

Paper 2.3

THE LAW RELATING TO TRANSFER OF PROPERTY AND EASEMENT

Max. Marks: 100
Marks: 36

Min.

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, Essentials of Transfer, Competence of Parties, Subject matter of transfer, Transfer to unborn person, Rule against perpetuity Registration of Transfer, etc. General Rules of Transfer:

- (a) Restraint on alienation absolute or partial, Restraint of free enjoyment
Covenants affecting enjoyment, divesting on insolvency, perpetuities, Future estates, Doctrine of acceleration. Accumulation of income, exceptions
Covenants and Transfers, General Rules of Transfer,
- (b) Conditional Transfer Condition Precedent, Condition subsequent, Vested and contingent interest.

2. Election, Priority of rights, Notice, Implied transfers by limited owners, Transfer of property out of which maintenance claims have to be met, Ownership by holding out, Ownership by estoppel, Doctrine of part performance. Feeding the grant by estoppel Fraudulent Transfer, Transfer of Property pending suit.

3. **Mortgage and Charge** : Kinds of Mortgage, Rights and Liabilities of

Mortgage and Mortgagees Priority, Marshalling, Contribution & Subrogation.

4. Sale, Exchange, Lease, Gift, Actionable Claims.

5. **Easements** : Essentials of Easements, Imposition Acquisition, Incidents Disturbance, Extinction, Suspension and Revival of Easement, Licence, Difference Between Lease and Licence.

LEADING CASES :

1. Raj Cooar Koondoo & Others v. John & Maria Mequeen (1873) 11 Beng. L.R. 46 (P.C.)
2. Manak Lal v. H.J. Ginwala & Sons, AIR 1953, SC
3. Phool Kure v. Prem Kure, AIR 1952, SC 307.
4. Chunchun Jha v. Sheikh Ebadat Ali & Others, AIR se 345.
5. Radha Krishan v. Rine J. Prasad S. Prasad, AIR 1966, Raj 219.

SUGGESTED READINGS :

1. The Transfer of Property Act (Act IV of 1882) as amended upto-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)

