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LATEST IN LEGAL ARENA

November 19, 2016

Notification of Sections of the Insolvency and Bankruptcy Code, 2016

The Central Government in exercise of the powers conferred by sub-section (3) of section 1 of the Insolvency and Bankruptcy Code, 2016, has notified sections 199 to 207, clause (c) of sub-section (1) of section 208, clause (e) of sub-section (1) of section 208, sub-section (2) of section 208, sections 217 to 220, section 251, section 253, section 254 and section 255. These sections have come into force on 15.11.2016.

Amendment of Schedule II to the Companies Act, 2013

The Central Government in exercise of the power conferred by sub-section (1) of section 467 of the Companies Act, 2013 has further amended Schedule II to the said Act. Schedule II deals with the provisions governing charge of depreciation. The Companies Act, 2013 requires companies to compute the depreciation in accordance with the Schedule II which provides useful lives to compute the depreciation.

This notification is applicable for accounting period commencing on or after 01.04.2016.

Designation of Special Court

The Central Government, with the concurrence of the Chief Justice of the High Court of Meghalaya has designated the Court of District and Sessions Judge, Shillong as the Special Court having the jurisdiction in State of Meghalaya for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013.

Ingredients of Dowry Death has to be proved beyond reasonable doubt to invoke presumption: Supreme Court

The Supreme Court in a recent Judgment has reiterated that one of the essential ingredients of dowry death under Section 304B of the Penal Code is that the accused must have subjected the woman to cruelty in connection with demand for dowry soon before her death and that this ingredient has to be proved by the prosecution beyond reasonable doubt and only then the court will presume that the accused has committed the offence of dowry death under Section 113B of the Indian Evidence Act, 1872.

reasonable doubt.

The Court did not consider two per-incuriam judgments, *Sher Singh @ Partapa v. State of Haryana dated 09.01.2015* and *Ramakant Mishra @ Lahu*, which held that prosecution can discharge the initial burden to prove the ingredients of section 304B even by preponderance of probabilities and the accused has to prove his defence beyond reasonable doubt.

Definition of Bank expanded

The Ministry of Finance, Department of Economic Affairs vide notification has amended the definition of bank in sub-paragraph (1) of paragraph 1, which earlier read “banking company defined under the Banking Regulation Act, 1949 (10 of 1949)”, to “banking company, co-operative bank, corresponding new bank, subsidiary bank, regional rural bank and the State Bank of India as defined under the Banking Regulation Act, 1949 (10 of 1949) (hereinafter referred to as ‘banking company’ or ‘bank’).” Also, paragraph 2, which was earlier read as “public sector banks, private sector banks, foreign banks, Regional Rural Banks, Urban Cooperative Banks and State Co-operative Banks” now reads “bank referred to in sub-paragraph (1) of paragraph 1”.

The said notification amends the provisions of Part II, Section 3, sub-section (ii) of the notification of the Government of India, Ministry of Finance, Department of Economic Affairs, published vide number S.O. 3407 (E), dated the 8th November, 2016.

Subsequent bequest in will is void if absolute bequest has been made in the same will

The Supreme Court in a recent Judgment has reiterated that in law the position is that where an absolute bequest has been made in respect of certain property to certain persons, then a subsequent bequest made qua the same property later in the same will to other persons will be of no effect. Before the Court it was argued that, the Will should be read as a whole and that the testator's intention should be given effect so that the grand children are "not on the road" as is argued by counsel for the Respondents.

Perusing the contents of the Will under question, the court observed that there are no words of limitation used in it and it could not be said that the bequeath is only a limited interest in favour of the widow and the elder daughter.

For any clarification or delineation, feel free to contact us.



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