

EXAMINATION OF ARTICLED CLERKS
PAPER IV
CONVEYANCING
Monday, 22nd April, 2024
Time : 3 Hours [1.00 PM to 4.00 PM]
Total Marks: 100

Notes:

- (i) **Answers will be evaluated on clarity of thought and approach, answers should be to the point**
- (ii) **Answers should be reasoned and if possible, supported by case law**
- (iii) **Answer sub-questions strictly *in seriatim***

1. Mr. A seeks to gift his residential flat bearing no. 901 on the 9th floor in XYZ Tower to his son Mr. B. The XYZ Tower Cooperative Housing Society Ltd. has granted its no objection to the proposed gift. Please draft the Deed of Gift. Below the draft, please give your advice on the stamp duty attracted by the document in a couple of lines **18 Marks**

2. Please draft any three of the following: **18 Marks**
 - (i) Public notice investigating the title of the owner of an apartment in a condominium
 - (ii) Special Power of Attorney only for admitting execution of a sale deed before the office of the Sub Registrar of Assurances
 - (iii) Codicil to a will
 - (iv) Letter of attornment
 - (v) Accountable Receipt

3. Please answer whether the following statements are true or false **4 Marks**
(no explanation required)
 - (i) An easement can be transferred apart from the dominant heritage
 - (ii) A will requires to be attested by at least one witness
 - (iii) A power of attorney (executed in India) to admit execution of a sale deed before the office of the Sub Registrar of Assurances does not require to be registered
 - (iv) "Assignment of a lease" and a "sub lease" have the same meaning in law.

4. Please list **(point wise format)** the essential terms to be included in an Agreement as contemplated under MOFA **5 Marks**

5. Mr. A seeks your advice on a matter involving stamp duty. Mr. A has gifted an office premises to his sister-in-law (brother's wife). The stamp authorities seek to stamp the document with duty as is leviable on a conveyance. What would your advice to Mr. A. be? **3 Marks**
6. A client comes to you on 1st March 2024, with a duly executed power of attorney dated 10th November 2023. The power of attorney was executed in Chennai India. He seeks your assistance on payment of stamp duty. What is your advice to the client? **3 Marks**
7. Answer in brief with reasons any four of the following: **12 Marks**
- (i) A client comes to you with a request to prepare a will. The client wishes to appoint his son Mr. A as an executor of his will. Under the proposed will the client wishes to bequeath half his estate to his son Mr. A. On the day of execution of the will the client asks you and Mrs. C (the wife of Mr. A) to be the two attesting witnesses to the will. What will your advice be?
- (ii) A client comes to you seeking your advice on the following issue. Mr. A had bequeathed an amount of INR 10 Crores to Mr. B. Mr. B is the father of your client. The bequest was made subject to the condition that the amount of INR 10 Crores would be paid to Mr. B upon the death of Mr. C. Your client's father Mr. B died on 20th October 2023 and Mr. C died thereafter on 10th February 2024. Being a representative of Mr. B is your client entitled to the amount of INR 10 Crores?
- (iii) A client comes to you as he is in disagreement with the executors of Mr. A's will. Mr. A had bequeathed his house in Lonavala to your client. During his lifetime, Mr. A sold his house in Lonavala for a sum of INR 5 Crores and created a fixed deposit with the HDFC Bank with the sum of INR 5 Crores received as the sale consideration. Further Mr. A had also bequeathed to your client a sum of INR 1 Crore which Mr. B owed Mr. A. Mr. B had returned the sum of INR 1 Crore to Mr. A, 6 months prior to Mr. A's death. The executors are refusing to honour the two bequests in favour of your client. What would your advice be to your client?
- (iv) A client comes to you as he is in disagreement with the executors of Mr. A's will. Mr. A had bequeathed his entire portfolio of equity shares to your client. The portfolio consisted of equity shares in 10 companies. One company XYZ Ltd. was in financial difficulty and calls on shares were expected. Your client has refused to accept the shares of XYZ Ltd. and has called upon the executors to transfer the shares in the remaining 9 companies to him.

The executors have refused to do so. In your opinion are the executors justified in taking such a stand?

- (v) Mr. A bequeathed a sum of INR 5 Crores to his son Mr. B. Mr. C is the son of Mr. B (i.e. grandson of Mr. A) . Mr. B predeceased his father Mr. A. The executors of the will are refusing to give the sum of INR 5 Crores to Mr. C. In your opinion are the executors justified in taking such a stand?

8. Write short notes on any 4 of the following: **20 Marks**

- (i) Notice of *lis pendense*
- (ii) Doctrine of Part Performance
- (iii) Consequence of an instrument not duly stamped
- (iv) Feeding the grant by estoppel
- (v) Implied contracts by a mortgager
- (vi) Transfer by a promoter of a real estate project to a third-party under Real Estate (Regulation and Development) Act 2016.

9. Please write a note on the revocation of registration of a project under the Real Estate (Regulation and Development) Act 2016 **7 Marks**

10. Effect of non-registration of a document required to be registered **3 Marks**

11. Write a brief note on the adherence to sanctioned plans and project specifications by a promoter under the Real Estate (Regulation and Development) Act 2016. Can the promoter alter the same? If yes what are the steps the promoter would have to take? **4 Marks**

12. Please set out the essential elements of a Flat under MOFA **3 Marks**
