

1 Feb 2022 - Dr. Girdhari Lal Sharma

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Mutation = नामांतरण कारण

Type of property - Movable and Immovable; Paternal and Self acquired

गिरवी - movable property

Mortgage - Immovable property

To Read - [Constitutional history](#)

2 Feb 2022

जब एक जीवित व्यक्ति एक दूसरे जीवित व्यक्ति को property transfer करता है तब TP Act लागू होगा

क्या दान भी एक संविदा है?

Is gift a contract?

To Read - Sec 1,2,3 & 4 of TP Act

7 Feb 2022

To Read - Article 124

Sale, Service, Exchange

Object of TP Act?

8 Feb 2022

What is property?

- Ownership
- Title
- Property
- Possession (कब्जा)
- Right (अधिकार)
- Interest (हीत)

Sec 3 - Definition of immovable property - does not include: standing timber, growing crops or grass.

Immovable property is also defined in the following:

Registration Act Sec 2(6)

General Clauses Act 1897 Sec 3(26)

Land revenue act and Rajasthan tendency (किसान/कास्टकार) act

Immovable property:

- Land and Land surface and things connected to the land surface, along with this lakes, rivers ponds, thing hidden inside land.

Benifits:

- Land is immovable property
- Benefits to arise out of land
- Things attached to land (भूमि से जुड़ी हुई)

Santa bai vs state of Bombay AIR 1958 SC 532 - case in detail

- All those properties which are connected to the land (e.g. gate of house, window of the house etc. these are immovable until attached to the home).

9 Feb 2022

To Read:

Attestation (अनुप्रमाणित)

Notice (सूचना) [ध्यान में लाया जाए]

15 Feb 2022

Sec 6

क्या भरण पोषण का अधिकार transfer किया जा सकता है या नहीं?

Personal rights transfer नहीं किए जा सकते हैं।

भावी = भविष्य

Exceptions to the rule of transferability:

- In Hindu law में शैवायत सम्पत्ति (मंदिर) transfer नहीं किया जा सकता है
- In Muslim मुत्तवली का पद transfer नहीं किया जा सकता है

16 Feb 2022

Sec 7: Person capable to transfer -

- The person who is capable for doing (major)
- Ownership उसके पास हो

Elements of sec 7: (Following are the capable person for transfer):

1. A person who is capable to contract
[Johri vs Mahila Dropti AIR 1991 MP 340]
If guardian is appointed then the age to transfer can be done at age 21 not at age 18.
2. Owner of property
3. [The one who is not owner] The person who is authorised by the owner of the property (Power of attorney holder [मुक्तियार नामा])

Sec 8: Operation of transfer [अंतरण का प्रभाव]

- All rights has been transfer [उपयोग एवं उपभोग]

* Sec 9: Oral transfer

¹ footnote

23 Feb 2022

Sec 14 Rule against perpetuity

साश्वतता के विरुद्ध नियम

- उत्तराधिकारियों से सम्पत्ति की बर्बादी को रोकना
- मृत्यु के बाद भी उपभोग की इच्छा
- पारिवारिक स्वाभिमान

¹ Definition, part, example and case law, describe transfer, rights

* लेख = convincing

क्रानून की नज़र में भगवान एक बच्चे की तरह है, उनके जो भी कार्य हैं वे सब उनके पुजारी करते हैं।

Natural Justice:

- Nemo judex in causa sua
- audi alteram partem

28 Feb 2022

Sec 19 निहित हित (vested interest) - किसिभी सम्पत्ति अंतरण में किसी व्यक्ति के पक्ष में कोई हित जो उस सम्पत्ति के साथ जुड़ा हवा ही या भविष्य में जुड़ सकता है या भविष्य में प्रवर्तनिय (execute) हो सकता है।

- future interest (भावी हित): ऐसा हित जो भविष्यकाल में उस सम्पत्ति का उपयोग उपभोग करने का अधिकार देता है।
 - प्रत्यावर्ती (reverse)
 - प्रवर्तनिय (execute)

निहित हित किसे कहते हैं (**what is vested interest**)?

1. जब अंतरण deed में कोई समय नहीं दिया गया की कब अंतरण प्रभावी होगा।
2. जब अंतरण deed में यदि दिया हो की अंतरण कब प्रभावी होगा।
3. प्रभावी होना किसी पूर्व शर्त या घटना पर आधारित हो जिसका गठित होना अनिवार्य हो।

2 Mar 2022

Sec 21 - Contingent interest

Some property is transferred on a term; if A completes the age of 18 years or if he get married before 18 with the permission of B. If A doesn't clear the age of 18 years and doesn't get married as per the instructions of the B; then the property will be transferred to the C.

Wherever the right created with the condition is called the Contingent interest.

Difference between Vested interest and Contingent interest:

- Vested is definite and contingent is indefinite.
- Vested has no conditions and Contingent has conditions.

Sec 25:

¹ footnote

8 Mar 2022

निर्वाचन का सिद्धांत Sec 35:

The person who transfer: Refractory (Donee)

The person who: Disappointed

1. Any person: For example **A**
2. Any property (movable or immovable)
3. By any deed
4. convey to **B**
5. By same deed by same person **A**
6. Same transaction
7. **B's** property convey to **C**
8. Benefit or loss (burden) both are proposed to **B**.
There are two part of the document:
 - First part: Benefit
A's property convey to **B**
 - Second part: Liability
B's property convey to **C**

B has only choice to accept or reject.

¹ To read - Sec **13,14**, 19, 21, 25

To read - If a boy is less than the age of 21 than what is the validity of marriage.

15 Mar 2022

Sec 41¹: Transfer by Ostensible owner².

Scope: Mortgage, gift, sale and similar other transaction.

It can be in between

- Hindu widow
- Guardianship
- HUF Karta
- Temple priest or admin

Sec 43: Transfer by unauthorised person who subsequently acquires interest in property transferred.

Important Question: *By some agent or by tenant the transfer of property has been done then what will be the legitimacy of that transfer?*

22 Mar 2022

Sec 44: Transfer by one co-owner

Sec 45: Joint transfer for consideration

Sec 46: Transfer for consideration by persons having distinct interests.

Sec 53 & 53(A)

Important words

साम्य शब्द को समझो

Maize = village

Moiety = half part

¹ A short note on sec 41

Read about it: **Nemo dat quod non habet.**

² **Ostensible owner:** a person who has all the indications of ownership and looks like the owner of a property but is not the real owner.