

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3606 OF 2024

Smt. Kalpana Macchindra Shinde @ Kalpana
Nanasaheb Patil .. Petitioner

Versus

Prashant Tanaji Patil and Ors. .. Respondents

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- Mr. Akshay A. Kulkarni a/w Mr. Avesh A. Ghadge, Advocate for Petitioner.
 - Mr. Umesh Pawar, Advocate for Respondent No.1.
 - Mr. A.C. Bhadang, AGP for State.
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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 09, 2025

P. C.:

1. Heard Mr. Kulkarni, learned Advocate for Applicant; Mr. Pawar, learned Advocate for Respondent No.1 and Mr. Bhadang, learned AGP for Respondent – State.

2. Parties before me are in dispute with respect to partition. The petitioner before me claims to be the granddaughter of one Smt. Krushnabai who has inherited 1/3rd share in the suit property by virtue of Court's order/judgment in Partition Suit bearing No.47/2001. However, it is seen that during pendency of the appeal against decree passed in the aforesaid suit, Smt. Krushnabai expired and her share devolved upon her legal heirs one of whom happens to be father of the present petitioner. Petitioner before me is the granddaughter of Smt.

Krushnabai and she asserts her right, title and entitlement in the suit property rather in the share coming to the entitlement of Smt. Krushnabai as her legal heir since she claims the said property to be ancestral property. If that be the case, Petitioner who has asserted her substantive right is free to approach the appropriate Civil Court having appropriate civil jurisdiction rather challenge the mutation entry and seek her entitlement. Mutation entries do not determine title to property. Further it is seen that Petitioner's father is alive, who is the son and legal heir of deceased Krushnabai.

3. The aforesaid facts are *prima facie* undisputed. In any event mutation entry does not determine substantive right, title and interest of the party neither ownership of their substantive right in the property. Mutation entries have to be backed by appropriate documentary evidence on the basis of which they are created and allowed under the provisions of the Maharashtra Land Revenue Code, 1966 (for short '**MLRC**').

4. In that view of the matter, Petitioner before me is free to agitate her substantive right/share in the subject property in an appropriate Civil Court having original civil jurisdiction. The impugned order dated 13.09.2019 passed by the State in revision under Section 257 of the MLRC, 1966 apart from the above, also considers the issue of delay. However without adverting to the rights

of the Petitioner on merits, in view of the aforesaid observations and findings, I do not find it necessary to interfere with the order dated 13.09.2019 considering that it is a well reasoned order. The said order is upheld and confirmed.

5. Needless to state that right of Petitioner is kept open if she so chooses to agitate the same in the Civil Court strictly in accordance with law. All questions with respect to Petitioner's right to challenge the alleged sale deed is also kept expressly open.

6. Writ Petition is dismissed.