



FACULTY OF JURIDICAL SCIENCES

COURSE:

Semester

SUBJECT:

SUBJECT CODE:

NAME OF FACULTY:

Lecture-1



LECTURE 1: Subject matter of will

Subject Matter:

Any type of property whether it is immovable or movable, corporeal or incorporeal, which has a capacity of being transferred, may form the subject-matter of a transaction of a Will. Under Muslim law, it can be possible that a testator may give property to any one person and the right to utilize it without harming it, to another. The testator is able to only write the property that he owns. The property must be in existence at the time of the death of the testator.

These can be of varied nature such as

1. Alternative Bequest
2. Conditional Bequest
3. Bequest of Life Estate
4. Contingent Bequest
5. Testamentary Capacity:

A Muslim wants to make a Will he can do it but with the extent of one –third of his total property, which ascertained after the payment of his funeral expenses and debts, etc. in **Rijia Bibi v Md Abdul Kachem (AIR 2013 Gau 34)**, held that the Will executed was void as it was not consented by the heirs and all the claimants would have their rights determined in accordance with the law of Inheritance.

A Muslim cannot discard through will more than 1/3 of the net assets inside the wake of allowing (assembly) for the duties and memorial provider charges of the deceased benefactor (beneath both Hanafi Law and Shia regulation). The relaxation of the 2/3 provide must be made accessible for appropriation among the beneficiaries. However, to pass on the 1/3 provided, the Muslim needs to collect the assent of alternate beneficiaries. **Gulam Md v Gulamliussain, AIR 1932 PC 81** held for this case that property for beneficiaries without the assent of various beneficiaries is invalid. If the amount so transferred as felt by the testator is more than enough, as a consequence reduces it, this process is called abatement of legacy. Shia law chooses the process of abatement of legacy through the preferential method, whereas the Sunni law, the abatement is made in a rateable manner.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.			
2.			
3.			
4.			
5.			

Answers: 1-(),2-(), 3-(),4-(),5-()