

DJS Mains Civil Law I (Set I)

(4)

DELTA Pg No.
 Date / /

Q1(a) The Delhi Rent Control Act, 1958 is a social welfare legislation enacted with the object of protecting the interest of the tenants mainly and at the same time protecting the legitimate interests of the landlords.

The present petition has been filed under Section 14(1)(c) by the landlord for his bonafide requirement. The tenant opposes the petition on the ground that premises was let out for commercial purpose and therefore petition for eviction under Section 14(1)(c) is not maintainable.

Issue:

1. Whether landlord is entitled to relief granting eviction of the Tenant?
2. Whether petition is maintainable u/s 14(1)(c) in respect of commercial premises?

Admitted facts

Landlord admits that tenant is running a Chinese Medical clinic in tenanted premises & he never objected it.



Reasoning to be based on respective case laws.

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As to issue no. (i), the first and foremost requirement of petition under Section 14(1)(c) is that landlord has to show that he requires the premises for his own use. That is for his bonafide requirement.

The burden of proof to show bonafide requirement is on the landlord as per Section 102 of Indian Evidence Act, 1872 (as amended by the Act) and he has failed to discharge such burden of proof.

Further, under issue no. (ii), the tenant's contention that such eviction petition cannot be maintained in respect of commercial premises is not tenable as the Hon'ble High Court has held in case of Shri. B. V. Srinivasulu Reddy vs. Shri. B. V. Srinivasulu Reddy that Section 14(1)(c) applies to both residential and commercial enterprises.

In view of above discussed position and principle, the landlord is not entitled to seek eviction against tenant.

* Case laws?

b) The law relating to limited period tenancy has been codified under Section 21 of the Delhi Rent Control Act, 1955.

Section 21 is a self contained code and therefore it must be strictly construed to its narrow sphere. The essentials of limited period tenancy are:

1. Landlord must not require the premises either in whole or part for a particular period.
2. Landlord must obtain the permission of Controller in this regard.
3. Letting of the premises must be for residential purposes.
4. Such letting must be for such a period as may be agreed in writing.
5. The Controller must be vigilant to enquire and satisfy himself about requirements of non requirement of the landlord.





Q2 (a) The present factual matrix attracts the provision of the Indian Contract Act, 1872.

One of the foremost requirements of a valid contract is that parties must agree to the same thing in same case. S. 13

In this case X stated that land was had the carrying capacity of 5000 sheep. But it was known to both parties that it was new and for such purpose therefore statement of X might not be true in its literal sense.

Therefore, Y could with reasonable diligence have found out that land was not suitable for 5000 sheep.

Thus, in view of above discussed provision, Y cannot set aside the contract.

Mistake

* Common mistake

Unilateral mistake

S. 20, 22

Related mistake



b) The present factual matrix attracts provision of Indian Contract Act, 1872.

Section 17 of the Act states that if consent of the other party has been obtained by fraud, then it is voidable at instance of such party.

As per settled position of law, mere silence does not amount to fraud unless there is a duty to speak.

However, B is daughter of A who has just come of age, therefore in view of the relationship it was duty of A to tell truth to his daughter about the condition of house. as it was duty to speak.

As A kept silent when he had duty to speak, therefore such contract is voidable at instance of B.

Duty to speak
→ Landmark Judgment (Fraud)



2.5
5

state both
the exceptions:
① duty to speak
② being silent
is equivalent
to speech



* definition of consideration?

1.5
6

Not full mention of the law

State of Mat
V/S
Chaitralal Kishanlal
no a

c) As per Section 2(d) of the Indian Contract Act, 1872
Consideration can be:

1. Consideration may be in past, present or future.
2. It must be real and lawful.
3. It need not be adequate.
4. It may move from promisee or any other person.

Generally, agreement without consideration is void and is considered non est contract. However there are few exceptions to it.

Section 25(1): Agreement made on account of natural love and affection between person standing in near relation to each other in writing and signed.

25(2): A promise to pay for any work done voluntarily in part.

25(3): A promise to pay some lawful debt, if made by a person who is competent to sign.

d) 23. The present contract matrix attracts provision of sale of goods act, 1930.

Section 2(7) of the act states that every kind of good movable property other than actionable claims & immovables are goods. So, bares fall under category of goods as per the Act.

As per Section 26 of the Act, prima facie pass with property irrespective of the possession of such goods.

As it is stated in the facts that if sold the baresh to B. When sale is concluded, then property in goods passed to the buyer from that point irrespective of possession of property.

It is immaterial as to when payment was to be made as it is upon the parties to decide with respect to payment but property in goods passed when sale is concluded.

Agency
in
an agreement
with a witness
is valid.

8/20/24





Therefore, suit of A which is filed for prices of buses is ~~being~~ ~~thereby~~ ~~defeated~~ ~~and~~ ~~as~~ ~~he~~ ~~has~~ ~~failed~~ ~~to~~ ~~show~~ ~~by~~ ~~any~~ ~~agreement~~ ~~or~~ ~~any~~ ~~other~~ ~~evidence~~ ~~that~~ ~~parties~~ ~~had~~ ~~agreed~~ ~~that~~ ~~property~~ ~~in~~ ~~goods~~ ~~would~~ ~~not~~ ~~pay~~ ~~until~~ ~~installment~~ ~~is~~ ~~paid~~.

Agreement
must be
consistent
w/s Shale

Therefore, suit is ~~dismissed~~.

Therefore, suit of A is denied and A is liable for prices of the buses as property had passed to B when sale was concluded.

In defense of B, he has failed to produce any evidence or agreement to show that parties had agreed that property would not pay until installment is paid.

Therefore, A is entitled to price of buses.



A4 (o) The rule of 'Nemo dat quod non habet' means that he cannot give what he does not have.

Section 27 of sale of goods act, 1932 embodies the this principle which states that sale by person not the owner, does not give belonging title to the seller ~~the~~ buyer which the seller does not have.

* Greenwood v McNeill

2.5/5

For ex if, not being the owner of a property car X, sells that car to Y. then ~~the car~~ Y does not get title to the car as it did not have title to such car.

Exception: When a mercantile agent acting in course of business is in possession of goods a document of title to goods with the consent or authority of the owner; sells it to the third person. Such third person gets good title to such goods if he acted in good faith & without notice.





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69 Section 18 Sale by person in possession under voidable contract

Section 30 Seller or buyer in possession after sale

In above mentioned scenarios, the buyer gets good title provided he acted in good faith and without notice

Too short for 5 marks

Section 2(2) of sale of goods act, 1930 states that Delivery means voluntary transfer of possession from one person to another

Section 33 states that Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in possession of the buyer

* Payment & delivery

* Effect delivery

* Buyer & seller

Delivery? Place of delivery? A case could be?

c) The problem at hand falls under the purview of Hire and purchase agreement embodied under sale of goods act, 1930.

In Hire and purchase agreement a person gives to another his goods for hire for a particular period of time for him to use it. But there is also an option for the hirer to purchase the goods by paying the price stipulated amount as decided between them.

Similarly in the problem at hand, if the hirer a sewing machine with the condition that if he pays a certain amount during the period of hire, he will become the purchaser.

Therefore, this is a hire purchase agreement.

2/5

* Difference between hire & purchase

Hire | Purchase (like this)

1/5



Ab. Specific Relief Act, 1964 has been drafted to enforce civil rights of the parties and not merely to enforce penal laws.

Section 5 of the act provides for recovery of specific immovable property which is based on title whereas Section 6 is for recovery of immovable property based on previous possession.

Section 5 is governed by Article 65 of and Article 64 of Limitation i.e. period of limitation is 12 years whereas in Section 6 period of limitation is 6 months.

Under Section 5 suit cannot be filed against government whereas under Section 6 it can be filed against Government.

There is no review or appeal against decree u/s 6 whereas there can be appeal against decree u/s 5 of the Act.

* Nagar Service Society v/s K.C. Alexander

* For the differences in a tabular form.

5/10





If not filed s/s 6 is dismissed, such person can file suit s/s 5 on basis of title and principle of law. Judicials won't apply, however, res judicata will apply.

Section 6 is in nature of a summary remedy but that is not the case s/s 5.

If whenever a contract is broken or breached, then as three remedies available to a person and they are -

- 1) Damages
- 2) Specific performance ✓
- 3) Injunction

Specific Relief Act, 1964 provides for ^{all} these remedies.

Any person who has suffered due to breach of contract can ask for specific performance of contract s/s 10 or for damages in lieu of specific performance s/s 40.

S.10 talks about specific performance of contract

S.21 Compensation

or in addition to it. as per Section 21. In the same way, he can also ask for transference of property or mandatory and that too monetary or per Section 40 of the Act.

The remedies for non performance of duties are either compensatory i.e. by way of damages awarded by court due to such non performance and it is specific by way of specific performance under Section 10 for the specific performance.

Injunctions S.36-44

D
S

Intellectual law

* Hargrave
Hedges





Mains Evaluation By Edzorb Law



Nishtha Singh



★★★★★ 09/12/2022

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Garvit Dave



★★★★★ 25/08/2021

Dear ma'am Greetings of the day! On a personal note, Edzorb law helped me a lot, rather it helped me immensely in my preparation. As we all know that standard books for the preparation are very bulky & language is also hard but the way Edzorb team has put effort to explain the concept through pictorial example which are related to our day to day life, thus making it very simple and easy to understand various provision. With regards to notes, I would contend that they are very simplified and provide in depth knowledge of every subject, one can never feel tired while studying. The best thing is the highlighted portion of it. To summarise The course, is very helpful for quick revision. Thank you EDZORB for your extreme efforts. With best regards Garvit dave



Nisha Singh



★★★★★ 02/01/2023

Edzorb law is a digital app that helps simplify preparation. I adore and recommend the app as it provides overall preparation tactics. Even if you are traveling you can just access it from anywhere. The simplified notes are the best way to revise Bare Act, and the Q bank is designed to ensure full coverage of topics for an overall preparation. I am grateful to be a member of the Edzorb family.



This point to be mentioned first → can be used as introduction.
★ Hindu Marriage Act transferred Hindu law of marriage.

18
Hindu Marriage is considered to be a sacrament and bond for all lives to come and not for a single life.

'Let Mutual fidelity continue upto death' is the basic premise of Hindu marriage that is once you are married, you are bonded till the end of your life. There was no concept of divorce under customary Hindu laws.

Section 7 of Hindu Marriage Act, 1955 (you briefly the Act) embodies the principle that Hindu marriage is a sacrament. It gives legal recognition to this principle that Hindu Marriage is a sacrament because

- It lays down that no marriage among Hindus, would be valid considered valid unless it has been performed or solemnized with customary rites & ceremonies.





Customary rights & customs are those which are
customarily followed by people of the community.

Bhaurao Lokhande v State of Maharashtra
It was held that performance of customary rites and
customs is essential to perform a valid marriage

Therefore, Hindu Marriage is a sacrament till now

However, the Hindu Marriage Act, 1955 has provided
the remedy of divorce, judicial separation etc
which are not the notions which were available
in traditional Hindu law & they were against
the principle that Hindu Marriage is a sacrament

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Q9 Karta is considered as the manager of the property of joint Hindu family. It can be substantiated by following:-

1. Karta has the power to alienate the property in case of legal necessity & benefit of estate.
2. He can start a new business in the name of family.
3. He can contract debt on behalf of the family.
4. He is responsible for the maintenance of the members of the family.

CIT
v/s

Seth Gouindram

Before amendment act of 2005, women could not become Karta. Therefore after 2005 as daughters as coparceners, they can become Karta now.

Therefore daughters or women can become Karta now.

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Hetu is an essential part of Hindu marriage which leads to a family of money, clothes, jewelry, dattu etc.

It is basically a mark of respect towards women. Hetu is given from Hindu men at the time of marriage.

There is no limit on amount of Hetu in marriage.

There are two types of Hetu.

Prompt Dowry - which is payable on demand.

Deferred Dowry - which is deferred to a particular situation when it is to be paid i.e. on divorce etc.





defined under TPA

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b) Yes, Mahr is considered an actionable debt and also an actionable claim. It can also become charge on property of husband and husband cannot alienate any part and profit any out of the property of husband.
Provided she is in possession with consent of husband.

c) Yes, payment of Mahr can be executed by the wife but not given to managers but only after the marriage has been solemnized.

She can give up her Mahr after marriage but not before it.





* A brief on
law relating
to maintenance
under S.125 CrPc
(in less words)

2/3

In traditional Muslim law, Muslim wife was entitled to maintenance only up to period of iddat.

However in Shah Bano v Ahmed Khan 1985, the Hon'ble supreme court held that Section 125 of CPC being secular code, Muslim women is entitled to maintenance even for period of iddat.

Then a poor Muslim woman disruption of marriage act, under Section 12 Muslim women was entitled to maintenance up to period of 2 years.

Then in Daniel Selys, a Christian of India the Apex court held that Muslim husband has provision for such amount of maintenance that she can such amount is reasonable for her even after expiry of 2 years.



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✓
112 (0) The rule in Ryland v Fletcher was based on principle of strict liability and its ingrained fact

- If a person brings upon his land a dangerous thing
- Such dangerous thing escapes and causes
- Damage to land or non-natural

Then any damage caused by such thing would be borne by the defendant. Plaintiff need not prove any negligence on part of defendant.

But there were few exceptions to it

- Act of God
- Plaintiff's own fault
- Act of stranger

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Due to these exceptions, many used to escape liability.

However due to change in time and development of science & technology, the rule of strict liability was transferred to rule of absolute liability in the country.

A.C. Mento v Union of India 1987

Justice PN Bhagwati held that rule laid down in Ryland v Fletcher was not relevant in 20th century in view of change in society.

Law must be stable but not stand still and it has to move according to advancement of society.

The rule of absolute liability as it stand is

1. If any enterprise is involved in any hazardous





activity and any damage is caused to anyone
due to such activity, such enterprise should be
held liable without any exception

- Such enterprise have a social obligation
towards public society
- Measure of damages would depend on status
and capacity of the enterprise
- No exception as was in Rylands v Fletcher

In a recent tragedy in Wishakapalanam in LG
polymer plant, due to leak of hydrogen gas,
the rule of absolute liability was applied



* types of defamation

libel
slander

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b) of statement made in performance of duty
is privileged.

It signifies that when a person who is employed and make a statement in the course of his duty, then he is not liable for defamation.

for eg. if A Magistrate while making report to the superior make a remark about conduct of B. Here on such remark is made during course of his official duty, he would not be liable for libel.

* defamation under IPC

* more elaboration on law relating to defamation



* note detailed study required

* law relating to notice under different act can be mentioned for example TPA

Too short for to make

(1) As per Section 236 - Every person who intends to erect a building shall apply for sanction by giving notice in writing to the competent authority.

As per Section 247 - Government is obligated to provide notice to such person in case of demolition of building and giving him a reasonable opportunity of showing cause why such order should not be made.

* kinds of notice

- Implied
- express
- Imputed

As per Section 256 - appeal from order of appellate Tribunal would lie to Administration.

However as per directions given by supreme court appeal from appellate Tribunal would lie to District Judge or Additional District Judge.

The Hon'ble apex court said that an executive cannot substitute order of a judicial authority, therefore not law that made, so appeal should lie to Administration rather than District Judge.

(2) Any person aggrieved by any of the order mentioned in Section 254 of the Act or any notice issued under this Act may appeal to

- Appellate Tribunal
- within a period of 30 days
- can be condoned for sufficient cause

5/15





Q14 The law relating to prevention of dangerous disease has been provided under Section 371 - 386 of the ~~Act~~.

Section 371 imposes obligation of any person who is in charge of or any owner, tenant, occupier etc in whose premises any person is suffering from dangerous disease that give by a notification to Municipal Health Officer.

Section 372: Commencement may shift such person to any hospital or of Union Plan.

372 (2): Corporation may set up an infectious disease hospital for the same if genuine doubt.

373: When commencement is of opinion that dissemination of any such disease is prevented is required to retain a check of spread of disease.





It may require the owner a certificate to clear a project the same.

374. Communi may destroy any hut or sheds necessary to prevent spread of any dangerous disease.

375. Communi shall provide proper apparatus and material for disinfection of conveyance, building, buildings etc.

376. Special measures in case of outbreak of dangerous a epidemic disease.

- Communi may with previous sanction of Corporation
- give such direction to subordinate
 - to take special measures

as to thinks necessary to prevent outbreak a spread of the disease

- Breach of any such direction by any person could attract Section 186 of Indian Penal Code.



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§15 The law relating to appeals from decree of commercial courts and commercial division has been legislatively incorporated in Section 13, of the Act under Chapter 14 of the Act.

- Any person aggrieved by the judgment or order of commercial court before the decree of district judge may appeal to commercial appellate court within a period of 60 days.
- Any person aggrieved by the judgment or order of commercial court at the decree of district judge or commercial division of High court may appeal to commercial appellate division of High court within a period of 60 days.
- Appeals should be disposed off within a period of 6 months.

The amendments made by Commercial Courts Act, 2015 to code of civil procedure, 1908 are -

- The period of filing a statement is maximum 120 days after which plaintiff's statement would be forefeited.
- Section 35B i.e. there is no limit on cost that can be awarded by court in case of commercial dispute.
- The addition of statement of truth under Order 6 Rule 15A i.e. pleading is not verified by statement of truth, party cannot rely on statement of truth.
- Substantial changes have been made to Order XI of the Act.
- New Order XIII A has been added which empowers a court to pass summary judgment.





6. New order on XV A which relates to case management has been added to the case

7. As per order of commercial courts can pronounce judgment within a period of 90 days from conclusion of argument.



Remarks :- ① If you don't remember the exact section, try to avoid mentioning the section number. Incorrect section number has zero value.

② Case laws missing from various parts of Questions.

③ for difference based Questions, make a table.

④ Try to establish a link between the Topic asked & its mention in other Acts.



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