



**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**

**PROGRAMME: B.A., LL.B(HONS.) FYIC**

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER (V) – ACADEMIC YEAR: .....**

<b>SL. NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T/P</b>	<b>CR</b>	<b>CH</b>
<b>1</b>	<b>506</b>	<b>PROPERTY LAW</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

**A. CODE AND TITLE OF THE COURSE: 506, PROPERTY LAW**

**B. COURSE CREDIT: 4 (TOTAL MARKS 200)**

**C. MEDIUM OF INSTRUCTION: ENGLISH**

**D. COURSE COMPILED BY: DR KASTURI GAKUL**

**E. COURSE INSTRUCTOR: DR KASTURI GAKUL**

## **1. COURSE OBJECTIVES**

The course is designed to acquaint the students with the comprehensive knowledge of property law in India. The students are motivated to learn about property law in its historical perspective so that they develop an understanding of the reasons behind the emergence of property law in India.

The course on Property Law primarily focuses on the Transfer of Property Act, 1882 and the Indian Easements Act, 1882.

The objectives of the course are-

- i. To familiarize students with the conceptual knowledge of property and its different kinds particularly movable and immovable property.
- ii. To trace the historical background behind the Transfer of Property Act
- iii. To explain the object and subject-matter of Transfer of Property Act.
- iv. To impart to students detailed knowledge on intricacies of the general principles and doctrines regulating transfer of property such as rule against inalienability, rule against perpetuity, doctrine of election, rule of part performance, etc.
- v. To develop in students a critical understanding about the nature of specific forms of transfer which include sales, leases, mortgages, gifts and exchange.
- vi. To acquaint students with the special rules governing each specific forms of transfer and the distinctions between the different forms.
- vii. To emphasize on the legal provisions pertaining to easements and licence.

## **2. TEACHING METHODOLOGY**

For teaching Property Law lecture method along with alternative and supplementary strategies for effective teaching will be utilized, such as permissive style of teaching, brain storming, group discussion, seminar presentation. There will be participatory teaching with discussion on basic principles, concepts, doctrines and judicial decisions relating to property law. To develop an understanding on varied topics of property law group discussion and brain-storming sessions will be held in the classroom. To encourage self study, individualized instruction and to inculcate study attitudes individual seminar topics shall be allotted to students in advance. The teacher will guide the students in their pursuit of legal learning through application of the planned teaching process which includes introduction of the basic concept, presentation and discussion of the subject-matter in details, recapitulation on the topic discussed through questioning, clarification of doubts and queries, if any, and suggestions for further readings. The topics will be taught through projected teaching aids like power point presentation and white board

### 3. COURSE OUTCOMES

At the completion of the course, it is humbly expected that the students shall:

- Comprehend the subject matter of the course and understand the nuances of each module
- Develop a comprehensive knowledge of the theoretical and practical aspects of the law relating to property in India
- To acquire the skill of analytical in-depth research along with a publishable research work
- Improve their knowledge-base and be encouraged to undertake litigation relating to property law in future

### 4. COURSE EVALUATION METHOD

The course shall be assessed for 200 marks. The Evaluation scheme would be as follows:

**Internal assessment: 70% (140 marks)**

**External assessment: 30% (60 marks)**

Sl. No.	Internal Assessment	
1	2 Assignments	2 x 20 marks = 40 marks
2	Seminar/Group Discussion	20 marks
3	Class Test (Twice in a Semester)	2 x 35 marks = 70 marks
4	<b>Attendance in Class</b>	10 marks
5	Semester End Examination	60 marks

### 5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

#### MODULE I

**Introduction:** Concept of Property; Classification of Property – Movable and Immovable property.

**Transfer of Property Act:** Historical background; Object of the Act; Definition and concept of Immovable property, Attached to the earth, Actionable claims and Notice.

**Transfer of Property by Act of Parties:** Definition of Transfer of Property; Subject-matter of Transfer; Persons competent to transfer; Oral Transfer; Operation of transfer.

**Conditions Restricting Transfer:** Restraints on Alienation; Rule against Repugnant conditions; Insolvency of Transferee; Rule against Accumulation.

**General principles governing Transfer of property:** Transfer to Unborn Persons; Rule Against Perpetuity; Vested and Contingent Interest; Doctrine of Election; Fraudulent Transfer; Rule of Part Performance ; Transfer by Ostensible Owner; Rule of Feeding Grant by Estoppel; Rule of Lis pendens.

## **MODULE II**

**Sales of Immovable Property:** Definition of Sale; Essentials of valid Sale; Rights and liabilities of Buyer and Seller; Marshalling by purchaser; Distinction between Sale and Contract of Sale

**Mortgages:** Definition of Mortgage, Mortgagor, Mortgagee; Essential elements of Mortgage; Kinds of Mortgage; Rights and Liabilities of Mortgagor and Mortgagee; Marshalling securities; Subrogation

**Charges:** Definition of Charge; Requisites of Charge; Creation of Charge – Charge by Act of Parties and Charge by operation of Law; Notice of charge; Enforcement of Charge; Extinction of Charges; Distinction between Mortgage and Charge

## **MODULE III**

**Lease:** Definition of Lease; Essentials of Lease; Duration of Leases; Mode of execution of Lease; Rights and liabilities of Lessor and Lessee; Determination of Lease

**Exchange:** Definition and characteristics of Exchange; Rights and Liabilities of parties; Exchange of money

**Gifts:** Definition of Gift; Essential elements of Gift; Modes of making Gift; Suspension or Revocation of Gift; Onerous gifts; Universal Donee

## MODULE IV

### Law Relating to Easement:

Definition of Easement; Servient and Dominant owner; Servient and Dominant Heritage; Elements of Easements; Classification of Easements.

Easement restrictive of certain rights; Imposition, Acquisition and Transfer of Easements; Incidents of Easements.

Extinction of Easement: Extinction of Accessory rights; dissolution of right of servient owner; expiration of limited period; termination of necessity; useless easements; permanent alteration by superior force; Destruction of heritages; Unity of ownership; Revocation; Release; Permanent change in dominant heritage; Non-enjoyment; Suspension and Revival of Easements.

### Licence:

Definition of Licence; Characteristics of Licence; Grant of Licence; Transferability of Licence; Revocation of Licence; Licensee's rights on revocation and on eviction; Distinction between Lease and Licence; Distinction between Easement and Licence

## 6. PRESCRIBED READINGS

- V.P.Sarathi, G.C.V.SUBBA RAO LAW OF TRANSFER OF PROPERTY (EASEMENTS, TRUST AND WILLS), 7<sup>th</sup> ed. 2012, Ch. XIV, (*Subject-matter of Transfer*), pp. 784-820; Ch. XXVII, (*Operation of Transfer*), pp. 901-954; Ch. Part IX, (*Sale of Immovable property*), pp. 1455-1548; Ch. XXX,(*Mortgages*), pp. 1025-1098; Ch. XXXI, (*Formalities of Mortgage*), pp. 1099-1107; Ch. XXXIII, (*Rights of mortgagor*), pp. 1115- 1171; Ch. XXXVIII, (*Charges*), pp.1407-1418; Ch. XLVII, (*Leases*), pp. 1641-1716; Ch. XLIV, (*Exchanges*), pp. 1560-1562; Ch. XLV, (*Gift*), pp. 1563-1577 Ch. IX, (*Easements and their classifications*), pp. 313-330; Ch.X (*Rights resembling easements*), pp. 331-377; Ch. XI (*Acquisition of Easements*), pp. 378-438; Ch.XII (*Incidents of Easements*), pp.439-463; Ch.XIII (*Extinction, Suspension and Revival of Easements*), pp. 464-477.
- R.K.Sinha, THE TRANSFER OF PROPERTY ACT, 15<sup>th</sup> ed. 2014, Ch. I (*Preliminary*), pp.8-47; Ch. II (*Transfer by Act of Parties*), pp.49-84; Ch.II, (*Conditions restricting Transfer*), pp. 85-94; Ch.II, (*Rule against Accumulation*), pp. 108-110; Ch. II, (*Transfer for benefit of Unborn Persons and Rule Against Perpetuity*), pp. 95-105; Ch. II (*Vested and Contingent Interest*), pp. 111-121; Ch.II, (*Doctrine of Election*), pp. 136-142; Ch. II, (*Fraudulent transfer and Part-performance*), pp. 201-228; Ch. III (*Sales of immovable property*), pp.230-262; Ch. IV (*Mortgages*), pp.263-401; Ch.II, (*Charges*), pp. 401-407; Ch. V (*Leases*), pp.408-456; Ch. VI, (*Exchanges*), pp. 457-461; Ch.II, (*Gifts*), pp.462-478.
- Poonam Pradhan Saxena, PROPERTY LAW, 2<sup>nd</sup> ed. 2011, Ch.1 (*Movable and Immovable properties*), pp. 9-54; Ch.2 (*Conditions restricting transfer*), pp 88-110;

- Ch.2 (*Transfer for benefit of unborn persons and Rule against perpetuity*), pp 111-123, (*Election*),pp 155-160. Ch.3 (*Sales of Immovable properties*),pp. 271-310 ; Ch.4 (*Mortgages of immovable property*), pp. 311-450; Ch. 5 (*Charges*), pp. 451-463; Ch.6, (*Leases of Immovable property*),pp. 465-535; Ch.7 (*Exchange*), pp 537-542; Ch.8 (*Gifts*), pp 543-564
- V.P. Sarathi, LAW OF TRANSFER OF PROPERTY, 5<sup>th</sup> ed. 2012, Ch. 1(*Immovable property*), pp.7-17; Ch.2 (*Transferability of Property*), pp. 18-41; Ch.3 (*General rules regarding Transfer of property*), pp. 42-72 ;Ch. 4 (*Vested and Contingent Interest*); pp. 74-79; Ch. 6(*Doctrine of Election*), pp. 88-93; Ch.9 (*Doctrine of Part-performance*), pp. 124-132; Ch. 10 (*Sale of Immovable property*), pp.133-151; Ch.11 (*Mortgages*), pp. 152-242; Ch.16 (*Charges*), pp. 243-245; Ch. 19 (*Leases*), pp.248-289; Ch. 20 (*Exchanges*), pp. 290-291; Ch.21 (*Gifts*), pp. 291-294; Ch. 23 (*The Law relating to Easements*), pp.298-316; Ch.23, (*Licence*), pp. 316-318.
  - S.N. Shukla, THE TRANSFER OF PROPERTY ACT, 26<sup>th</sup> ed. 2006, Ch. II (*Transfer by Act of Parties*), pp.31- 55; Ch. II (*Conditions restraining transfer*), pp. 56-61; Ch.II (*Transfer for benefit of Unborn Persons and Rule Against Perpetuity*), pp.62-71; Ch.II (*Vested and Contingent Interest*), pp. 75-81; Ch.II, (*Doctrine of Election*), pp. 91-96. ; Ch.II, (*Fraudulent Transfer*), pp. 158-167; Ch.II, (*Part performance*), pp. 167-188. Ch. III (*Sales of Immovable property*), pp.189-225; Ch. IV (*Mortgages and Charges*), pp. 226-366; Ch. V (*Leases*), pp.367-471; Ch. VI (*Exchanges*), pp. 472-475; Ch. VII (*Gifts*), pp. 476-495; Ch. 23 (*The Law relating to Easements*), pp.298-316; Ch.23, (*Licence*), pp. 316-318.
  - Dr. G.P. Tripathi, The Transfer of Property Act, Allahabad, Central Law Publications, 17<sup>th</sup> ed. 2011, Ch I(*what are immovable properties*) pp. 16-2; ChII (*Persons competent to Transfer, Operation of Transfer, Oral Transfer, Conditions restricting alienation*) pp. 73-101, Ch II (*Transfer for the benefit of Unborn person and Rule Against perpetuity*) pp. 109-119; Ch. III (*Sale of Immovable Property*) pp. 286-317; Ch. IV (*Mortgages, Kinds of Mortgages, Rights and liabilities of mortgagor and mortgagee, marshaling*); pp. 320-427, Ch IV (*Charges*) pp. 445-453; Ch. V (*Lease Defined, Duration of lease rights and liabilities of lessor and lessee and determination of lease*) pp. 459-505; Ch. VI (*Exchanges*) pp. 523-529; Ch. VII (*Gifts*) pp. 530 552
  - S.K.Agarwal, INDIAN EASEMENTS ACT, 13<sup>th</sup> ed. 2006, Ch. I (*Easements Generally*), pp. 6-28; Ch.II (*Imposition, Acquisition and Transfer of Easements*), pp. 29-65; Ch. III (*Incidents of easements*), pp. 66-81; Ch. IV (*Disturbance of easements*), pp 82-92; Ch. V (*Extinction, suspension and revival of easements*), pp. 93-109; Ch. VI (*Licences*), pp. 111- 136.

## Statutes

- The Transfer of Property Act 1882
- The Indian Easements Act 1882

## Cases

- *Shanta Bai v. State of Bombay* 1958 SC 532
- *Cooper v. Cooper* 1874 LR 7 HL 53
- *K. Naina Mohamed(Dead) Through L. Rs. v. A.M. VasudevanChettiar(Dead) Through L. Rs. And others* 2010 SC Civil Appeal No 8365 of 2002
- *Jaya Ram Mudaliar vs. Ayya Swami and Ors.* 1972 (2) SCC 200

- *Rajinder Singh and Ors. v. Santa Singh and Ors* AIR 1973 SC 2573
- *Anand Rao Vinayak v. Administrator- General of Bombay* (1896)ILR 20 Bom 450
- *J.V. Satyanarayana v. Pyboyina Manikyan* AIR 1983 AP 139
- *Musahar Sahu v. Hakim Lal* (1915) 43 Cal 521 32 IC 343 PC
- *Girjesh Dutt v. Data Din* AIR 1939 Oudh 35
- *Sunrise Associates v. Govt. of NCT of Delhi* AIR 2006 SC 1908
- *Shrimant Shamrao Suryavanshi and Another v. Prahlad Bhairoba Suryavanshi (Dead) By Lrs. And Ors* Appeal (civil) 2706 of 1991
- *Madam Pillai V. Badar Kali* 45 Mad 612 (FB)
- *Ratan Bai v. Basanti Bai* AIR 2008(NOC) 1172(MP)
- *Misahul Enterprises v. Vijaya Srivastava* AIR 2003 Del. 15
- *Dattatraya Mote v Anand Datar* (1974) 2 SCC 799
- *Gajraj Jain v. State of Bihar* (2004) 7 SCC 151
- *Gajadhar v. Rombhaee* 1938 Nag. 439
- *Byramjee Jeejeebhoy (P) Ltd v. State of Maharashtra* AIR 1965 SC 950
- *Janki Nath v. Dinanath* AIR 1931 PC 207
- *Mohammadin v. Asibun Nissa* AIR 2005 Jhar 1
- *Shrihari Jena v. Khatramohun Jana* AIR 2002 Ori 195
- *Subha Chandra v. Ganga Prosad* AIR 1967 SC 878
- *Farid-un-nissa v. Mukhtra Ahmed* AIR 1925 PC 204
- *Sankarawadi v. Secretary of State* ILR 28 Madras 72
- *K.Mohideen v. M.M. Abdullah* AIR 1978 Mad.97
- *Bhua Ram v. Baij Nath* AIR 1962 SC 1476
- *Laxman v. Cuttack Municipal Council* AIR 1985 Ori. 90
- *Mumtaz Ali & Others v. Mohd Sharif Khan* AIR 1973 All. 98
- *R.S. Gupta v. B.N. Inter College* AIR 1987 SC 1242
- *Shambhoo Nath v. Kapoor Singh* AIR 1967 J.& K 52(63)
- *Muhammad Raza v. Abbas Bandi Bibi* AIR 1920 PC 158
- *Rajes Kanta Roy v. Shanti Devi* AIR 1957 SC 255
- *Beepathumma v. S.V. Kadambolithaya* AIR 1965 SC 241
- *Dhanpatti v. Devi Prasad* (1970) 3 SCC 776
- *Harish Chandra Hedge v. State of Karnataka* AIR 2004 SCW 315
- *Chennammal v. Munimalaiyan* AIR 2005 SCC 4397
- *Zoroastrian Co-operative Housing Society Ltd v. District Registrar Co-operative Societies* (2005) 5 SCC 632
- *Haryana Financial Corporation v. Rajesh Gupta* AIR 2010 SC 338