



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6269 OF 2024

MANDABAI BALABHAU PATOLE

VERSUS

THE STATE OF MAHARASHTRA THROUGH UNDER
SECRETARY AND OTHERS

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Mr. Govind G. Suryawanshi, Advocate for the Petitioner.

Mr. K. B. Jadhavar, AGP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 27th JUNE, 2024.

P.C.:-

1. The petitioner takes exception to the order dated 28.11.2023 passed by the Secretary, Ministry Revenue and Forest Department, Maharashtra State in respect of cancellation of the Mutation Entry No.950 dated 05.03.2008. The petitioner claims that under Gift Deed dated 11.01.2005 Shri. Kamalakar Balaji Khaire had gifted the plot area admeasuring 40 x 50 feet out of Gut No.44 in her favour. Based on that, the Mutation Entry was certified. The respondent no.5 took exception to such Mutation Entry by filing Appeal before the Sub Divisional Officer at Jalna, who allowed the Appeal vide his order dated 30.03.2013. The petitioner preferred an Appeal before the Additional Collector, which was dismissed. Even the Divisional Commissioner confirmed the said order. The petitioner approached the State Government against aforesaid decision, which has been dismissed vide order dated 28.11.2023.

2. It is not disputed before this Court that so called Gift Deed is unregistered document alleged to have been executed on a stamp paper of Rs.50/-. The Revenue Authorities observed that on the basis of unregistered documents, which require to be compulsorily

registered in terms of Section 17 of the Indian Registration Act, 1908, the Mutation Entry cannot be certified. There cannot be dispute as regards to the legal position as stated above. Therefore, there is no merit in this Writ Petition. No fault can be found in the impugned order.

3. However, it is necessary to observe here that the petitioner would be at liberty to establish her right on the basis of so called Gift Deed by filing appropriate proceeding before the Civil Court and in that case rejection of the Mutation Entry would not be impediment for her.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/June-2024