West Bengal Judicial Service (Mains) 2021

Transfer of Property Act · compulsory paper

Time: 3 hours · Full marks: 100

Group A: answer Question No. 1 and any two from the rest

1. (a) What property can be transferred and what property can not be transferred under the Transfer of Property Act, 1882? (10)

(b) Explain the doctrine of Fixtures and determine the character of the following: (i) Diesel oil engine fixed to the earth with the help of nuts and bolts on the cemented foundation for the purpose of running a touring talkies. (ii) ATM machine fixed to the earth and wall by the bank in a tenanted premises. (4+3+3)

2. (a) Explain and distinguish between Spes Successionis and Doctrine of feeding the grant by Estoppel. (10)

(b) 'A' mother of a minor son 'B', transferred a property in favour of C on her behalf and on behalf of 'B'. The son after getting majority, challenged the said transfer and the court held that the transfer upto the extent of share of 'B' is void. Thereafter, before 'B' could take possession he dies in a road accident and A being legal heir of 'B' inherited in the same property. Now 'C' sues A for transfer of the 'B' share in the property to him u/s 43 of T. P. Act. Decide whether 'C' would succeed? (5)

3. Explain the Rule against perpetuity. What is the procedure prescribed under the Transfer of Property Act, 1882 to transfer property for the benefit of unborn person. (15)

4. (a) Explain the Doctrine of Lis Pendens. (10)

(b) A files a Suit against 'B' for possession of property. But the plaint is returned by the Court after preliminary finding that the Court does not have pecuniary jurisdiction. Before A could file the suit before the proper Court, B gifted the property to 'C'. Whether the gift is hit by the Lis Pendens? (5)

Group B: answer Question No. 5 and any two from the rest

5. (a) Define Mortgage and discuss various kinds of mortgage envisaged under section 58 of the Transfer of Property Act, 1882. (12)

(b) A creates Anomalous Mortgage of property in favour of 'B' for a period of 99 years with conditions that entire amount with interest would be payable at the time of redemption and the property can be redeemed within 6 months after completion of the term. Whether these conditions of the mortgage amounts to clog on equity of redemption? (8)

6. (a) What are the essentials of a valid gift under the provision of the Transfer of Property Act, 1882?

(b) Define and distinguish between actual and constructive notice with the help of illustration. (7)(8)

7. (a) Define 'Lease'. How the lease is made? What shall be duration of lease in absence of a written contract regarding duration of such lease? (2+2+2)

(b) What are the rights and liabilities of the lessor and lessee? (9)

8. (a) Distinguish between sale and contract of sale. (5)

(b) Describe the rights and liabilities of buyer and seller as per the Transfer of Property Act. (10)