



htestates law book

SUNIL TYAGI

I live in a joint family that consists of my grandfather, grandmother, my uncle and his wife, their two children (a boy and a girl), my mother and sister. The house consists of three floors and is registered in the name of my grandfather. Does my mother have a share in the property being the widow of the first son if my grandfather expires without leaving a will?

—Manish Gogia

You have not mentioned in your question whether the house in which you reside is the self-acquired property of your grandfather or a self-acquired property. Assuming it is a self-acquired property of your grandfather who dies intestate, your mother along with you and your sister shall be entitled to the share that would have been inherited by your father had he been alive at the time.

I am a 32-year-old working woman. I live with my minor son who is eight years old. My husband expired a few years ago. The residential property in which my son and I reside was inherited by my son from his grandfather a few years ago. Being his mother, am I entitled to mortgage the said property for obtaining a loan?

—Sheila Shah

Since the property is in name of your minor son, you may create a mortgage on it only after obtaining prior permission of the court as per provisions of the Hindu Minority and Guardianship Act, 1956.

I am the owner of the second floor with terrace rights in a house comprising basement, ground floor and second floor in Delhi. I want to construct a servant quarter/room on the terrace. Do I need NOCs/consent of the owners of other floors to carry out construction on the terrace?

—Diljeet Singh

Recently, Delhi HC in its judgment dated May 27, 2015, in the case of Kanwal Sibal vs New Delhi Municipal Council and others has reclarified that



once a property has been segregated into different portions and mutated accordingly there is no requirement of NOCs/consent of the owners of the other floors. Construction would be, however, subject to local building byelaw regulations.

I am an NRI owning a farmhouse in Chhattarpur. I wish to gift the same to my relative who is a foreign national? Am I allowed to do so?

—Madan Luthra

As per FEMA regulations, an NRI/PIO can gift an agricultural land/a plantation property/a farm house in India only to a person resident in India who is a citizen of India. Thus, you cannot gift your farm house in India, to a relative who is a foreign national.

Is it mandatory to obtain NOC from Cooperative Housing Society in Delhi to sell a flat?

—RK Tandon

As per the applicable law, a notice of your intention to sell the flat should be given to the management committee of the co-operative housing society in the requisite form. On receipt of such notice the committee of the co-operative housing society shall give its consent to you within 15 days, failing which the consent is deemed to have been granted.

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