Haryana Civil Judge (Mains) 2011

Civil Law II · compulsory paper

1. (a) Two Hindus got married in a temple. Several years later, and after the birth of three children, they get the marriage registered under the Special Marriage Act. A year later the husband claims that certain ceremonies were not performed and hence the marriage was void. Decide after giving arguments for both the sides.

(b) What are the demerits of testamentary disposition of property? While answering, keep in mind particularly the rights of vulnerable persons in the family.

(c) A wife becomes pregnant through artificial insemination using the husband's sperm without his permission. Husband and wife have not met in two years. The child is born with severe disabilities. The husband denies the child to be his. Decide.

2. (a) Calculate the shares of X's heirs assuming he had only HUF property when he died on 1.1.2000 leaving a widow, a mother, a step-mother, two sons, two married daughters (one married in 1980 and the other in 1989), one unmarried daughter, ten grandchildren, of whom four are children of a predeceased son and a predeceased daughter married in 1990 (each having a son and daughter). Give reasons for inclusions, exclusions and quantum of shares. What is the nature of property in the hands of each heir?

X has left behind considerable debts also. Who should pay the same and to what extent? These are his debts: to workers, Rs. 30,000; to temple priests for ceremonies, Rs. 10,000; to the local shopkeeper for groceries, Rs. 3,000; to the local liquor shop, Rs. 5,000.

In the light of this, how far does Mitakshara law play a role in Hindu law?

(b) What is the status of Rita in the following cases:

(i) Nita and Rita are twins. Rita was born 15 minutes later than Nita. They were both adopted by a childless Hindu [...] Park's on the east and west side of the plot. X constructed his house in April 1985 after getting the building plans sanctioned from the Municipal Council, Karnal, and kept windows on both sides of the house. In the year 2004, A started digging foundations in the open space abutting the "west" side of X's house, claiming to be its owner on the plea that it was allotted to him by the Rehabilitation Department in lieu of the properties left by his deceased father in West Pakistan. X institutes a civil suit on 3.10.2006, claiming easement rights by prescription. Soon thereafter, the Rehabilitation Department also issued a public notice for the auction of a residential plot which, as per the description given, was abutting the house of X on the east side. X institutes another civil suit on 1.1.2007 against the Rehabilitation Department, claiming the easementary rights. Explain with the support of case law:

(i) Whether X has acquired an absolute and indefeasible right to easement against A? (ii) Whether X has acquired an absolute and indefeasible right to easement against the Rehabilitation Department, Haryana? (iii) What are the essential conditions to claim such easement rights under the Limitation Act, 1963?

(b) "Justice has emanated from nature. Therefore, certain matters have passed into custom by reason of their utility. Finally the fear of law, even religion, gives sanction to those rules which have both

emanated from nature and have been approved by custom." What is the relevance of this statement of Cicero in the Indian legal system?

(c) How does a custom originate? Write briefly the role of the Supreme Court in preserving and developing the customs of the people.

De Facto IAS