

AMITY NATIONAL MOOT COURT COMPETITION 2016

MOOT PROBLEM CLARIFICATIONS

1. What is the religion of the concerned parties in the moot problem?

The religion of all the concerned parties to the dispute is Hinduism.

2. Whether or not the laws of India are applicable to the Democratic Republic of Ebony?

The Laws of the Democratic Republic of Ebony are in para-materia to the laws of the Republic of India.

3. Whether the royal families of the provinces of the erstwhile kingdom of Lumos were allowed to retain all their royal immovable and movable assets?

The facts of the Moot Problem are self explanatory. This question needs no reply.

4. Whether the status of a Province in the Democratic Republic of Ebony is akin to that of a State?

Yes. The status of a Province in the Democratic Republic of Ebony is akin to that of a state in the Republic of India.

5. According to the moot proposition, the four Bilzerian princes and one Princess from the three wives of Lord King Big Bilzerian were all born in the year 1945. Can Prince Dumas and Princess Dumagoli, Prince Drago and Prince Drakshin be therefore construed as twins?

Yes. The two pairs can be considered as twins from each mother respectively.

6. Whether Prince Ray was the sole heir of Thalai with undisputed rights of succession and inheritance?

This question needs no reply

7. Whether or not there is a technical error in the spelling of “Belzerian” as used in Para 10 on Page 4 in context of the company as against the “Bilzerian” family name used elsewhere in the moot proposition.

Yes. The correct spelling of the word is “Bilzerian” and should be construed throughout the Moot Problem as the same.

8. Whether the phrase “ and the family reaped a fortune which it continues to do so till date” in *Para 11 on Page 4* implies “continues to do so till the present day”?

This question needs no reply.

9. Whether the reference to Prince Ray as King Ray from Para 12 on Page 4 onwards implies the death of his adoptive father, King Dueta, and his undisputed right of kingship as far as the province of Thalai is concerned?

The facts of the moot problem are self explanatory. This question needs no reply.

10. Why the succession case by Wild and North has been filed in Thelesalonica and not in Thalai?

The facts of the moot problem are self explanatory. This question needs no reply.

11. Whether the “estate” referred to in Late King Ray’s will dated 23.06.1996 refers to his estate in Thalai or Thelesalonica or both?

The facts of the moot problem are self explanatory. This question needs no reply.

12. Whether the term “assets” in the context of King Ray as used in the moot proposition implies his entire estate or his share in Thalai or his share in Thelesalonica or both?

The facts of the moot problem are self explanatory. This question needs no reply.

13. Whether there exists an authentic will of Late Queen Kim dated 10.05.2009 as alleged by Wild and North?

The facts of the moot problem are self explanatory. This question needs no reply.

14. Whether the interim order passed by the High Court of Thelesalonica on 1.09.2010 was with reference to the Partition Suit filed by the royal family (Para 13, page 5) or the Applications received for substitution as Queen Kim’s legal representatives in pending suits (Para 19, page 7)?

The facts of the moot problem are self explanatory. This question needs no reply.

15. Para 23 on Page 8 states : “*That despite the above mentioned Interim Order stating that both the groups are the legal heirs of Late Queen Kim, the Company yet again refused to transfer the shares in favour of any party.*” Whether or not this statement is technically correct with respect to the facts and situations of the moot proposition in the sense that the order relating to Queen Kim’s legal representatives is being relied on to emphasize the transmission of the shares of Late King Ray in the Company, both of which are significantly different from each other.

There is no infirmity in the statement.

16. Whether the Company (Royal Retreat Group of Hotels Resorts and Palaces Pvt. Ltd.) is a party to the final suit in the Hon’ble Supreme Court or not?

The participants may presume that it is pro forma party to the dispute. However, it will not be submitting any arguments/submissions before the Hon’ble Court.

17. The sons of King Belzarian challenged the authenticity of Queen Kim’s will, however, the High Court interpreted King Ray’s will and said that it was not forged or fabricated. Whose will was challenged to be forged or fabricated?

The facts of the moot problem are self explanatory. This question needs no reply.

18. In the year 2011, a civil suit was filed against Prince Wild and Princess North being a suit for declaration and permanent injunction. Where was this suit filed?

The Suit was filed in the Court of Competent Jurisdiction.

19. How many succession certificates were granted by the court?

The facts of the moot problem are self explanatory. This question needs no reply.

20. Can we be provided with more clarifications pertaining to the wills of King Ray and Queen Kim?

No further clarifications are required with respect both the Wills. The facts of the Moot Problem are sufficient for the adjudication of the present dispute.

21. What are the grounds of forgery being claimed by the King Dumas and his brothers while challenging Queen Kim’s will

This question needs no reply.

22. How were the shares allotted to Prince Ray when he was made the Joint Managing Director? Did he invest capital or did the shares come by way of inheritance.

Prince Ray invested a certain amount of capital into the Company. The exact monetary value is not relevant for the adjudication of the present dispute.

23. The company requires Ray's legal heirs to be established however, the High Court ruled on who was the correct legal heir of Queen Kim. Whose line of succession needs to be established in order to prove transmission of shares, King Ray or Queen Kim's?

The question needs no reply.

24. Can other Indian laws be used and applied other than the Company law, Hindu succession law and testamentary laws?

Yes. If participants feel they have relevance they are to apply the same. [Please also see the answer to Clarification No. 2 above.]

25. Are the laws of the Republic of Ebony in *parimateria* with the laws of India?

[Please see the answer to Clarification No. 2 above.]

26. When was the appeal from the decision of the Company Law Board filed in the High Court?

The exact date of filing is not relevant for the adjudication of the present dispute. Participants may presume that it was within limitation.

27. On which date did the High Court of Thelesalonica decide the appeal against the decision of the Company Law Board?

The exact date of the decision is not relevant for the adjudication of the present dispute. Participants may presume that the Special Leave Petition that was filed against the Order of the High Court was filed within limitation.

28. When was the appeal filed in the Supreme Court against the decision of the High Court?

It may be presumed that it was filed in the year 2015.

29. On which date did the Supreme Court pass the Interim Order?

The exact date of the Interim Order of Stay is not relevant for the adjudication of the present dispute.

30. What is the date of hearing of final arguments in the Supreme Court?

This question needs no reply.

31. In which year was Prince Ray adopted by King Dueta?

The exact year of adoption is not relevant for the adjudication of the present dispute. It may be presumed that he was adopted at an early age as a child.

32. Has the validity of the adoption of King Ray been established? What was the procedure undertaken for adoption?

The facts of the moot problem are self explanatory. This question needs no reply.

33. Are all the people mentioned in the problem Hindus as defined in the Hindu Succession Act, 1956?

[Please see the answer to Clarification No.1 above.]

34. Are all the people mentioned in the problem Hindus by religion?

[Please see the answer to Clarification No. 1 above.]

35. Will the Hindu personal law apply in matters of succession?

[Please see the answer to Clarification No. 1 above.]

36. Which Succession Act i.e. Indian Succession Act or Hindu Succession Act, is applicable in the present moot problem, because from the bare reading of facts nothing can be determined as to which succession act should be applied?

[Please see the answer to Clarification No. 1 above.]

37. It is not clear whether companies act, 1956 is applicable or the Companies act of 2013 should be referred to as the moot problem states only “Sec.111 of Companies Act”?

Participants are to proceed on the presumption that the Companies Act, 1956 along with amendments to the same are applicable. The Companies Act, 2013 is not relevant for the adjudication of the present dispute.

38. Whether the Companies (Second Amendment) Act, 2002 which provided for replacement of CLB with NCLT has been enforced in the present moot problem?

It should be presumed that the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) have not become operational.

39. Whether issues can be added to (for eg. Maintainability Issue) because rules says Issues cannot be added but Para 26 states “some of the issues being”, which creates a doubt?

Participants are free to add any issue or address any argument over and above the issues given in the problem which they feel might be relevant to the adjudication of the dispute.

40. Whether sub-issues can be added to the main issues?

Yes. Participants are free to format/draft their memorials in the manner they wish subject to the rules of the competition.

41. Is the validity of the will of King Ray to be taken as established?

The facts of the moot problem are self explanatory. This question needs no reply.

42. Whether the moot problem is associated with problem in ‘transfer of shares’ or ‘transmission of shares’?

Explanation: there is a conceptual difference in the two terms, i.e., ‘transfer of shares’ refers to selling or transferring the title with a primary motive of profit whereas ‘transmission of shares’ refers to transmission of title after the death of the person to whom they belong.

The facts of the moot problem are self explanatory. This question needs no reply.

43. Whether the settlement deed entered between Queen Kim and her Grandchildren, brings an end to

The Succession case no. 413 of 1998 (in Para 15) OR;

The Probate Petition No. 72 of 2006 filed by Queen Kim (in Para 17) OR;

Both the Probate Petition No. 72 of 2006 filed by Queen Kim (in Para 17) as well as the Succession case no. 413 of 1998 (in Para 15).

The facts of the moot problem are self explanatory. This question needs no reply.

44. Whether the objections raised by the other members of the family (in Para 20) challenging the authenticity of the will, against the probate petition no. 3983 of 2010, can be taken as a Caveat filed against the probate petition?

No. It cannot be treated as a Caveat petition. These are regular proceedings before the Court.

45. Whether Queen Kim, owned any shares in the company, as stated in?

The facts of the moot problem are self explanatory. This question needs no reply.

46. In Para 25 last line where the HC held that there is no fraud or forgery and thus the pending adjudication were illusory, this judgement was in context of which will ?

The facts of the moot problem are self explanatory. This question needs no reply.

47. In Para 15, where King Dumas objected to the succession certificate, it is not clear as to which succession certificate the moot problem is talking about, because before this no Succession Certificate was in question.

In paragraph fifteen, the sentence should be read to mean that he objected to the granting of the Succession Certificate.

48. When does the problem happen, 2015 or 2011?

The dispute today may be treated to be in the year 2015.

49. It is said that Prince Ray was 'adopted'. In that context, can an inference be drawn that the same was done in pursuance of Hindu Adoptions and Maintenance act? As no other law being in force at the time (1940-1960) gave the privilege of adoption to non-Hindus in India.

The facts of the moot problem are self explanatory. This question needs no reply.

50. There is a mention of witnesses of the will of King Ray but none for Queen Kim. Should the will of Queen Kim be regarded as proved in this scenario?

The facts of the moot problem are self explanatory. This question needs no reply.

51. In para 15, what is the meaning of ‘objected’ to the certificate. Has King Dumas brought his objections on the record along with the impleadment application?

The facts of the moot problem are self explanatory. This question needs no reply.

52. In second issue what all suits were having pending adjudication can u please tell us specifically?

The facts of the moot problem are self explanatory. This question needs no reply.

53. Are there any importance of dates as when the suits were filed by the respective parties because no where in the moot problem any specific date is mentioned?

No the exact dates are not relevant for the adjudication of the present dispute.

54. Did Company law board gave any decision in relation to the will of Kim’s?

The facts of the moot problem are self explanatory. This question needs no reply.

55. Point 25 (3rd last line) “further held that the alleged disputes which were pending adjudication appeared to be illusionary and that there appeared no fraud or forgery thus a petition under section 111 was very much maintainable” which dispute is referred here?

The facts of the moot problem are self explanatory. This question needs no reply.