

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Family Law-II
Semester-VI (Batch: 2013-18)

End Semester Examination: April-May 2016

Date: 1st May, 2016

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

Answer **all** questions

Marks

(3x10=
30)

Q.1 Radhacharan got married to Parvati in 1970, his family had three sons Laxmandas, Charandas, Gopaldas, one daughter Ranjanidevi, wife Parvati, unmarried sister Geeta, brother Kishan and father Virbhan. In 1968, before his marriage Radhacharan had started a business of agricultural products with his brother Kishan near his village Kamalpur. Radhacharan by investing his share of income from business purchased National Savings Certificates worth ₹ 50000 and Post Office Cumulative Time Deposit Scheme worth ₹ 60000. Radhacharan, due to affection with his brother and considering his contribution in business made him a nominee for his National Savings Certificates worth ₹ 50000 and Post Office Cumulative Time Deposit Scheme worth ₹ 60000.

Radhacharan died in 1978, leaving behind his three sons, daughter, wife, unmarried sister, brother and father. Radhacharan also left behind a piece of land measured as 7 acres along with his National Savings Certificates and Post Office Cumulative Time Deposit Scheme. Brother Kishan in 1978 filed a petition in the court of Civil Judge, Senior Division, Chiripalli for the grant of succession certificate in respect of National Savings Certificates and Post Office Cumulative Time Deposit Scheme of Radhacharan for which he had been made nominee by the deceased.

The Civil Judge while issuing the succession certificate in favour of Kishan held him entitled to get the amount of the National Savings Certificates and Post Office Cumulative Time Deposit Scheme with accrued interest thereon subject to furnishing of necessary court-fee stamp, Estate Duty Certificate. Aggrieved by the decision of civil judge, wife of Radhacharan made her mind to appeal in the higher court.

As an advocate advise Parvati for possible remedies and determine her share in the total property of Radhacharan, if any.

Q.2 Rajendra entered into marriage with Reeta in 1976 following the rituals and ceremonies of his community and marriage was registered under the Hindu Marriage Act, 1955. Rukmini, the mother of Reeta died in 1978 leaving behind her self-acquired property worth ₹ 2,000,00 and her legal heirs i.e her husband Vinod, her father Ramesh, daughter Reeta and two sons Vijay & Raju. After the death of Rukmini, her property

was divided among her eligible legal heirs as per the Hindu Succession Act, 1956. In 1979 Reeta approached the court for getting divorce from her husband on the ground of cruelty and subsequently court granted Judicial separation for one year. In 1980 after seven months of decree of Judicial separation, Rajendra died leaving behind Reeta, mother Prabha, sister Devika, brother Rajnish and his self-acquired property of ₹ 10,000. After one month of the death of Rajendra, Reeta also died leaving her property worth ₹ 40,000 and brothers Vijay & Raju, father Vinod, mothers' father Ramesh, Prabha, Rajnish and Devika. After the death of Reeta, Rajnish took entire property of Reeta on the ground that she married to his brother and she died issueless hence property should be given to him. As an advocate discuss the validity of claim made by Rajnish and determine the share of eligible legal heirs for the total property of Reeta.

- Q.3 Kadar took a piece of land on lease for 99 years from Government in the village Kasimpur and upon his death it was devolved upon his widow Zinat, his daughter Nargish, his brother Kamal, the daughter Rukshar of Zinat from her previous marriage. Zinat died leaving behind daughter Rukshar and share of Zinat in house was devolved on her. In 1976 Kamal executed a deed of waqf dedicating his share in the house for the upkeep and maintenance of the mosque. Similarly Rukshar also executed a deed of waqf dedicating her share in the house for the same purpose. Under the two deeds of waqf Mohammad Khan was appointed as Mutawalli. Thus share of Rukshar and Kamal in the house became the subject of waqf devoted for the purpose of upkeep and maintenance of the mosque, while the remaining share in house continued with Nargish. However the entire premises of house was let out to tenants on rent by Nargish, and the entire rent was realised by Nargish.

Mohammad Khan, the Muttawali requested Nargish to vacate the share for which the Waqf was created. Nargish refused to give the possession and contended that the Waqf is not a valid Waqf. Aggrieved by the denial Mohammad Khan instituted a suit for a declaration that half of the share in the house was waqf property, that he was the Mutawalli thereof and was entitled to realise half of the rent payable by the tenant. In view of the given facts and principles of Muslim law of Waqf advise both the parties.

Part-B

(3x6=
18)

Answer **any three** of the following questions

- Q.4 What is *Hiba Bil Imazq*? State the circumstances in which delivery of possession of immovable property is not required in making a *hiba*.
- Q.5 Discuss the essential requirements pertaining to 'acceptance' by legatee in Muslim will. How the validity of Will may be affected in Shia and Sunni law due to suicide by legatee.
- Q.6 "*The Hindu Succession Act, 1956 abolished Hindu women's limited estate*". Discuss the statement in the light of various development in this regard.
- Q.7 What are the duties of *Mutawalli* of a *Waqf*? Discuss the appointment and removal of Mutawalli

Part-C

- Q.8 In 1970 Mr A got married to W and blessed with one son K, later wife W died and Mr A entered into another marriage with wife W2 and thereafter they blessed with one daughter H & son F. In 1985 W2 died leaving behind A, K, F, H. Determine the share of eligible legal heirs of W2 as per the Hindu Succession Act, 1956. (1x2=
02)