

EXAMINATION OF ARTICLED CLERKS

Paper VI

GENERAL ACTS

Friday, 18th October, 2019

Time: 3 Hours (1:00 PM to 4:00 PM)

Total Marks: 100

General Instructions:

- (1) *Please answer all questions to the point.*
- (2) *Answers should be reasoned and if possible supported by case law.*
- (3) *Cite relevant case law where applicable*

Maharashtra Rent Control Act, 1999

1. In the year 1990, Mr. Ram approached the landlord Mr. Laxman for taking premises on rent for commercial/business purpose to be carried on by him. However, Mr. Ram for certain spiritual reasons and on the advice of an astrologer, obtained the receipt in the name of his son Khush who was aged 5. After obtaining the building on rent, Mr. Ram used the rented premises for selling books in the name and style "Ramayan Book Store". Mr. Ram obtained necessary licence under the Shops and Establishments Act. The rent receipts continued to be issued in the name of Khush. Khush did not rescind the tenancy after attaining majority. Mr. Laxman now seeks eviction of Mr. Khush on the ground that Mr. Khush has illegally sub-let the premises to Mr. Ram. What would you advise him? **3 Marks**

2. The plaintiff, a Public Trust are involved in maintaining a temple and are providing facilities to the devotees visiting the said temple. In front of the temple premises about 58 shop blocks were let out to various shopkeepers on leave and license basis. These licenses were granted for a period of eleven months. Out of 58 shop blocks, 46 shopkeepers vacated their respective shops as per the undertaking given by them. The remaining shop keepers refused to vacate the said shop blocks and hence the plaintiff filed separate suits for their eviction. Written statement was filed by each defendant denying the claim as made. During pendency of the suits the defendants moved an interim application read with Section 29 of the Act. In that application, it was stated that the defendants had sought removal of various obstructions caused by the plaintiffs which prevented the devotees from proceeding towards the temple from the front of their shops. They prayed that the Court Receiver be appointed sought to examine the existing position and especially the obstruction as caused. Defendants also prayed for removal of the obstructions. What advice would you give the Plaintiff? **3 Marks**

3. What are the repercussions of not registering a tenancy agreement? **3Marks**

Maharashtra Co-operative Societies Act, 1960

4. A Co-Operative Housing Society decides to redevelop as the building is in a dilapidated condition. Consent letters are obtained from all 24 members. Pending the finalisation of Agreements with the Developer, 4 members sell their flats. The new members are now opposing the redevelopment. Can they do so? What advice would you give the Society? **3 Marks**
5. The Secretary of a Society wants to retire by reason of ill health. As no other member is willing to take up the post, the Committee members request the son of the Secretary to step into his father's shoes. Can he do so? Why? **3 Marks**
6. Write short notes on any two of the following: **6 Marks**
- Prior claim of Society.
 - Expulsion of Members.
 - Powers of the Registrar.

Maharashtra Public Trusts Act, 1950

7. Which of the following purposes would be considered a 'Charitable Purpose'. Give a one sentence reason for your answer:- **5 Marks**
- A trust created for providing funds for a caste dinner.
 - A trust to advance political objects.
 - A trust for the maintenance and upkeep of an akhada.
 - A trust for the rehabilitation of criminals.
 - A trust for the welfare of pariah dogs.
8. Write short notes on any two of the following: **6 Marks**
- Functions of the Charity Commissioner.
 - Alienation of immoveable property of public trust.
 - Removal of a Trustee.

Indian Trusts Act, 1882

9. Write short notes on any three of the following: **12 Marks**
- Powers of a Trustee.
 - Extinction of Trusts.
 - Bequest for illegal purposes.

- iv. Creation of a Trust.

Arbitration and Conciliation Act, 1996

10. Briefly discuss the principles of law on appointment of arbitrators as crystallised in the decision of the Bombay High Court in SAP India Pvt. Ltd. versus Cox and Kings Ltd. **7 Marks**
11. Write short notes on any two of the following:- **6 Marks**
- i. Interim measures by the Court.
 - ii. Competence of an arbitrator to rule on his jurisdiction.
 - iii. Fast track procedure.

Limitation Act, 1963

12. In proceedings before the Debt Recovery Tribunal, ABC Ltd. filed Interim Application seeking an order directing XYZ Ltd. to make payment of an amount of Rs. 22,51,00,000/- on the ground that same was admitted by the XYZ in its Annual Report. On 16th September 2017, the D.R.T. by its order allowed the Interim Application No. 302 of 2017 filed by the ABC. It was only on 23rd October 2017 that the order of the DRT was made available to the XYZ. XYZ within the prescribed time (45 days) under the said Act filed an Appeal before the Debts Recovery Appellate Tribunal. Subsequent to filing of the Appeal, XYZ filed Review Application before the DRT on 18th December 2017 wherein it was stated that XYZ was taking steps to withdraw the Appeal. On 2nd January 2018, the XYZ applied for withdrawal of the Appeal by stating that they wished to pursue the Review Application and pursuant to the application, the DRAT by order dated 2nd January 2018, allowed XYZ to withdraw the Appeal. On 21st April 2018, the impugned order was passed by the DRT rejecting the Miscellaneous Application for condonation of delay in filing the Review Application. **4 Marks**
- i. Does the DRT have power to invoke the provisions of Section 5 of the Limited Act? Why?
 - ii. Is XYZ entitled for the benefit of Section 14 of the Limitation Act? Why?
13. Write short notes on any three of the following: **9 Marks**
- i. Effect of acknowledgement or payment by other persons.
 - ii. Acquisition of easements by prescription.
 - iii. Bar of limitation.

- iv. Exclusion in favour of reversioner of servient tenement.

Maharashtra Apartment Ownership Act, 1970

14. Write a short note on any two of the following: 4 Marks
- i. What is the meaning of an Apartment?
 - ii. Right of an apartment owner over common areas.
 - iii. Liability of a vendor for unpaid common expenses.
15. Enumerate the contents of declaration. 6 Marks
- OR
- Enumerate the contents of a Deed of Apartment.

Prevention of Money Laundering Act, 2002

16. Write short notes on any three of the following: 9 Marks
- i. Proceeds of crime.
 - ii. Offence of Money Laundering.
 - iii. Possible actions which can be taken against persons/properties involved in Money Laundering?
 - iv. Powers available to the investigating officer under the Act.
17. What are the presumptions in interconnected transactions? 2 Marks

Rules Of Etiquette And Professional Conduct

18. You represent Mr. A in legal matters. Mr. B, a defendant in a defamation suit in one of the matters where you represented Mr. A, is impressed with your legal acumen and seeks to retain you in proposed insolvency proceedings against Mr. A. Can you represent Mr. B in such proposed proceedings? 3 Marks
19. You are representing your client in a high profile case where arguments are currently on going in Court. A news reporter seeks to interview you and seek your views on the ongoing suit. What information and details would you provide? 3 Marks
20. You are representing your client in a suit which is at the stage of trial. Your client wants to rely on documents that have been fabricated. What would you do? 3 Marks
