

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Family Law II
Semester- VI (Batch: 2019-24)

End Semester Online Examination: May 2022

Date: 04th May, 2022

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 600-750 words.

Marks

- Q.1 Tahir Hussain, a Sunni Muslim was the owner of a house for which he executed a duly registered deed of waqf in 1980 for creation of an *imambara* and *madrassa* at Nurnagar in Madhya Pradesh. The deed specified that the Tahir Hussain to remain in possession of the total property as Mutawalli and his wife was to be the Mutawalli after his death. The deed document further provided that after the death of both the husband and wife, subsequent Mutawalli would be elected by the *panchas* of the Muslim community along with the representatives of *imambara* and *madrassa*. Deed further added that as long as Tahir Hussain and his wife were living they would maintain themselves from the income of the property whereby they shall retain complete income however, upon their death, the same shall be spent for the maintenance of *Imambara* and *madrassa*. Accordingly by 1987, an *imambara* and the *Madrassa* were started under the supervision of Tahir Hussain. In 1990, Tahir Hussain died and left behind his son (Afroz), wife, daughter (Sabina) and his brother (Aseem). Upon the death of Tahir Hussain, his wife acted as Mutawalli for some time and she died in 1995. According to the terms of deed, the *panchas* of Muslim community along with the representatives of *imambara* and *madrassa* appointed Aseem as the Mutawalli. (10)

While discharging the duties as Mutawalli and in order to further develop the *imambara* and the *madarsa*, Aseem mortgaged both the premises with one Seth Ramalal for Rs. 10000 in the year 1996. However, the appointment of Aseem as Mutawalli and mortgage was challenged by Afroz on various grounds including the question of validity of the waqf. Aseem contended that the waqf is not valid as Tahir Hussain reserved life time benefits for himself in contrary to the waqf and further requested State Waqf Board to appoint an executive officer during the pendency of the mater.

In view of the above facts, discuss the validity of waqf and mortgage of the property. Discus the circumstance wherein an executive officer of waqf may be appointed under the Waqf Act 1995.

- Q.2 *In furtherance of women empowerment and to enable Hindu Women, Section 14 of the Hindu Succession Act, 1956 is aimed at removing restrictions or limitations on the right of a female Hindu to enjoy the property as a full and absolute owner of the property possessed by her so long as her possession is traceable to a lawful origin. It makes no difference whether the property is acquired by inheritance or devise or at a partition or in lieu of maintenance or arrears of maintenance or by gift or by her own skill* (10)

or exertion or by purchase or by prescription or in any other manner whatsoever. In view of above mentioned statement discuss the rights of Hindu Women in Hindu undivided family. Discuss how the Hindu law related to the women's property has been developed and strengthened by the Hindu Succession Act, 1956 and 2005 Amendment therein.

- Q.3 Radheshyam and Sunita got married in 1952 and had three Sons (Raju, Vijay, Naresh) and a daughter (Reema). In 1975 Raju solemnized his marriage with Seema under the provisions of the Special Marriage Act, 1954 and had one daughter. Vijay solemnized his marriage with a Christian girl after converting himself to Christianity whereas Naresh was suffering with mental disorder since his birth which incapacitated him in all respects. Reema got married with Rajeev by following the rituals of Hindu religion. Meanwhile, Raju and Seema mutually decided to take divorce from each other and filed a petition in respective family court under relevant law. The family court, subsequent to the submissions made by parties passed an order of judicial separation in 1985. In 1985, Sunita and Radheshyam met with an accident and died simultaneously. It was found that Sunita left behind her self-acquired property worth Rs 5 lakhs and an inherited property from her mother worth Rs 1 Lakh whereas Radheshyam left behind his self-acquired property worth Rs 15 lakhs and a share in ancestral property worth Rs 1 lakh. In view of above given facts, distribute the property of Sunita and Radheshyam among their eligible legal heirs in accordance with the provisions of the Hindu Succession act, 1956. (10)
- Q.4 Azimuddin, a Sunni Muslim made an oral declaration of hiba of his two properties, one in favor of Ranjit Singh, a Hindu by religion and second in favor of an unborn conceived child of his Son (Nazir) on 20 June, 1995. Upon the declaration, Azimuddin completed all formalities and a deed in this regard was also registered. Azimuddin accordingly transferred his first property in favour of Ranjit Singh however, retained the possession with him with consent of Ranjit Singh. Azimuddin also retained the possession of his second property. Azimuddin died on 20 September 1995 due to illness. Upon the death of Azimuddin, his son Nazir challenged the validity of hiba made in favour of Ranjit Singh on the grounds that Ranjit Singh was not Muslim and the possession was never transferred by his father which forms a requisite of valid hiba. Meanwhile, a son was born to Nazir on 31 February 1996. In view of above facts and circumstances discuss the validity of both Hiba made by Azimuddin. What are the kinds and requisites of Hiba. (10)
- Q.5 *Hindu and Islamic law of inheritance provide different and similar perspectives on various matters related to inheritance such as simultaneous death, joint family, ancestral property, right of illegitimate child, rights of females, step children and adopted children.* In view of the above statement, explain the similarities and differences with respect to above mentioned aspects in Hindu and Islamic law of inheritance. (10)
