

Chapter 13

* Registration Act

- As per Mulla Registration Act, 1998 Subsequent Registered deed will not prevail over prior Unregistered deed or prior Oral transaction if Subsequent transferee had Notice of prior transaction.

CASE LAW.

- in K. Narasimha Rao v. Sal Vishnu.
- it was established that unstamped instrument is not admissible in evidence even for Collateral Purpose, however if doc. is Subsequently Stamped it can be admitted for Collateral Purpose.

Lecture = 03

23/Aug/24

- in Mohammed Ibrahim vs. Northern Circars Fibre Trading Co.
- A Bone mill was install with machinery that was firstly fixed into the ground with Iron bar.
- Court decided ~~not~~ because it is Permanently attached it should be Considered Immovable property.

* Vested interest :-

'A' gives his house to B for his lifetime and after B's death house will go to 'C'.

Here 'C' has a vested interest because he is guaranteed to get the house after 'B' dies.

* Contingent interest :-

- 'B' will get the house if he marries 'C' is a contingent interest.

Lecture - 04.

24/Aug/24.

CASE LAW

* In Rosher vs. Rosher testator gives property to son. Subject to condition that if he wishes to sell the property he had to firstly offer it to testator's wife at 3000 pound and market value is 15000 pound.

- The Court held that condition is void because it constituted absolute restraint on alienation.

* In Trichinopoly Varthaga Sangum vs. Shunmoga Sunderam.

- In partition deed it was written that if any son wanted to sell his share he could only sell it to one of his brothers for sum not exceeding 1000.

- Since market value was much higher condition was deemed invalid.

* Restraint on enjoyment.

example :-

- A Sells Property to 'B' and adds Conditions that 'B' Should only reside only in that house, the Condition is invalid.
- if Condition is imposed from benefit of another Property Such Condition is Valid.

example :- A has two Properties x and y.

He Sells Property y to B and add a Condition that 'B' Should not Construct on property 'y' more than 1 Storey so that A's Property x which he retains Should have a good light and free air.

Lecture - 05.

26/Aug/24.

* Rule against Perpetuity :-

- Rule against perpetuity Prohibits Creation of interest in Property from generation to generation.
- Property must be transfer to Someone who is alive or to Someone who will get it within said period of time
- Property can be transfer to A for alive then for B for alive then for C for alive, provided all are alive at time Original transfer.
- * The rule against Perpetuity Contains two Propositions

(i) No transfer is valid after the life time of one or more person living at the date of transfer.

- Transfer can remain in effect only during life time of existing person.

(ii) Transfer can be extended to a person who is not existence but if he is in existence at the time of termination of the period of last transfer.

- The moment person is born he shall have contingent interest and after minority i.e.; after the age of 18 years, he shall have vested interest, barring these two conditions, a restriction on alienation of property is void.

* UT lite pendente nihil innovetur :-

^{Maxim} → During litigation nothing new should be introduced.

* Essentials of Doctrine of Part Performance :-

1. There must be Contract to transfer Immovable Property.
2. It must be for Consideration.
3. Contract should be in writing and signed by transferor himself or on his behalf.

4. Transferee should have taken possession.

5. Transferee have fulfill or is ready to fulfill all obligations under the Contract.

Lecture - 06

27/Aug/24.

CASE LAW :-

* in Delhi Motor Co. Vs. Basurkar

• it was decided that doctrine of part performance provides defendant a defensive right to protect their possession but does not grant the ownership or title.

• It simply prevents transferor from enforcing any rights beyond those stated in the Contract when transferee has taken possession.

* Notice to terminate lease :-

• if it is month to month lease 15 days notice is required to terminate lease.

• if it is year to year lease 6 months notice is required.

* Duties of lessor :-

1. Disclosure of defect :- lessor must inform lessee of any material, physical defects in the property.

2. Providing possession :- lessor must give lessee possession of property.

3. Covenant for Quiet possession / enjoyment - Lessor must ensure lessee undisturbed possession as long as rent is paid.

* Duties of lessee :-

1. Disclosure to lessor :- Inform the lessor of any facts that increase property's value.

2. Timely payment of rent is mandatory.

3. Use prudently :- use the property responsibly for its intended purpose.

4. Avoid damage :- Do not engage in destructive acts.

5. No unauthorised structure :- Obtain consent before building permanent structure.

6. Return property :- Handover property at end of the lease.

* Rights of lessee :-

1. Repair Cost :- Deduct repair costs from rent if lessor fails to repair as agreed.

2. Reimbursement for payments :- Deduct Payment made on behalf of lessor from rent.

3. Terminate for destruction :- Lessee Can end the lease if property is destroyed by calamity.

4. Transfer of interest :- Unless otherwise agreed, lessee has right to transfer their int. in property.

* Easement examples :-

- if A owns the land and his right to use path on these land for purposes that benefit A's property, the right is considered an easement.

in case of ganesh Prakash vs. Khandu Baksh.

- The Court held that right to dry clothes on flat masonry or roof of shop constitute right of easement.