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**Assignment: sharing of property**

**Paper: Muslim personal law2**

**01**

Explain the necessary steps before the division of an estate of a deceased

**QUESTION ONE**

**If you're settling the estate of a deceased person who hasn't left a will, you probably have more than a few questions about how the estate will be distributed. First, it's important to understand that many kinds of assets aren't passed by will, such as:**

**life insurance proceeds**

real estate, bank accounts, and other assets held in joint tenancy, tenancy by the entirety, or community property with right of survivorship

property held in a living trust

funds in an or retirement plan for which a beneficiary was named

funds in a payable-on-death (POD) bank account

stocks or other securities held in a transfer-on-death (TOD) account, and

real estate or vehicles held with a transfer-on-death (TOD) deed or title document.

To find out who inherits these types of property, you'll need to locate the documents in which the beneficiary designation was established. These documents will tell you who is inheriting the property.(But if the property was co-owned with right of survivorship, the co-owner will now own the property.)

To find out who inherits other assets—solely owned property for which no beneficiary has been formally named, such as a house—you'll need to consult state law. Every state has "intestate succession" laws that parcel out property to the deceased person's closest relatives.

Or

### Step 1: Legal ownership

When you inherit a property the first thing you need to ensure is to get it transferred in your name.

“If it’s a movable property, which may even include bank balances and securities, it should be transferred in the name of the beneficiary. Similarly, if it’s an immovable property, it should be transferred and mutated in the name of the beneficiary in the relevant government and/or revenue records depending upon the nature of the property,” said Rajesh Narain Gupta, managing partner, SNG & Partners, a law firm.

But a property can be transferred only if you have substantial proof to claim your inheritance.

“When a person dies leaving a Will, his executors are required to administer the property as per his wishes set out in the Will, provided the same are not contrary to law,” said Bijal Ajinkya, partner, Khaitan & Co, a law firm

Also, do remember that one can only pass on the property as per her wish if the property was self-acquired and not inherited. If it’s inherited, succession law comes

into play. As the succession laws depend upon the religious faith a person follows, or upon marriages solemnised under Special Marriage Act, 1954, take a detailed legal view on the matter and choose accordingly.

### **Step 2: Documents**

Once the beneficiaries and their shares, rights and liabilities are decided, the property has to be transferred in their names. For this you need to apply for property transfer at the sub-registrar's office. "In most of the cases (documents needed are) Will; or Will with probate or succession certificate. In relation to the assets, the ownership document of movable and immovable assets are required," said Gupta. In absence of a Will, you may also need to prepare an affidavit, along with a no-objection certificate from the other legal heirs or their successors. If you have paid any consideration (in kind or cash) to any heir or claimants to acquire their share, do mention this in the transfer papers.

### **Step 3: Liabilities**

Given the high capital values of properties, most are bought with the help of home loans. So, what happens if you inherit a property that has an outstanding home loan? "Whatever assets or estate you inherit, you do so with clogs, mortgages, disputes and so on," said Gupta. So, if there is an outstanding home loan against the property, then that also gets passed on to the inheritor. Besides that mortgaged property can be transferred only with the written consent of the lender. This means that if a person you inherit a property that has an outstanding home loan?

"Whatever assets or estate you inherit, you do so with clogs, mortgages, disputes and so on," said Gupta. So, if there is an outstanding home loan against the property, then that also gets passed on to the inheritor. Besides that mortgaged property can be transferred only with the written consent of the lender. This means that if a person passes away while the home loan was still running on the property that has to be bequeathed, the beneficiary—who could be the spouse, or children of the deceased—will have to pay the outstanding loan. However, if home loan insurance was taken, the insurer pays the outstanding loan to the lender. In such cases, once the payment is made by the insurer, you must collect the loan clearance certificate from the lender and the original documents of the property that were given to the lender to avail the loan.

**Q2: If a person die, and left beyond the total assets Rs. 60, 000000 and he left widow, one daughter, three sons as his legal heirs, calculate the share of each legal heir.**

**Amount 60,000,000**

**Data**

**Wife: 1/8**

**Legal heirs**

**Mother: 1/6**

**Father: 1/6**

**One Daughter: 1/2**

**Three Sons:**

**01: 1/2**

**02: 1/2**

**03: 1/2**

**Solution:**

**Wife: 1/8**

**60,000,000 ÷ 8 = 7,500,000**

**Wife, s share : 7,500,000**

**60,000,000 – 7,500,000 = 52,500,000**

**Remaining amount = 52,500,000**

**Mother: 1/6**

**52,500,000 ÷ 6 = 8,750,000**

**Father: 1/6**

**52,500,000 ÷ 6 = 8,750,000**

**8,750,000 + 8,750,000 = 17,500,000**

**52,500,000 – 17,500,000 = 35,000,000**

**Daughter : 1/4**

**Ratio: 2:2:2+1 = 7**

**35,000,000 ÷ 7 = 5,000,000**

Remaining Amount: 30,000,000

1<sup>st</sup> Son: 11,500,000

2<sup>nd</sup> Son: 11,500,000

3<sup>rd</sup> Son: 11,500,000

Hence proved

Question Three

IF A WOMAN DIE LEFT BEYOND THE TOTAL ASSET 85000000 AND SHE LEFT HER HUSBAND ONE DAUGHTER MOTHER FATHER 7 BROTHERS AND 2 SISTERS HER LEGAL HEIRS CALCULATE THE SHARE OF EACH LEGAL HEIR.

DATA

Husband :  $\frac{1}{4}$

Daughter :  $\frac{1}{2}$

Mother :  $\frac{1}{6}$ ( $\frac{1}{3}$  of  $\frac{1}{2}$ )

Father :  $\frac{1}{3}$

Full brother:  $\frac{1}{2}$

Full Sister:  $\frac{2}{3}$

Solution

Total amount = 85,000000

Husband =  $\frac{1}{4}$  (85, 000000)

Husband = 85, 0,00000/4

Husband =2, 12, 50000

Amount remaining= 63,75,0000

Daughter = 1/2(63,75,0000)

Daughter = 63,75,0000/2

Daughter=21,250,000

Amount remaining=42,500,000

Father = 1/3(42,500,000)

Father = 42,500,000/3

Father =14,166,666.6667

Amount remaining= 28,333,333.33

Mother =1/6(28,333,333.33)

Mother= 28,333,333.33/6

Mother=7, 083,33.33333

Amount remaining= 27,624,999.9967

Two sisters= 2/3

7 Brothers

RATIO 1:1:2:2;2;2;2;2;2= 16

One sister= 1726562.5

2nd Sister = 1726562.5

TOTAL AMOUNT= 24171875

1ST BROTHER = 3453125

2ND BROTHER = 3453125

3RD BROTHER= 3453125

4TH BROTHER = 3453125

5TH BROTHER= 3453125

6TH BROTHER = 3453125

7TH BROTHER = 3453125

HENCE PROVED ALL SHARES OF LEGAL HEIRS.

If a Man die, and left beyond the total assets Rs. 70, 000000 and he left one daughter, two sons, mother, father, two brothers and one sisters as his legal heirs, calculate the share of each legal heir.

Data

Sons: Daughter

2 : 1

2\*2=4: 1\*1=1

Sum of ratios= 5

Mother = 1/6

Father = 1/6

No property will be shared between his brother and sisters because his children are alive.

Solution:

Mother = 1/6(70,000000)

Mother=70,000,000/6

Mother= 11,666,666.6667

Amount remaining: 58,333,333.33

Father: 1/6(58,333,333.33)

Father=58,333,333.33/6

Father= 9,722,222.22167

Amount remaining=48,611,11.1083

Children ratio=2 sons + 1 daughter

Sum of ratio=5

Share of 2 sons= 4/5(48,611,11.1083)

=4\*972, 22.222166

=3,888,888.88664

Share of each son=1,944,444.44332

Daughter =1/5(48,611,11.1083)

Daughter=48,611,11.1083/5

=972,222.22166

The End.