

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Private International Law  
Semester-IX (Batch: 2015-20)

End Semester Examination: October-2019

Date: 23<sup>rd</sup> October, 2019

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 anything 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.

**Part-A**

Answer the following questions (any four)

**Marks**  
(4x5=  
20)

- Q.1 Marine Technology, is an American company. It has its headquarters in Houston, Texas. It brought suit against the Company, Sea Marine, in the United State District Court, Southern District of Texas, Houston Division. Marine Technology filed a Motion for Entry of Default Judgment against Sea Marine and three others. On 18 January 2011, the US District Court granted Marine Technology motion and entered default judgment against Sea Marine and one of the other defendants. Against Sea Marine, it obtained a default judgment. The total amount decreed is in the aggregate sum of US \$ 632,431.28. Marine Technology lawyers issued a statutory notice to Sea Marine on 15 September 2012. Sea Marine's advocates replied on 8 October 2012 denying liability, saying that Sea Marine was unaware of any such decree.

Whether the ex-parte default summary judgment obtained by Marine Technology from United States District Court, Southern District of Texas, Huston Division is enforceable in India? Justify your answer with relevant provisions and case laws in India.

- Q.2 The marriage between Mahesh and Kriti was solemnised on 20 February 1996 as per Hindu rites. At the time of marriage, Mahesh was working in United States of America (USA) as Computer Engineer. After marriage, he took Kriti to USA on dependent visa. Both Mahesh and Kriti got the citizenship of USA in May 2004. They also obtained "PIO" status (Person of India Origin) in June 2003 and "OCI" status (Overseas Citizens of India) in July 2007.

Mahesh filed a petition under Sections 13 and 26 of the Hindu Marriage Act, 1955 against Kriti at the Family Court, Gurugram. Subsequently, Kriti filed a petition in the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, USA for divorce on the ground of irretrievable breakdown of marriage and other reliefs.

Is Mahesh entitled to decree of anti-suit injunction against Kriti? Give your legal opinion to Mahesh.

- Q.3 Siddharth immigrated to U.S.A. in the year 1995 and obtained a green card. He married to Neha on 21<sup>st</sup> November, 2003 as per Hindu rites. The marriage was registered on the

same day and then Siddharth returned to U.S.A. Neha went to U.S.A. in the year 2004. Neha immigrated to the U.S.A. and after her permanent resident card (green card) was processed, she lived with Siddharth in Pennsylvania. In September, 2005, Neha took up employment with a company in Princetown, New Jersey.

On 5<sup>th</sup> November, 2018 Neha filed a petition for divorce in the Family Court, Pune. On 21<sup>st</sup> February, 2019 and Siddharth filed the proceedings in the Court of New Jersey.

As Siddharth intends to challenge the territorial jurisdiction of the Family Court, Pune to try the petition seeking divorce filed by Neha. Advise Siddharth, whether the Pune court has jurisdiction to try the petition seeking divorce filed by the Neha under the Hindu Marriage Act? What are different factors or principles taken into account by Indian courts while deciding the legal issues that arise in these matters? As Siddharth and Neha intended to be domicile in USA after marriage, whether the concept of intended domicile would prevent Neha from initiating the proceedings in India?

- Q.4 Tony is unmarried US Citizen. He intends to adopt an Indian child. Advise Tony on the law and the procedure followed for inter-country adoption in India.
- Q.5 The *forum non conveniens* doctrine differs in each State in which it is applied. Explain the doctrine of *forum non conveniens* and its application by Indian courts in contractual disputes.

### Part-B

- Q.6 Although there are some idiosyncratic decisions where foreign arbitral awards are not enforced because of local rules, the trend is toward a more international and even transnational understanding of the proper application of the public policy exception. Explain how Indian Courts, in practice, have applied the public policy exception in setting aside or refusing enforcement of foreign award that violated public policy reflecting that the application of the doctrine of public policy in field of conflict of laws is more limited than that in the domestic law. (10)
- Q.7 Analyse the following questions and form your legal opinion by careful examination of the underlying issues with clear enunciation on the law and Indian judicial reasoning involved in such matters. (10+10 =20)
- (a) Is there a need to have a separate legislation in India for recognition and enforcement of foreign divorce decrees in India?
- (b) Whether India should ratify the 1980 Hague Convention on Child Abduction?

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