

LAW OF PROPERTY

Paper 7.31

Total Marks: 100 (80+20)

External Exam: 80

Internal Marks: 20 (10 Internal Exam
10 Project & Viva)

Objectives of the Course:

Possession of property is considered a highly prestigious asset of a family. The law relating to transfer of immovable property must be understood in minute details as the complexities of law with regard to transfer of property must be necessarily be understood by the students of law. Any derivative transfer may give rise to a new series of crimes arising out of the holding of property. The prevalent system of various types of mortgages and various other encumbrances on the property should necessarily be understood by the student of law. With the regulation of rent laws of the urban property it is considered that the transfer of immovable property by way of lease has been modified in different states but the theme of regulation of transfer is still controlled by Transfer of Property Act, 1882. The study of Transfer of Property Act 1882 would make the student to understand the significance of property law in different jurisdiction.

Module No.- 1

- (a) i. Concept and meaning of property
- ii. Kinds of property movable property, immovable property, tangible intangible property
- (b) i. Intellectual property copyright patents and designs and trademarks
- ii. Law relating to registration of documents affecting property relations
- iii. Documents of which registration is compulsory.

Module No.- 2

- (a) i. Transfer of Property Act 1882; Object, Scope and Scheme
- ii. Immovable Property, Concept of Property, Kinds
- (b) i. Attestation, Notice
- ii. Actionable Claim

Module No.- 3

- (a) i. Transfer of Property, What may be Transferred, Persons competent to transfer, Operation of transfer, Oral transfer.
- ii. Conditions restraining Alienation, enjoyment, Transfer for the benefit of unborn person
- (b) i. Direction for accumulation, vested and contingent interest
- ii. conditional Transfers. Condition precedent, condition subsequent and collateral conditions

Module No.- 4

- (a) i. Doctrine of Election
- ii. Doctrine of *lis pendens*
- (b) i. Fraudulent Transfer
- ii. Doctrine of part performance

Module No.- 5

- (a) i. Sale Definition, right and duties of seller and buyer
- ii. Lease definition, Duration, lease making
- iii. Right and liabilities of lessor and lessee, Determination of lease
- (b) i. Waiver of forfeiture, Waiver of notice to quit, Relief against forfeiture for non-payment of rent and in certain other cases.
- ii. Effect of holding over, exemption of leases for agriculture purposes.

Module No.- 6

- (a) i. Mortgage, Its kinds, Mortgage when to by assurance.
- ii. Right and liabilities of mortgagor and mortgagee
- (b) i. Marshalling, contribution and Charge
- ii. Person who may sue for redemption, Subrogation

Module No.- 7

- (a) i. Gift; definition, suspension or revocation, onerous gift.
- ii. Easement; definition, types
- (b) i. Creation, Suspension, Revival
- ii. Licenses Creation, suspension, transfer and revocation

Leading Cases

1. R.K. Kempraj v. Burton Sons & Co., AIR SC 1872
2. Om Prakash v. Prakash Chand, AIR 1992 SC 885
3. Nathu Lal v. Phool Chand, AIR 1970 SC 546
4. Bhramham Prakash v. Manbir Singh, AIR 1963 SC 1607
5. Cheriyan Sosamma and Others v Sundaressan Pillai, AIR 1999 SC 947
6. Ramamurthy Subudhi v. Gopinath, AIR 1968 SC 919
7. Vishwa Nath v. Ramraj and Others, AIR 1991 All. 193
8. Rajbir Kaur v. S. Chokosiri and Co, AIR 1988 SC 1845

Bibliography

1. Mulla, Transfer of Property Act (1999) Universal, Delhi
2. Subbarao, Transfer of Property Act (1994), C. Subbiah Chetty, Madaras
3. V.P. Sarathy, Transfer of Property (1995), Eastern, Locknow
4. S.N. Shukla Transfer of Property Act, Allahabad Law Agency, Allahabad

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ADMINISTRATIVE LAW

Paper 7.32

Total Marks: 100 (80+20)

External Exam: 80

Internal Marks: 20 (10 Internal Exam
10 Project & Viva)

Objectives of the Course:

Control of government for ensuring the exercise of public power according to the constitution and the rule of law is the function of administrative law. The scope of this law is as broad and involved as the extent of government itself. This course will examine the history of this branch of law, its nature, scope and functions, the nature and control of delegated power including the rule making, the regulation of administrative direction and principles of administrative adjudication. The subject will be handled in a comparative perspective wherever desired.

Module No.- 1

- (a) Evolution, Nature and Scope of Administrative Law;
 - i. From a Laissez-Faire to a social welfare state;
 - ii. Administrative law, Scope of – Administration and Administrative Law;
 - iii. Classification of Administrative Action.
- (b) Administrative Law, Scope of – Contd-
 - i. Rule of Law and Administrative Law;
 - ii. Constitutional Background of Administrative Law;
 - iii. Some Representative definitions of Administrative Law;
 - iv. Relationship between Administrative Law and Constitutional Law.

Module No.- 2

- (a) Evolution of Administration as the fourth branch of Government-
 - i. Necessity for Separation of Powers and Delegation of Power on administration
 - ii. Separation of powers;
 - iii. Delegation of legislative power-
 - iv. Constitutionality of delegated legislation – Powers of exclusion and inclusion and the power to modify the statute.
- (b) Delegation of powers – contd:
 - i. Subordinate, Conditional and delegated Legislation;
 - ii. What delegation is permissible, what functions cannot be delegated by the legislature, the power 'to remove difficulties';
 - iii. Requirements for the validity of delegated legislation and legislative control of delegated legislation;
 - iv. Publication of delegated legislation; laying procedures and their efficacy.

Module No.- 3

- (a) Delegated Legislation contd:
 - i. Judicial control of delegated legislation;
 - ii. Sub-Delegation of legislative powers
- (b) Administrative Tribunals and other adjudicating authorities:
 - i. Their ad-hoc character.
 - ii. Tribunals-need, nature, constitution, jurisdiction and procedures;
 - iii. Jurisdiction of administrative and other authorities

Module No.- 4

- (a) Administrative Functions and Control:
 - i. Distinction between quasi-judicial and administrative functions
 - ii. Rules of natural justice
 - iii. Reasoned decisions
- (b) i. Institutional decisions
ii. Administrative Appeals

Module No.- 5

- (a) Judicial Control:
 - i. Judicial control of Administrative action;
 - ii. Exhaustion of administrative remedies;
 - iii. Standing: Standing for Public interest litigation (social action litigation) collusion, bias.
- (b) i. Laches, Res Judicata
ii. Jurisdictional error/ultra vires-
 - 1) Abuse and non exercise of jurisdiction;
 - 2) Error apparent on the face of the record;
- iii. Violation of principles of natural justice;
- iv. Unreasonableness.

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Module No.- 6

- (a) Remedies in judicial review:
- i. Statutory appeals;
 - ii. Writs.
- (b) i. Declaratory judgments and injunctions
- ii. Specific performance and civil suits for compensation

Module No.- 7

- (a) Administrative Discretion:
- i. Need for administrative discretion;
 - ii. Administrative discretion and rule of law;
 - iii. Limitations on the exercise of discretion;
 - iv. Constitutional imperatives and use of discretionary authority;
 - v. Irrelevant considerations;
 - vi. Non-exercise of discretionary power.
- (b) Informal methods of settlement of disputes and grievance redressal procedures;
- i. Conciliation and mediation through social action groups;
 - ii. use of media, lobbying and public participation;
 - iii. public inquires and commissions of inquiry;
 - iv. Ombudsman: Lok Pal and Lok Ayukta;
 - v. Vigilance Commission

Referred Case Laws:

1. Asif hameed v. State of J&K, AIR 1989 SC 1899
2. Ram Jawaya Kapoor v. State of Punjab., AIR 1955 SC 549
3. In re Delhi Laws Act, AIR 1951 SC 332
4. Lachmi Narayan v. Union of India, AIR 1992 SC 1848: (1992) 4 SCC 28
5. A.K. Kraipak v. Union of India, AIR 1970 SC 150
6. Amar nath Choudhary v. Braithwaite & Co. Ltd. (2002) 2 SCC 290: AIR 2002 SC 1260
7. Bharat Petroleum Corpn. Ltd. v. Maharashtra General Kamgar Union (1999) 1 SCC 626
8. Maneka Gandhi v. Union of India (1978) 1 SCC 248
9. H.L. Trehan v. Union of India (1989) 1 SCC 764
10. S.N. Mukherjee v. Union of India (1990) 4 SCC 594: AIR 1990 SC 1984
11. State of U.P. v. Harendra Arora (2001) 6 SCC 392
12. Indian Rly. Construction Co. Ltd. v. Ajay Kumar (2003) 4SCC 579
13. Dwarka Prasad Laxmi Narain v. State of U.P. (1954) SCR 803
14. A.N. Parasuraman v. State of Tamil Nadu, AIR 1990 SC 40
15. Shri Lekha Vidhyaethi v. State of U.P., AIR 1991 SC 537
16. G. Sadananadan v. State of Kerala, AIR 2001 SC 343: (2001) 2SCC590
17. Express Newspapers (Pvt)Ltd. v. Union of India, AIR 1986 SC 872
18. State of Bombay v. K.P. Krishnan (1961) 1SCR 227: AIR 1960 SC 1233
19. Shri Ram Sugar Industries Ltd. v. State of A.P. (1974) 1 SCC 534: AIR 1974 SC 1745
20. T.K. Rangarajan v. Govt. of Tamil nadu, AIR 2003 SC 3032
21. Surya Dev Rai v. Ram Chander Rai, AIR 2003 SC 3044
22. S.P. Gupta v. President of India, AIR 1982 SC 149 (Locus Standi)
23. Syed Yakoob v. K.S. Radha Krishna (1964) 5 SCR 64: AIR 1964 SC 477
24. Anadi Mukta Sadguru S.M.V.S.S. J.M.S. Trust v. V.R. Rudani (1989) 2 SCC 691: AIR 1989 SC 1607
25. Common Cause v. Union of India, AIR 2003 SC 4493 (No mandamus for the exercise of discretionary power)
26. Rupa Ashok Hurra v. Ashok Hurra, AIR 2002 SC 1771
27. India Jai Singh v. Registrar, 2003(4) SCALE 643
28. Chandra Kumar v. Union of India, AIR 1997 SC 1125

Bibliography

1. C.K. Allen, law and orders (1985)
2. D.D. Basu, Comparative Administrative law (1998)
3. Wade, Administrative law (Seventh Edition, Indian Print 1997), Universal, Delhi

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PUBLIC INTERNATIONAL LAW-II

Paper 7.33

Total Marks: 100 (80+20)

External Exam: 80

Internal Marks: 20 (10 Internal Exam
10 Project & Viva)

Objectives:

In present International scenario develop as well as developing Nations are interacting with each other for the fulfillment of their national interests but some IGO's as well as NGO's are controlling and guiding the behavior of these Nation in International environment, so the objective of this course is to provide the knowledge to students about the origin, nature and functioning of various International Institutions.

Module No.- 1

- (a) International Institutions : meaning and features
- (b) League of Nations: Origin, Organs, Role and causes failure

Module No.- 2

- (a) United Nations: UN Charter, Features and Provisions.
- (b) UN General Assembly: Composition, Functions and powers, Uniting for peace Resolution.

Module No.- 3

- (a) UN Security Council: Composition, Voting procedure, Functions and Powers
- (b) Limitations and Demands of U.N. Security Council

Module No.- 4

- (a) Contribution of U.N. Security Council in the maintenance of peace and security. (By peaceful means)
- (b) Contribution of U.N. Security Council in the maintenance of peace and security. (By forceful methods)

Module No.- 5

- (a) Economic and Social Council : Composition, Functions and Role.
- (b) U.N. and Protection of Human Rights.

Module No.- 6

- (a) International Courts of Justice: Composition, Jurisdiction, Powers and Functions.
- (b) Contribution of International Court of Justice in Settlement of International disputes

Module No.- 7

- (a) Specialized Agency of UN: IMF, IBRD (World Bank) : Origin, Objectives, Functions and Role.
- (b) WHO, ILO: Objectives, Origin, Functions and Role.

Reference Books

1. Rumki Basu – The United Nations and functions of an international organization 1993
2. K.P. Sakesena – Reforming the United Nations the challenge of relevance (New Delhi 1993)
3. S.K. Kapoor - International Law and Human Rights
4. D.N. Bowett – The law of International Institutions
5. Priyag Singh – International Institutions.

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LAW OF CRIMES-I

Paper 7.34

Total Marks: 100 (80+20)

External Exam: 80

Internal Marks: 20 (10 Internal Exam
10 Project & Viva)

Aims and objectives :

Crimes take place in almost all societies. Therefore, almost every country has criminal laws. Criminal law of a country must contain the substantive criminal law, the procedural criminal law and law relating to evidence. The basic core substantive criminal law in India is contained in the Indian Penal Code, 1860. The procedural criminal law is in the form of Code of Criminal Procedure, 1973 and the evidence law has been codified in the Indian Evidence Act, 1872. It is necessary for the students of law to know these laws. The Indian Penal Code, 1860 has been divided under two parts – Criminal Law-I and Criminal Law-II which deal with general principles and specific offences respectively and are part of the syllabus of Seventh and Eight semesters in that order.

Module No.- 1

1. Nature and definition of crime
2. Crime and offence
3. Crime and Tort
4. Criminal Law and Criminal Science
5. Principle of criminal liability – Et actus non facit reum nisi mens sit rea. Applicability of this principle to India.
6. Burden of proof on the prosecution – presumption of innocence of accused
7. Interpretation of Penal Statutes
8. Theories of Punishment – Retributive, Expiatory, Deterrent, Preventive and Reformative.
9. Protection in respect of conviction for offences (Article 20, Constitution of India)
10. Protection against arrest and detention in certain cases (Article 22, Constitution of India)

Module No.- 2

1. Title and extent of operation of the Indian Penal Code (Section 1)
2. Territorial jurisdiction (Sections 2, 3, 4)
3. Certain Laws not to be affected by the Indian Penal Code (Section 5)
4. General explanations (Sections 6 to 52-A, Except section 34 to 38 which are part of Module 7)
5. Punishments (Sections 53, 54, 55, 55-A, 57, 60, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75)

Module No.- 3

1. Stages of crime – (1) mental, (2) preparation, (3) attempt and (4) completion
2. Mental stage generally not punishable
3. Preparation generally not punishable. But when is a preparation punishable ?
4. Inchoate crime – Meaning and contents
5. Attempt – (1) Impossible, (2) Possible
6. Impossible attempt – Impossible attempt to body offence generally not punishable but impossible attempt to property offences generally punishable.
7. Possible attempt – mainly sections 307 and 309. Possible attempt generally punishable
8. Constitutionality of attempt of commit suicide section 309

Module No.- 4

Abetment and Abettor (Mainly sections 107, 108, 108-A, 111, 113, 305 306, 109 and 114)

Module No.- 5

General exceptions (Sections 76, 79, 84, 85, 86, 96, to 106)

Module No.- 6

General exceptions (Sections 77, 78, 80, 81, 82, 83, 87, 88, 89, 90, 91, 92, 93, 94, 95)

Module No.- 7

1. Joint liability, constructive liability, vicarious liability (Sections 34, 35, 36, 37, 38, 141, 142, 143, 145, 146, 147, 148, 149, 153-A, 153-B, 159, 160)
2. Criminal Conspiracy (Sections 120-A, 120-B). Difference between criminal conspiracy and abetment by conspiracy

Important decided Cases:

1. R.S. Nayak v. A.R. Antulay AIR 1984 SC 684
2. Ranjan Rai v. State of Bihar 2006 CrLJ 163 (SC)
3. Dalip Singh v. State AIR 1993 SC 2119
4. Shrikant Anandrao Bhosale v. State of Maharashtra 2002 CrLJ 4356 (SC)
5. Guljara Singh v. State 1971 CrLJ 498 (SC)
6. Munshi Ram v. Delhi Administration AIR 1968 SC 702
7. State (NCT of Delhi) v. Navjot Sandhu 2005 CrLJ 3950 (SC)
8. Bhimrao v. State of Maharashtra 2003 CrLJ 1204 (SC)
9. Kallu v. State of Madhya Pradesh 2006 CrLJ 799 (SC)
10. Gyan Kaur v. State of Punjab JT (1996) 3 SC 339

Suggested Readings:

1. Hari Singh Gour : Penal Law of India
2. Ratan Lal & Dhiraj Lal : The Indian Penal Code
3. Prof. T. Bhattacharyya : The Indian Penal Code
4. Prof. S.N. Misra : The Indian Penal Code
5. P.S. Pillai : Criminal Law
6. K.N.C. Pillai : General Principles of Criminal Law
7. K.D. Gaur : A Text Book on the Penal Code

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PRINCIPLES OF TAXATION LAWS

Paper 7.35

Total Marks: 100 (80+20)

External Exam: 80

Internal Marks: 20 (10 Internal Exam
10 Project & Viva)

Aims and Objectives of the Course:

The power to tax is an incident of sovereignty; and since the Constitution of India is the supreme law of the land, all other laws, including the Income-tax Act, are subordinate to the Constitution and must be read and interpreted in the light of the constitutional provisions. In *India Cement Ltd. v. State of Tamil Nadu*, a seven-judge Bench of the Supreme Court observed that the Constitution is the mechanic/sm under which the laws are to be made and not merely an Act which declares what the law is to be one of the most important provisions of the Constitution relating to taxation is art 265, which provides. No tax shall be levied or collected except by authority of law. Therefore, not only the levy but also the collection of a tax must be under the authority of some law. Law means law enacted by a competent legislature and cannot include an executive order, or a rule without express statutory authority, or a custom. Thus, any act of the state that seeks to impose a tax without legislative authority will be void.

The following syllabi prepared with this prospective in view comprise of about 7 units of 4 hours each.

Module No.-1

Income Tax Act 1961

Concepts and Definition:-

- i. Certain Important Definition
- ii. Basis of Charge
- iii. Residence of Assessee

Module No.-2

Computation of Total Income (Part-A)

- i. Salaries
- ii. Income from House Property
- iii. Income from other Source

Module No.-3

Computation of Total Income (Part - B)

- i. Profits & gains from Business or Profession
- ii. Capital Gain

Module No.-4

Clubbing & Aggregation of Income

Module No.-5

Set off or Carry forward and set off

Module No.-6

Exemption / Deductions:

- i. Exempted Income
- ii. Deduction from total income
- iii. Deduction in respect of payments
- iv. Deduction in respect of certain income

Module No.-7

Procedure for assessment:

- i. Filing of return
- ii. Assessment and Re-assessment
- iii. Rectification of mistake
- iv. Appeals and Revision

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Case Law:

1. Travanco Tea estate co. Ltd. v. Commissioner of income tax ITR 154 (1985)
2. Sutlej Cotton Mills Ltd appellant Commissioner of income tax (vc) to ITR 1991
3. Hindustan Steel Ltd. v. State of Orisa 25 S T C 211 (SC)
4. Income tax appeal 585 of 2005 (O.M.) Ashok Kumar Gupta v. Commissioner of income tax
5. Income tax act (2006) 31 Rep 166 ITAT Amritsar Chitty Co. operative society Pathankot income tax officers ward I Pathankot
6. ITA/185/2006 DATED 18.8.2006 Commissioner of Income Tax v. Glocom Incomplete Ltd.

Books Recommended:

1. Gupta, RR– Income Tax and Practice
2. Kanga & Palkiwala – The Law and Practice of Income Tax
3. Income Tax Act – A.K. Saxena (English & Hindi).

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