

Paramount Law Times Newsletter



(For uptodating law and events)

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Issue 0005

Welcome Announcement

Paramount has taken a initiative to have its Law Time Newsletter for updating law and events. All interested individuals and institutions are welcome to request this newsletter.

Legal Audit and Moral Audit Services

Paramount Law Consultants Ltd., Delhi has completed its research and is taking up legal audit and moral audit services for the Corporates.

Subhash Nagpal
Chairman

Paramount Law
Consultants Ltd., Delhi

SPECIFIC QUESTION AND ANSWER DETERMINES RATIO OF AN AUTHORITY

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I

To reach at a ratio of an authority

1. To reach at a ratio of an authority one basic rule, which may be of good help would be to see, as to what specific question (of law or fact) has been raised and stands answered in the authority.

II

Reasons and logic of the answer

2. Reason and logic of the ‘answer’ to the specific question will help comprehend and appreciate the value of the answer in reference to the question itself being answered, and as such, first of all it is the ‘question’ which need be comprehended before its answer is appreciated for its value.

III

Specific question

‘Whether non delivery of possession of an immovable property given and taken in gift, at the time of gift will invalidate the gift?’

3. Supreme Court, in its recent judgment dated 17 July, 2014 (*Renikuntla Rajamma (D) By Lrs. Vs. K.Sarwanamma in Civil Appeal no. 4195 of 2008*) has given a specific answer to the above question as that delivery of possession is **not** an essential requirement for making a valid gift.

4. For reasons and values at the base of the above answer, one shall be through this judgment which takes up the interpretation of section 123 of Transfer of Property Act, in particular.

IV
Text of Section 123 TPA

5. For facility of convenient reference section 123 of TP Act is being reproduced:

“123. Transfer how effected – For the making of a gift of immoveable 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 moveable 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.”

Link of the above referred Judgment

<http://judis.nic.in/supremecourt/imgs1.aspx?filename=41773>

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