



MOHANLAL SUKHADIA UNIVERSITY, UDAIPUR

FACULTY OF LAW

SECOND YEAR BACHELOR OF LAWS

(Effective from Session 2020-21)

PAPER – III (PAPER CODE - 7003)

(PAPER NAME – **THE LAW RELATING TO TRANSFER OF PROPERTY AND EASEMENT**)

COMPULSORY PAPERS

Max. Marks: 100

Min. Marks: 36

Note: A. In order to ensure that students do not leave out important portions of the Syllabus, examiners shall be free to repeat the questions set in the previous examination.

B. Leading cases prescribed under this paper may be read whenever they are relevant.

Transfer of Property Act, 1882-

1. **Preliminary:** Definition- Immovable Property, Attestation, Notice
Essentials of Transfer, Competence of Parties, Subject matter of transfer, Registration of Transfer
2. **General Rules of Transfer:**
 - (A) Restraint on alienation - absolute or partial, Restraint of free enjoyment, Covenants affecting enjoyment, divesting on insolvency, perpetuities, Future estates
 - (B) Transfer to unborn person, Rule against perpetuity
 - (C) Accumulation of income, exceptions Covenants and Transfers
 - (D) Conditional Transfer - Condition Precedent, Condition subsequent, Vested and contingent interest.
3. **Priority of rights** – Doctrine of Election (S 35), Transfer of property out of which maintenance claims have to be met (S 39), Ownership by holding out – Ostensible Owner - Implied transfers by limited owners (S 41), Ownership by estoppels - Feeding the grant by estoppel- Transfer by Unauthorised person who subsequently acquires interest in property acquired (S43), Doctrine of Lis Pendens - Transfer of Property pending suit (S 52), Fraudulent Transfer (S 53), Doctrine of Part Performance (S 53A)
4. **Mortgage and Charge:** Kinds of Mortgage, Rights and Liabilities of Mortgagor and Mortgagee, Priority - Marshalling, Contribution & Subrogation, Charge, Difference between Mortgage and Charge
5. **Sale, Exchange, Actionable Claims** – Essentials, Rights and Liabilities of Parties, Modes of Transfer
6. **Lease** – Essentials, Duration of Leases, Modes of Leases, Rights and liabilities of Lessor and Lessee, Determination, Forfeiture, Notice to quit and Notice of Forfeiture and their Waiver, Tenant by Holding Out
Gift – Essentials, Onerous Gift, Universal Donee
6. **Law Relating to Registration of Property** – The Registration Act 1908

7. INDIAN EASEMENT ACT, 1882

Easements, Essentials of Easements, Imposition Acquisition, Incidents Disturbance, Extinction, Suspension and Revival of Easement, Licence, Difference between Lease and Licence.

CASES FOR READING:

1. Associated Hotels of India Ltd. v. R.N. Kapoor, AIR 1959 SC 1262
2. Shanta Bai v. State of Bombay, AIR 1959 SC 532
3. Plumb v. Fluitt, (1791) 2 Anst. 432
4. Lloyds Bank Ltd. v. P.E. Guzder & Co., AIR 1930 Cal 22
5. Sunil Sidharthbai v. Commissioner of IT, AIR 1986 SC
6. Valliammai v. Nagappa, AIR 1967 SC 1153
7. Md. Razaz v. Abbas Bandi Bibi, AIR 1932 PC 158
8. Samrendra Nath Sinha v. Krishna Kumar Nag, AIR 1967 SC 1436
9. Maddison v. Alderson, (1833) 8 AC 467
10. Raghuram Rao v. Eric P. Mathias, AIR 2002 SC 797

SUGGESTED READINGS :

1. The Transfer of Property Act (Act IV of 1882) as amended up to-date.
2. Mulla : Transfer of Property Act, 1882
3. Joshi : The Indian Easements Act (Act V of 1882).
4. Manon, A.K. : The Law of Property.
5. Sarthi, V.P. : Law of Transfer of Property.
6. Shukla, S.N. : Transfer of Property Act.
7. Saxena, I.C. : Transfer of Property Act.
8. Bhansali & Sharma : Transfer of Property Act. (Hindi)
9. Kulshrestha, J.N. : Transfer of Property Act. (Hindi)
10. Tripathi, J.P. : Transfer of Property Act. (Hindi)