

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 1959/2020

CM No. 7408/2020

Swarna Devi and others

.....Appellant(s)/Petitioner(s)

Through: Ms. Veenu Gupta, Advocate

Vs

Union Territory of J&K and others

..... Respondent(s)

Through: Mr. Aseem Sawhney, AAG vice
Mr. S.S Nanda, Sr. AAG

**Coram: HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER

21.10.2021

The petitioners claim that they are owners of the land measuring 19 kanals 10 marlas, over which the Government is constructing a Degree College based upon a document purported to be a gift deed executed by petitioner Nos. 2, 3 and 4 in favour of Government of J&K, Higher Education Department through the Principal, Degree College, Doda. Learned counsel for the petitioners states that the aforementioned document is not a registered document and is non-est in the eyes of law. According to Section 122 of the J&K Transfer of Property Act, Svt. 1977 (for short "the Act"), the gift is 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. The transfer of property is defined in Section 5 of the Act, which means an act by which a living person conveys property, in present or in

future, to one or more persons, whether living or unborn or to himself and one or more other such persons; and to transfer property is to perform such act. “Living Persons” includes a company or association or body of individuals, whether incorporated or not.

The question that arises for consideration is whether the gift deed can at all be made in favour of the Government and assuming that it could be, whether the Principal of the Degree College could, in law, be a party to the gift deed and whether the purported gift deed at all take away the right of the petitioners to seek compensation.

List on 11.11.2021.

Jammu
21.10.2021
Tarun

(Puneet Gupta)
Judge

(Dhiraj Singh Thakur)
Judge

