

EXAMINATION OF ARTICLED CLERKS
Paper VI
GENERAL ACTS

Friday, 10th November, 2023
Time: 3 Hours (1:00 PM to 4:00 PM)
Total Marks: 100

General Instructions:

- (1) Please answer all questions to the point.
- (2) Cite provisions of law and relevant case law where applicable

Maharashtra Rent Control Act, 1999

1. Mr. A approaches you with for recovery of his residential premises let out on leave and license basis to Mr. B an individual who has continued to use and occupy the premises after the expiry of term of the leave and license agreement. Please advise Mr. A on the following queries:- **5 Marks**
 - i. Procedure for recovering the licensed premises from Mr. B.
 - ii. Will your advice be different in case the leave and license agreement was not registered?
 - iii. In case of commercial premises given on leave and license basis by Mr. A to Mr. B would you advice be different for recovery of the commercial premises.

2. Mr. A being the original tenant of Mr. B died on 1 September 2023 leaving behind his widow (Mrs. X), 3 sons, one daughter as his only legal heirs. Mr. A at the time of his demise was residing with Mrs. X at the time of his demise and his 4 children were residing in USA during the lifetime of Mr. A. After the demise of Mr. A, there is a family dispute between Mrs. X and her children in respect of tenancy rights. Please advise Mrs. X on the following queries: **5 Marks**
 - i. Who would become the tenant of Mr. B?
 - ii. Would your advice differ if Mr .A bequeathed his tenancy rights to his daughter under his last Will and Testament?
 - iii. In the event of Mrs. X pre-deceasing Mr. A who would become the tenant?

3. Mr. A has issued a demand notice to Mr. B, a tenant, demanding arrears of rent for 5 months. Pursuant to receiving the demand notice Mr. B pays the entire amount as demanded in 60 days. Please advise Mr A on the following queries: **5 Marks**
 - i. Whether the landlord can file a suit for eviction on the ground of arrears of rent?
 - ii. Would your answer differ if Mr. B has made payment within 90 days from receipt of the demand notice sent by Mr. A?

- iii. Can Mr. B be evicted by the court despite making payment of the entire arrears of rent as demanded by Mr. A?

Maharashtra Co-operative Societies Act, 1960

4. Mr. A, the son of a Mr. X being the deceased member of PQR Co-operative housing society approaches you for transferring the share, right, title and interest of a Flat owned by Mr. X. Mr. X died intestate leaving behind a wife, one daughter and one Son (Mr. A) as his only legal heirs and representatives. Mr. X had made a 100% nomination in favour of his wife. Please advise Mr. A on the following queries: **5 Marks**

- i. What are the legal documents required to be submitted by the legal heirs of Mr. X for transferring the share, right, title and interest of Mr X under Chapter XIII -B of the Maharashtra Co-operative Societies Act, 1960?
- ii. What will be the rights of the nominee?

5. Mr. A purchased a flat on 5 January 2023 by a registered sale deed in a Co-operative housing society from Mr. B. The society, after receiving the society transfer forms and transfer fees, endorsed the name of Mr. A on the society share certificate on 5 February 2023. Mr. C is negotiating for purchase of flat from Mr. A and wants to complete the transaction by 31 December 2023. Please advise Mr C on the following queries: **5 Marks**

- i. Whether there is any restriction on sale of the flat from Mr. A to Mr. C?
- ii. What is the amount of society transfer fees payable on sale of the Flat? Please state case laws in support.

6. What are the different types of members under the Act? What are the rights of provisional members? **5 Marks**

OR

- i. What are the remedies available in the Society refuses the membership of an eligible person. **5 Marks**
- ii. Bar on jurisdiction of civil court and power of co-operative court

Maharashtra Public Trusts Act, 1950

7. Write short notes on any 3 of the following: **12 Marks**

- i. Is registration of a public trust mandatory? What are the consequences of non- registration?
- ii. What are the powers of the charity commissioner?
- iii, Removal of a trustee?
- iv. Doctrine of cy- pres.

Indian Trust Act 1882

8. Write short notes on any 4 of the following: **12 Marks**
- i. Extinction of Trust.
 - ii. Powers and duties of Trustee.
 - iii. Discretionary Trust.
 - iv. Creation and revocation of Trust.
 - v. Discharge of a Trustee.
 - vi. Lawful purpose under section 4 of the Act .

Arbitration and Conciliation Act 1996

9. **14 Marks**
- i. Is an Arbitration Clause in an Unstamped Agreement Enforceable? Please state case laws in support.
 - ii. Jurisdiction of an Arbitrator under section 16 of the Act
 - iii. What are the grounds for setting aside a domestic arbitral award and an arbitral award passed in an International Commercial Arbitration ?

Rules of Etiquettes and Professional Conduct

10. Discuss any two of the following: **12 Marks**
- i. Advocates duties towards the Court.
 - ii. Advocates duties towards the Client.
 - iii. Professional misconduct.

Limitation Act 1963

11. Write short notes on any 3 of the following: **12 Marks**
- i. Briefly explain "Limitation bars the remedy but does not destroy the right". Are there any exceptions to this Rule?
 - ii. Doctrine of sufficient cause and continuous cause of action.
 - iii. Easement rights and its elements
 - iv. General rules for computation of limitation period

Prevention of Money Laundering Act 2002

12. Answer in brief: **8 Marks**
- i. Proceeds of crime?
 - ii. Investigation of scheduled offences ?
 - iii. Offences of money Laundering ?
 - iv. Powers of investigation officer?
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