



FACULTY OF JURIDICAL SCIENCES

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Subject Name- Drafting, Pleading and conveyancing

COURSE NAME- LLB, III Sem

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LECTURE 28

Who can be a donor/donee?

A donor is a person who makes the transfer of immovable property. Any person who is of sound mind and is competent to enter into an agreement can be a donor. A minor cannot be a donor as he/she is not capable of entering into a contract.

A donee is a person who accepts the gift/transfer made to him. A minor can be a donee however, the gift would have to be accepted by donee's guardian on behalf of the donee. In case of the onerous gift (gift attached with some conditions), a minor after attaining adulthood, can either accept the gift or return it.

“If the donee accepts the gifts of which some bills are pending, then all the dues will be shifted on donee. For example, if you gift a property to your relative and a bill of Rs. 1000 is due then after the gift is transferred, it is your relative's responsibility to pay the dues.” says Advocate Tanuj Agrawal.

Can a Gift Deed be revoked/canceled?

A gift once made and registered with due process of law cannot be revoked. After the acceptance, it becomes the property of the donee. The donor cannot independently revoke the deed. Also, in a deed where the parties have agreed that the deed shall be revocable in part or whole, by the mere will of the donor, is not a valid Gift Deed.

However, under Section 126 of the Transfer of Property Act, 1882 there are certain grounds when gifts can be revoked. The revocation in itself incorporates the cancellation of the Gift Deed and the possession of the property is returned to the donor. The grounds are –

- If there is an agreement between the donor and donee, that if certain specified events happen or do not happen, the gift shall be revoked. The point to note here is that the occurrence of such an event should not be controlled by the donor. And both parties must have agreed to such a condition in terms of the Gift Deed.
- The conditions stipulated should not be immoral, illegal or reprehensible to the property.
- In case of *Thakur Raghunathjee Maharaj v. Ramesh Chandra*, Hon'ble Supreme Court state that ***“even though a condition is not laid down in the Gift Deed itself, and has been provided under a mutual agreement separately but forms part of the transaction of the gift, the condition would be valid and enforceable”***.
- Another instance, when a gift can be revoked is, if they violate Section 19 of the Indian Contract Act, 1872 which says ***“Where consent to an agreement is caused by coercion, undue influence, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so obtained”***.

So if the gift was made by obtaining consent on the above grounds it can be revoked. And in case, the donor dies, his heirs have the right to file for revocation of the deed.

MCQs-

i. Any person can lodge a first Information Report (FIR). It is not necessary for him to be the victim or the injured or an eye-witness

- a. partially true
- b. partially false
- c. none of above
- d. both of above

ii. The objectives of filing an FIR are stated as below:

- (1) To reduce the substance of data given of a cognizable offense ,whenever given orally, into a composed written form.
- (2) To have it signed by the complainant if submitted in writing.
- (3) To maintain a record of information of the cognizable offences committed.
- (4) To initiate investigation on receipt of information of commission of cognizable offence.

- a. 2,3,and 4 only
- b. 3,1,2,4
- c. **1 only**
- d. 4 and 3 only

iii. A _____ is an order that is issued by a Magistrate (or District Court Judge) authorizing a law enforcement officer to perform an act – usually an arrest, or a search of property, involving an alleged crime

- a. proclamation
- b. sentence
- c. punishment
- d. warrant

iv. Gift Deed under Transfer of Property Act, 1822, through which one can transfer an existing _____ .

- a. only immovable property
- b. only movable property
- c. both
- d. none

v. whether a gift deed can be executed without consideration?

- a. no
- b. yes
- c. partially true
- d. partially false