

ALL INDIA JUDICIARY



Transfer of Property Act, 1882

Pre + Mains Session

Section 6

What Kind of property
May Be transferred ?

किस प्रकार की संपत्ति अन्तरित की जा सकेगी

By Anoop Upadhyay



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(Linking Sir)



The Transfer of Property Act, 1882

Section 6

What may be transferred
(क्या अन्तरण किया जा सकेगा)



General Rule (सामान्य नियम) -
Property of any kind may be transferred.
(किसी भी किस्म की सम्पत्ति अन्तरित की जा सकेगी।)



Transferability of Property is a general rule and non-transferability is an exception.

(सम्पत्ति का अन्तरण एक सामान्य नियम है और अहस्तान्तरणीय एक अपवाद है।)



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Sec. 6 → 10 EXCEPTIONS

Mains
① Spec-Successionis: ⇒

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According to sec. 6, following kind of Property can not be transferred -
(धारा 6 के अनुसार निम्न सम्पत्तियों का अन्तरण नहीं किया जा सकता है-)

10 Exceptions are mentioned under sec. 6 of T.P Act

[UJS 2012]

①

The chance of an heir-apparent succeeding to an estate.

(किसी प्रत्यक्ष वारिस की सम्पदा का उत्तराधिकारी होने की सम्भावना)

[CJS 2016]

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↓
The chance of a relation obtaining a legacy on the death of a kinsman.

(कुल की मृत्यु पर किसी नातेदार की वसीयत-सम्पदा अभिप्राप्त करने की सम्भावना)

↓
Any other mere possibility of a like nature

(इसी प्रकृति की कोई अन्य सम्भावना मात्र)

↓
Can not be transferred
(अन्तरित नहीं की जा सकती है।)

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वसीयतनामा

मैं/हम.....सब/सबु/सबु श्री..... आम-
 वष.....ननवासी ग्राम/भीहला.....वष
 सोरमा..... आज ददनोक.....को.....(स्थान) में
 एतद्वारा ननप्रलखित अलबकथन कयता
 मैं/हमने.....मह वसीमत श्री/भीमती/
 कु.....के न मैं प्राकृतक प्रेभ एवो सेह के आधार
 नय ननप्राददत की है और इस वसीमत के फदरे कोई प्रनतप
 प्राप्त नहीं ककमा गमा है।

This expect of succession is known as 'Spes-Successionis'.

(यह उत्तराधिकार को पाने की आशा 'उत्तराधिकार की सम्भावना' के नाम से जानते हैं।)

[KJS 2015]



Expectation of Succession is expecting or having a chance of getting a property through inheritance or will i.e. succession.

उत्तराधिकार की अपेक्षा उत्तराधिकार या वसीयत यानी उत्तराधिकार के माध्यम से संपत्ति प्राप्त करने की उम्मीद या संभावना है।

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✓ It is merely a possibility of getting property in future.

(यह भविष्य में कुछ सम्पत्ति प्राप्त करने की मात्र सम्भावना है।)

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Example :-



A has 2 sons B and C.
A के 2 बेटे B और C हैं।

A has become very old & is also suffering from an incurable disease.

A बहुत बूढ़ा हो गया है और असाध्य रोग से भी पीड़ित है।

But he is still alive.
लेकिन वह अभी भी जीवित है।

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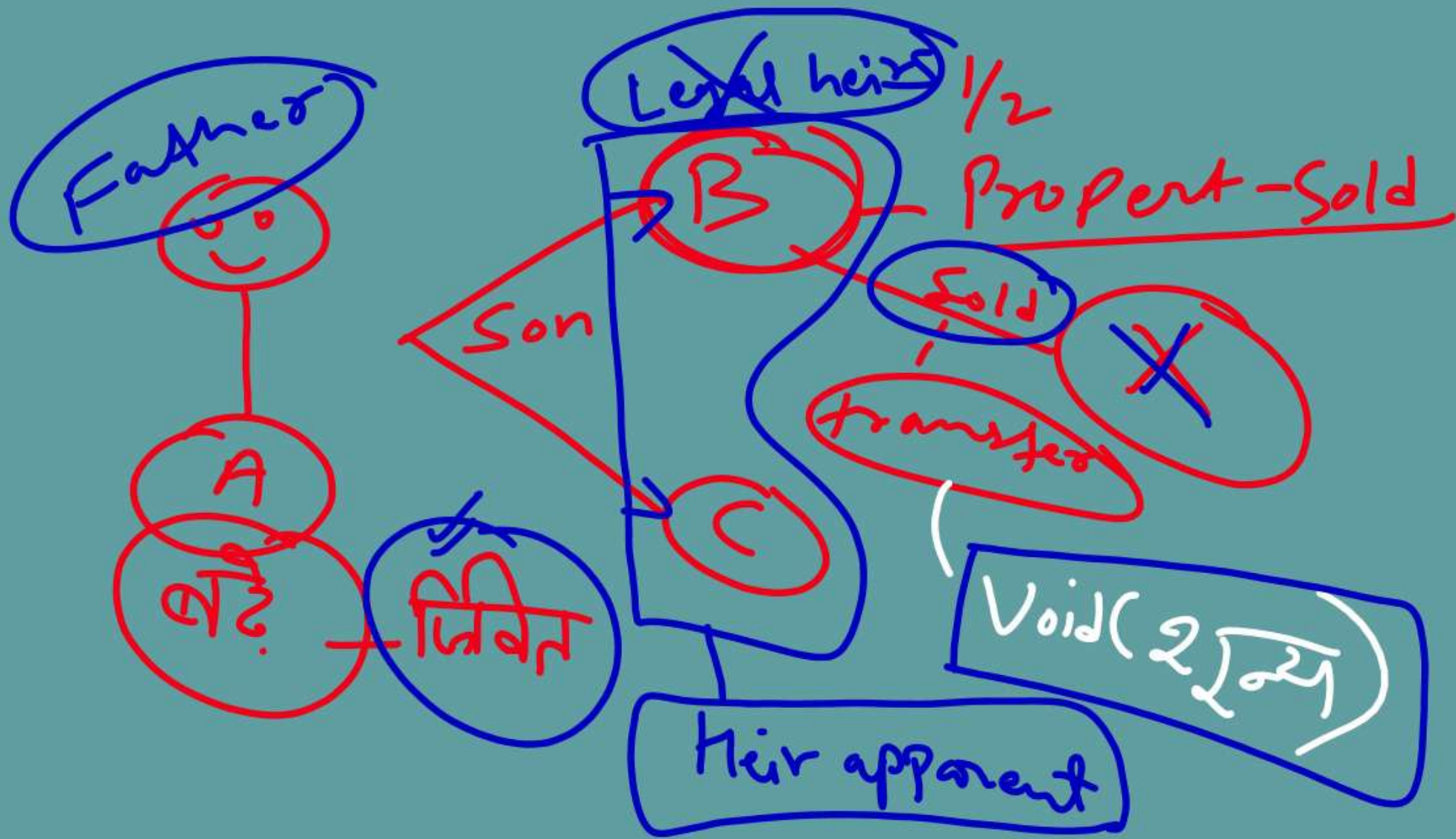
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Expecting that A must die very soon and he is in need of money, B sold his half share in A's Property to X.

यह उम्मीद करते हुए कि A को जल्द ही मरना होगा और उसे पैसे की जरूरत है, B ने A की संपत्ति में अपना आधा हिस्सा X को बेच दिया।

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अन (0)

* This transfer is void because before A's death B is no legal heir, he is simply an heir-apparent

यह स्थानांतरण शून्य है क्योंकि ए की मृत्यु से पहले बी कोई कानूनी उत्तराधिकारी नहीं है, वह केवल एक उत्तराधिकारी है

* B would be A's heir & entitled to half-share in A's Property only after A's death & that too if A dies intestate, i.e. without making any will.

बी, ए का उत्तराधिकारी होगा और ए की मृत्यु के बाद ही ए की संपत्ति में आधे हिस्से का हकदार होगा और वह भी तब जब ए बिना वसीयत किए, यानी बिना कोई वसीयत किए मर जाता है।

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* Heir-apparent is a person who would be heir in future.

उत्तराधिकारी वह व्यक्ति होता है जो भविष्य में उत्तराधिकारी होगा।

* Right of Reversioners
(उत्तर भोगियों के अधिकार)

बाद में ↓

Reversioner was a person who used to inherit the properties of a widow held by her for life.

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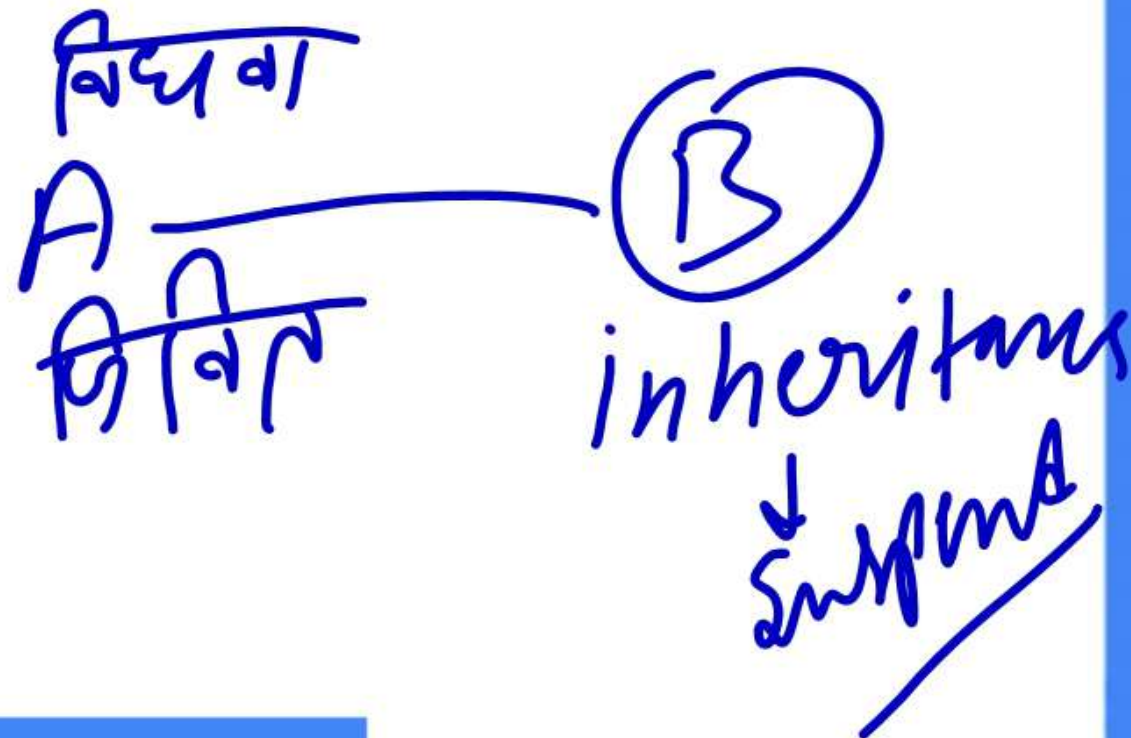
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Such person were called reversioners because during the life of the widow their rights of inheritance were suspended but it reverted to them after widow's death provided they survived her.



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*

Chance of legacy (वसीयती - सम्पदा की संभावना)



It means expectancy of getting certain Property under a will.

(इसका अर्थ है इच्छापत्र के अन्तर्गत कुछ सम्पत्ति प्राप्त करने की आशा।)



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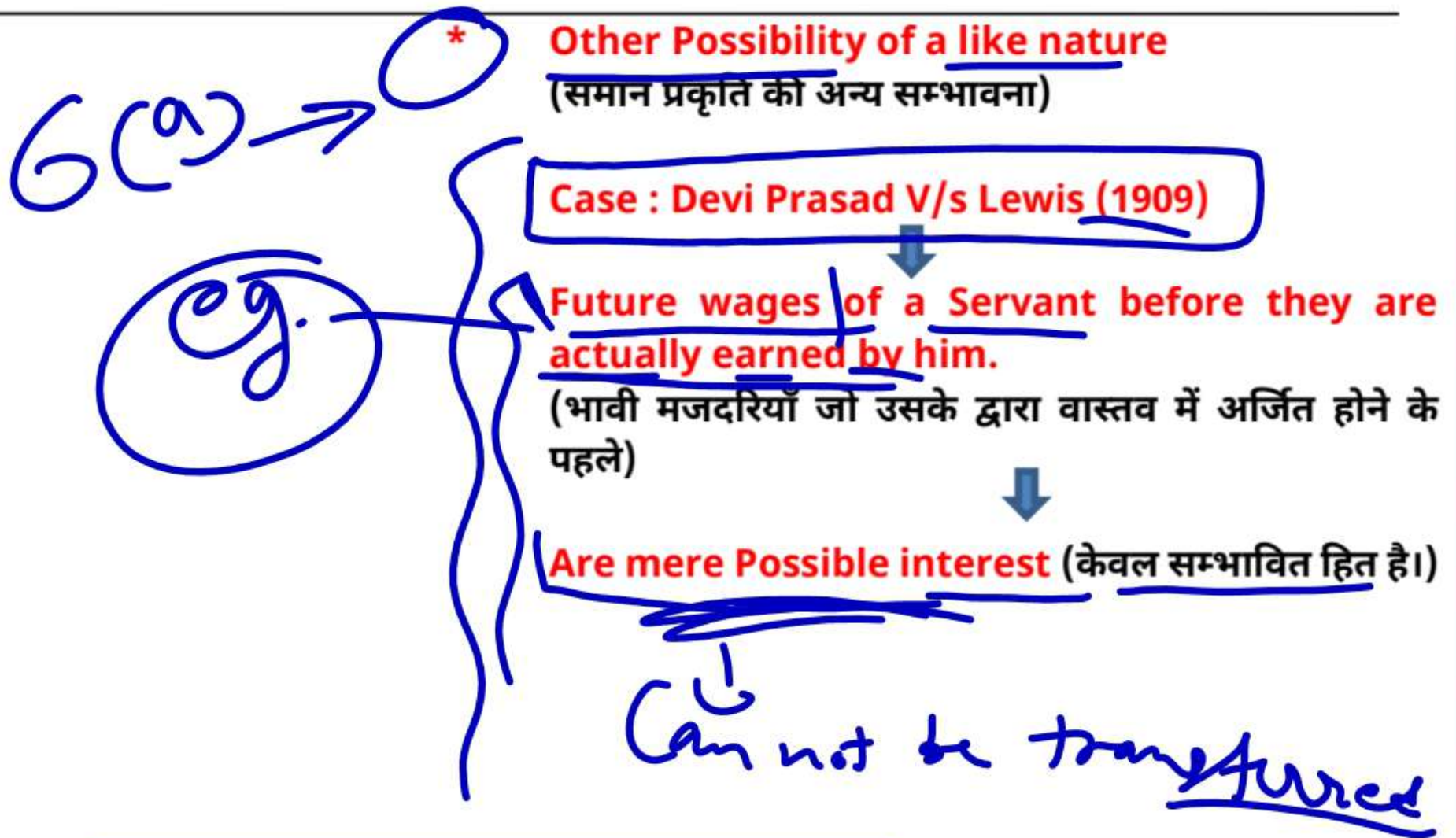


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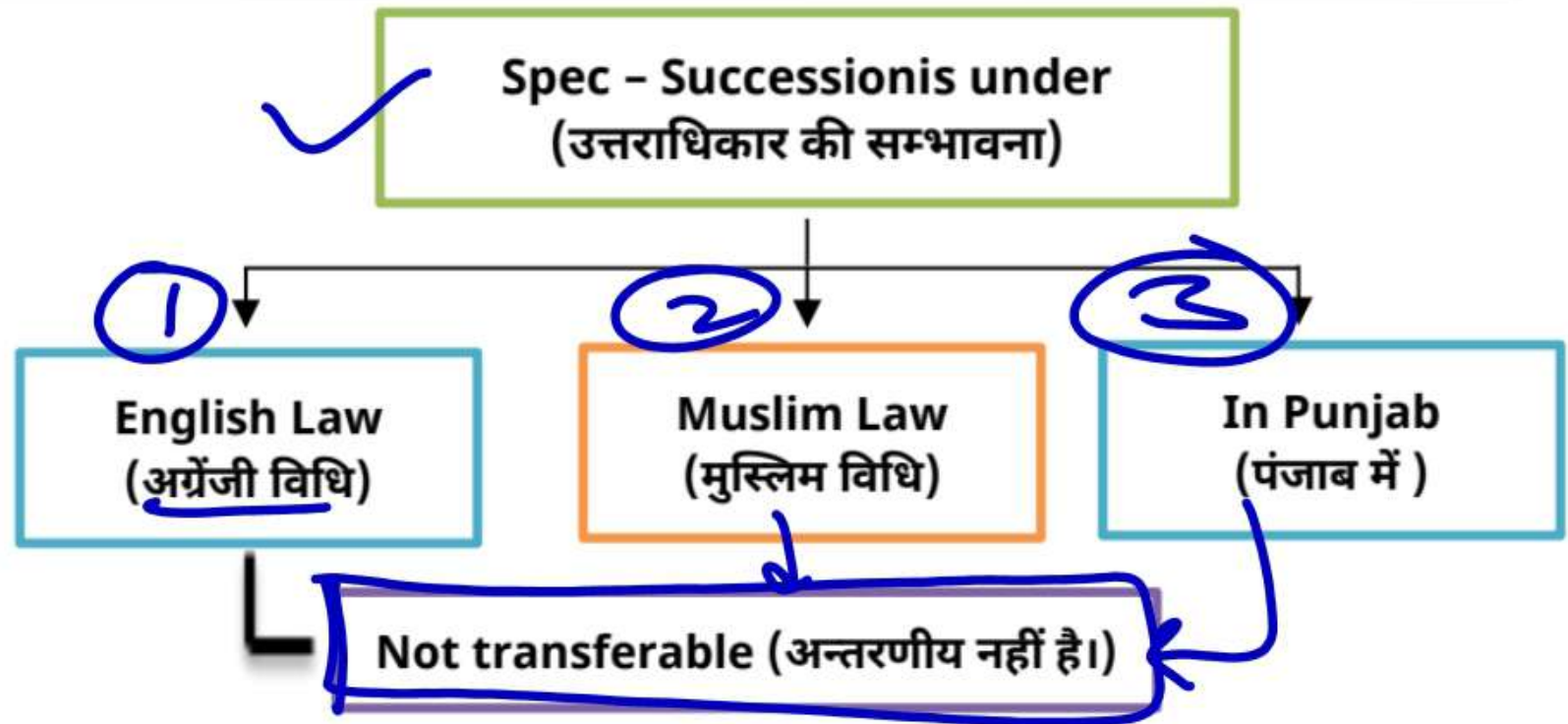


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केवल (only)

2. Mere Right of Re-entry

(केवल पुनः प्रवेश का अधिकार)

For a breach of condition
Subsequent.

(उत्तरभव्य शर्त के भंग के कारण)

Can not be transferable
(अन्तरित नहीं किया जा सकता।)



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There is difference between right of re-entry and mere right of re-entry.

पुनः प्रवेश के अधिकार और केवल पुनः प्रवेश के अधिकार के बीच अंतर है।

* Right of Re-entry (पुनः प्रवेश का अधिकार)



It means right to resume Possession.

(इसका अर्थ कब्जा पुनः प्राप्त करने का अधिकार)

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Were a person gives the possession of his property to another for a certain period and afterwards he is entitled to get it back, his right of entering into the possession of that property again, is called right of re-entry.

जहाँ एक व्यक्ति किसी सम्पत्ति का कब्जा दूसरे को किसी अवधि के लिए देता है और बाद में उसे वापस पाने का अधिकारी है, तो एक बार पुनः उस सम्पत्ति के कब्जे में प्रवेश करने का अधिकार पुनः प्रवेश का अधिकार कहलाता है।



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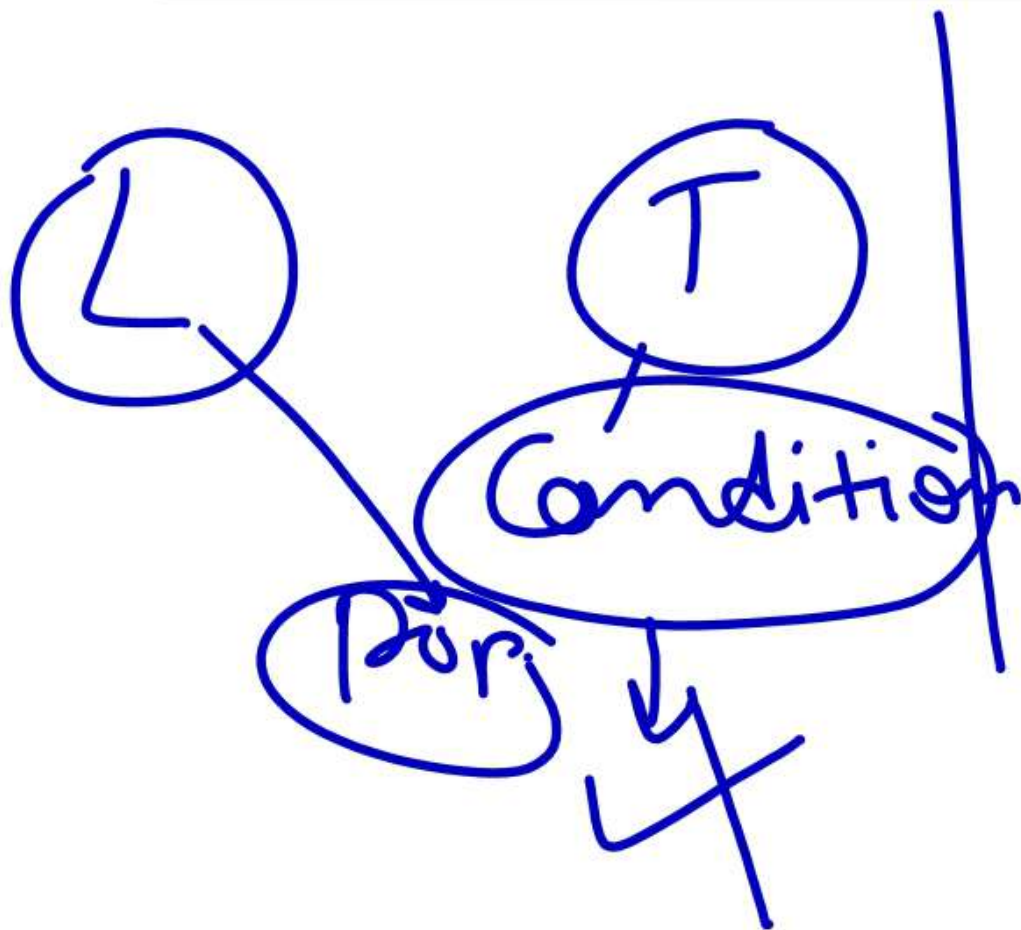


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The Transfer of Property Act, 1882



It is a right of a lessor/landlord to resume the Possession of the Property from the lessee (tenant) upon the breach of any condition subsequent.

यह पट्टाकर्ता या स्वामी को पट्टेदार (किरायेदार) से पश्चात्कर्ती शर्त के भंग पर सम्पत्ति का कब्जा पुनर्ग्रहण करने का अधिकार है।

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Example :-

A landlord lets out his house and imposes a condition that the tenant must not make any alteration in the house.

पट्टाकर्ता अपना भवन किराये पर उठा देता है और यह शर्त आरोपित करता है कि किरायेदार को भवन में कोई परिवर्तन नहीं करना चाहिए।



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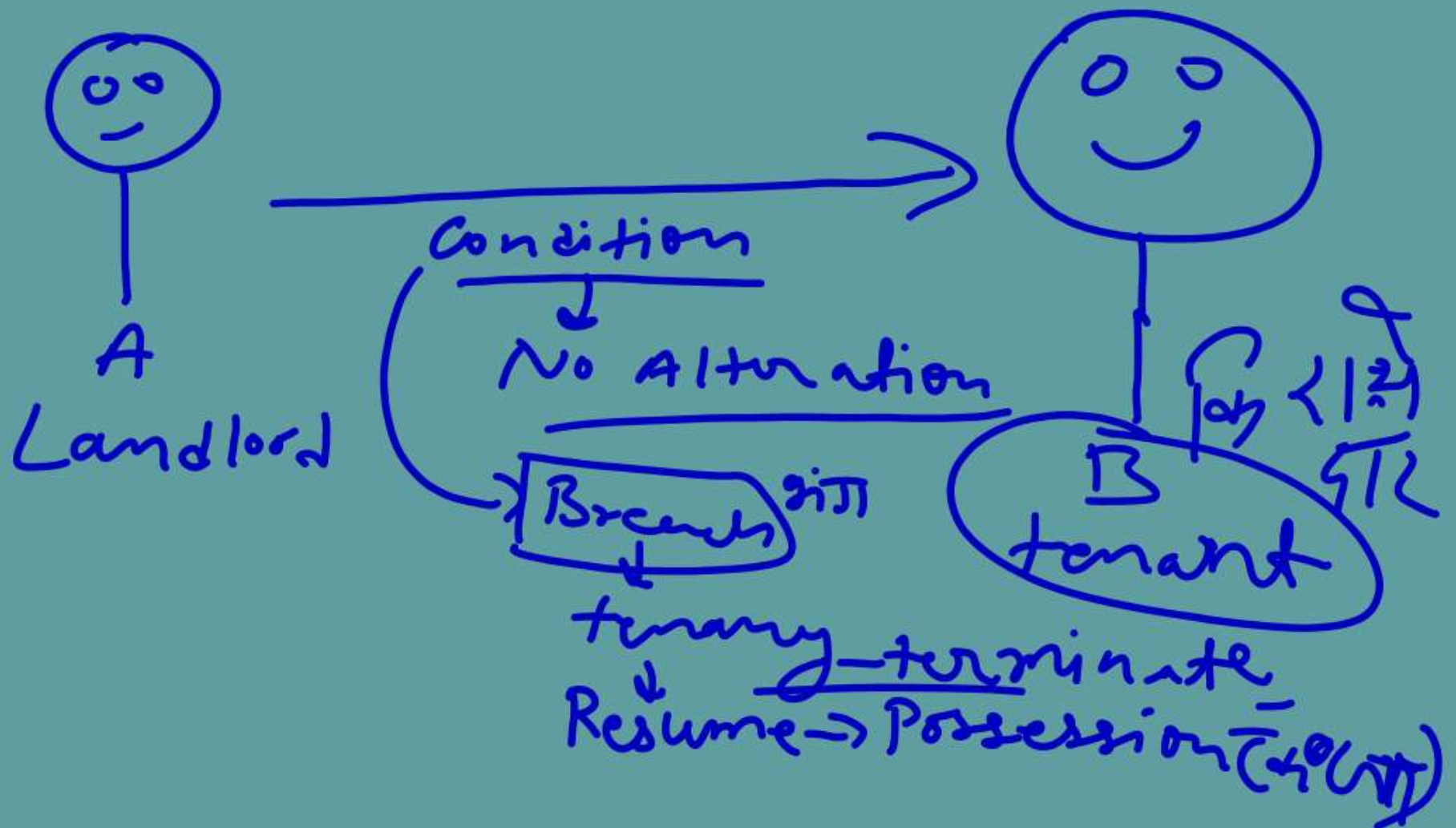
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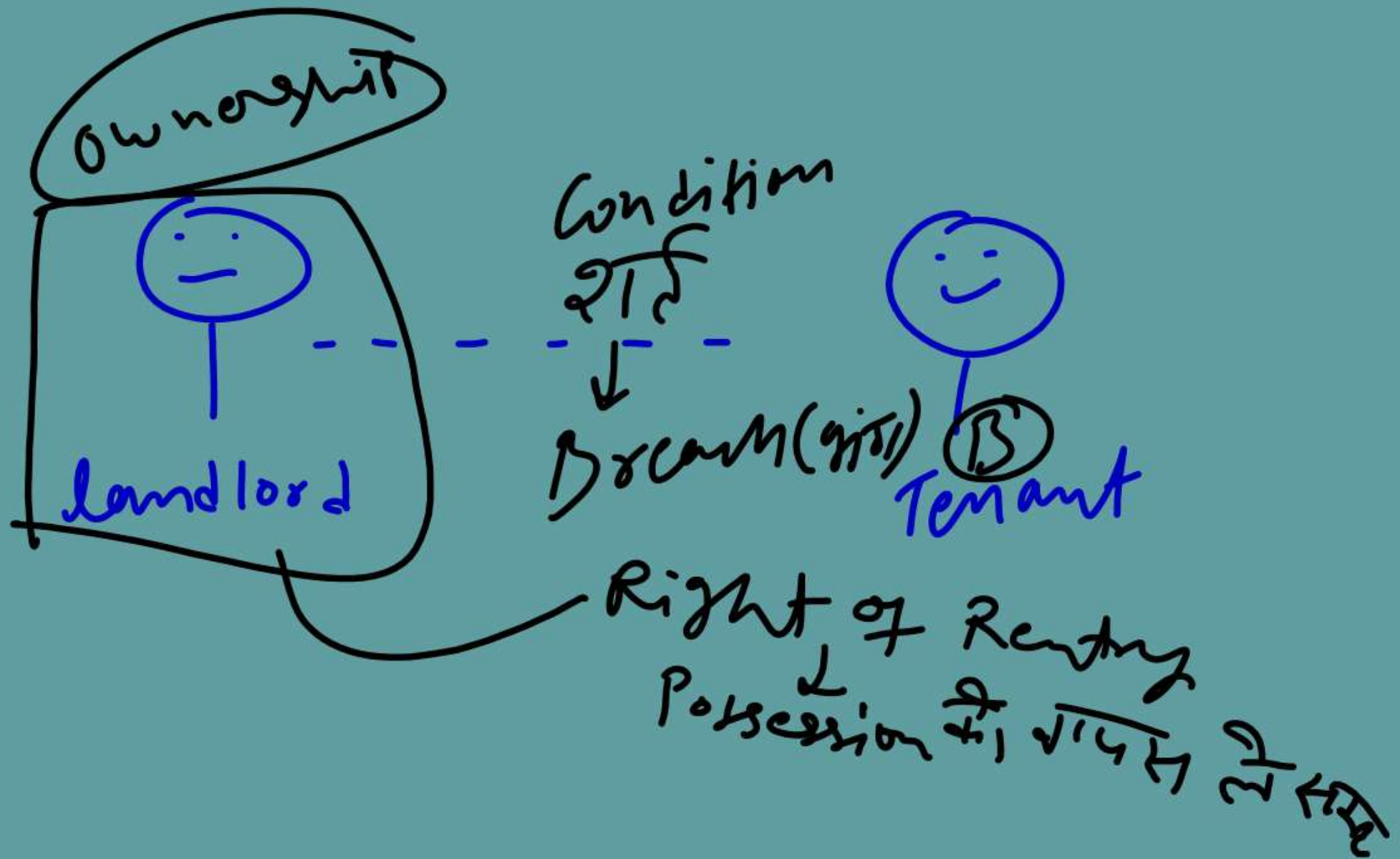
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The Transfer of Property Act, 1882

Upon the breach of condition by the tenant the landlord has right to terminate the tenancy, and resume the possession before expiry of the term of tenancy.

किरायेदार द्वारा इस शर्त के भंग पर स्वामी को किरायेदारी समाप्त करने का अधिकार है इसी वजी से किरायेदारी की अवधि की समाप्ति के पहले ही वह कब्जा ग्रहण करेगा।

✈ This right of the landlord is his right of re-entry.

स्वामी का यह अधिकार उसका पुनः प्रवेश का अधिकार है।

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*

Right of re-entry is a right connected with interest in land.

पुनः प्रवेश का अधिकार भूमि में जुड़े हित से सम्बन्धित अधिकार है।

Right connected with
Interest in land

Property Possessing Right



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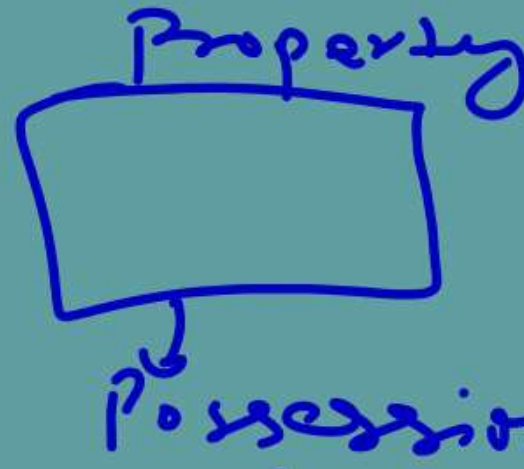


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A



B

↳ Connected with land
Interest (ISN)

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The Transfer of Property Act, 1882



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Mere right of re-entry is a right not connected with interest in land is simply a personal licence.

Right not connected with interest in Land

केवल पुनः प्रवेश का अधिकार कब्जा पुनर्ग्रहण करने का अधिकार है जो भूमि में किसी अन्य हित से संलग्न नहीं है जो साधारणतयः व्यक्तिगत अनुज्ञप्ति है।

Personal licence is not transferable.
व्यक्तिगत अनुज्ञप्ति अन्तरित नहीं की जा सकती है।

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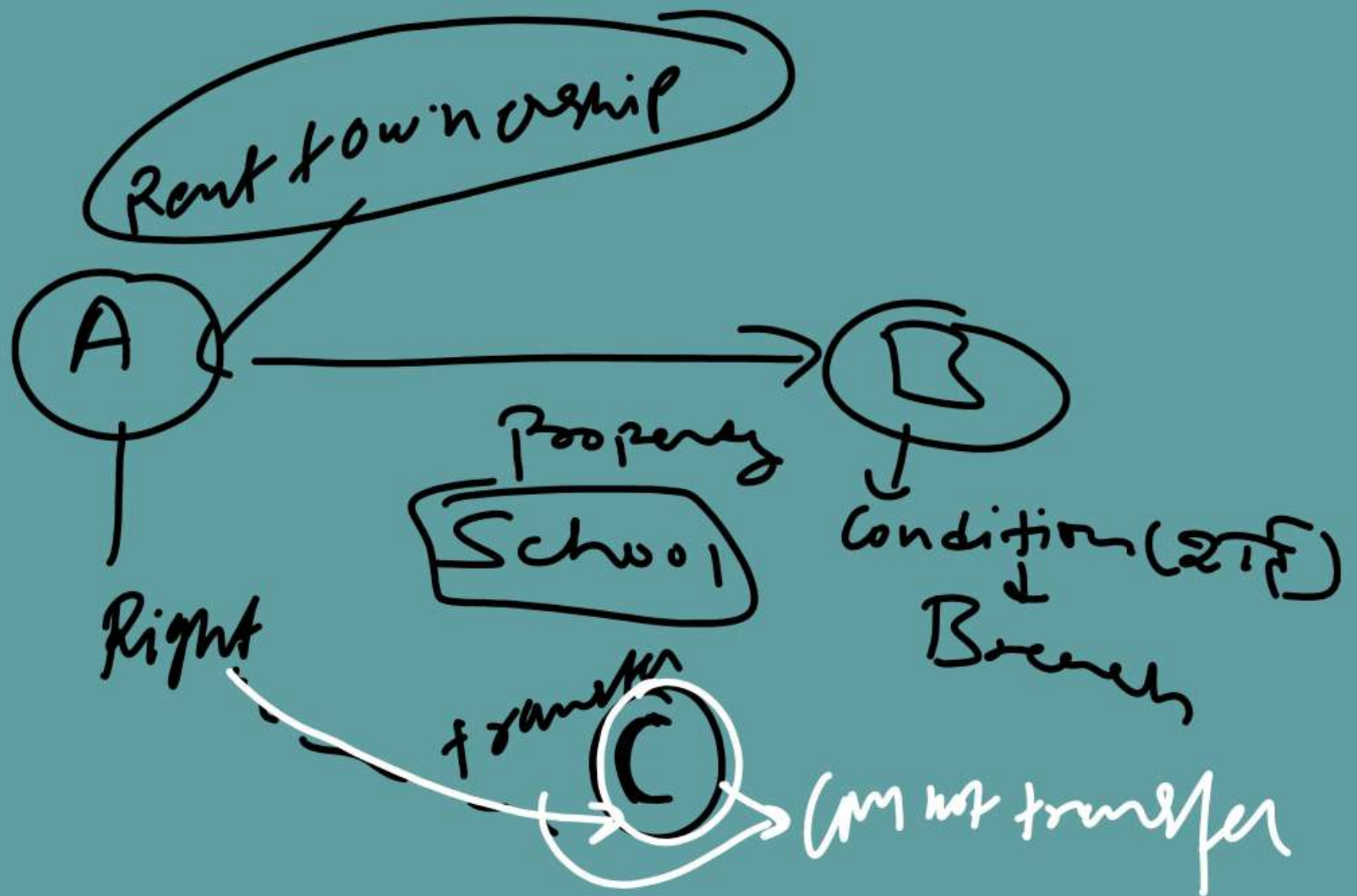
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But right of re-entry Coupled with interest in land is transferable together with that interest.

किन्तु भूमि में किसी हित से संलग्न पुनः प्रवेश का अधिकार भी उस हित के साथ ही अन्तरणीय होता है।

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The Transfer of Property Act, 1882

Example :-



X lets out his house to Y for 5 years subject to a condition that Y shall not sub-let it to any other person.

X अपना भवन Y को 5 वर्ष के लिए इस शर्त के अधीन उठाता है कि Y उसे किसी उप-किरायेदार को नहीं उठायेगा (देगा)।

Y Sublets the house in violation of the express prohibition. X has right to terminate the tenancy. Now X has right of re-entry.

Y अभिव्यक्त निषेध के उल्लंघन में भवन को उपकिरायेदारी पर देता है। X को अधाकार है कि वह किरायेदारी समाप्त कर दे। अब X के पास पुनः प्रवेश का अधिकार है।

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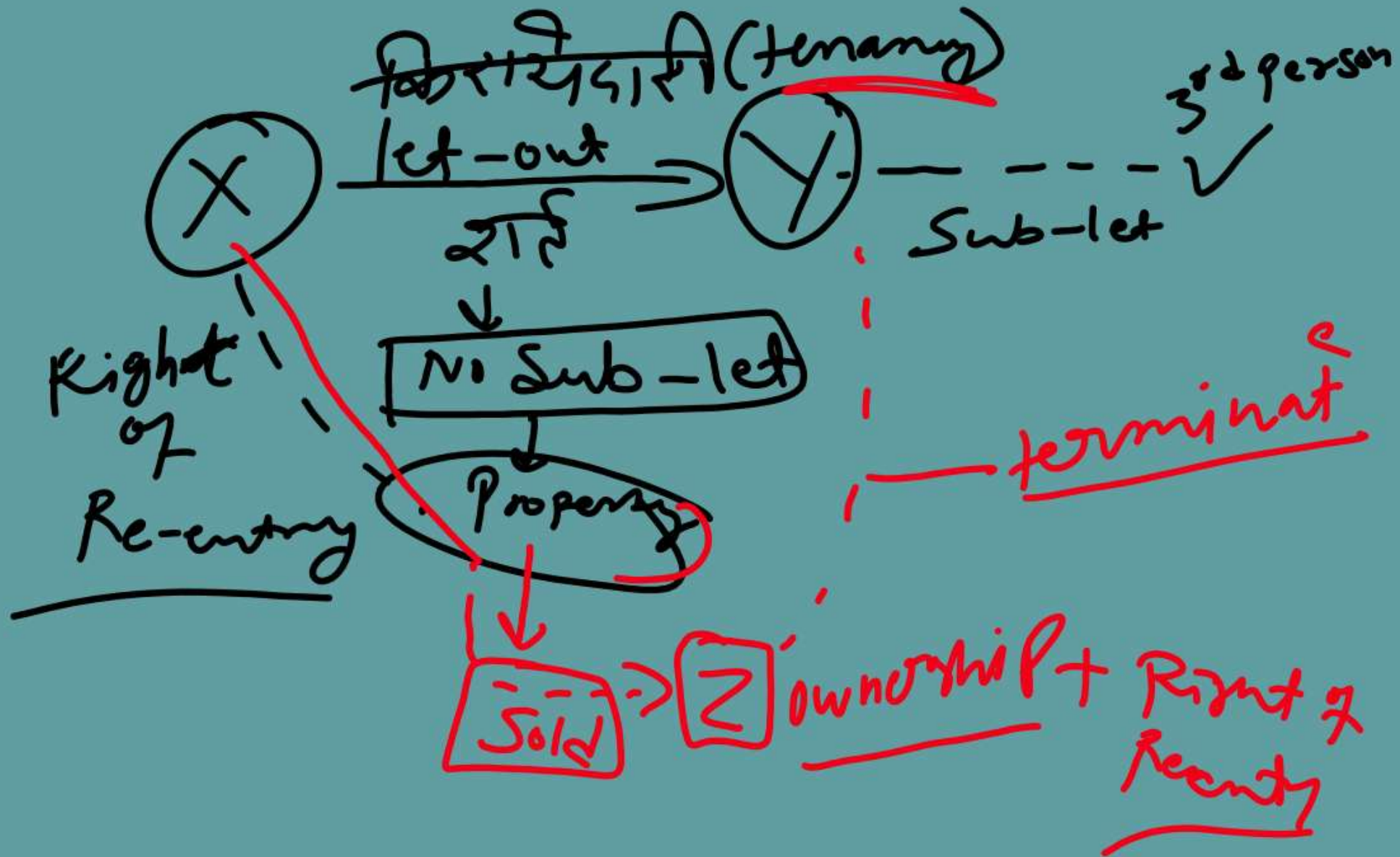
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But during the tenancy before expiry of the term of 5 years X sells the house to Z.

किन्तु किरायेदारी के 5 वर्ष की अवधि की समाप्ति के पहले X, Z को भवन बेच देता है।

Z has a right to terminate the tenancy of Y because X transfers to Z not only right of re-entry but also other interest known as ownership to Z.

Z को Y किरायेदारी समाप्त करने का अधिकार है क्योंकि X, Z को न केवल पुनः प्रवेश का अधिकार अन्तरित किया है वरन् अन्य हित भी जिसे Z का स्वामित्व कहते हैं।

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Right of Re-entry	Mere Right of Re-entry
Right + int. in Land	Only Right

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3. 'Easement' without 'dominant heritage' (सुखाधिकार बिना अधिभावी भूमि के)



Can not be transferred

- Easement is a Right
(सुखाधिकार एक अधिकार है।)
- It exists for the beneficial enjoyment of a land.
(यह भूमि के लाभदायक उपयोग के लिए वर्तमान रहता है।)
- Easement is exercised upon the land of another person.
(सुखाधिकार दूसरे की भूमि पर प्रयोग किया जाता है।)

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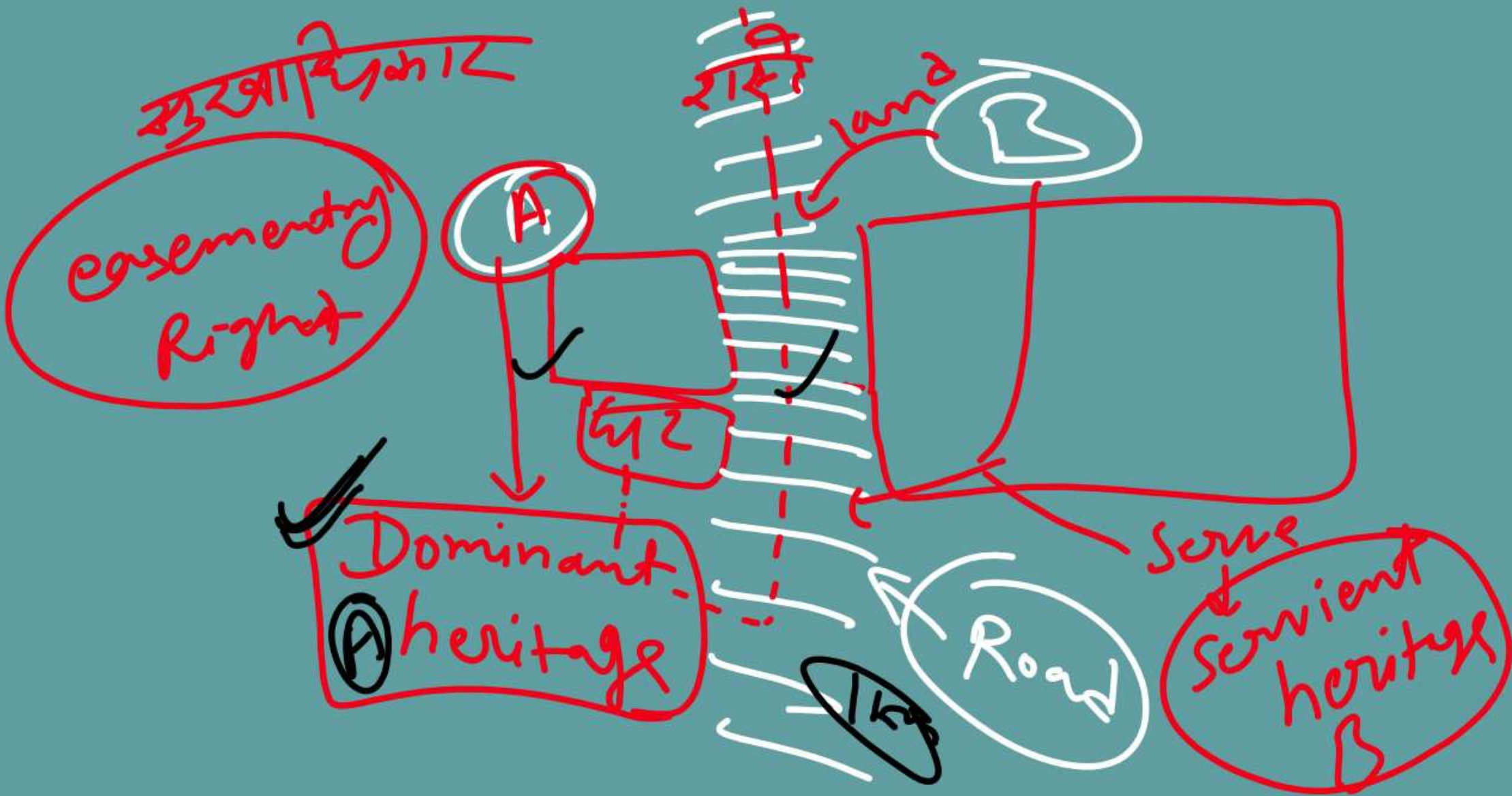
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The Transfer of Property Act, 1882

Example :-



A who is owner of a house has a right of way upon the land owned by B so that he may reach the main road.

A जो एक भवन का स्वामी है B के स्वामित्व की भूमि पर मार्ग का अधिकार रखता है जिससे वह मुख्य सड़क तक पहुँच सके।

A's house is dominant heritage

A का भवन अधिष्ठायी सम्पदा है।

And the land of B is Servient heritage.

और B की भूमि अधिसेवी सम्पदा है।

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The Transfer of Property Act, 1882

4.

Restricted interest in Property
(सम्पत्ति में निर्बंधित हित)

An interest in property restricted in its enjoyment to the owners personally

सम्पत्ति में ऐसा हित जो उपयोग में स्वयं स्वामी तक ही निर्बंधित है,

Can not be transferred.
अन्तरित नहीं किया जा सकता।

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The Transfer of Property Act, 1882

Example :- A teacher's right to teach is his beneficial interest but this right is given to him only due to his personal qualification.

एक अध्यापक का पढ़ाने का अधिकार उसका लाभदायक हित है किन्तु यह अधिकार उसको उसकी व्यक्तिगत योग्यता के कारण दिया है।

Can not be transferred
अन्तरित नहीं किया जा सकता।

Rest - int

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The Transfer of Property Act, 1882

Case Nagendra V/s Rabindra, (1926)

Religious offices - office of shebait/
Pujari has restricted interest (निर्बंधित हित)

Personal Qualification
व्यक्तिगत योग्यता

Can not be transferred
अन्तरित नहीं किया जा सकता।

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Case : Prayag Das V/s Mahant Kriparam, (1908)

Mahant of a Mutt (मठ के महन्त)

Has restricted interest
हित सीमित है

Personal Qualification

व्यक्तिगत योग्यता

Can't Transfer

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Case : Wahid Ali V/s Ashruff, (1881)

Mutawalli of a wakf (एक वक्फ के मुतव्वली)

Has restricted interest

Can't transfer

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The Transfer of Property Act, 1882

*

Briti Mahabrahmini

बृति महाब्राह्मिणी



It is the right of a Mahabrahmini to officiate the funeral ceremonies.

अंत्येष्टि सस्कार संपन्न करना महाब्राह्मणी का अधिकार है।



Rest. Int. --- can't transfer

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6(2)(b)

5.

Right to future maintenance

(भावी भरण-पोषण का अधिकार)

A person has right to receive maintenance allowance in future.

एक व्यक्ति के पास भरण-पोषण का अधिकार जो उसे भविष्य में मिलने वाला है।

It is his personal right (व्यक्तिगत अधिकार है।)

Restricted interest (निर्बंधित हित)

Non-transferable (अहस्तान्तरणीय है।)



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Sec. 6(dd) :- has inserted by 'The Amending Act, 1929'

To resolve the judicial Conflict.

Conflict - before 1929 (1929 से पहले)

disputes

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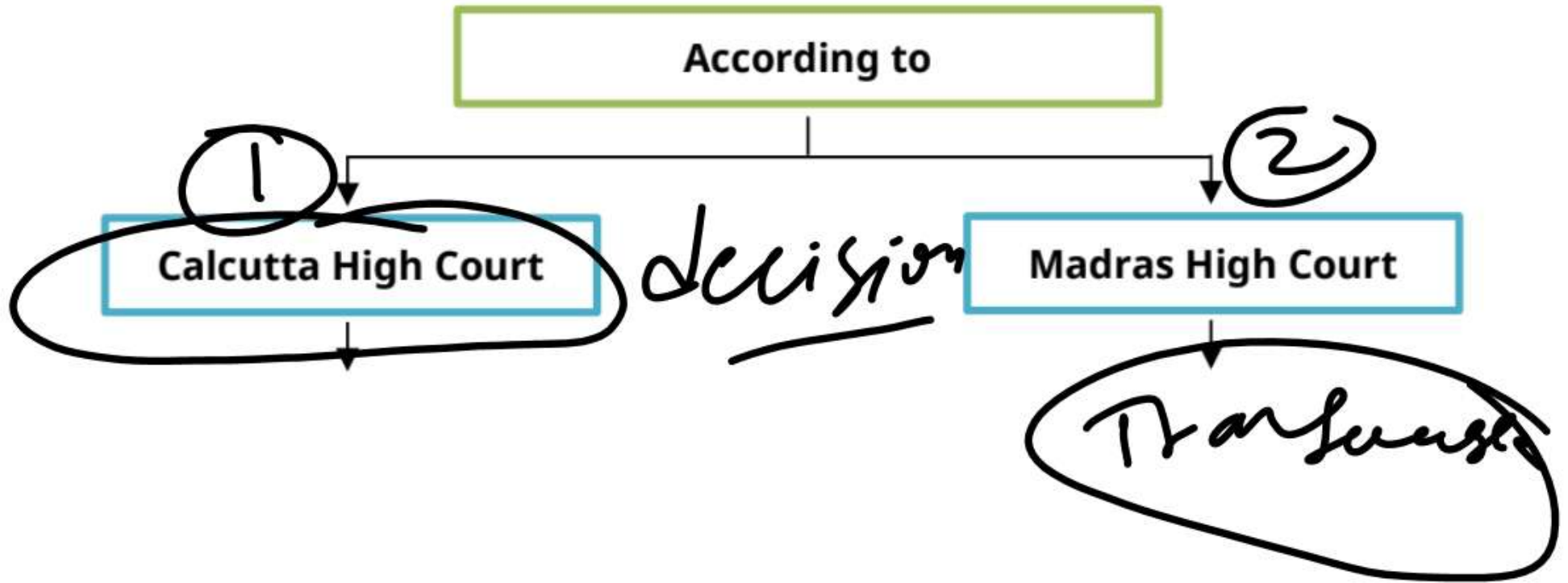


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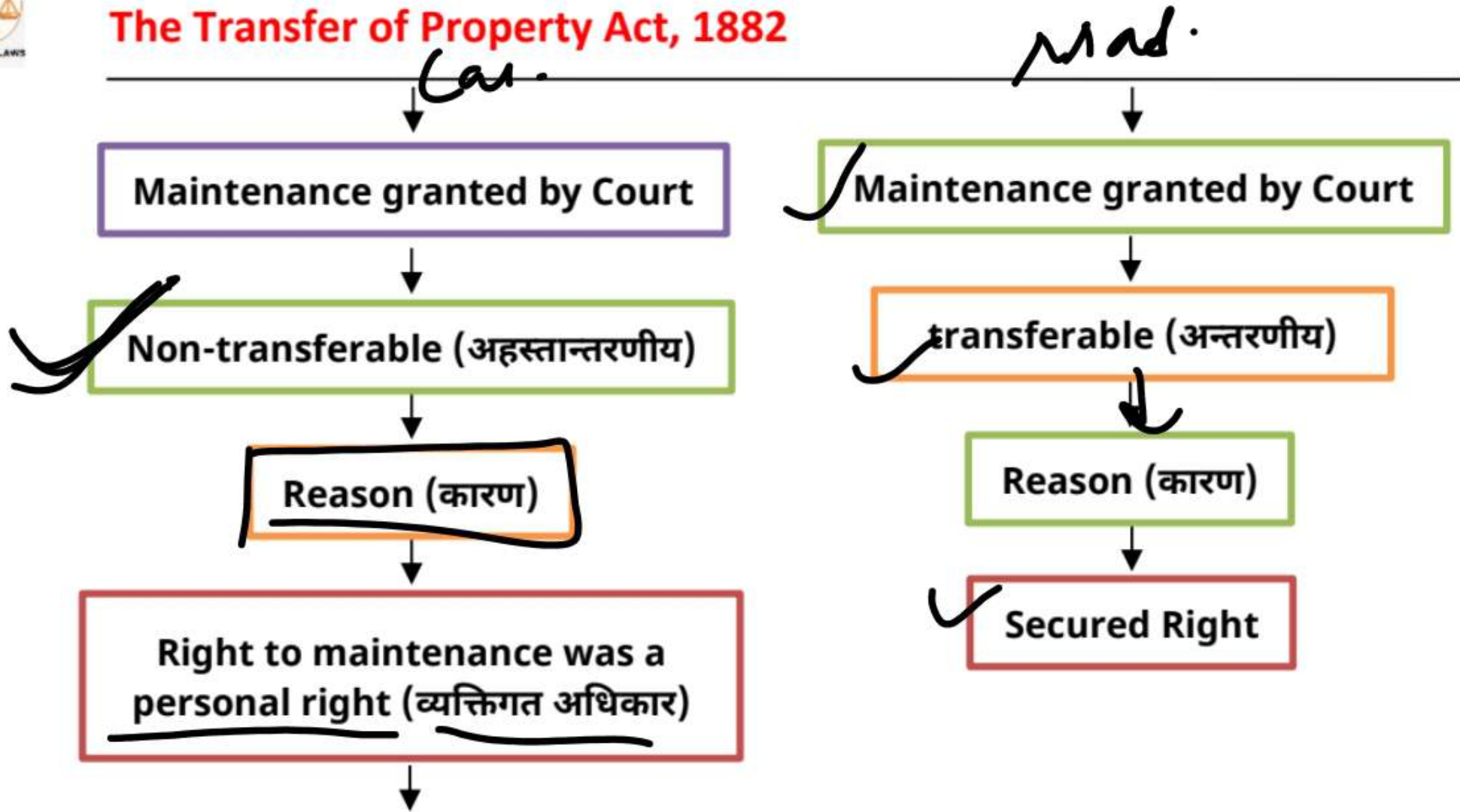


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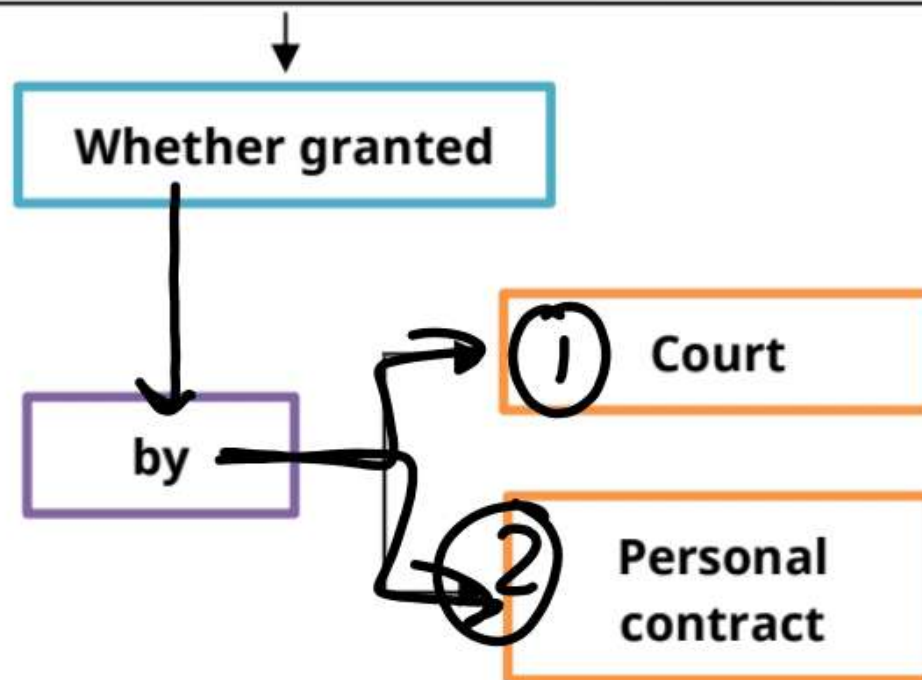


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The Transfer of Property Act, 1882



Now Right to future maintenance is non-transferable even if it has been granted under any decree of the court of law.

अब भविष्य में भरण-पोषण का अधिकार अहस्तांतरणीय है, भले ही यह न्यायालय के किसी डिक्री के तहत दिया गया हो।

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6.

Mere Right to sue (केवल वाद करने का अधिकार)

*

Right to Sue (वाद करने का अधिकार)

For **'certain sum' of money** (एक निश्चित राशि के लिए)

Actionable claim (अनुयोज्य दावा)

Transferable

But here right to sue means right to sue for the claim of any uncertain sum of money.

किन्तु यहाँ पर वाद करने के अधिकार का अर्थ किसी अनिश्चित राशि के लिए किए गये वाद के अधिकार से सम्बंधित है।



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✓ So due to uncertainty it is non-transferable.
(अनिश्चित के कारण अहस्तांतरणीय है।)

➔ uncertainty arises in case of unliquidated damages.
अनिश्चित क्षति के मामले में अनिश्चितता उत्पन्न होती है।

Same as given in contract Act/Tort.

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⑦ Sec-6(f): ⇒

✓ Public Office

✓ Salary of Public Officer

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⑧ Sec. 6(2) ⇒

↳ Stipend

Military Navy Army

* Political Pension → (X)

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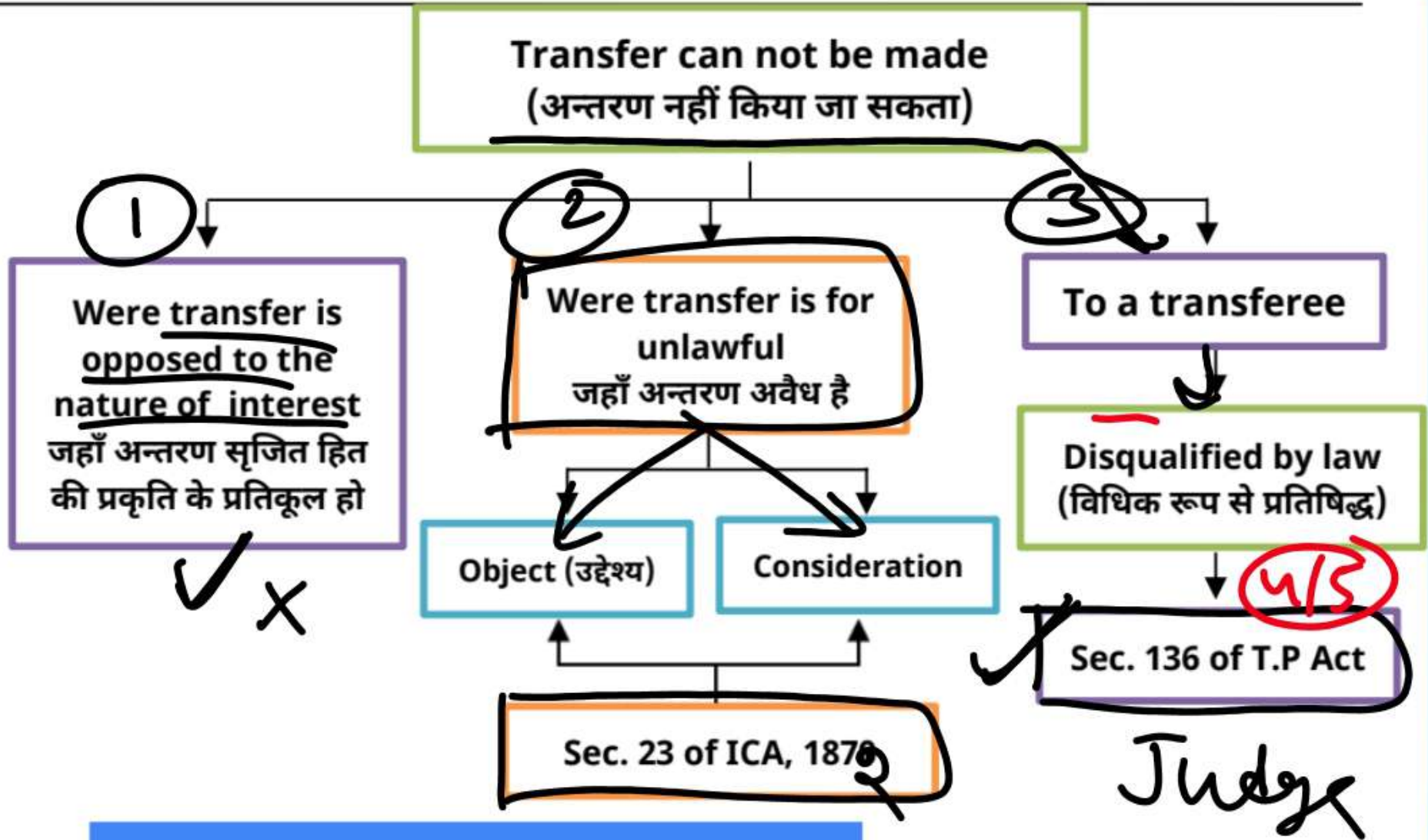
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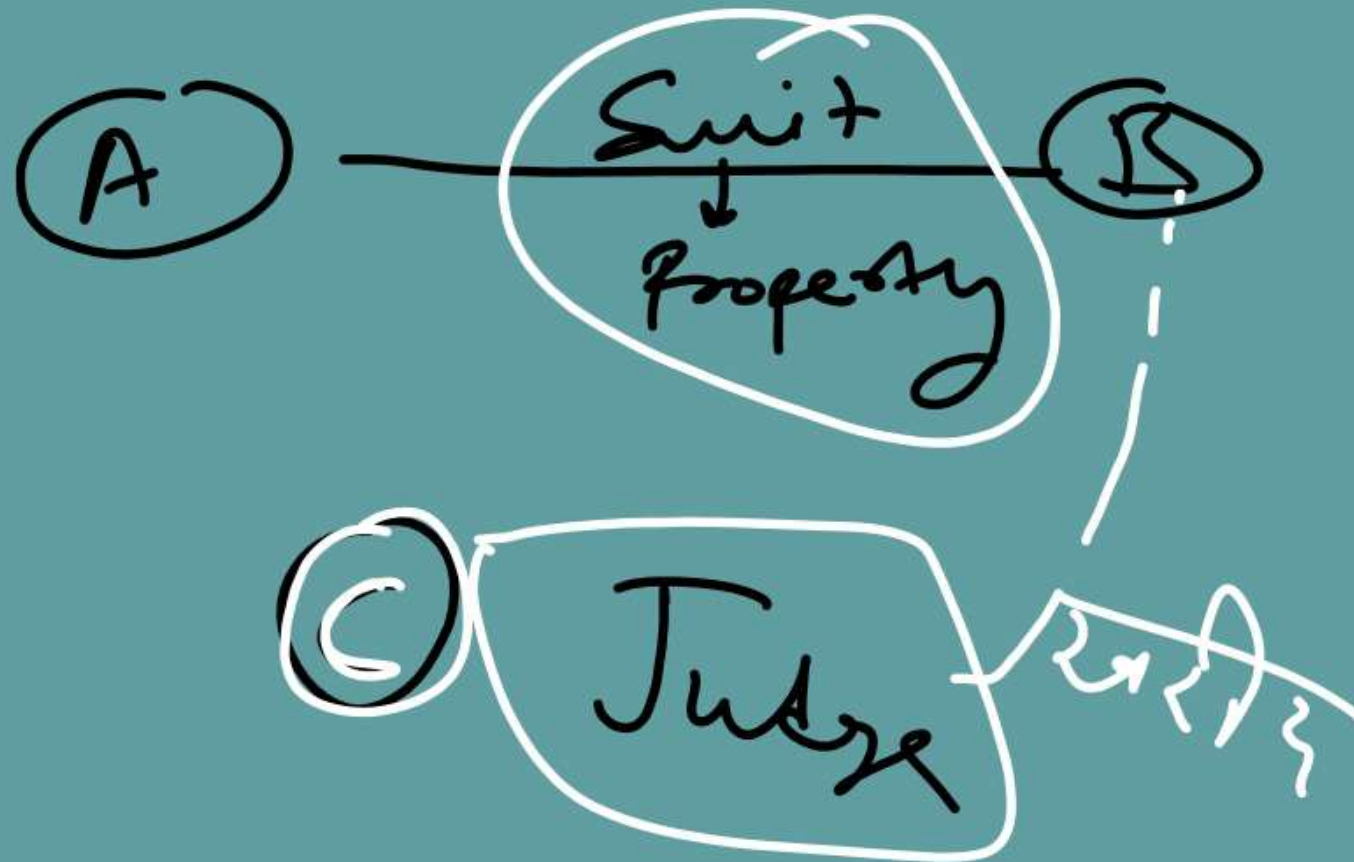
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10. Untransferable Right of occupancy (अहस्तान्तरणीय दखलकारी अधिकार)



Sec. 6(i) was added in 1885
(धारा 6(i) को 1885 में जोड़ा गया)

To remove doubts regarding non-transferability of occupancy right in the agricultural land.

कृषि भूमि में अधिभोग अधिकार की अहस्तांतरणीयता के संबंध में संदेह को दूर करना।

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The Transfer of Property Act, 1882

A tenant having untransferable right of accupancy can not transfer his right to another person

अधिभोग का अहस्तांतरणीय अधिकार रखने वाला किरायेदार अपना अधिकार किसी अन्य व्यक्ति को हस्तांतरित नहीं कर सकता है

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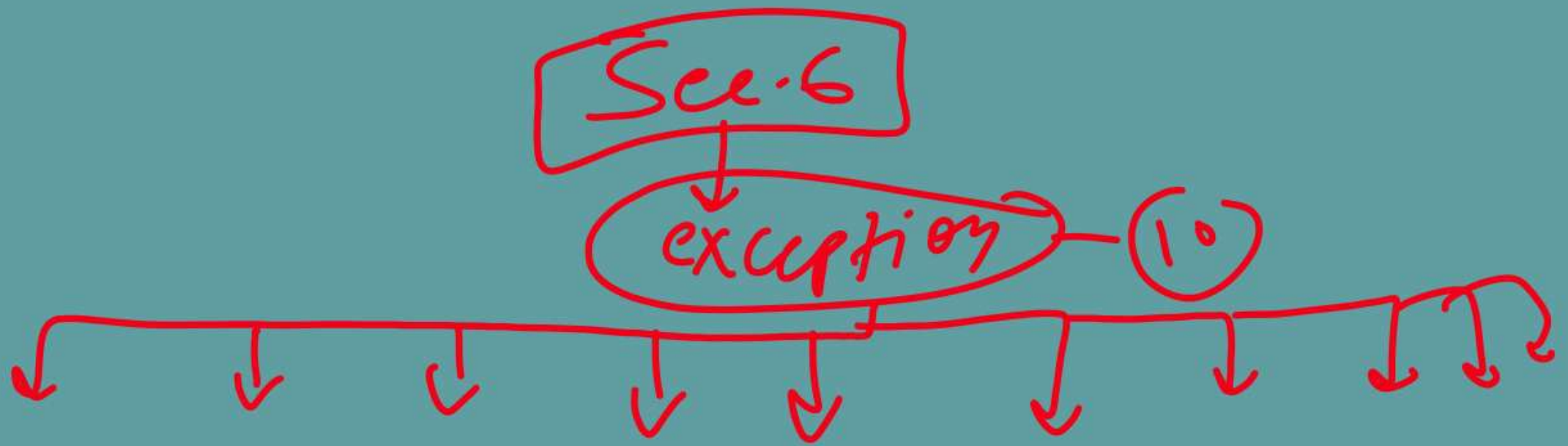
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The Transfer of Property Act, 1882

Sec. 7 :- Essential elements of a valid transfer
(वैध अन्तरण की आवश्यक शर्तें)



1. **Sec. 6 :- Property must be transferable**
(सम्पत्ति अंतरणीय हो)
2. **Sec. 7 :- Competent transferrer** (सक्षम अन्तरणकर्ता)
3. **Sec. 6(n) :- Lawful consideration and object**
(विधिपूर्ण प्रतिफल और उद्देश्य)

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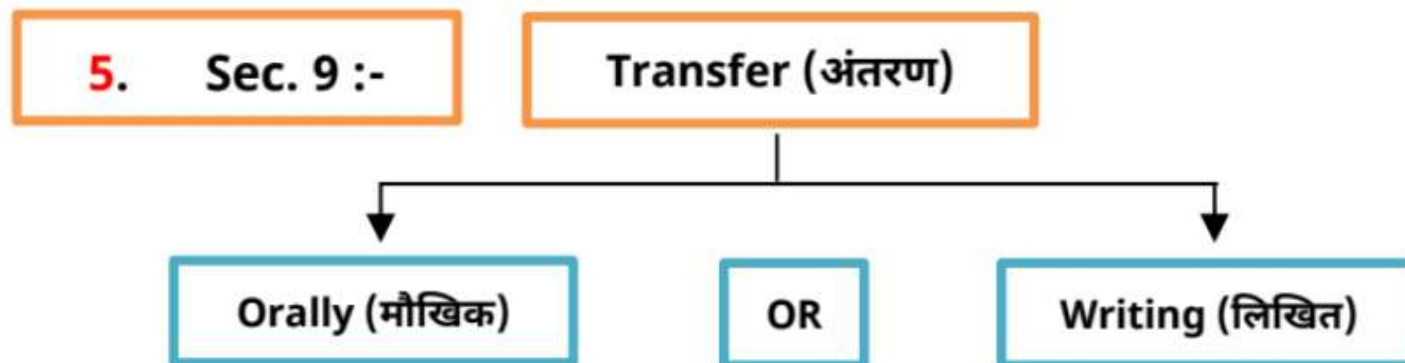
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4. Transferee not disqualified by law
(अंतरिती विधिक रूप से प्रतिषिद्ध नहीं हो।)
-- R/W sec. 136 of TP Act.



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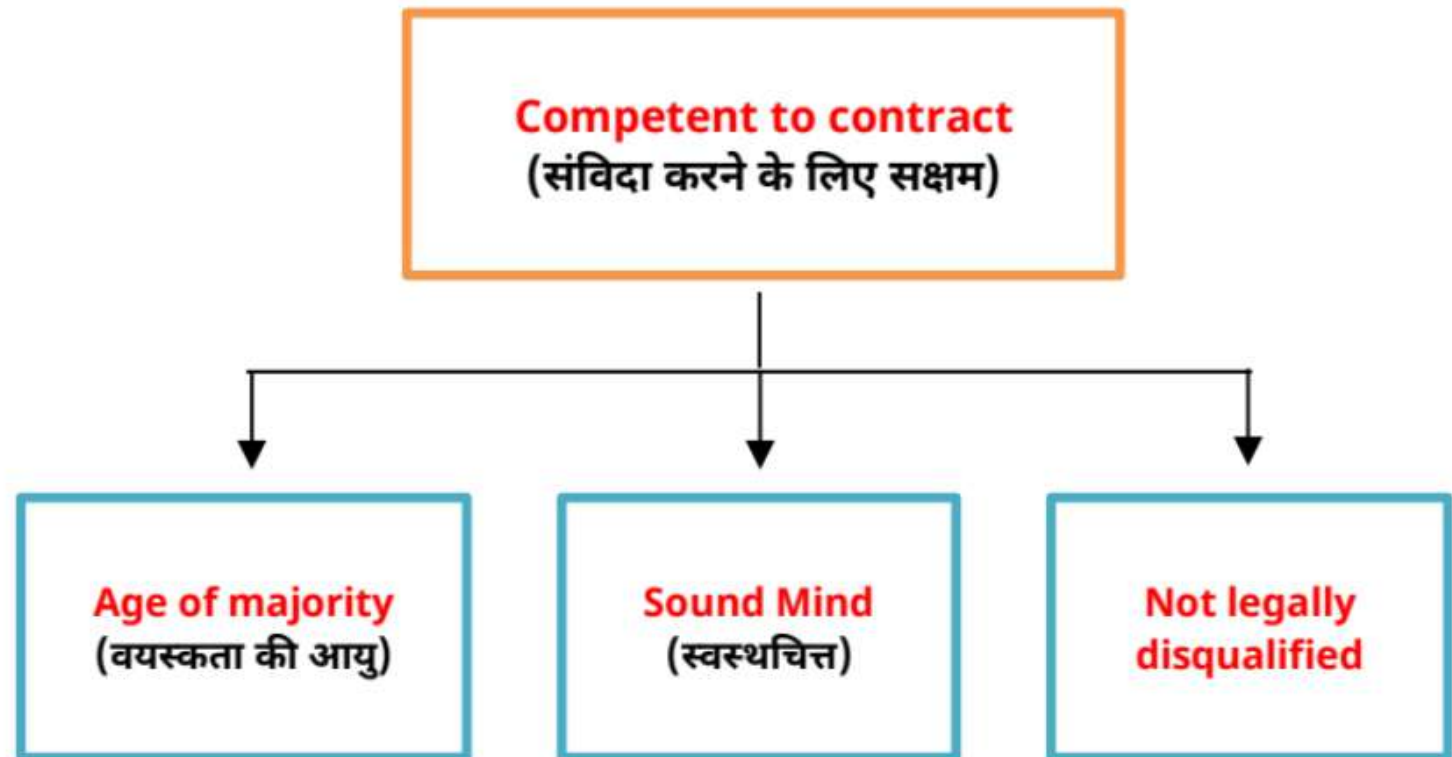


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RJS (RANK-3)	RJS (RANK-4)	RJS (RANK-5)	RJS (RANK-6)	RJS (RANK-10)	RJS (RANK-17)	RJS (RANK-21)	RJS (RANK-26)	RJS (RANK-28)	RJS (RANK-35)	RJS (RANK-42)	RJS (RANK-43)	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	
																
Mahavir Saini	Tropiti Jain	Richa Agrawal	Rishi Gupta	Arunima Singh	Animesh Rajpurohit	Kiran Prajapat	Shivani	Mahima Shrimali	Vaidani Singh Rajpurohit	Harsh Vardhan	Ritika Agrawal	Shini Jain	Saket Jain	Mansi Agnihotri	Bharat Parmar	
RJS (RANK-46)	RJS (RANK-56)	RJS (RANK-63)	RJS (RANK-66)	RJS (RANK-74)	RJS (RANK-75)	RJS (RANK-78)	RJS (RANK-88)	RJS (RANK-97)	RJS (RANK-105)	RJS (RANK-112)	RJS (RANK-119)	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	
																
Lucky Soni	Devendra Puri	Komal Bhati	Kartika Gehlot	Yeena Suwalka	Trilochana Rathore	Akshay Tambi	Richa Shikawat	Meenakshi Khatri	Dimpal Kumar	Anita Rajwaniya	Shivani Meena	Dharmveer Singh Rathor	Shrishty Kushwaha	Srishti Sahu	Akshita Shukla	
MPCJ	MPCJ	MPCJ	MPCJ	MPCJ	MPCJ	MPCJ	BJS	HCS(JB) RANK-5	HCS(JB) RANK-6	HCS(JB) RANK-16	HCS(JB) RANK-18	HCS(JB) RANK-36	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22
																
Akanaksha Gupta	Utkarsh Jain	Tropiti Jain	Kundan Kachhiwaha	Sanjeet Chourasia	Amber Shrivastava	Kumari Preeti	Paras Chaudhary	Jodinder Jangra	Arunima Chauhan	Ritiz Arora	Jasmeet Kaur	Ratnapriya Shrivastava	Sarfaraz Khan	Swapnil Verma	Pravesh Kabra	
GJS (RANK-1)	GJS (RANK-7)	GJS (RANK-8)	GJS (RANK-11)	GJS (RANK-12)	GJS (RANK-13)	GJS (RANK-16)	GJS (RANK-37)	GJS (RANK-54)	HCS(JB) RANK-43	HCS(JB) RANK-50	HCS(JB) RANK-73	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	
																
Aditya Rajeshbhai Gor	Meghaben	Prahlad kumar	Mayuri Jain	Pankti Soni	Kirti Sharma	Shipra Soyai	Divyakant Pandya	Kaushar Banu	Prince Garg	Jaspreet Kaur	Saru Goyal	Shweta Arya	Avani Vyas	Shweta Yadav		
MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	MPCJ 2021-22	
																
Shivangni Bhatt	Satinder Pannu	Prachi Gunwan	Swati Bhargava	Drutika Upadhyay	Kajal Nayak	Vinay Sharma	Abhay Pratap Singh	Manvendra Singh	Preeti Rathore	Priya Chauhan	Aika Soni	Vaishali Chauhan	Hiteshi Sharma	Vikas Thakur		



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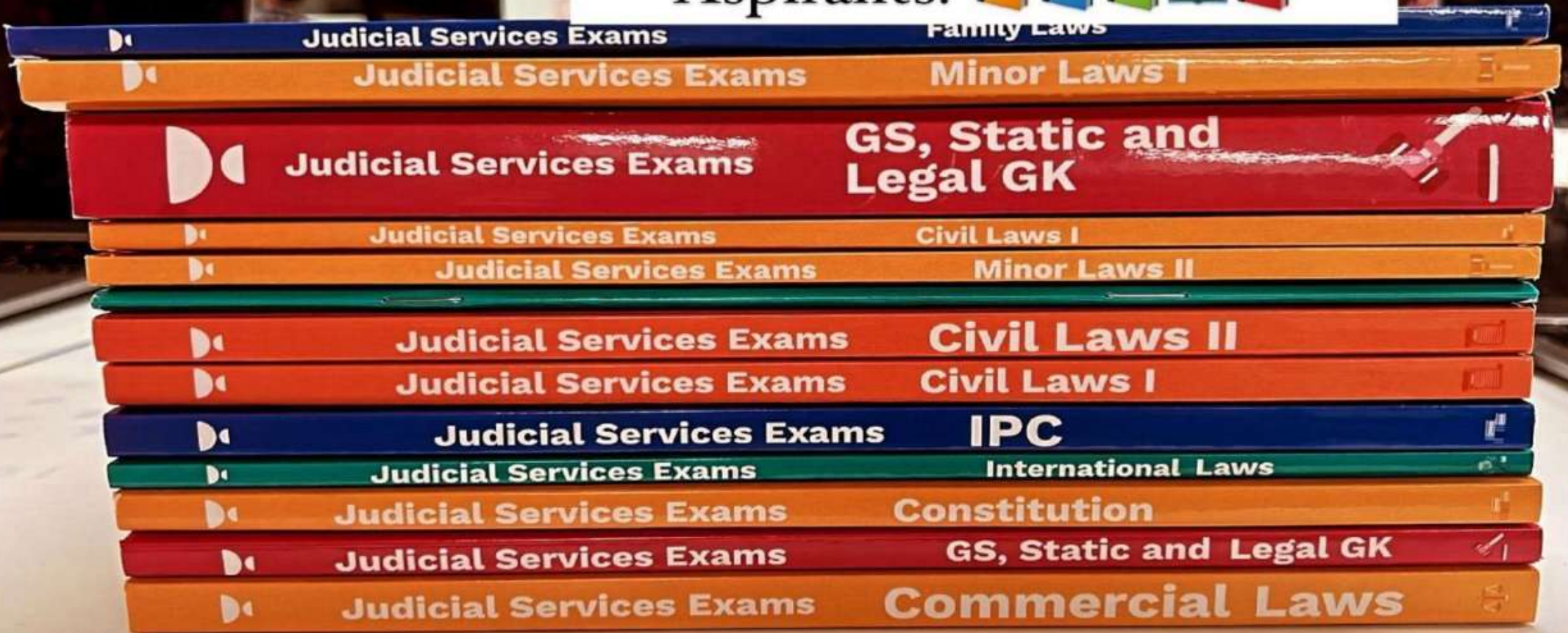


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1 2 3 4 5 6 7

General 38(1) SOCIAL ORDER 38(2) Special

[STATE] → Public Welfare

SOCIAL ORDER

JUSTICE [P E S] P: Political Justice E: Economic Justice S: Social Justice

Institutions (Govt.)

Minimise (अधिकारों को कम करना)

Eliminate (उन्मूलन)

Income Inequality

Economic Justice

Social Inequality

Status Equality Opportunity

Social Justice

Que.: Social Order v/s Social Justice

- 3 Type of Justice
- A 38: Public Welfare / Social Order

Interview Question

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yogesh Kr do sir 9:19 AM

Laxmi As ure wish 9:19 AM

Shivani YE BHI H 9:19 AM

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