

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8625 OF 2024

Kokilaben Deepak Rathod ...Petitioner
Versus
Ld. Additional Collector Mumbai M.S.D.
Suburban District Thr. GP And Anr ...Respondents

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Mr. Rajesh G. Singh i/by Mr. Rishabh Singh, for the Petitioner.
Ms. Tanu N. Bhatia, A.G.P. for the Respondent No. 1– State.

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CORAM : AVINASH G. GHAROTE, J.
DATE : 15th JULY, 2024

P.C.:

1. Though the tribunals, have rejected the application of the petitioner for cancellation of the gift deed dated 15.03.2021, in respect of the subject flat, which admittedly was jointly in the name of the petitioner and her husband, and on account of demise of the husband, the petitioner has acquired 62.5 % right therein, the balance of 12.5 % is going to the 3 children, out of which one of them Hitesh Deepak Rathod, has got the aforesaid gift deed executed in his favour, the rejection is on the ground that the gift deed does not contain a clause, that the transferee respondent No.2, would take care of the

petitioner during her life time. It is contended, that the aspect of taking care of the petitioner during her life time, would be an inbuilt condition, in any gift/transfer, which would be executed by the senior citizen, in favour of any of her children, or otherwise, which aspect has not been taken into consideration by both the authorities below.

2. Issue notice for final disposal, returnable on 29.07.2024.

The learned APP waives notice for respondent No.1.

3. Since it is stated that the respondent No.2 has entered into an Agreement of sale on 19.10.2022, in respect to the subject flat, no sale deed shall be executed or possession parted under the said agreement, in favour of the proposed transferee, till the returnable date.

(AVINASH G. GHAROTE, J.)