

EXAMINATION OF ARTICLED CLERKS
PAPER IV
CONVEYANCING
Monday, 18th November, 2024
Time : 3 Hours [1.00 PM to 4.00 PM]
Total Marks: 100

INSTRUCTIONS:

- (1) Answers should be **precise**
- (2) Answers should be **reasoned** and supported by **case law/provisions** of law (if and as applicable)
- (3) Please answer **point wise**
- (4) Clearly state **question numbers**

1. Please explain the following DOCTRINES (any six) : **18 Marks**
(Brief/precise answers please)

- a. Doctrine of Priority
- b. Doctrine of Conditional Limitation
- c. Doctrine of Election
- d. Doctrine of Contribution
- e. Doctrine of Double Possibilities
- f. Doctrine of Accumulation
- g. Doctrine of Constructive Notice
- h. Doctrine of Subrogation

2. Distinguish the following (any six) : **18 Marks**
(Preferably in two column format)
(Brief/precise answers please)

- a. Vested and Contingent Interests
- b. Lien and Mortgage
- c. Usufructuary Mortgage and Mortgage by Conditional Sale
- d. Tenancy in Common and Joint Tenancy
- e. s27 and s28 of the Transfer of Property Act, 1882
- f. Letters of Administration and Letters of Administration with Will annexed
- g. Assignment and Sub Lease
- h. Pre-emption and Redemption

3. Please explain the following PRINCIPLES (any six): **18 Marks**
(Preferably with relevant provisions/ case law)
(Brief/precise answers please)

- a. Feeding the grant by Estoppel
- b. Rule against Perpetuity
- c. Applicability of conditional transfer to gifts
- d. Transfer by Ostensible Owner
- e. Martlands Rule
- f. Rule of Conscience
- g. Transfers to an Unborn person
- h. Stamping of documents executed outside Maharashtra

4. Please answer the following PROBLEM: **14 Marks**

- a. Mr. A, a Hindu living in Mumbai, was a member and shareholder of the XYZ Co-Operative Housing Society Limited ("**Society**") owing and holding fully paid-up shares thereof ("**Shares**") and virtue thereof and incidental thereto, Mr. A was entitled to hold, possess, use, occupy and enjoy a residential flat in the Society's building located in Mumbai ("**Premises**").
- b. Mr. A, also owned equity shares of a listed company ("**Company Shares**").
- c. Mr. A, died at Mumbai on 1st December, 2023 leaving his last Will and Testament dated 1st January, 2022 ("**Will**"). Mr. A's wife predeceased him. At the time of the death of Mr. A, both Mr. B and Ms. C, who are adult, lived with Mr. A in the premises.
- d. Under Mr. A's Will:
 - I. Mr. A bequeathed the Shares and the Premises to Mr. B ("**Beneficiary 1**") and Ms C ("**Beneficiary 2**") in equal shares.
 - II. Mr. A bequeathed the Company Shares solely to the Beneficiary 1.
 - III. The rest and residue of the estate of Mr. A has been bequeathed to Beneficiary 1 and Beneficiary 2 in equal shares.

- e. While Beneficiary 1 is desirous of continuing to live in the Premises, Beneficiary 2 does not desire to live there. Accordingly Beneficiary 1 and Beneficiary 2 have arrived at an agreement under which Beneficiary 2 will give up her entire share and interest in the Shares and Premises and vacate the Premises, and Beneficiary 1 will give up Company Shares to and in favour of Beneficiary 2.

On basis of the above facts, please advise as to how Beneficiary 1 should acquire full ownership of the Shares and Premises, and Beneficiary 2 should acquire the full ownership of the Company Shares, whereby each acquires a clear and marketable title thereto, respectively. In answering, please detail the steps that should be taken and the list the instruments (**do not draft**) that should be executed. Please also comment on stamp duty and registration implications.

5 Please **DRAFT** the following (**any four**):

32 Marks

- a. Living Will
- b. Lis pendens
- c. Covenant of Right of Way
- d. Novation of a License Agreement
- e. Covenant against Encumbrances
