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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.CA 662/89

Date of decision:26.7.1989

Shri S.D. Khanna

...Applicant

Vs.

Union of India

..Respondents

For the Applicant .

..Shri V.K. Malhotra,
Counsel for the
applicant.

For the Respondents

..Mrs. Raj Kumari Chopra,
Counsel for the
respondents.

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. P.C. JAIN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporters or not?

JUDGMENT (ORAL)

(The judgment of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice Chairman(J))

We have heard the learned counsel of both parties on the question of admission of this application in which the only relief sought is that the cancellation of allotment of Government accommodation vide letter dated 2.3.1989 be quashed and set aside.

2. The admitted factual position is that applicant No.1 retired from Government service with effect from 31.5.1988 on attaining the age of superannuation. The applicant No.2 who is the son of applicant No.1 applied for regularisation of the Government accommodation which was under the

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occupation of applicant No.1. Both the applicants ^{that} furnished affidavits stating ^{or} their wife, son or unmarried daughter do not own or possess a residential plot or house within the local or adjoining municipalities at the place of their posting. According to the relevant instructions, regularisation of accommodation would be permissible only if the Government servant or his relations own or possess a residential plot or house within the limits of the local or adjoining municipalities at the place of their postings.

3. The applicant has stated that House No.C-456, Basti Nanak Chand, Wazir Nagar which was owned by applicant No.1 has been gifted in the name of his daughter with effect from 20.3.1988. He has also stated that he has applied for mutation of the said property in the name of his daughter. In this context, reliance has been placed on a document executed by him on plain paper on 20.3.88 and another document dated 13.4.1989. The document dated 20.3.88 purports to transfer the above mentioned house as gift to the daughter of applicant No.1. This document which is neither registered nor stamped cannot be taken to be a gift deed, in accordance with law. Any document purporting to gift immovable property is required to be registered in accordance with the Registration Act and stamped in accordance with the Stamp Act (Vide Section 123 of the Transfer of Property Tact, 1882 and Article 33 of the Indian Stamp Act, 1899). The document dated 30.4.89

[Signature]

is an application addressed to the Assistant Assessor and Collector, Municipal Corporation of Delhi requesting him that the same house may be mutated⁽¹²⁾ in the name of his daughter. Reference has been made in that document to a 'will' which has been accepted by the daughter.

4. Thus the applicants have stated in one place that the house in question has been gifted by applicant No.1 to his daughter and in another place it has been stated that it has been transferred by 'will' and accepted by the daughter. No property can devolve by 'will' before the person who has executed the 'will' has died, which admittedly, is not so, in this case.

5. In the facts and circumstances of the case, we are not convinced with the contention that the house in question has been transferred to the daughter of applicant No.1 either by gift or by will in accordance with law. Therefore, we see no merit in the present applicant and the same is dismissed. The parties will bear their own costs.

6. The interim order already passed stands vacated by this order.

(P.C. JAIN)
(P.C. JAIN)
MEMBER (A)

(P.K. KARTHA)
(P.K. KARTHA)
VICE CHAIRMAN (J)