

LL.B. VI Term

Paper – LB – 603 - Minor Acts and Supreme Court Rules

[The Registration Act, 1908., the Indian Stamp Act, 1899, the Court-fees Act, 1870, the Suits Valuation Act, 1887 and the Supreme Court Rules, 1966]

Part I : The Registration Act, 1908

Books:

1. A.B. Srivastava, **Sanjiva Row's commentaries on *The Registration Act*** (11th ed., 2008)
2. H.K. Saharay, **Rustomji on *Registration*** (5th ed., 2002)
3. Dileep Dalal, **Mulla on *The Indian Registration Act*** (11th ed., 2008)

1. <i>Hansia v. Bakhtawarmal</i> , AIR 1958 Raj 102	1
2. <i>Ghulam Ahmad v. Ghulam Qadir</i> , AIR 1968 J. & K. 35	7
3. <i>Raghunath v. Kedar Nath</i> , AIR 1969 SC 1316	13
4. <i>Chandrakant Maganlal Patel v. Ishwarlal Ghelabhai Choksey</i> , AIR 1981 Bom. 248	18
5. <i>Swaminathan v. Koonavalli</i> , AIR 1982 Mad. 276	24
6. <i>Budh Ram v. Ralla Ram</i> (1987) 4 SCC 75	27
7. <i>Roshan Singh v. Zile Singh</i> , AIR 1988 SC 881	29
8. <i>Dina Ji v. Daddi</i> , AIR 1990 SC 1153	35
9. <i>S.V. Chandra Pandian v. S. V. Sivalinga Nadar</i> (1993) 1 SCC 589	38
10. <i>Sardar Singh v. Krishna Devi</i> (1994) 4 SCC 18	49
11. <i>Gangadhar Madhavrao Bidwai v. Hanmantrao Vyankatrao Mungale</i> (1995) 3 SCC 205	55
12. <i>Bakhtawar Singh v. Gurdev Singh</i> (1996) 9 SCC 370	57
13. <i>Harendra H. Mehta v. Mukesh H. Mehta</i> (1999) 5 SCC 108	59
14. <i>Anthony v. K. C. Ittoop & Sons</i> (2000) 6 SCC 394	74
15. <i>Chiranjilal Srilal Goenke v. Jasjit Singh</i> (2001) 1 SCC 486	79
16. <i>Bondar Singh v. Nihal Singh</i> (2003) 4 SCC 161	86
17. <i>N. Khadervali Saheb v. N. Gudu Sahib</i> (2003) 3 SCC 229	91

Part II : The Indian Stamp Act, 1899

Books:

1. Walter Russell Donogh, ***Commentary on Indian Stamp Act, 1899*** Revised by K.B. Asthana and Gyanendra Kumar (9th ed., 1987)
2. K. Krishnamurthi, ***The Indian Stamp Act, 1899*** (10th ed., 2007)

18.	<i>Saiyed Shaban Ali v. Sheikh Mohammad Ishaq</i> , AIR 1939 All. 724	93
19.	<i>Member, Board of Revenue v. Arthur Paul Benthall</i> , AIR 1956 SC 35	94
20.	<i>Govt. of U. P. v. Raja Mohd. Amir Ahmad Khan</i> , AIR 1961 SC 787	103
21.	<i>Javer Chand v. Pukhraj Surana</i> , AIR 1961 SC 1665	107
22.	<i>Board of Revenue v. Rai Saheb Sidhnath Mehrotra</i> , AIR 1965 SC 1092	110
23.	<i>Hindustan Steel Ltd. v. Dilip Construction Co.</i> , AIR 1969 SC 1238	114
24.	<i>The Madras Refineries Ltd. v. The Chief Controlling Revenue Authority, Board of Revenue</i> , AIR 1977 SC 500	117
25.	<i>Ram Rattan v. Bajrang Lal</i> (1978) 3 SCC 236	122
26.	<i>Trideshwar Dayal v. Maheshwar Dayal</i> (1990) 1 SCC 357	127
27.	<i>Hameed Joharan v. Abdul Salam</i> (2001) 7 SCC 573	129

Part III : The Court-fees Act, 1870
The Suits Valuation Act, 1887

Books:

1.	V.K. Diwan, Sanjiva Row's Law on Court Fees and Suits Valuation (9 th ed., 2002)	
2.	A.N. Khanna, Law of Court Fees and Suits Valuation in India Revised by H.N. Seth (7 th ed., 2005)	
28.	<i>Nemi Chand v. Edward Mills Co. Ltd.</i> , AIR 1953 SC 28	145
29.	<i>Sathappa Chettiar v. Ramanathan Chettiar</i> , AIR 1958 SC 245	151
30.	<i>Gopalakrishna Pillai v. Meenakshi Ayal</i> , AIR 1967 SC 155	160
31.	<i>Shamsher Singh v. Rajinder Prashad</i> , AIR 1973 SC 2384	164
32.	<i>Belarani v. K.A. Rahman</i> , AIR 1975 Cal 79	
33.	<i>Ashok v. Narasingh Rao</i> , AIR 1975 M.P. 39	168
34.	<i>Tara Devi v. Sri Thakur Radha Krishna Maharaj</i> (1987) 4 SCC 69	170
35.	<i>Abdul Hamid Shamsi v. Abdul Majid</i> , AIR 1988 SC 1150	172
36.	<i>Commercial Aviation and Travel Co. v. Vimla Pannalal</i> , AIR 1988 SC 1636	175
37.	<i>Gopal Chandra Jena v. Sri Laxmi Narayan Bijo Maura Alava</i> , AIR 1990 Ori. 98	182
38.	<i>Ram Narain Prasad v. Atul Chander Mitra</i> (1994) 4 SCC 349	185
39.	<i>Chief Inspector of Stamps v. Indu Prabha Vachaspati</i> (1998) 9 SCC 157	188

Part IV : The Supreme Court Rules, 1966

Book:

Raju Ramachandran and Gaurav Agarwal, **B.R. Agarwal's Supreme Court Practice and Procedure** (6th ed., 2002)

IMPORTANT NOTE:

1. In this paper, the Bare Acts - the Registration Act, 1908, the Indian Stamp Act, 1899, the Court-fees Act, 1870 and the Suits Valuation Act, 1887 - shall be supplied to students for consultation during the examinations. ***The consultation of the Supreme Court Rules, 1966 during the examination is not permitted and therefore the same will not be supplied.***

2. The students shall be required to attempt at least one question from each of the Four Parts of the Question Paper based on the above legislations/Rules.

3. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.

4. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.

5. The question papers set for the years 2007-08 and 2008-09 are printed below for guidance of the students.

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LL.B. VI Term Examinations, April-May, 2008

Note: Attempt *five* questions in all, selecting at least *one* question from each Part.
All questions carry equal marks.

Part - A

1. Discuss whether the following documents are compulsorily registrable (*Attempt any four*):
 - (a) A document witnessing the list of immovable properties already partitioned amongst family members.
 - (b) A gift deed of a plot valued at rupees 99.
 - (c) A lease of immovable property for eleven months with an option to tenant to renew it further for another eleven months.
 - (d) An arbitration award with regard to immovable property passed by a sole arbitrator appointed by the parties.
 - (e) A private award effecting dissolution of a partnership firm having both movable and immovable properties.

2. "A", a Hindu widow owned a house "X". On 1/1/95 "A" adopted "B" as her son vide an unregistered deed of adoption. This adoption deed also contains a covenant wherein "A" has stated that henceforth her adopted son "B" will be entitled to all her property including the house "X". However on 1/1/2005 "A" sold the house "X" to "C" vide a registered sale deed. On being denied the possession of house "X" by "B", "C" filed a suit for possession against "B" on the basis of registered sale deed. "B", relying on the adoption deed, asserts his rights in the house "X" while defending the suit of "C". Decide citing relevant decisions.

Part - B

3. "B", the defendant in a civil suit, took an objection to the admissibility of a document being filed by "A", the plaintiff, on the ground of it being insufficiently stamped. The trial court did not decide the objection when raised but made a note -"Admissibility of document objected by defendant, Allow subject to objection."

At the stage of final arguments when the plaintiff tried to rely on the documents, the defendant once again objected. The plaintiff now claims that once the document has been admitted in evidence, section 36 of the Stamp Act comes into operation. Discuss with the help of decided cases.

4. (a) "A" executes a power of attorney authorizing "B" to manage his house and in the same document "A" authorizes "C" to manage his another house. State whether it is a "Distinct Matter" as per section 5 of Stamp Act. Explain on the basis of case law and your own examples.
- (b) "A" owes "B" Rs. 10,000. "A" sells his house to "B" for rupees one lakh. It is agreed between them that hereinafter "A" owes nothing to "B".

On what amount of stamp duty is payable on the sale deed.

Part - C

5. "A" executes a mortgage deed in favour of "B" on the basis of which "B" obtains a decree against "A". "C", son of "A", files a suit for declaration that the mortgage executed by "A" in favour "B" is null and void and ineffective against him as the property was Joint Hindu Family property and the mortgage was effected without consideration and family necessity.

Discuss with reference to case law, the court fee payable by "C".

6. Under which provision court fee is payable in the following suits under the provisions of Court Fee Act: -

- (a) Suit for partition where plaintiff is:
- (i) Not in possession of suit property;
 - (ii) In possession of suit property.
- (b) (i) "A" files a suit for maintenance @ Rs. 5,000 per month against her husband.
- (ii) "A" files a suit for arrears of maintenance of Rs. 50,000 against her husband.

Part - D

7. Discuss the procedure for filing of appeal by special leave before the Supreme Court under order XVI of Supreme Court Rules.
8. Write short notes on any *two*:
 - (a) Notice of Motion;
 - (b) Appeal under section 38 of Advocates Act;
 - (c) Powers of a Single Judge under Supreme Court Rules.

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LL.B. VI Term (Supplementary) Examinations, Aug.-Sept. 2008

Note: Attempt *five* questions in all, selecting at least *one* question from each Part.
All questions carry *equal* marks.

PART - A

1. What is the effect of non-registration of a documents, which requires compulsory registration under section 17 of the Registration Act? Can an unregistered document which requires compulsory registration be used in evidence for any purpose? Discuss with the help of decided cases and relevant provisions of law.
2. State, by giving reasons in support of your answer, whether the following documents/instruments require compulsory registration (*Attempt any four*):
 - (a) A gift deed of an immovable property worth Rs. 99.
 - (b) A document witnessing the list of properties partitioned amongst family members.
 - (c) An adoption deed whereby the adoptive parents have relinquished all their rights in their house to their adopted son.
 - (d) A lease deed of a house for eleven months with an option to the tenant to renew it for a further period of eleven months.
 - (e) A private arbitration award effecting dissolution of partnership firm having movable and immovable properties.

PART - B

3. Explain and differentiate the terms 'Several instruments employed for completing the transaction', 'distinct matters' and 'descriptions' with reference to sections 4, 5 and 6 of Indian Stamp Act, with the help of decided cases and your own examples.

4. Plaintiff filed a suit for recovery of money on the basis of an unstamped document issued in his favour by the defendant. When confronted with this document, the defendant raised an objection about the admissibility of the document as it was not properly stamped. The trial court did not decide this objection but made a note “Objected, allowed subject to objection” and exhibited the document in evidence. At the stage of final arguments, the defendant once again contended that the plaintiff cannot rely upon the said documents, the plaintiff contended that once a document is admitted in evidence, section 36 the Stamp Act comes into operation. Decide whether the contention of the plaintiff is sustainable in the light of decided judgments.

PART - C

5. If the scheme laid down for the computation of fee payable in suits covered by the several sub-sections of section 7 is considered, it would be clear that in respect of suits falling under subsection (iv), a departure has been made and liberty has been given to the plaintiff to value his claim for the purposes of court fee. Discuss the reason behind this departure with reference to decided cases. Also discuss whether the valuable given by the plaintiff in a suit under Section 7(iv) of the Court Fees Act is conclusive or whether the court under certain circumstances examine the same.
6. How will you determine the court fee payable in the following cases:
 - (a) A wife files a suit against her husband for maintenance under Hindu Adoption and Maintenance Act, claiming Rs. 10,000 per month.
 - (b) A wife files a suit against her husband for recovery of arrears of maintenance amounting to Rs. 1,00,000 (Rupees One Lac only).
 - (c) A son files a suit against a photographer for recovery of an old photograph of his deceased father.
 - (d) A tenant files a suit for recovery of tenanted premises from which the landlord had illegally ejected him. The rent was Rs. 5,000 per month.

PART - D

7. Describe the procedure for filing of appeal by special leave before Supreme Court of India as provided in Order XVI of the Supreme Court Rules.
8. Discuss the procedure for filing of a petition for the enforcement of Fundamental Rights in the Supreme Court of India.

LL.B. VI Term Examinations, April-May, 2009

Note: Answer *five* question including Question No. 1, which is compulsory.
All questions carry *equal* marks.

PART- A

1. (a) Does an award, by which assets of partnership firm are distributed amongst partners on its dissolution, require compulsory registration under Section 17 of Indian Registration Act, 1908?
- (b) Is an unregistered gift of turn of worship as Shebait-cum-purari in a Hindu temple admissible under Section 49 of Indian Registration Act, 1908?
2. Do the following documents require compulsory registration?
 - (a) Adoption deed containing a clause of relinquishment of all rights by adopting mother in favour of adopted son.
 - (b) Gift of immovable property worth Rs. 99.00.
 - (c) An agreement to sell a property worth Rs. 8,00,000.

PART B

3. (a) Determine the chargeability of a loan secured by a Deed of Trust and Mortgage containing a guarantee clause?
- (b) X executes a power of attorney authorizing Y to manage his house and in the same instrument X authorizes Y to manage his other house. State whether the instrument shall be chargeable as a single power of attorney or as a combination of two powers of attorney.
4. (a) At what stage admissibility of an instrument in evidence may be challenged on the ground of its not being duly stamped? Can the court deter its decision on such a challenge?
- (b) 'After the determination of the duty under Section 31 of Indian Stamp Act, the Collector becomes *functus officio* and the provisions of section 33 have no application.' Comment.
5. (a) X filed a suit against Y for dissolution of partnership and for accounts. The suit was valued at Rs. 1,000/- for the purpose of court fees. The defendant raised a preliminary objection as to the valuation of the suit on the ground that the plaintiff has laid a claim to the sum of Rs. 1,17,000/- besides another sum of over Rs. 80,000/- as his share in the profits for a particular period by reference to the proceeding of Income Tax Department mentioned in para 15 of the plaint. Critically comment the sustainability of the objection with reference to relevant provisions and case law.

- (b) How would the court fees be computed in a suit for partition if plaintiff is in possession? Would the chargeability of court fees be different in a suit of partition when plaintiff is out of possession?
6. (a) What are the tests laid down by the courts to determine that a consequential relief flows out of a relief for declaration? Discuss with reference to case law.
- (b) Under what provisions of Court Fees Act would the court fees be payable in following cases:
- (i) Suit for specifically declaring a decree passed in an earlier suit as ineffective and void.
 - (ii) Suit for easements
 - (iii) Suit for recovery of movable property having no market value.

PART D

7. 'Procedure under Supreme Court Rules, 1966 for filing a petition for issuance of writ of habeas corpus is different from procedure for filing a petition for issuance of other writs.' Comment.
8. Discuss the procedure for filing a Special Leave Petition before Supreme Court of India as prescribed in Order XVI of Supreme Court Rules, 1966.

LL.B. VI Term (Supplementary) Examinations, July-August, 2009

Note: Attempt *five* questions including Question No. 1 which is compulsory.

All questions carry *equal* marks.

Part A

1. (a) Discuss whether a family arrangement in respect of joint family property requires compulsory registration under section 17 of Registration Act, 1908.
- (b) An unregistered adoption deed contained a clause whereby the adopting mother relinquished all rights in her movable and immovable properties in favour of adopted son. Is the adoption deed admissible in evidence under section 49 of Registration Act, 1908?
2. (a) State by giving reasons in support of your answer whether the following documents require compulsory registration:
- (i) Authority to adopt a daughter;
 - (ii) An agreement to sell a house worth Rs. 15,00,000
- (b) Discuss the distinction between a private award and award in proceedings pending before court in respect of requirement of compulsory registration under section 17 of Registration Act, 1908.

Part B

3. With the help of relevant case law, explain how the Supreme Court has explained the expressions 'principle instrument' in section 4, 'distinct matters' in section 5 and 'description' in section 6 of the Indian Stamp Act, 1899.
4. (a) X presented a document to Controller for his opinion as to duty chargeable. Collector determined the duty and served a notice on X to deposit the same within 15 days. On his failure to do so, the Collector impounded the document. Discuss whether the Collector had rightly impounded the document.
(b) A Magistrate in a case marked an insufficiently stamped document as 'Exhibit'. The Magistrate in his order had specifically mentioned that the document was admitted stamp duty as well as penalty. Can the admissibility of this document be challenged under section 35 of Indian Stamp Act? Would your answer be same if the document could have been marked with a note 'objected allowed subject to objection' and thereafter exhibited by the Magistrate because of objection having been raised by the dependent about its admissibility as it was not property stamped?

Part C

5. (a) Discuss the law laid down by Supreme Court in *M/s Commercial Civil Aviation vs. Smt. Vimla* AIR 1988 S.C. 16 in relation to payment of court fees in a suit for accounts.
(b) How will you determine the court fee payable in the following cases:
 - (i) A son files a suit against a photographer for recovery of an old photograph of his deceased father;
 - (ii) A wife files a suit against her husband for maintenance claiming Rs. 10,000 per month.
6. (a) The plaintiffs sued for a declaration that the decree obtained by the defendant against their father was not binding on them. The court fee paid was fixed as per Article 17 (iii) of Schedule II of Court Fees Act. Decide if valuation is correct.
(b) How do you determine the court fee in the suit for petition in case:
 - (i) Plaintiff is in possession;
 - (ii) Plaintiff is out of possession.

Part C

5. (a) Discuss the law laid down by Supreme Court in *M/s Commercial Civil Aviation vs. Smt. Vimla* AIR 1988 S.C. 16 in relation to payment of court fees in a suit for accounts.
(b) How will you determine the court fee payable in the following cases:
 - (i) A son files a suit against a photographer for recovery of an old photograph of his deceased father.
 - (ii) A wife files a suit against her husband for maintenance claiming Rs. 10,000 per month.

6. (a) The plaintiffs sued for a declaration that the decree obtained by the defendant against their father was not binding on them. The court fee paid was fixed as per Article 17 (iii) of Schedule II of Court Fees Act. Decide if valuation is correct.
- (b) How do you determine the court fee in a suit for petition to case :
 - (i) plaintiff is in possession;
 - (ii) plaintiff is out of possession;

Part D

7. Write short notes on :
 - (a) Notice of Motion;
 - (b) Appeal Under Section 38 of Advocates Act.
8. Discuss the procedure for filing of a petition for the enforcement of Fundamental Rights in the Supreme Court of India.

LL.B. VI Term Examinations, May-June, 2010

1. (a) Discuss which of the following documents is compulsorily registrable :
 - (i) An arbitration award with regard to immovable property passed by a sole arbitrator appointed by the parties.
 - (ii) A gift deed of a plot valued at Rs. 99.
- (a) An agreement to sell an immovable property requires compulsory registration. Comment.
2. (a) Does an adoption deed containing a clause of relinquishment of all rights in movable and immovable property in favour of adopted son require compulsory registration ?
- (b) What was the law laid down regarding registrability of family arrangement and partition deed in the case of Rogshan Singh Vs. Zile Singh, AIR 1988 SC 881.
3. (a) X presented a document to Collector for his opinion as to the duty chargeable on it. Collector determined the duty and served a notice on X to deposit the same within 15 days. On his failure to do so, the Collector impounded the document. Discuss whether the document was rightly impounded by the Collector.
- (b) At what stage the admissibility of an instrument in evidence may be challenged on the ground of its not being duly stamped ? Can the Court defer its decision on such a challenge ?
4. (a) A executes a power of attorney authorizing B to manage his house situated at Ghaziabad and authorizing C to manage another house situated in Delhi. Decide in light of decided case law under which provision of the Indian Stamp Act the document would be stamped.
- (b) How is Section 4 of Indian Stamp Act different from Section 6 of the Act ?

5. (a) Discuss the law laid down by Supreme Court in *M/S Commercial Civil Aviation Vs. Smt. Vimla*, AIR 1988 SC 16.
(b) Under which provisions of the Court Fees Act, would the court fee be payable in the following cases :
 - (i) Suit for partition when plaintiff is in possession; plaintiff is out of possession.
 - (ii) A suit for maintenance claiming Rs. 10,000 per month.
6. (a) What are the tests laid down by the courts to determine that a consequential relief flows out of a relief for declaration ? Discuss with reference to case law.
(b) What is the difference between fixed court fees and court fees payable *advalorem*? Can the court ask the plaintiff to pay court fees on the basis of the written statement filed by the defendant ?
7. Discuss the procedure for filing of a petition for the enforcement of Fundamental Rights in the Supreme Court of India under Supreme Court Rules.
8. Write short notes on any two of the following :
 - (a) Notice of motion;
 - (b) Appeal under Section 38 of Advocates Act;
 - (c) Powers of a Single Judge under Supreme Court Rules.

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LL.B. VI Term Examinations, July-August, 2011

1. Briefly, explain with the help of relevant case law and statutory provisions, as to whether the following documents require compulsory registration under the Registration Act, 1908?
 - (a) Agreement to sell;
 - (b) Authority to adopt a daughter;
 - (c) Shebait-cum-pujari;
 - (d) deed of dissolution of partnership
 - (e) Foreign award.
2. What is the difference between “Family Agreement”. “Partition Deed” and “Family settlement”? Explain with the help of relevant case law and statutory provisions.

PART B

3. Do you agree that the word “matters” in Section 5 of the Indian Stamp Act, 1899 is synonymous with the word “descriptions” occurring in Section 6 of the said Act? Elaborate your answer with the help of relevant case law and statutory provisions.

4. Can the period of limitation for execution of a decree stop running at the instance of the decree holder who does not furnish the stamp papers., the result of which is that the decree without the requisite stamp papers cannot be acted upon because of the bar of Section 35 of the Indian Stamp Act 1899?

PART C

5. With the help of case law laid down by the Supreme Court in *Nemi Chand vs. Edward Mills Co. Ltd.* (1953 SCR 197), explain as to how the apparent conflict between the provisions of the Code of Civil Procedure, 1908 (contained in order 7 rule 11) and Section 12 of the Court Fees Act. 1870 which makes the order relating to valuation of a suit final has been resolved?
6. Whether para (iv) of Section 7 of the Court Fees Act, 1870 gives an unfettered right to the plaintiff in any of the suits mentioned in the clauses of that paragraph to place any value that he lies on the relief he seeks? Support your answer with the help of relevant case law and statutory provisions.

PART D

7. What is the procedure to file an appeal by Special Leave before Supreme Court?
8. Write short notes on any *two*:
- (a) Applications for transfer under Article 139-A(2) of the Constitution and Section 25 of the Code of Civil Procedure, 1908.
 - (b) Appeals and applications by indigent person;
 - (c) Applications for enforcement of Fundamental Rights.