

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Family Law-II  
Semester-VI (Batch: 2014-19)

End Semester Examination: April-May 2017

Date: 26<sup>th</sup> April, 2017

Duration: 3 hours

Max. Marks: 50

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- Bare Act is not allowed.

**Part-A****Marks**

Answer all questions

- Q.1 Mohammad Kasim, a resident of Rajagiri, Madras was a man of enterprise and acquired considerable properties by his business in foreign countries. In the year 1958, he established a school known as Madras Kassima for the benefit alike of Muslims and non-Muslims. Two years later he started a free dispensary which again was to serve the need of sick irrespective of the community to which they belonged. In 1962, in order to place the two institutions on a sound footing, executed a document named as 'a Deed of *Waqf*' and declared in public himself as the Mutawali. Rules were laid down as well, for the management of the institutions. The document declares the intention of the founder that the benefit there under should not be restricted to the members of the Muslim community alone. (10)
- In 1970 Mohammad Kasim expanded the ambit of school by converting it into a degree college and registered the same as Kassimia Charity Institution under the Charitable Endowments Act, 1890. After the death of Mohammad Kasim in 1972, there were complaints about the management of the institutions by successors of Mohammad Kasim i.e. his son Iftar Khan. Certain residents of the locality instituted a suit under Section 92 of the C. P. C., 1908 inter alia for settling a scheme for better management wherein district court appointed a committee to look after the affairs of Kassimia Charity Institution and Dispensary.
- In 1974 after some previous correspondence on the subject, the *Waqf* Board of Madras, called upon the Kassimia Charity Institution and Dispensary to have the *Waqf* registered under the *Waqf* Act, 1954 and to submit all accounts. Iftar Khan refused to register the same and alleged that the Kassimia Charity Institution and Dispensary will not be a *Waqf* within the purview of the *Waqf* Act, 1954 and that its provisions will have no application to it. Furthermore, he claimed as head he has all the powers pertaining to the management of institution and dispensary. In light of the given facts advise the *Waqf* Board of Madras and Iftar Khan appropriately.
- Q.2 Meera and her husband Sudhir were estranged and living apart since many years. The husband, by a letter in 1968 entrusted her the land measuring 5 acre, monthly rent of his flat (₹ 500 per month) and additionally agreed to pay a sum of ₹ 5,000 per month for her (10)

maintenance. After a few years Meera approached the family court for divorce on the ground of desertion from last 3 years. However, in December 1971 the family court granted the decree of judicial separation along with the custody of their two daughters to Meera. In accordance with the provisions of the Hindu Marriage Act, 1955 court also permitted Meera to continue with possession of the property of her husband as he entrusted it in 1968 for her maintenance and court also ordered that Meera shall continue to receive the rent of flat and ₹ 5,000. In February 1972, Sudhir died leaving behind his two daughters, Meera, his mother, father and two brothers. After the death of Sudhir, the mother and brother of Sudhir filed a petition in the court of law against Meera for partition of the total property of Sudhir which was in possession of Meera. Mother and brother of Sudhir also claimed the appropriate share in the rent amount which she received from the flat, However, Meera denied the claim. In accordance with the provisions of the Hindu Succession Act, 1956, advise both parties and divide the property of Sudhir, if any.

- Q.3 Radheshyam in his joint Hindu *Mitakeshara* family had wife Sunita, three sons Raju, Vinod and Suresh. Suresh solemnised his marriage in 1985 with Geeta and had one son Rajesh and one daughter Sita. In 2006 Radheshyam died leaving behind his self-acquired property worth ₹ 5 lakhs and his undivided interest in joint Hindu family property worth ₹ 20,000 which was divided among his legal heirs. In 2007 Sunita received 2 acres of land from her father after his death as legal heir. In 2008 Suresh died and left behind his self-acquired property worth ₹ 50,000 and his undivided interest in joint Hindu family worth ₹ 20,000 which was taken appropriately by his legal heirs in accordance with the provisions of the Hindu Succession Act, 1956. In 2015 Sunita died and left behind her property which she received from her husband, father and Suresh. Sunita left behind Geeta, her sister Vinita, mother Parvati and brother Ratan. Rajesh, Raju, Vinod and Sita predeceased her without leaving any property. Divide the total property of Sunita among eligible legal heirs in accordance with the provisions of the Hindu Succession Act, 1956. (10)
- Q.4 "*Marz-ul-maut is a combination of rules derived from two branches of Muslim law, the law of gift and law of will. The concept of marz-ul-maut is based on donatio mortis causa, as a gift of ambiguous nature, not exactly a gift, nor exactly a legacy*". Do you agree with the statement? Support your answer with relevant provisions of Muslim Law of Gift (Hiba) and Will. (08)
- Q.5 Differentiate between *Sadaqah* and *Ariat*. (02)

#### Part-B

Answer any two of the following:

- Q.6 Elaborate the provisions pertaining to devolution of property in case of simultaneous death of two heirs in Hindu and Muslim law with suitable examples. (05)
- Q.7 Differentiate between *Hiba- Il-Iwaz* and *Hiba-Ba-Shartul-Iwaz* with suitable examples. (05)
- Q.8 What do you understand by *Shuafa*? Differentiate between Shia and Sunni schools of Muslim law relating to *Shuafa* and its procedure. (05)

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**Schedule of the Hindu Succession Act, 1956**

**Class I Heirs**

1. Son
2. Daughter
3. Widow
4. Mother
5. Son of a predeceased son
6. Daughter of predeceased son
7. Widow of predeceased son
8. Son of predeceased daughter
9. Daughter of predeceased daughter
10. Son of predeceased son of predeceased son
11. Daughter of predeceased son of predeceased son
12. Widow of predeceased son of a predeceased son
13. Son of a pre-deceased daughter of a pre-deceased daughter
14. daughter of a pre-deceased daughter of a pre-deceased daughter
15. daughter of a pre-deceased son of a pre-deceased daughter
16. Daughter of a pre-deceased daughter of a pre-deceased son

**Class II Heirs**

- I. Father
- II. (1) Son's daughter's son (2) son's daughter's daughter, (3) brother, (4) sister.
- III. (1) Daughter's son's son, (2) daughter's son's daughter, (3) daughter's daughter's son, (4) daughter's daughter's daughter.
- IV. (1) Brother's son (2) Sister's son, (3) brother's daughter (4) Sister's daughter.
- V. Father's father. Father's mother.
- VI. Father's widow, brother's widow.
- VII. Father's brother, father's sister.
- VIII. Mother's father, mother's sister.
- IX. Mother's brother, mother's sister.