



“बेटी बचाओ, बेटी पढ़ाओ” JAYOTI VIDYAPEETH WOMEN'S UNIVERSITY, JAIPUR

Government of Rajasthan established

Through ACT No. 17 of 2008 as per UGC ACT 1956

NAAC Accredited University

### **Faculty of Law and Governance**

**Faculty Name-** Ms. Tripti Negi

**Program-** BA LLB, BCom LLB, BBALLB Semester 10<sup>th</sup>, LLB 2<sup>nd</sup> Semester

**Course Name**– Property Law and Easement

Session No.& Name – 2023-2024

Academic Day starts with –

Greeting with saying ‘Namaste’ by joining Hands together following by 2-3 Minutes Happy session, Celebrating birthday of any student of respective class and National Anthem.

Lecture Starts with-

Review of previous Session

National song’ VandeMataram’

Subject Name – Property Law and Easement

Topic – Gift

## **Introduction:**

Gift, as a mode of transfer of property, holds significant legal importance under the Transfer of Property Act, 1882 in India. In this comprehensive note, we delve into the legal framework surrounding gifts, examining their definition, essential elements, formalities, rights, and obligations under the Transfer of Property Act. Through a detailed analysis, we aim to provide a thorough understanding of the legal principles governing gift transactions in India.

## **Definition and Nature of Gift:**

Under the Transfer of Property Act, a gift is defined as the transfer of certain existing movable or immovable property made voluntarily and without consideration, by one person called the donor, to another person called the donee, and accepted by or on behalf of the donee. Unlike a sale or exchange, a gift does not involve any consideration or price paid by the donee to the donor. Instead, it is a gratuitous transfer of property motivated by love, affection, or other personal relationships between the parties involved.

## **Essential Elements of a Valid Gift:**

For a gift to be legally valid under the Transfer of Property Act, certain essential elements must be satisfied:

1. **Intent:** The donor must have a clear intention to transfer the property to the donee as a gift. The gift must be made voluntarily, without any coercion or undue influence.
2. **Transfer of Ownership:** There must be an actual transfer of ownership of the property from the donor to the donee. The donor must divest himself of the ownership rights in the property, and the donee must acquire absolute ownership thereof.
3. **Acceptance:** The gift must be accepted by the donee during the lifetime of the donor. Acceptance is essential to complete the gift transaction and create legal rights in favor of the donee.
4. **Property:** The subject matter of the gift must be certain and identifiable. It can be movable or immovable property, tangible or intangible, but it must be capable of being transferred.
5. **Registration (for Immovable Property):** In the case of immovable property, the gift deed must be executed on non-judicial stamp paper and registered with the appropriate authority as per the provisions of the Registration Act, 1908.

## **Formalities and Documentation:**

To create a valid gift under the Transfer of Property Act, certain formalities and documentation may be required, depending on the nature of the property:

1. **Gift Deed:** A gift deed is a legal document used to record the transfer of property from the donor to the donee. It must be executed on stamp paper and signed by both parties in the presence of witnesses.
2. **Registration (for Immovable Property):** As mentioned earlier, gift deeds involving immovable property must be registered with the appropriate authority to make them legally enforceable.
3. **Delivery of Possession:** In cases of movable property, physical delivery or transfer of possession from the donor to the donee is necessary to complete the gift transaction.

## **Rights and Obligations of Parties:**

Once a gift is validly made and accepted, certain rights and obligations arise for the donor and the donee:

1. **Rights of the Donor:** After making a gift, the donor loses all ownership rights and control over the gifted property. However, the donor may reserve certain rights or interests in the gifted property, such as a right to reside in a gifted house for his lifetime (life estate).
2. **Rights of the Donee:** The donee becomes the absolute owner of the gifted property and has the right to possess, use, and dispose of the property as he sees fit. The donee also becomes responsible for paying any taxes or liabilities associated with the gifted property.
3. **Obligations of the Donor:** Once a gift is made, the donor cannot revoke or cancel the gift unless there is a valid ground for revocation, such as fraud, misrepresentation, or incapacity. The donor may also be obligated to provide necessary documents or assistance for the registration of the gift deed.
4. **Obligations of the Donee:** The donee must accept the gift during the lifetime of the donor and comply with any conditions or restrictions imposed by the donor in the gift deed. The donee is also responsible for maintaining the gifted property and paying any applicable taxes or dues.

### **Revocation and Void Gifts:**

Under certain circumstances, a gift may be revoked or declared void under the Transfer of Property Act:

1. **Revocation by Mutual Agreement:** The donor and the donee may mutually agree to revoke the gift if both parties consent to the revocation.
2. **Revocation by Court Order:** The court may revoke a gift if it finds that the gift was made under undue influence, coercion, fraud, or misrepresentation.
3. **Void Gifts:** Gifts made under certain conditions, such as gifts in contemplation of marriage that do not result in marriage, are considered void and may be revoked by either party.

### **Conclusion:**

In conclusion, the Transfer of Property Act provides a comprehensive legal framework governing the transfer of property by way of gift in India. Understanding the essential elements, formalities, rights, and obligations associated with gift transactions is crucial for both donors and donees to ensure compliance with legal requirements and avoid disputes. By adhering to the principles laid down in the Transfer of Property Act, individuals can execute valid and enforceable gift transactions, thereby facilitating the transfer of property in a lawful and efficient manner.