who is an Administrative Officer, posted as CEO of M.P. Waqf Board and only thereafter, the said suit has been filed, whereas this property is in possession of the tenants of the masjid since 1929.

09. The defendant No. 6 filed the written statement and refuted the allegation that he has extended support to the plaintiffs, when he was posted as CEO of M.P. Waqf Board.

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Signing time: 04-11-2026 15:32:20

10. The Tribunal settled seven issues and recorded the oral evidence of the plaintiff and defendant witnesses. The plaintiffs examined Syed Shujaat Ali (PW/1), Syed Hussain Abbas (PW/2) and Najil Hussain (PW/3), whereas the defendant Nos. 3 & 4 examined Mohammad Ishaq (DW/1) in support of their case. After recording the statements of the witnesses and hearing the arguments on merits of the case, the Chairman passed the order dated 25/10/2018, whereby the Chairman decided all the issues against the plaintiffs and also held that the suit is barred by limitation and consequently, dismissed the suit filed by the plaintiffs under Section 83(2) of the Waqf Act, 1995. The State Member passed the separate order on 15/11/2018, wherein the State Member has accepted the contention of the plaintiffs that the subject houses were originally owned by the grandfather of the plaintiff and thereafter, included as Waqf properties in the list by amendment dated 22/10/1997. However, after recording this finding, the plaint was rejected by the State Member also on the ground of limitation.

11. Considering the order delivered by the Chairman, the plaintiffs have preferred Civil Revision No. 65/2019 assailing the findings on merits as well as on limitation. The plaintiffs have also assailed the order dated 15/11/2018 passed by State Member in the revision to the extent that the State Member also non-suited the plaintiff on the ground that the plaint is barred by limitation. Being aggrieved by the order of the State Member, whereby the State Member has recorded the findings on issues and on merits in favor of the plaintiffs, the M.P. Waqf Board alongwith the Nyagar Samaj Indore Dhooldhoye Samaj and Anjuman Ahle Sunnat have preferred Civil

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Signing time: 04-11-2026 15:32:20

Revision No. 168/2019.

12. With the consent of the parties arguments were heard analogously on 22/09/2026 for the purpose of final disposal of these civil revision petitions on merits and the parties were granted liberty to file short written synopsis within a week.

13. Learned counsel appearing on behalf of the petitioners / plaintiffs in Civil Revision No. 65/2019 submits that originally, the Waqf was registered on 25/08/1989 and at the time of registration of Waqf at serial number 621/602 in the register maintained by the M.P. Waqf Board, the property of the Masjid Dhooldhoye were recorded as Masjid admeasuring 72 X 70 = 5040 square feet and house admeasuring 100 X 75 = 7500 square feet, total area 12540 square feet situated on Khasra No. 663/1/1 of Kasba Indore. He submits that without following any proper procedure, without inviting the objections, without affording any opportunity of hearing to the plaintiffs and the occupiers of the houses only on the basis of the report of Auditor, the M.P. Waqf Board included houses situated on survey No. 7156 & 7157 of survey sheet 1910 as Waqf properties in the list of the register properties of Masjid Dhooldhoye. The Auditor submitted the report to the fact that one house has been registered as Waqf property, whereas there are total three houses and two shops.

14. On the basis of the auditor's report, the then CEO straightway issued direction to include two shops and two houses in the list of the Waqf properties, which is completely contrary to the provisions of the Waqf Act, 1995, which provides that there should be a survey before registration as per

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Signing time: 04-11-2026 15:32:20

Section 4 and after the survey on the basis of the report, there would be a publication by inviting the objections of the effected persons and after the publication, once the objections submitted by the objectors if any, the order may be passed by the Competent Authority to include the property in the Waqf Register and thereafter, as per section 5 of the Act the board will forward the report to the State Government and State Government will thereafter mutate the property in the name of the Waqf in the concerning records. He submits that Section 6 provides that if any question arises in respect of the particular property specified as Waqf property in the list of Aukaf, the aggrieved person may approach to the Tribunal under Section 83(2) of the Waqf Act, 1995 and the plaintiffs, after getting the knowledge of inclusion of their properties in the list of Waqf properties of Masjid Dhooldhoye Indore, approached to the Waqf Tribunal within a period of one year from the date of knowledge and, thus, within limitation instituted a suit before the Tribunal for deciding the question that whether the inclusion of two houses and two shops in the list of properties of Waqf Masjid Dhooldhoye was valid or not.

15. The counsel for the plaintiffs further submits that the properties owned by the plaintiffs were included in the list of Waqf properties by M.P. Waqf Board on 22/10/1997 dehors to the provisions of the Waqf Act, 1995 and the Chairman of the Tribunal has committed error in holding that the properties were not owned by the plaintiffs and have been included in the list properly. He submits that though the findings recorded by the State Member in respect of the title of the properties and inclusion of the properties without

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Signing time: 04-11-2026 15:32:20

following the due process as Waqf properties have been recorded correctly, but the State Member has also committed error in non-suiting the plaintiffs on the ground that the plant is barred by limitation. He submits that the limitation for filing the plaint would start from the date of knowledge of inclusion of the properties in the Waqf Register and as per the plaint allegations, when in the month of July 2009, the plaintiffs planned to reconstruct house No. 48, for the first time they came to know from the information gathered from the tenants that the subject houses have been included in the list of Waqf properties. He submits that the suit has been filed within limitation from the date of knowledge of the inclusion of properties and, therefore, the chairman and State Member have committed error in holding that the suit has been barred by limitation.

16. The Counsel for the plaintiffs further submits that the subject property bearing survey Nos. 7156 & 7157 are the ancestral properties of the plaintiffs and have been illegally entered in the Waqf records without any valid declaration / notification as Waqf property or in accordance with the statutory procedure and the subsequent entry made on 22.10.1997 is completely contrary to the provisions of Waqf Act, 1995. He further submits that in Exhibit P/10, the Indore City Survey Register 1910, the properties have been recorded in the name of ancestor of the plaintiff Mir Mohammad Ali Hasan. There is no document of valid dedication of the property as Waqf and, therefore, the same could not be included in the list of the properties of Waqf Masjid Dhooldhoye on 22.10.1997 (Exhibit D/64). He further submits that Exhibit D/64 is unlawful entry and no separate valid notification was

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Signing time: 04-11-2026 15:32:20

issued for adding two houses and two shops in the list of the registered Waqf on the basis of the auditor's report.

17. The counsel for the plaintiff further submits that for the purpose of the registration of the Waqf, the procedure has been prescribed under Section 36 of the Act and such procedure has not been followed for registering two houses and two shops as Waqf property, therefore, the entry made merely on the basis of auditor's report is illegal, unjust, arbitrary and liable to be quashed. The earlier survey report was submitted as per the statutory provisions of Waqf Act, 1954, which was in force at the time of registration of Waqf and in the absence of any Waqf deed or Waqfnama, the property bearing survey Nos. 7156 & 7157 could not have been included as Waqf property.

18. The counsel further submits that the finding of limitation is consequential upon the defendants establishing that the disputed property was validly included in a statutory list of Waqf and limitation of one year was linked to the publication of list of Waqf in Official Gazette under Section 5(2) of the Act. He relied upon the judgment delivered by the Supreme Court in the matter of ***Abdul Rais and others v/s Madhya Pradesh Waqf Board and others, 2005 (1) SCC 741***, wherein the Supreme Court has held that the limitation prescribed in Section 6 is in respect of the publication of the list under Section 5(2) and, therefore, such limitation was not relevant for the purpose of raising the objection upon the inclusion of additional properties in the entry. Counsel further submits that the survey was originally contemplated under Section 4 & 5 of the Act of 1954 and the survey report

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Signing time: 04-11-2026 15:32:20

was submitted by the Survey Commissioner, which was forwarded to the Board and after examining the report by the Board, precise gazette publication was done under Section 5 of the Act, 1954, wherein the disputed property survey No. 7156 & 7157 were not originally included and later on by way of amendment in the original entry, the two houses and two shops were included in the statutory list, which is illegal.

19. The counsel relied upon the judgment delivered by the Supreme Court in the matter of ***Board of Muslim Waqfs, Rajasthan versus Radhakrishna & Ors, 1979 (2) SCC 468***, wherein the Supreme Court has explained that the special rule of limitation under Section 6 is directed to proceedings concerning property specified in the statutory list of Waqfs and does not automatically extinguish the title of a stranger merely because the property has been included in such list. The Supreme Court has further held that a stranger's independent title could not be put in jeopardy merely because the property had been included in a Waqf list and the special one-year rule was not applicable to such a stranger's title / claim in the circumstances considered by the Court. The counsel further relied upon the judgment delivered by the Supreme Court in the matter of ***Lal Shah Baba Dargah Trust v/s Magnum Developers and others, (2015) 17 SCC 65***, wherein the Supreme Court has held that till the composition of the three members Tribunal, the existing one or two member Tribunal may continue to work.

20. The counsel further prays for allowing the revision petition and setting aside the order passed by Chairman on 25.10.2018 and State Member

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Signing time: 04-11-2026 15:32:20

on 15.11.2008.

21. The learned counsel appearing on behalf of the respondents No. 1, 3 & 4 submits that the subject application under Section 80(2) of Waqf Act, 1995 was preferred by the plaintiffs for declaration of title, possession and permanent injunction on 16.02.2010 in respect of survey No. 7156 & 7157 and the entry dated 22.10.1997, by which the properties of these two survey numbers have been included in the properties of Masjid Dhooldhoye. It is submitted by the counsel for the respondent that in 1929 by the document Exhibit D/8, Murtaza Baig has dedicated the subject properties to the Masjid and since then, the Masjid Committee is collecting the rent from the tenants and depositing the property tax with the Corporation. When the audit was conducted by the auditors, they came to know that two shops and two houses have not been recorded in the list of properties of Waqf Masjid Dhooldhoye, whereas the same were in possession of the Masjid and the Committee was already receiving the rent from the tenants. Therefore, the auditor submitted the report and on the basis of the report, the then CEO issued direction to include the two houses and two shops in the list of properties. It is further submitted that it is incorrect to say that without following the valid process, the properties have been included. It is further pointed out that in the survey report of the year 1910 (Exhibit P/10), the name of Syed Muhammad Ali Hassan was recorded being Manager of the Masjid and, therefore, the same cannot be treated as the document of title of the plaintiffs.

22. He further submits that the State Member has not examined the documents submitted by the defendants Exhibit D/1 to D/61 and without

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Signing time: 04-11-2026 15:32:20

examining the same, the State Member has observed that the property was owned by the plaintiffs. The counter book of the rent receipt has also been placed on record by the defendants to prove that the Masjid Committee was collecting the rent from the tenants since long. The counsel prays for setting aside the order passed by the State Member and upholding the order passed by the chairman.

23. The counsel appearing on behalf of the respondent No. 2 supported the arguments advanced by the counsel for the respondents No. 1, 3 & 4. However, the counsel appearing on behalf of the respondent No. 6 supported the arguments advanced by the petitioner.

24. Arguments advanced by the counsel for the parties are considered, record of the tribunal is perused and from minute examination of the record, it appears that the plaintiffs have filed the subject suit only on the basis of the survey report of 1910. After enforcement of the Indore Municipal Act, 1909 by the then Holkar State, a survey was conducted in the City of Indore and a survey sheet was prepared on the basis of the information received during survey for the purpose of collection of property tax. The purpose of conducting the survey was to ascertain the properties upon which the tax is leviable and said survey report cannot be treated as a document of title. Khasra numbers were recorded by the Revenue Officers and survey numbers were in respect of the individual properties situated within Municipal area. On perusal of record, it appears that in the survey sheet of 1910, the survey No. 7151, 7156, 7157 were recorded in the name of Mir Muhammad Ali Hussain, whereas survey No. 7158 was recorded as Mutalliq Masjid. The

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Signing time: 04-11-2026 15:32:20

Exhibit P/13 survey sheet, survey list Exhibit P/10 & Exhibit P/14 reflects that the properties were included in this survey and the name of Mir Mohammad Ali Hussain was recorded in the survey list.

25. From perusal of record, it appears that on 10.06.1929 the Revenue Officer of Municipality Indore City has exempted the property tax of house No. 37 to 39 on the ground that the income of these houses are being used for the religious purposes. This exemption was granted upon the application (Exhibit D/8) submitted by the Muslim Panchan. Thereafter on 22.12.1930 (Exhibit D/8), another application was submitted by the Muslim Panchan for the purpose of carrying out some repairing work which was allowed. The Muslim Panchan submitted an application for seeking repairing plus construction permission of house No. 46 & 48 on 27.04.1943 (Exhibit D/11 and D/12) and by Dakhla dated 27.04.1943 (Exhibit D/13), the construction permission was granted by Municipal Commissioner Indore City. The permission granted to Masjid Committee for raising construction was challenged by the father and uncle of the plaintiffs Syed Mohammad Dil Bande Hasan and Syed Mohammad Shedaye Hussain alias Mir Mohammad Ali Hasan in an appeal (Exhibit D/14) before President of Appeal Committee, Municipal Council, Indore, on the ground that in the survey sheet 1910, the property has been recorded in the name of their father and, therefore, no building permission can be granted to construct the shops and repair the house in favor of the Masjid Committee. The appeal was dismissed by order dated 14.04.1944, Exhibit D/16 & D/17 and later on further sanction was granted in the year 1976 (Exhibit D/18).

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Signing time: 04-11-2026 15:32:20

26. After dismissal of the appeal preferred by the fathers of the plaintiff in the year 1944, no further action was taken by the father of the plaintiffs, who himself was overseer in the Municipality Indore. Though the certified copies of the sanction building plan was supplied by Municipality to him by Exhibit P15.

27. The plaintiffs have filed the suit on the ground that on the basis of the Auditor's Report, two houses and two shops have been illegally included in the list of the properties of Masjid Dhundhoye. However, the plaintiff has not placed any document on record to prove his title except the survey list, wherein the name of the grandfather of the plaintiff has been mentioned. From the perusal of Exhibit D/3, D/4, & D/5, it appears that in respects of the subject houses on 07.10.1929, a permission was granted by Municipality to the Masjid Committee to repair the houses. In the absence of any title document, only on the basis of survey list, it cannot be accepted that the plaintiffs are the owner of the subject houses, whereas the defendants have filed number of documents since year 1929 onwards to prove that they were dealing with the houses. The Property tax exemption receipts have also been filed by the defendants as Exhibit D/22 to Exhibit D/25. Other correspondence with the Corporation in respect of the suit houses have also been filed by the defendants including Grah Mapan Patra, wherein the Revenue Inspector of Corporation has recorded that the houses are owned by Dhooldhoye Masjid and the tenants are paying rent to the Masjid. This paper Exhibit D/30 is of the year 1937. The Masjid Committee has placed on record the rent notes since year 1956 and counter receipts to show that the

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Signing time: 04-11-2026 15:32:20

tenants are paying rent to the Masjid Committee.

28. The core question is that whether by the amendment in the list of properties, any new property has been added or only the description has been clarified ? This issue is required to be examined on the basis of the material available in the case. Exhibit D/46 is the original notification dated 25.08.1989 and no one has challenged the notification including the plaintiffs, wherein at serial No. 602, the details of Masjid Dhooldhoye Kidwai Marg, Barwali Chowki, Indore has been mentioned and as per the said entry, it is a Sunni Masjid and having annual income of Rs. 12,000/- from the rent of one house. The property is situated upon the khasra No. 663/1/1, Masjid is admeasuring 72 X 70 = 5040 square feet and the house is of 100 X 75 = 7500 square feet, total area admeasuring 12540 square feet. When the audit was conducted by the auditors, they came to know that the Masjid Committee is getting rent of Rs. 4,560/- per month and there are three houses and two shops from where the Committee is getting rent. The auditor submitted the report to the effect that there are total three houses and two shops and this description should be clarified in the survey sheet, but nowhere the auditor submitted that these two houses and two shops are in addition to the total area of 12,540 square feet and, therefore, the CEO simply ordered for recording the clarification and the entry was amended to that extent, but no additional area has been included in the list of properties. Still even after the amendment in the list on 22.10.1997, the total area of the property is 12,540 square feet, which consists three houses and two shops and when the plaintiffs are not aggrieved from registration of one Masjid and

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Signed by: DIVYANSH SHUKLA
Signing time: 04-11-2026 15:32:20

one house total admeasuring 12,540 square feet, how they are aggrieved by the description recorded in the list register, wherein it is mentioned that the area 12,540 square feet consists of two shops and three houses.

29. The Exhibit D/61 and its Hindi translation Exhibit D/61(T) are very material documents, which were actually under challenged under the subject suit, by which the entry was amended and recorded in the registration of Aukaf. From perusal of Exhibit D/61(T), it appears that at serial No. 621/602, the amended entry reflects the name of Masjid Dhooldhoye, Kidwai Marg, Barwali Chowki, Tehsil and District Indore, which is a Sunni Waqf having one Masjid, two houses and two shops situated in Khasra No. 663/1/1 consisting of Masjid admeasuring 72 X 70 = 5040 square feet and the houses of 100 X 75 = 7500 square feet, total area admeasuring 12540 square feet and, therefore, it reflects from the Exhibit D/61 that despite including two houses and two shops in the list of property, the total area of the property of the Waqf has not been increased. Therefore, by mere mentioning the details of the properties, it cannot be accepted that new houses have been included in the list of properties and, thus, the allegation of the plaintiffs that without carrying any survey or issuance of notification or calling objection, the two houses and two shops have been included in the properties of Waqf Dhooldhoye Masjid, is incorrect and in the absence of any challenge to the notification dated 25.08.1989, whereby originally the properties of Masjid were registered, the challenge to subsequent clarificatory entry is not maintainable and consequently, the plaintiffs have failed to prove their case.

30. Consequently, in view of this Court, the challenge to the entry

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Signing time: 04-11-2026 15:32:20

dated 22.10.1997 is misplaced and the same has been challenged only on the ground that before amending the entry, no notice was published, no objections were called and without following the procedure prescribed either under Section 4 or under Section 36 of the Waqf Act, 1995, the entry has been amended, by which two new houses and two shops have been included. The plaintiffs want to take advantage of this process and by challenging the said amendment entry dated 22.10.1997, the plaintiffs have tried to put up their staled claim, which had already turned into dead wood due to afflux of time, as since the year 1929, the Masjid Committee is dealing with these houses and in the year 1944, the appeal preferred by the father of the plaintiff was also dismissed by the appeal Committee of Municipality and no further action was taken by anyone on behalf of the plaintiff till filing of this application under Section 83(2) of Waqf Act 1995.

31. The entry which has been challenged by the plaintiff in this plaint still reflects the total area of the Waqf property 12,540 square feet and, therefore, this contention of the plaintiff cannot be accepted that on 22.10.1997, the additional properties have been included as Waqf property.

32. In view of this Court, the plaintiffs have miserably failed to prove their title over the suit properties. No title document could be brought on record by the plaintiffs. It is settled position of law that plaintiffs have to stand on their own legs and they cannot take advantage of any weakness of the defendants. It is also settled position of law that only on the basis of the name of any person in any survey sheet or survey list prepared for the purpose of collection of tax cannot be treated as document of title. There is

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no other document to prove alleged title of the plaintiffs except survey sheet. Consequently, in view of this Court, the Chairman, M.P. Waqf Tribunal has not committed any error in dismissing the suit preferred by the plaintiff. However, the State Member has committed an error in accepting the title of the plaintiffs over the houses survey Nos. 7156 & 7157. The Chairman and State Member both have not committed any error in dismissing the suit filed by the plaintiffs on the ground that the same is barred by limitation. The actual cause of action to challenge the management and use of these properties by Committee accrued to the father of the plaintiff in the year 1929 and thereafter, in the year 1944, when the appeal preferred by the father of the plaintiffs was also dismissed by the Appeal Committee and, therefore, the same ought to have been challenged by filing a civil suit by the father of the plaintiffs in the year 1944 and thereafter, the same has not been challenged by the plaintiffs and challenge has been made for the first time on 16.02.2010 by filing the subject application under Section 83(2) of the Waqf Act. Therefore, the chairman and State Member have not committed any error in dismissing the application on the ground of limitation.

33. Consequently, the present Civil Revisions are **disposed of** as under:

**(i)** Order passed by Chairman, M.P. State Waqf Tribunal, Bhopal dated 25.10.2018 is hereby affirmed.

**(ii)** Order dated 15.11.2018 passed by State Member of M.P. State Waqf Tribunal is set aside except the findings *qua* limitation.

**(iii)** Civil Revision No. 65/2019 (Syed Hafiz Ali and others v/s M.P.

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Wakf Board and others) is **dismissed**.

**(iv)** Civil Revision No. 168/2019 (The M.P. Waqf Board through Chief Executive Officer and others v/s Saiyyed Hafiz Ali ) is hereby **allowed**.

34. No order as to costs.

35. Record of the Tribunal be returned alongwith the copy of this order.

36. Let a copy of this order be kept in the record of connected Civil Revision No. 168/2019.

**(VINAY SARAF)**
**JUDGE**

Divyansh

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