



FACULTY OF JURIDICAL SCIENCES

COURSE NAME : LLB

SEMESTER : IIIrd

SUBJECT : FAMILY LAW II

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Powers of a Karta

The powers of Karta are: Powers of Management

Karta's power of management is absolute. No one can question the duties of the Karta like, he can manage or mismanage the property, family, business any way he likes. Karta cannot deny the maintenance and occupation of property to any member. Karta is not liable for the positive failures.

Rights to Income or Remuneration and Expenditure

The income of the Joint Hindu family property in a whole must be given to the Karta. Then it is the responsibility of the Karta to allot the funds to the members for fulfilment of their needs. Karta controls the expenditure of the funds. The scope of his power is only to spend such funds on family purposes like management, maintenance, marriage, education etc.

Rights to Represent Joint Family

The Karta represents the family in legal, religious and social matters. The acts and decisions of the Karta are binding on the members. Karta can enter into any transaction on behalf of the family.

Right to Compromise

Karta has the power to compromise the disputes relating to management or family property. He can compromise family debts, pending suits and other transactions. The compromises made by the Karta, can be challenged in court by heirs only on the ground of *malafide*.

Power to refer a Dispute to Arbitration

Karta can refer the disputes relating to management, family property to the arbitration. If the award by the arbitration is valid then it will be binding on the members of the joint family.

Power to Contract Debts

The Karta exercises an implied authority to contract debts and pledge the credits and property of the family. Such acts are bound to be followed by the members of the family. Even, Karta when taking a loan for the family purpose or for family businesses then joint family is liable to pay such a loan.

Power to enter into Contracts

The Karta can enter into contracts and where contracts are enforceable against the family. The contracts are binding on the members of the joint family.

Power of Alienation

No one among the family members can alienate joint family property. But Karta has the power to alienate the property under three circumstances.

Legal Necessity

Benefit of estate

Indispensable duties

Legal Necessity

This term has not expressly defined in any judgement or in any law. It includes all the things which are deemed necessary for the members of the family.

Dev Kishan Vs. Ram Kishan AIR 2002

In this case, the plaintiff filed a suit against the defendant. Both plaintiff and defendant are members of the Joint Hindu Family. Defendant 2 is the Karta, who is under the influence of Defendant 1, sold and mortgaged the property for an illegal and immoral purpose which is for the marriage of minor daughters Vimla and Pushpa. The defendant contended that he took the loan for the legal necessity.

The court held that the debt was used for the unlawful purpose. Since it contravened the Child Marriage Restraint Act, 1929, therefore, it can be called as lawful alienation.

Benefit of estate

Benefit of Estate means anything which is done for the benefit of the joint family property. Karta as a manager can do all those things which are helpful for family advancement.

Indispensable Duties

These terms refer to the performance of those acts which are religious, pious or charitable. Examples of indispensable duties are marriage, grihapravesham etc. A Karta can alienate the portion of the property for the charitable purpose. In this case, the power of the Karta is limited i.e he can alienate only a small portion of the family property, whether movable or immovable.

Loan on Promissory Note

When Karta takes any loan for any family purpose or executes a promissory note, then all the members and the members who are not the party to the note will be sued if the loan is not paid. But, Karta is personally liable on the note.

MCQ

1. An unmarried female can adopt according to Hindu Adoption and Maintenance Act.

- A) True
- B) false
- C) Partly
- D) None of Above

2. Any unmarried Male or Female can adopt girl or boy child

- A) True
- B) false
- C) Partly
- D) None of Above

3. A Hindu couple not having a child can adopt a daughter child.

- A) True
- B) false
- C) Partly
- D) None of Above

4. Once a Legal adoption is always a adoption.

- A) True
- B) false
- C) Partly
- D) None of Above.

5. If son killed his father even than he gets property rights even than he gets property rights in his father estate.

- A) True
- B) false
- C) Partly
- D) None of Above