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Validity of Gift When the Donor Keeps Possession

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ABSTRACT

The will of the sovereign parliament under which the governments function is a "statute." The executive must take action and the judiciary during the administration of justice must apply the law as prescribed by this manual. There will often be times when the courts will be asked to interpret the words, phrases and expressions used in the law. While this has been explained, in the courts for centuries, they have laid down some guidelines that have come to be known as the "Rules of Interpretation of Laws"

The interpretation of principles is a science in itself. An ordinance is a law of the legislature and a means of interpreting or establishing it is to seek the intent of the maker. The provisions of the law must be taken in accordance with the intent of the author to do so. Translation has two types- grammar and language. The definition of a system is achieved by pointing to the rules of speech in terms used in the law; in other words, it only looks at the oral expression of the legislature. Logical interpretation empowers the purpose of the legislature by considering other circumstances permitted in terms of the rules set out in this regard.

In this paper the case of Renikuntla Rajamma v. K. Sarwanamma, (2014) 9 SCC 445 in this case, the Plaintiff had applied for the withdrawal of the gift title deed because the donor had the right to enjoy his or her benefit during his or her lifetime as illegal and void ab initio. It has also been reviewed with the translation law used in the latest case. And, last but not least, researchers have provided conclusions. stating that a gift once registered cannot be revoked or suspended without consent by agreement or by withdrawal as contracts.

Keywords- *Interpretation, Translation, legislature, gift deed.*

I. INTRODUCTION

The will of the sovereign parliament under which the governments function is a "statute." The executive must take action and the judiciary during the administration of justice must apply the law as prescribed by this manual. There will often be times when the courts will be asked to

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In this paper the case of *Renikuntla Rajamma v. K. Sarwanamma*, (2014) 9 SCC 445⁴ in this case, the Plaintiff had applied for the withdrawal of the gift title deed because the donor had the right to enjoy his or her benefit during his or her lifetime as illegal and void ab initio. It has also been reviewed with the translation law used in the latest case.

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II. DISSENTING OPINION

***Renikuntla rajamma v. K. Sarwanamma* (2014) 9 Supreme Court Cases 445**

(A) Facts of the case

Rajamma has used the title deed in favor of Sarwanamma in respect of property, which he has reserved for himself, during his lifetime, the right to enjoy the benefits from that land. Subsequently, around March 1986, Rajamma filed a motion for revocation, withdrawing the gift deed for reasons including fraud, misrepresentation and improper influence.

The plaintiff (who responded to this complaint) sought a declaration that the deed of attorney made by the defendant - the appellant withdrawing the deed of the present deed, was void and ineffective. It is important to note that the defendant in this case had set himself up for a lifetime, the right to enjoy the benefits derived from that suit material.

The case was being challenged by Rajamma and the case went to trial.

The Court of Appeal in the case of a deed of attorney who was hampered by fraud or improper influence found that the defendant had failed to prove it and held that the deed was not a fact

³ Aiyer P Ramnathan, *LAW LEXICON*, p.1134 (2nd ed., 2002).

⁴ *Renikuntla Rajamma v. K. Sarwanamma*, (2014) 9 SCC 445

or a document. The gift, according to the Court of Appeals, was legally made and accepted by the plaintiff, and therefore, could not be changed by nature. Moreover, since the donor did not take steps to attack the gift he or she had made for more than 12 years, that was voluntary in nature and was free of undue influence, misrepresentation, or blame. The fact that the donor had the right to enjoy the property during his lifetime did not affect the validity of the title deed, the trial court agreed.

Angered by the court's decision, Rajamma preferred an appeal to the original appeal before an additional district judge. The Supreme Court of Appeals upheld the opinion of the Court of Appeal and ruled that the plaintiff had satisfactorily stated the validity of the gift and that the removal of the valid deed was not lawful.

Rajamma subsequently appointed the Second Court of Appeal, that is, the Supreme Court, which also refused to overturn the decisions and orders before it and rejected the second appeal.

(B) Issue

The only question asked on behalf of the applicant was whether the retention of the gifted property to be enjoyed by the donor during his or her lifetime and the right to receive property rent in any way affect the performance of the gift?

(C) Relevant Provisions

- **S. 122. “Gift” defined**– ⁵“Gift” is the transfer of certain existing movable or immovable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee. Acceptance when to be made—Such acceptance must be made during the lifetime of the donor and while he is still capable of giving. If the donee dies before acceptance, the gift is void.
- **S. 123. Transfer how effected** ⁶– For the making of a gift of immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses. For the purpose of making a gift of movable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery. Such delivery may be made in the same way as goods sold may be delivered.

⁵ Section 122 in *Transfer of property Act, 1882*

⁶ Section 123 in *Transfer of property Act, 1882*

- **S. 129. Saving of donations mortis causa and Muhammadan Law**⁷—Nothing in this Chapter relates to gifts of moveable property made in contemplation of death, or shall be deemed to affect any rule of Muhammadan law or, save as provided by section 123, any rule of Hindu or Buddhist law”

(D) Post 1929 Amendment

- **S. 129 Saving of donations mortis causa and Mohammedan Law**— Nothing in this Chapter relates to gifts of moveable property made in contemplation of death, or shall be deemed to affect any rule of Mohammedan law.

(E) Contentions

- **Appellant’s Contention**

The conditional gift was not considered by the provisions of the Transfer Act, so as the title deed failed to transfer, the title deed, ownership and right to make that property in accordance with the same deed was not a gift in the eyes of the law. [Reiance is set to Naramadaben Maganlal (supra).

- **Respondent’s Contention**

It was also argued on the part of the respondent that the gift that held the donor's interest in the life of the donor could not be considered invalid. (referring to K Balakrishnan's 2004 case).

(F) Judgment on the Issue

The Court has adopted two different (Independent) approaches to this matter:

- The Supreme Court reviewed the provisions of sections 122 and 123 of the law and held that a joint reading of the two sections makes it clear that the "transfer of assets" of a covered asset is a registered gift-making and proven gift is not a necessary condition for making a valid gift under legal terms.

In doing so, the Court held that the "transfer of property" of property covered by a registered gift deed duly signed by the donor and certified as required is not a non-sine qua that would not make a valid gift under the provisions of the Property Transfer Act 1882.

The Court has upheld the decision of the Constitutional Bench of the Supreme Court of Allahabad in the case of Lallu Singh v. Gur Narain and Ors. [SPIRIT 1922 All. 467], ⁸in which the Court rejected the argument that section 123 of T.P. The law simply adds one more legal

⁷ Section 129 in Transfer of property Act , 1882

⁸ Lallu Singh v. Gur Narain and Ors. [SPIRIT 1922 All. 467],

requirement namely the requirement to prove and register a title deed to what was already required by the Hindu Act, that is, which makes the delivery of the goods very important in the completion of the gift.

- 129 TPA: Both before and after 1929 Amendments

The Court held that a careful reading of the above showed that the "rules of Hindu law" and "the Buddhist law" should have remained unresolved by chapter VII unless those laws contradicted section 123 of the TPA. This clearly means that Section 123 has a significant impact on the rules of the Hindu Law relating to a gift including the law that the property received to be given to the recipient must be present.

The amendment, the unconfirmed Hindu law relating to gifts other than section 123, has now been replaced by Chapter VII as a whole.

(G) Supplementary Reasoning

1. Division of Section 123 into two parts

The Court noted that while the first part of the immovable property needs to be transferred to a registered object, the second part responsible for the movable property requires that the gift of movable property be used either by a registered tool as mentioned above or "delivered".

Therefore, 'delivery' is not a method of giving a gift of immovable property and is not a form of authorization, rather it is an alternative to the supply of movable property.

(H) Judgment on the Conflicting Decisions [Unclear Analysis by the Court]

It has been found that there is a clear conflict between *Naramadaben Maganlal Thakker v. Pranjivandas Maganlal Thakker & Ors.* (1997) 2 SCC 255⁹ noK. *Balakrishnan v. K. Kamalam & Ors.* (2004) 1 SCC 581¹⁰, thus leading to the reference to a larger benchmark for the authoritative and accurate interpretation of sections 122 and 123 of the Transfer Act, 1882.

The Court separated the verdict in the case of *Naramadaben Maganlal* (supra) on the facts of the case, because it was a conditional gift and there was no admission bill or other evidence showing favoritism. However, it has been stated that the Court in this case erred in explaining why the Gift in the *Naramadaben* case was a conditional gift, not in this case as the following explanations of the title deed in the *Naramadaben* case show that the terms of the title deed were the same to receive rent. Aside from the apparent approval of the defendant in the current case, the decision in the *Naramadaben* case is contrary to the decision in the current case.

⁹ *Naramadaben Maganlal Thakker v. Pranjivandas Maganlal Thakker & Ors.* (1997) 2 SCC 255

¹⁰ *Balakrishnan v. K. Kamalam & Ors.* (2004) 1 SCC 581

In that case the donor who provided the goods said:

“The said immovable property as described above with the ground floor and with the ways to pass and with the water disposal and with all other concerned rights, **titles is gifted to you and the possession whereof is handed over to you under the following conditions to be observed by you and your heirs and legal representatives as long as the Sun and the Moon shine...that and you are made owners by the gift deed of the said property on such conditions that** there are 15 rooms on the said property at present. **I am rightful to receive the rents and the mesne profit whatsoever accrued from the said rooms throughout my life. I am only entitled to receive the mesne profit of the said property till I live.** Similarly, the said property shall be in my possession till I live...**And by this gift deed the Limited ownership right will be conferred to you till I live.** After my death you are entitled to transfer the said property. I shall not give in any way my right to anybody to collect the mesne profit. You may get transferred the said property in your name in support of this deed. **This gift deed is executed to you under the aforesaid conditions.”**

Then, the deed was cancelled stating that:

“**I executed to you a conditional gift deed of the said property from sky to earth. You had promised me to fulfill the oral conditions between us. But immediately after making the gift accordingly, you denied to fulfill the said conditions,** the possession of the gifted property is not handed over to you. **So, in fact, you have not accepted the conditional gift of the property and I am also not willing to act according to the conditional gift. “**

The Court upheld **K's decision. Balakrishnan (supra)**, in which the Court held that there is no legal prohibition that ownership of a building cannot be granted without the possession and right of entertainment.

In this decision, the Supreme Court affirmed and clarified the essential requirements for making a valid gift and made it clear that the delivery of goods is not a requirement

III. LITERAL RULE: A TOOL FOR STATUTORY INTERPRETATION

(A) Meaning

The Literal Rule, also known as the Plain-Meaning Rule, is a form of law, which states that principles should be interpreted using the common sense of the language of the system unless the law clearly defines some of its terms differently. In other words, the law should be read word for word and not deviate from its original meaning. It is a method that emphasizes the writing of the text and, to some extent, authenticity.

To avoid ambiguity, legislatures often include “definitions” sections within the law, which clearly define the most important terms used in that system. But some principles leave out the definition section altogether, or (generally) fail to define a particular word. Explicit definition law seeks to direct courts to hear cases that open the meaning of a word that is not defined by law, or that word that is found within the definition itself. According to a clear definition law, with no conflicting meaning within the law, words should be given their clear, common and literal meaning.

The first and basic rule of thumb is that it should be considered that the terms and phrases of technical law are used in their technical definition if they have found one, and otherwise have their own common meaning, and the second is that phrases and sentences must be obtained in accordance with grammatical rules. The names of the law must be given its general meaning. Where the structure of the system is clear and visible and without a doubt, that system design must proceed unless there is a strong and clear reason for the dispute. Where there is no ambiguity in words, there is no place to build. No single argument is weightier in a legal sense than a clear definition of a word.

Where language is not only explicit but also conclusive but means one thing the translation work cannot mean that it has emerged. The job of a court of law is simply to take the law into account, and to translate its words into its natural significance. If the words of the law themselves are straightforward and clear, then there is no further need to interpret the words in their natural and general sense. It is a basic principle of principle that words should be read in their literal sense.

Courts are instructed to take words as used by the legislature and to provide a natural explanation. If the language used by the legislature is clear and unambiguous, the court of law today must define its terms in its general sense; ‘*Verbis flight produces amnino standum est*’.

Admittedly, words have a limited meaning, a common rule that judges consider themselves bound by the words of the law when these words clearly govern the situation before the court. Words should be used with nothing and nothing taken. Specifically, the general rule is that a court may not extend a declaration to a case that is not in its own terms even though it may be under its jurisdiction (*casus omissus*) or reduce it by leaving a case involving the law, even though it should have been. (No recent accepted name, but can be called *casus male inclusus*). Practical law is the law against using discretion in understanding language. Anyone in ordinary life translated words literally, indifference to what the speaker or writer may say can be

considered a pedestrian, a perpetrator or a fool.¹¹

(B) Intention of the legislature

The draft law “is intended to make the legislature state what it actually says.” The purpose of all translations is to find the purpose of Parliament, but the purpose of Parliament must be found in the language used. "If the language of the law is clear and unambiguous, the court must use it and there is no right to extend its operation in order to achieve the real purpose or thought of the legislature¹². It is the legislature, it is the legislature to amend this law, rather than the courts attempting to amend the necessary amendments by planting a clear definition otherwise its natural meaning to produce the result which the legislature is supposed to have intended.

If any legal provision could have only one construction, it would not be open to the court to impose a construction that was different from what was said, simply because other construction could lead to irrational or irrational consequences. If the words are clear, they should be used, even if the purpose of the legislature may be different or the result may be harsh or unpopular. Real law is what the law says instead of what the law says.

It is fundamental that the primary function of the court is to achieve the purpose of the legislature as expressed in the terms used by it and no external scrutiny can be called upon to help determine that purpose. When the language of the law acknowledges that there is no ambiguity and clarity, it is not open to the courts to set up their own glossary in order to extract something that is not directed at the legal language.

IV. CONCLUSION

According to a clear definition, we must ignore the conflicting meaning within the law, words must be given their clear, common and literal meaning. If the words are clear, they should be used, even if the purpose of the legislature may be different or the result may be harsh or unpopular. Real law is what the law says instead of what the law says.

Practical law can be understood in the following cases -

- The program itself can provide a special definition of the term, which is usually found in the translation section.
- Technical names are given a technical definition if the law does not specify others.

¹¹ 8 Glanville Williams, *LEARNING THE LAW*, p.102, 103, 105 (11th ed., 2010).

¹² *Piara Singh v. Mukla Singh*, ILR 4 Lah 325-26.

- Words will not be memorized.

The literal law of interpretation is the basic law. Under this translation law, the courts interpret the principles in a literal and general sense. They interpret the words of the law in a way that is commonly used by all. It is the duty of the court to use the grammar definition. Principles should be made in such a way that there is no other meaning than the literal meaning. It is an old and traditional law of translation. It is used not only in England, but also in India, where it originated. When it comes to reading rules, courts can keep a few points in mind. It should be noted that the offer is complex only if it contains a word or phrase that has more than one meaning. When interpretation is open to different meanings in the same context it is confusing but if it is possible to have a different meaning in different contexts it is clear.

The Court, while acknowledging the provision that where the terms of the Statement or Ordinance are clear, then even the longer and more consistent course of its translation may be set aside, held that (i) whenever the donor is the owner of the universe, (ii)

and convey the full title of the gift to the giver, (iii) the receipt, and (iv) the receipt in the donor's lifetime, therefore, the fact of retaining the right to use the property during the donor's lifetime, does not interfere with the transfer of ownership in favor of the recipient.

In fact, if the donor does not donate the goods to the recipient until he or she lives and collects taxes until his or her lifetime, those conditions do not make the gift conditional. Therefore, it is a valid gift and as a result, the application was rejected.

If the gift was conditional and there was no acceptance of the gift we could not function as a gift. The full transfer of ownership to the gifted area made was not in that case which led the Court to hold that the gift was conditional and should only be effective after the death of the donor. The judgment in that opinion is clearly divided and cannot be read as an authority on the proposal that the delivery of goods is an essential requirement for making a valid gift.

In the immediate case as we have already seen, the making of a registered gift deed and its proof by two witnesses is irrefutable. It was also held simultaneously with all three lower courts where the manager accepted the gift. Repetition of the title deed of the gift also confirms the transfer of the full title to the gift-giving area from the donor to the person to whom it was made. The only reserved right to use the property during the life of the donor does not affect in any way the transfer of ownership in favor of the donor.

Also point to the absence of extensive access by ordinary people and lawyers to secondary resources. The law is also popular in the proof law since the testator inspector is not usually closely sufficient to show which interpretation of the will is correct. It is therefore argued that

fundamental proofs should not change the terms or meaning used by the owner. It can help to make the interpretation similar.

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