

Mains Evaluation



DJS TOPPERS COPY

DYS Mains Civil Law I (Set I)

(9)

DELTA Pg No.

Date / /

A.I (a) The Delhi Rent Control Act, 1958 is a social welfare legislation enacted with the object of protecting the interest of the tenants mainly and also the same time protecting the legitimate interest of the landlords.

The present petition has been filed under Section 14(1)(c) by the landlord for his bona fide requirement. The tenant opposes the petition on the ground that premises was let out for commercial purpose and therefore petition for eviction under Section 14(1)(e) is not maintainable.

Issue:

1. whether landlord is entitled to relief granting eviction of the Tenant?
2. whether petition is maintainable u/s 14(1)(e) in respect of commercial premises?

Admitted facts

Landlord admits that tenant is running a Chinese Medical clinic in tenanted premise & he now objects it.

*Referring to be based
on respective
case laws.*

** case laws?*

In view no. (i), the first and foremost requirement of petition under section 14(1)(e) is that Landlord has to show that he requires the premises for his own use. That is for his bonafide requirement.

The burden of proof to show bonafide requirement is on the landlord as per Section 102 of Indian Evidence Act, 1872 (Law Decree (The Act)) and he has failed to discharge the burden of proof.

Therefore as per view no. (ii), the tenant's contention that such eviction petition cannot be maintained in respect of commercial premises is not tenable as it has been held that Section 14(1)(e) applies to both residential and commercial enterprises.

In view of above discussed provision and principle, the landlord is not entitled to order of eviction against tenant.

b) The law relating to limited period tenancy has been codified under section 21 of the Rent Control Act, 1958.

Section 21 is a very contained code and therefore it must be strictly construed to its narrow phrasing. The essentials of limited period tenancy are:

1. Landlord must not require the premises either in whole or part for a particular period.
2. Landlord must obtain the permission of controller in this regard.
3. Letting of the premises must be for residential purposes.
4. Such letting must be for such a period as may be agreed in writing.
5. The controller must be vigilant to ensure and satisfy himself about regularity of non renewal of the landlord.



Q2 Q2 (a) The present factual matrix reflects the provision of the Indian Contract Act, 1872

One of the foremost requirements of a valid contract is that of parties must agree to the same thing in same case. S. 13

2/3

Mistake

* provisions
of mistake

In this case X stated that land was had the carrying capacity of 5000 sheep. But it was known to both parties that it was not used for such purpose. Therefore statement of X might not be true in its literal sense.

Therefore, Y could with reasonable diligence have found out that land was not suitable for 5000 sheep.

S. 20 1/2
unintended
mistake
Bilateral
mistake

Thus, in view of above discussed provision, Y cannot rely under the contract.





b) The present factual mainly affects provisions of Indian Contract Act, 1872.

2 1/2

Section 17 of the Act states that if consent of the other party has been obtained by fraud, then it is voidable at instance of such party.

state both
the exceptions
① duty to speak
② being silent
③ is equivalent
speech

As per settled position of law, mere silence does not amount to fraud unless there is a duty to speak.

However, if A is daughter of B who has just come of age, then it is of view of the relationship it was duty of A to tell truth to his daughter about the condition of horse. or in law duty to speak.

If A kept silent when he had duty to speak, therefore such contract is voidable at instance of B.

Decy's speak
→ Hardest Judgment Point





* definition of consideration?

1.5
1/5

10% full section
of the law

+ Red State of real
Chapellal v/s kishan Lal
no a

DETA Pg No:
Date: / /

c) As per Section 2(d) of the Indian Contract Act, 1872
Consideration can be :-

1. Consideration may be in part, present or future
2. It must be legal and lawful.
3. It need not be adequate.
4. It may move from promisor to any other person.

Generally, agreement without consideration is void and a considered non negotiable position. However there are few exceptions to it.

Section 25(1) : Agreement made on account of natural love and affection between person rendering services in station to each other in writing and reported

25(2) : If promise to pay for any work done voluntarily in part

25(3) : If promise to pay for some legal debt, it must be in writing & registered, signed.

Agreement
or agreement
with or without
consideration
is valid

8/20/24

As per Section 26 of the Act, prima facie power with property irrespective of the possession of such goods.

a. If it is stated in the fact that of held the goods to b. When sale is concluded, then property in goods passes to the buyer from that point irrespective of possession of property

It is immaterial as to when payment was made as it is upon the parties of the deal with regard to payment but property in goods passes when sale is concluded





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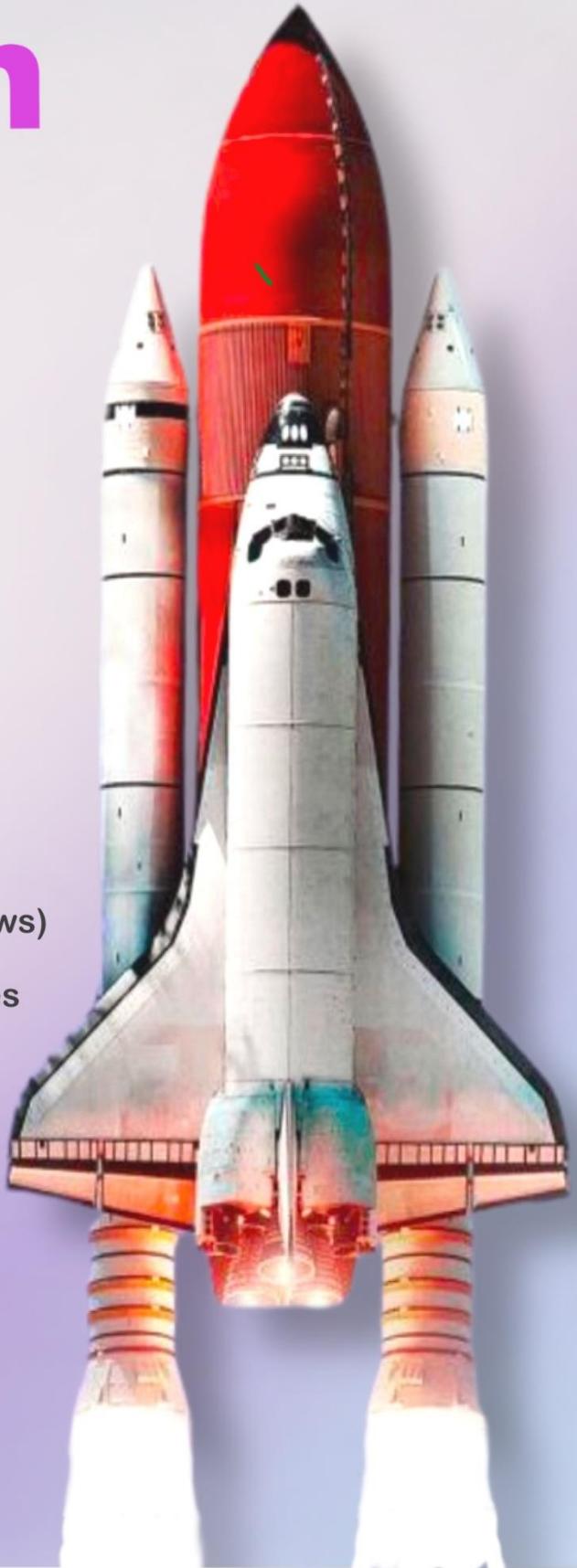
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Therefore, suit of A which is filed for recovery of dues is filed hereby to show by an agreement between the parties that A had agreed that B would not pay until payment of dues is made.

Thus, suit is dismissed.

Agreement
between
parties
completes
suit

510

Therefore, suit of A is dismissed and it is liable for payment of the dues as property had passed to B when sale was concluded.

In the defense of B, he has failed to produce any evidence to show that parties had agreed that property would not pass to B until payment is made.

Therefore, A is entitled to civil suit of dues.





A4 (o) The rule of "Nemo dat quod non habet" means that he cannot give what he does not have.

Section 27 of sale of goods act, 1932 embodies this principle which states that sale by person not the owner does not give better title to the buyer than buyer which the seller does not have.

At Greenwood
Bennell.
1/2
2.5/5

for ex A, not being the owner of a property car X, sells that car to Y. Then ~~Y does not get title to the car as A did not have title to such car.~~

Exception: When a merchantile agent acting in course of business is in possession of goods with the consent or authority of the owner; sells it to the third person. Such third person gets good title to such goods if he acted in good faith & without notice.





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b) Section 48 Sale by person in possession under validable contract

Section 49 Seller or buyer in possession after sale

In above mentioned scenarios, the buyer gets good title provided he acted in good faith & was without notice.

* Payment & delivery
Section 48(2) of sale of goods act, 1932 states that delivery means voluntary transfer of ownership from one person to another.

Section 33 states that delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery of a thing having the effect of putting the goods in possession of the buyer.

* buyer to affirm

Ys

c) The problem at hand falls under the purview of hire and purchase agreements embodied under sale of goods act, 1932.

In this hire and purchase agreement, a person gives to another his goods for hire for a particular period of time for him to use it. But there is also an option of the hirer to purchase the goods by paying the now stipulated amount decided between them.

Similarly in the problem at hand, if he hires a sewing machine with the condition that he pays a certain amount during the period of hire, he would become the purchaser.

Therefore, this is a hire purchase agreement.

* difference between hire & purchase

Hire) Purchase (like this)





Ans. Specific Relief Act, 1964 has been drafted to enforce civil rights of the parties and not merely to enforce penal laws.

Section 5 of the act provides for recovery of specific immovable property which is based on whether Section 6 is for recovery of immovable property based on previous possession.

Section 5 is governed by Article 65 of and Article 64 of Limitation i.e. Period of Condemnation is 12 years whereas in Section 6 period of Limitation is 6 months.

Under Section 5 suit cannot be filed against government whereas under Section 5, 4 or 6 can be filed against Government.

There is no review or appeal against decision of S. 6 whereas there can be appeal against decision of S. 5 of the Act.

5/10





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S21 Compensation

If such party is damaged, such person can file suit u/s 5 on basis of title and principles of law. Judicial won't apply it, however res judicata principle.

Section 6 is in nature of a specific remedy but that is not the case b/s 5.

Q whenever a contract is broken or breached, then available remedies available to a person and they are:

- 1) Damages
- 2) Specific performance
- 3) Rescission

Specific Relief Act, 1964 provides for both these remedies.

Any person who has suffered due to breach of contract can ask for specific performance of contract b/s 10 as for damages in lieu of specific performance.

s. 40

or in addition to it, as per Section 41. In the same way, he can also ask for rescission if non- performance of mandatory and legal terms with damages as per Section 40 of the Act.

The remedies for non performance of duties are either compensatory i.e. by way of damages awarded by court due to non performance and it is specific by way of demanding specific performance under Section 40 of the Act.

(Injunctions s.36-44)

O S
Injunction
law

* Hengefield
Hedges

s. 10 talks about
specific performance
of contract





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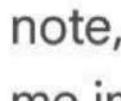
N

Nishtha Singh

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09/12/2022

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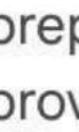


Garvit Dave

::

25/08/2021

Dear ma'am Greetings of the day! On a personal note, Edzorb law helped me a lot, rather it helped me immensely in my preparation. As we all know that standard books for the preparation are very bulky & language is also hard but the way Edzorb team has put effort to explain the concept through pictorial example which are related to our day to day life, thus making it very simple and easy to understand various provision. With regards to notes, I would contend that they are very simplified and provide in depth knowledge of every subject, one can never feel tired while studying. The best thing is the highlighted portion of it. To summarise The course, is very helpful for quick revision. Thank you EDZORB for your extreme efforts. With best regards Garvit dave



Nisha Singh

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02/01/2023

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This point to be mentioned as introduction.
first marriage
* Hindu Marriage Act transferred
Hindu laws of marriage.

18
If Hindu Marriage is considered to be a sacrament and bond for all lives to come and not for a single life.

* Let Mutual fidelity continue upto death is the basic premise of Hindu marriage that once you are married, you are bounded till the end of your life. There was no concept of divorce under Hindu marriage Hindu laws.

Section 7 of Hindu Marriage Act, 1955 (for brevity the Act) embodies the principle that Hindu marriage is a sacrament. It gives legal recognisies to the principle that Hindu Marriage is a sacrament because

- it lays down that no marriage among Hindus would be valid considered valid unless it has been performed & solemnized with customary rites & ceremonies.





Customary rights & ceremonies are those which are customarily followed by people of that community.

Bhawrao Lokhand v State of Maharashtra

It was held that performance of customary duty and ceremonies is essential to deharma & valid marriage.

Therefore, Hindu marriage is a sacrament till now.

However, the Hindu Marriage Act, 1955 has provided the remedy of divorce & judicial separation etc which are not the norm which were available in traditional Hindu law & they work against the principle that Hindu marriage is a sacrament.



- Q9 Karta is considered as the manager of the property of joint Hindu family. It can be substantiated by following :-
1. Karta has the power to alienate the property in case of legal necessity or benefit effects.
 2. He can start a new business in the name of family.
 3. He can contract debt on behalf of the family.
 4. He is responsible for the maintenance of the members of the family.

CIT
Vis
Soh Ghoshal

But amendment act of 2005, women could not become Karta. However after 2005, as daughters are capacious, they can become Karta now.

Therefore daughters as women can become Karta now.

Q10 (a) Mahr is an essential part of Muslim marriage which could be in the form of money, clothes, jewelry, dolls etc. It is basically a mark of respect towards Muslim women. Mahr is given to the wife at the time of marriage.

There is no limit on amount of Mahr in sunna.

There are two types of Mahr:

- 1. Prompt Decay — which is payable on demand.
- 2. Deferred Decay — which is deferred to a particular situation when it has to paid i.e. on divorce etc.





defined under TPA

b) Yes, Mehr is considered as a concerned debt and also an Actionable claim. It can also become charge on property of husband and husband's wife can kick out and get away out of the property of husband.
Provided she is in possession with consent of husband.

6
10

c) Yes, Payment of Mehr can be excused by the infidelity of wife but not from to manege
but only after the manege has been
solemnified.

She can give up her mehr
not from to manege





* A brief on
law relating
to maintenance
under S.125 CrPC
under S.125 CrPC
for 1 year

In traditional Muslim law, muslim wife was entitled to maintenance only upto period of iddat.

However in Shah Bano v. Ahmed Khan 1985, the Hon'ble Supreme Court held that Section 125 of CrPC being Muslim Code, muslim women are entitled to maintenance even after the period of iddat.

Then a new Muslim妻法 dissolution of marriage act, under Section 2 mentioning women was entitled to maintenance upto period of 2 years.

Then in Daniel Salif, a citizen of India, the Apex court held that Muslim husband now has obligation for such amount of maintenance that also can't be awarded in removal for her even after expiry of 2 years.

9

Q12 (a) The rule in Ryland v Fletcher was based on principle of strict liability and its ingredients were

- a person brings upon his land a dangerous thing
- such dangerous thing escaped and causes
- such thing land was non-natural

Then any damage caused by such thing would be born by the defendant. Plaintiff need not prove any negligence on part of defendant.

But there were few exceptions to it

- a Act of God
- b Plaintiff's own fault
- c Act of Intervener

Due to these exceptions, many used to escape liability.

However due to change in time and development of science & technology, the rule of strict liability was transferred to rule of absolute liability in the case of

Mc Menta v Union of India 1987

Juris PN Bhagwati held that rule laid down in Ryland v Fletcher was not relevant in 20th century in view of changes in society.

Law must be stable but not stand still and it has to move everyday for advancement of society

The rule of absolute liability as it stand is

i) if any enterprise involved in any hazardous



activity and any damage if caused to anyone
due to such activity, such enterprise should be
held liable without any exception

- o Such enterprises have an social obligation
towards poor society
- o Measure of damages would depend on value
and capacity of the enterprise
- o No exception as per Ryland v Fletcher

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polymer plant (apple to test of lawyers)
After rush of abnormal load duty was applied





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* types of defamation

libel
slander

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Date / /

①

i) of statement made in performance of duty
or privileged.

It signifies that when a person who is
employed and makes a statement in the
course of his duty, then he is not
liable for defamation.

for e.g. if A Hauskraut while taking
report to his superior makes a remark
about conduct of B. Then such
remark is made during course of his official
duty, & would not be liable for defamation.

* defamation
under
IPC

* more elaboration
on laws relating
to defamation



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* more detailed study
* required

* law relating to
notice under
different acts can be mentioned
for example TPA

Too short
for to
needs

(i) As per Section 93(1) - Every person who
intends to cut a building shall apply for
order by giving notice in writing to chairman.

(ii) As per Section 94(1) - Government is obliged
to give notice to such person in due
course of time and giving him
a reasonable opportunity of objecting
why such order should not be made.

(iii) Any person aggrieved by any of the orders
mentioned in (i) or (ii) may appeal
to

- * Appeal Tribunal
- * within a period of 30 days
- * can be condoned for sufficient cause

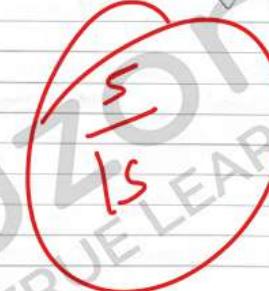
* kinds
of notice

- implied
- express
- signified

As per Section 256 - Appeal from order of special
Tribunal would lie to Administrative

However as per decisions given by Supreme Court
appeal from special Tribunal lies to District Judge or Additional District Judge.

The Hon'ble Apex court said that an executive
cannot substitute order of a judicial authority.
Therefore under no law the Order can be
challenged in Administrative value if it will be
to District Judge.





A/4

The law relating to prevention of dangerous disease has been provided under Sections 371 - 386 of the Act.

Section 371 imposes obligation of any person who is in charge of or any owner, lessor, occupier etc. in whose possession any person is suffering from dangerous disease shall give by a Medical Health officer

(6)
10

Section 372 : Commune may shift such person to any hospital of Union place

372 (2) : Corporation may set up run an infectious disease hospital on the same if given order.

373. When commissione is of opinion that detention of any such diseased person is required to contain a check of spread of disease





it may issue the order or cause to clean a
dumped or saw.

374. Commune may destroy any hut or sheds
necessary to prevent spread of any disease
disease

375. Commune shall provide proper opportunities
and material for distribution of conveyance,
building, bedding etc.

376. Special measures in case of outbreak of
dangerous or epidemic disease

Commune may with previous sanction of Government

- give such direction or order
- take special measures

as it thinks necessary to prevent outbreak or
spread of the disease

- Breach of any such direction by any one would
attract Section 180 of Indian Penal Code.





Q15 The law relating to appeals from decisions of commercial courts and commercial division has been legislatively incorporated in Section 13, ~~of the Act~~ under chapter 14 of the Act.

- Any person aggrieved by the judgement or order of commercial court below the level of district judge may appeal to commercial appellate court within a period of 60 days.
- Any person aggrieved by the judgement or order of commercial court at the level of divisional judge or commercial division of high court may appeal to commercial appellate division of high court within a period of 60 days.
- Appeal should be disposed off within a period of 6 months.

The amendments made by Commercial Courts Act, 2015 to code of civil procedure, 1908 are -

1. The period of filing statement in maximum 120 days after which ~~right~~ ~~to file notice~~ statement would be rejected.
2. Section 35B i.e. there is no limit on cost that can be levied by court in case of commercial disputes.
3. The addition of Statement of Truth under Order 6 Rule 159. ~~Pleading~~ is not required by statement of truth, ~~parties~~ cannot rely on new pleadings.
4. Substantial changes have been made to Order XI of the code.
5. New Order XIII A has been added under section 8 of the code to give summary judgment.





6. New order ~~to~~ XV A which relates to case
management team has been added to the case.

7. As per order ~~XV~~, commercial court can pronounce judgment within a period of 90 days from conclusion of argument.



Remarks :- ① If you don't remember the exact section, try to avoid mentioning the section number. Incorrect section number has zero value.

- ② Case laws missing from various parts of Questions.
- ③ for difference based Questions, make a table.
- ④ Try to establish a link between the Topic asked & its mention in other ACTs.





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