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19 (II) FMLW-II-2-2

2017

FAMILY LAW-II

Paper : 2-2

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

Answer all questions.

1. Choose the correct option : $1 \times 10 = 10$
- (i) In the eye of law, a gift is technically called a *testamentary disposition/ disposition inter vivos*.
- (ii) The requirement of registration is *mandatory/ optional* in respect of a gift of movable property.
- (iii) As mandated in the Shariat (Muslim Personal Law) waqf property once dedicated in the implied ownership of almighty God *can / cannot* be alienated subsequently.

Contd.

(iv) The substantive law of intestate and testamentary succession laid down in the Indian Succession Act, 1925 *apply/does not apply* to Muslims.

(v) As interpreted by the Apex Court in India, Pre-emption on the ground of vicinage is *constitutional / unconstitutional*.

(vi) The mandates of Ss.125 to 128 of the Code of Criminal Procedure, 1973 *can/cannot* be applied to Muslims in India.

(vii) Section 112 of the Indian Evidence Act, 1872 *has/has not* abrogated by the Muslim law of legitimacy.

(viii) As interpreted by the judiciary in India, 'dower' in Muslim marriage *is/is not* amounting to 'dowry' within the meaning of the Dowry Prohibition Act.

(ix) In Muslim Personal Law, talaq pronounced by husband is *judicial/extra-judicial* form of divorce.

(x) As interpreted by the Supreme Court of India as well as provided in the Muslim Personal Law 'perpetuity' *is/is not* a pre-condition for the validity of waqf.

2. Write short notes on: 2×5=10

(a) Legislation as secondary source of Muslim Personal Law

(b) Section 125 of the Code of Criminal Procedure, 1973

(c) Shia schools of Muslim law

(d) Legal incidents of Hiba (gift)

(e) Essential of Wasiat (Will) in Muslim jurisprudence.

3. Write a detail account on the mandates of section 2 of the Muslim Personal Law (Shariat) Application Act, 1937. 12

Or

Is "justice, equity and good conscience" a source of Islamic jurisprudence in India?

Discuss its applicability with the help of judicial pronouncements of the different High Courts in India. 2+10=12

4. What political events were responsible for the creation of Sunni and Shia schools of Muslim law?

Discuss briefly the historical approach to trace their growth in Islamic law and jurisprudence. 6+6=12

Or

Is Muslim marriage a civil contract or a sacrament?

Justify your views with the help of legislations and judicial pronouncements in this regard. 2+10=12

5. What is amounting to 'cruelty' in the eye of law within the meaning of the Dissolution of Muslim Marriage Act, 1939 ?

Discuss the grounds for obtaining a decree for divorce under this Act. $4+8=12$

Or

Distinguish between judicial and extrajudicial forms of divorce in Muslim Personal Law. 12

6. Define the term 'guardianship'. Discuss the different kinds of guardianship as provided in Islamic jurisprudence. $2+10=12$

Or

Write a detailed account on the salient features of Islamic Law of Succession. 12

7. Discuss the conditions for solemnization of "Special Marriage" under the Special Marriage Act, 1954. 12

Or

Define the term 'dower'. What are the different kinds of dower ? Is it mandatory or optional ?

Discuss the law of dower giving reference to cases as decided by the higher judiciary in India. $2+4+2+4=12$