West Bengal Judicial Service (Mains) 2018

Principles of Equity including Law of Trust and Specific Relief · optional paper

Time: 3 hours · Full marks: 100

Group A

1. Answer the following:
(a) What is "floating equities"?
(b) What was the main object of the Judicature Act, 1873?
(c) When would delay be fatal to a claim for equitable relief?
(d) The doctrine of Precatory Trust and the doctrine of Satisfaction are founded on which maxims of equity? State the maxims.
(e) Is a judgment-debt an actionable claim? Answer with reasons.
(f) Is the ordinary law of acquisition of title by adverse possession affected by the requirements of the Indian Trusts Act, 1882? Answer with reasons.
(g) What is 'Tacking'? Does the doctrine extend to India?
(h) What are the similarities between the concepts of a Trust and a Charge?
(i) When may a mortgagee become a trustee in relation to a mortgage?
(j) When does a legal estate lose priority? (2×10=20)

2. (a) Who is a 'Trustee de son tort'?
(b) How may he assume that position?
(c) Differentiate between a 'Trustee de son tort' and an obligor.
(d) X, a trustee for Y, allows the trust to be executed solely by his co-trustee Z. Z misapplied the trust property. Is X personally answerable for the loss resulting to Y? (3+4+4+4)

3. (a) Discuss the nature of the rights of trustees and beneficiary in the trust property.
(b) Bring out the points of distinction between charitable and purpose trust.
(c) Is a trust distinguishable from a contract? Explain. (5+5+5)

Group B

4. (a) Explain the maxim "once a mortgage always a mortgage" and its applications.
(b) What does the doctrine of "clogging the equity" imply?
(c) Can a mortgagee stipulate for a collateral benefit or advantage to endure beyond redemption? Explain.
(d) A mortgages both his estates Q and R to B and afterwards mortgages R only to C. How can B realise his debts? Answer indicating the principles involved. (5×4)

5. (a) Bring out the differences between legal and equitable estate.
(b) Discuss the principles upon which the doctrine of Election is based.
(c) To what extent does Indian law differ from English law on the application of the doctrine of Election? (5×3)

6. Answer any three of the following:
(a) In what ways is specific relief provided by the Specific Relief Act, 1963? Indicate the provisions also.
(b) What are the defences available in a suit for specific performance? Indicate the relevant provisions

also.

(c) What are the circumstances under which a part of a contract is enforceable under the Specific Relief Act, 1963?

(d) The Collector of Allahabad, under the order of the Government, forcibly dispossessed A from his house in juridical possession. Can he recover possession? What would be the position if A was dispossessed by a private person? (5×3)

De Facto IAS