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**FACULTY OF JURIDICAL SCIENCES**

**E- CONTENT**

**COURSE: LLB-Vth Sem**

**SUBJECT: EQUITY AND TRUST**

**SUBJECT CODE: LL.B. 502**

**NAME OF FACULTY: DR. ANKUR SRIVASTAVA**

# Lecture-37





## **LECTURE-37**

# **THE INDIAN TRUST ACT, 1882**

## **CHAPTER V**

### **OF THE DISABILITIES OF TRUSTEE**

#### **46. Trustee cannot renounce after acceptance.-A**

trustee who has accepted the trust cannot afterwards renounce it except (a) with the permission of a principal Civil Court of original jurisdiction, or (b)

if the beneficiary is competent to contract, with his consent, or (c) by virtue of a special power in the instrument of trust.

**47. Trustee cannot delegate.**-A trustee cannot delegate his office or any of his duties either to a co-trustee or to a stranger, unless

(a) the instrument of trust so provides, or (b) the delegation is in the regular course of business, or (c) the delegation is necessary, or (d) the beneficiary, being competent to contract, consents to the delegation.

Explanation.--The appointment of an attorney or proxy to do an act merely ministerial and involving no independent discretion is not a delegation within the meaning of this section.

### **Illustrations**

(a) A bequeaths certain property to B and C on certain

trusts to be executed by them or the survivor of them or the assigns of such survivor. B dies. C may bequeath the trust-property to D and E upon the trusts of As will.

(b) A is a trustee of certain property with power to sell the same. A may employ an auctioneer to effect the sale.

(c) A bequeaths to B fifty houses let at monthly rents in trust to collect the rents and pay them to C. B may employ a proper person to collect these rents.

**48. Co-trustees cannot act singly.**-When there are more trustees than one, all must join in the execution of the trust, except where the instrument of trust otherwise provides.

**49. Control of discretionary power.**-Where a

discretionary power conferred on a trustee is not exercised reasonably and in good faith, such power may be controlled by a principal Civil Court of original jurisdiction.

50. Trustee may not charge for services.-In the absence of express directions to the contrary contained in the instrument of trust or of a contract to the contrary entered into with the beneficiary or the Court at the time of accepting the trust, a trustee has no right to remuneration for his trouble, skill and loss of time in executing the trust.

Nothing in this section applies to any Official Trustee, Administrator General, Public Curator, or person holding a certificate of administration.

51. Trustee may not use trust-property for his own

profit.-A trustee may not use or deal with the trust-property for his own profit or for any other purpose unconnected with the trust.

**52.** Trustee for sale or his agent may not buy.-No trustee whose duty it is to sell trust-property, and no agent employed by such trustee for the purpose of the sale, may, directly or indirectly, buy the same or any interest therein, on his own account or as agent for a third person.

**53.** Trustee may not buy beneficiaries interest without permission.-No trustee, and no person who has recently ceased to be a trustee, may, without the permission of a principal Civil Court of original jurisdiction, buy or become mortgagee or lessee of the trust-property or any part thereof ; and such

permission shall not be given unless the proposed purchase, mortgage or lease is manifestly for the advantage of the beneficiary.

**Trustee for purchase.**-And no trustee whose duty it is to buy or to obtain a mortgage or lease of particular property for the beneficiary may buy it, or any part thereof, or obtain a mortgage or lease of it, or any part thereof, for himself.

**54. Co-trustees may not lend to one of themselves.**-A trustee or co-trustee whose duty it is to invest trust-money on mortgage or personal security must not invest it on a mortgage by, or on the personal security of, himself or one of his co-trustees.

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### MCQs

- 1. No trustee whose duty it is to buy or to obtain a mortgage or lease of particular property for the beneficiary may buy it, or any part thereof, or obtain a mortgage or lease of it, or any part thereof, for himself.**
  - i. True
  - ii. False
  - iii. Cannot say
  - iv. None of these
  
- 2. No trustee whose duty it is to sell trust-property, and no agent employed by such trustee for the purpose of the sale, may, directly or indirectly, buy the same or any interest therein, on his own account or as agent for a third person.**
  - i. True
  - ii. False
  - iii. Cannot say
  - iv. None of these

**3. When there are more trustees than one, all must join in the execution of the trust, except where the instrument of trust otherwise provides.**

**i. True**

**ii. False**

**iii. Cannot say**

**iv. None of these**

**4. The A is a trustee of certain property with power to sell the same. A may employ an auctioneer to effect the sale.**

**i. True**

**ii. False**

**iii. Cannot say**

**iv. None of these**

**5. A trustee cannot delegate his office or any of his duties either to a co-trustee or to a stranger.**

**i. True**

**ii. False**

**iii. Cannot say**

**iv. None of these**

