Odisha Judicial Service (Mains) 2017

Law of Property · optional paper

3 hours · 150 marks

The figures in the right-hand margin indicate marks. Answer six questions, selecting two from Section A, two from Section B and two from Section C.

Section A

1. "Movability may be defined to be the capacity in a thing of suffering alteration of the relation of place immovability in capacity for such alteration. If, however, a thing cannot change its place without injury to the quality by virtue of which it is, what it is, it is immovable. Certain things such as a piece of land are in all circumstances immovable. Other things such as trees attached to the ground are, so long as they are so attached, immovable; when the severance has been effected they become movable." Define movable and immovable property in the light of Madras High Court decision quoted above in Mukry v. Goondakull (1872) 6 Mad HC 71, and explain whether the following are movable or immovable property : [25 marks]

(a) Mortgage debt

(b) A fruit bearing tree

(c) A right to cut grass

(d) A share in a company

(e) A suspension bridge

2. (a) Explain Spes Successionis. 12 [25 marks]

(b) Explain whether an interest can be created for the benefit of an unborn person under the Transfer of Property Act and Indian Succession Act, 1925 with the help of decided cases. 13

3. Explain the following: 5 × 5 = 25 [25 marks]

(a) Ostensible Owner

(b) Subrogation

(c) Part Performance

(d) Tangible and Intangible Property

(e) Marshalling

4. Describe the essentials of different kinds of mortgage. Who have the right of redemption under the TP Act, 1882. What are the mortgagor's powers ? [25 marks]

Section B

5. (a) What are the different methods of recovery of specific immovable property ? 13 [25 marks]

(b) A contract to deliver specific goods will be enforced by way of specific performance. Explain. 12

6. Describe contracts specifically not enforceable under the Specific Relief Act, 1963. [25 marks]

7. Describe the discretion and power of the Court in decreeing specific performance. [25 marks]

8. Explain various preventive reliefs available under the Specific Relief Act. [25 marks]

Section C

9. Explain, what is positive or acquisitive and restrictive limitation in the light of Indian Limitation Act, 1963. [25 marks]

10. What are the grounds of condonation of delay with regard to limitation ? Explain the Interpretation of "Sufficient cause" in the light of judicial decisions. [25 marks]

11. Describe the calculation of limitation period in different categories of suits. [25 marks]

12. Explain the limitation period on suits relating to movable property, tort and execution petitions. [25 marks]

De Facto IAS