



*Spreading Legal and
Economic Awareness*

A Social Initiative by
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Special points of interest:

- Facebook posts on govt machinery is not an offence
- You can fight your own income tax case
- Questions from the public
- How to buy sovereign Bonds

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Transfer of Tenancy Rights A Detailed Note

In Mumbai and in other such places where there are a number of tenanted properties enjoying protection under the Maharashtra Rent Control Act (previously the Bombay Rent Act), a problem arises as to whether upon demise of the original tenant, whether such tenancy can be transferred to the legal heirs or some other person, if there is a mentioning in the 'will' (if any) of such an original tenant. The answer is that the scheme of the Rent Act when read together with the law of wills, would make it clear that the tenancy can be transferred only to the family members or legal secessionist and not to a

stranger. Even amongst the legal heirs the preference would be given to the family members actually residing in the premises. The legal reasoning behind these are two A) the stranger is not living in the



premises on rent and if such a stranger is permitted, it would go against the scheme of Rent law. The stranger would be totally unknown to the landlord or the owner of the subject premises. B) people who

intend to make a commercial transaction of the premises or would like to transfer the premises to some third person out of a debt or some other consideration would do so easily, without paying any premium. In Mumbai, conventionally a premium of 33% of the total value of the transaction is paid to the land lord or the owner. It maybe noted that in case any suit is pending, and a tenant expires, all his legal heirs would have to be made a party, unless of course there is a will naming any one legal heir as the party (and in Mumbai the will would have to be probated). All legal heirs would be treated as joint tenants.

Recording of Common Evidence in Family Matters

Many a times, situations so arise in the case of maintenance matters, that there occur multiple proceedings regarding any particular cause. An example would be maintenance claims under Section 125 of the Code of Criminal Proce-

dure 1973 and the same can also be claimed in a Family Court Case in a Civil Petition. Same common issues may also arise, on same cause of action under Adoption Law, Guardians and Wards Act, etc same issues of maintenance

crop up. It may be noted that by way of an application to the same court or as the case may be to a Superior Court, these matters can be clubbed together and common evidence and witnesses can be taken to avoid duplication of work.

Facebook Posts Regarding Government Machinery is No Offence

In a recent decision of the Supreme Court of India in the case of Manik Taneja & another vs. State of Karnataka and another, it has been held that Facebook is a public forum and expression of public opinion on

the same, even on the official facebook page of the government machinery, which may be being criticized is not any offence. However, it may be noted that one cannot be abusive or defamatory or use irrelevant

bad language. An honest criticism as such is no offence.

In the present case the police had registered an First Information Report which was quashed.

Question of the Month

Question: How to file a case of perjury on my wife who has given false evidence in the court ?

Answer: 1) Giving false evidence in court is a criminal offence and an act of perjury. So stating untruth fact after taking an oath in the court is called an act of Perjury.....

2) As per section 191 of the Indian Penal Code it clearly says that who

has given false evidence on oath is punishable under section 191 of the IPC.

3) You may also file a petition under section 340 CRPC for investigation.

4) In order to establish before the court that she has giving false evidence you have to produce proof in family court and also file a complaint in Magistrate court as your wife is

giving false evidence on oath.

5) You have good case on merits as there is a documentary proof for giving false evidence before the court.

6) In the application you may ask for dismissal of her case because of perjury. You may ask the court to decide on the perjury application first before disposing of the interim petition filed by her.

Did you know?

Did you know that you can appear before the Income tax authorities yourself and advance your case? Although there are limitations, but law does not stop you from doing so..

Appearance by authorised representative

(1) Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when

required under section 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being-

(i) a person related to the assessee in any manner, or a person regularly employed by the assessee; or

(ii) any officer of a Scheduled Bank with which the assessee maintains a

current account or has other regular dealings; or

(iii) any legal practitioner who is entitled to practise in any civil court in India; or

(iv) an accountant; or

(v) any person who has passed any accountancy examination recognised in this behalf by the Board. Or

(vi) any person who has acquired such educational qualifications as the Board may prescribe

(vii) any other person who, immediately before the commencement of this Act, was an income-tax practitioner within the meaning of clause (iv) of sub-section (2) of S.61 of the Indian Income tax Act, 1922 (11 of 1922), and was actually practising as such.

Explanation.-In this section, "accountant" means a 82.82. Clause (1)(b) of section 2 of the Chartered Accountants Act, 1949 defines "chartered accountant" as under : (b) "chartered accountant" means a person who is a member of the 'Institute;' *Clause (1)(e) defines the "Institute" as the Institute of Chartered Accountants of India constituted under this Act.chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949), and includes, in relation to any State, any person who by virtue of the provisions of sub-section (2) of section 22683.83. For text of section 226(2) of the Companies Act, 1956, see Appendix One. of the Companies Act, 1956 (1 of 1956), is entitled to be appointed to act as an auditor of companies registered in that State.

"(3) Notwithstanding anything contained in this section, if the authorised representative is a person formerly employed as an income-tax authority, not below the rank of Income-tax Officer, and has retired or resigned from such em-

ployment after having served for not less than three years in any capacity under this Act or under the Indian Income-tax Act, 1922 (11 of 1922), from the date of his first employment as such, he shall not be entitled to represent any assessee for a period of two years from the date of his retirement or resignation, as the case may be."["***]

(4) No person-

(a) who has been dismissed or removed from Government service after the 1st day of April, 1938; or

(b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, other than a penalty imposed on him

(c) who has become an insolvent, shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in sub-clause (a)*.* Should be read as clause., for such time as the 86.86. Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.[Chief Commissioner or Commissioner] may by order determine in the case of a person referred to in sub-clause (b)*1.* Should be read as clause., and for the period during which the insolvency continues in the

case of a person referred to in sub-clause (c)

(5) If any person-

(a) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be;

(b) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority. The prescribed authority under rule 52 is Chief Commissioner or Commissioner having requisite jurisdiction. may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1).

(other provisions not stated).

However note that the Income Tax authorities do not authorize private limited companies floated by Chartered Accounting Firms and Foreign Firms to appear on behalf of the assessee as they do . The Department of Income Tax may soon take steps in this regard to make it clear that this will not be permitted.

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*A law and economics knowledge
sharing initiative*

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Chanderlawpal.com is an online legal advisory portal, for people from all over the world, seeking legal advice on Indian or/and international laws.

This newsletter is an initiative by Advocate Charanjeet Chanderpal for making public aware about the laws that exist in India for protection of common man. Legal jargons and financial language are seldom understood by laymen and this causes public to lose faith in legal and economic (financial) systems.

-An attempt to restore this faith and to help people use the existing machinery to become self reliant.

Sovereign Gold Bonds, 2015-16, Operational Guidelines

Operational guidelines with regard to this scheme are given below:

1. Application

Application forms from investors will be received at branches during normal banking hours from November 5 to 20, 2015. Relevant additional details may be obtained from the applicants, where necessary. Receiving offices need to ensure that the application is complete in all respects.

2. Joint holding and nomination

Multiple joint holders and nominees (of first holder) are permitted. Necessary details may be obtained from the applicants as per practice.

3. Interest on application money

Applicants will be paid interest at prevailing savings bank rate from the date of realization of payment to the settlement date, i.e. the period for which they are out of funds. In case the applicant's bank account is not with the receiving bank, the interest has to be credited by electronic fund transfer to the account details provided by the applicant.

4. Cancellation

Cancellation of application is permitted till the closure of the issue, i.e., November 20, 2015. Part cancellation of submitted request for purchase of gold bonds is

not permitted. No interest on application money needs to be paid if the application is cancelled.

5. Lien marking

As the bonds are government securities, lien marking, etc. will be as per the extant legal provisions of Government Securities Act, 2006 and rules framed there under.

6. Agency arrangement

Scheduled commercial banks may engage NBFCs, NSC agents and others to collect application forms on their behalf. Banks may enter into arrangements or tie-ups with such entities.

7. Processing through RBI's e-kuber system

Sovereign Gold Bonds will be available for subscription at the branches of scheduled commercial banks and designated post offices through RBI's e-kuber system. The e-kuber system can be accessed either through Infinet or Internet. The receiving offices need to enter the data or carry out bulk upload for the subscriptions received by them. An immediate confirmation will be provided to them for receipt of application. In addition, a confirmation scroll will be provided for file uploads to enable the receiving offices to update their database. On the date of allotment, i.e., November 26, 2015, Holding

Certificates will be generated for all the subscriptions. The receiving offices can download the same and take printouts. The Holding Certificates will also be sent through e-mail to the investors who have provided their email address. For the investors who have specified their demat account details, the securities will be credited in their demat accounts on the allotment date.

8. Printing of holding certificate

Holding Certificate needs to be printed in colour on A4 size 100 GSM paper.

9. Servicing and follow up

Receiving offices, i.e. branches of the scheduled commercial banks and designated post offices will "own" the customer and provide necessary services with regards to this bond e.g. update contact details, receive requests for premature encashment, etc. Receiving offices will be required to preserve applications till the bonds are matured and are repaid.

10. Contact details

Any queries/clarifications may be e-mailed to the following:

- | | |
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| (a) | Sovereign Gold Bond related:
cgmidmd@rbiorg.in |
| (b) | IT related: CBOT@rbiorg.in |