



Elements of

MERCANTILE LAW

N. D. Kapoor



SULTAN CHAND & SONS

ELEMENTS OF
MERCANTILE LAW



Scheme of the Book

The Book has been divided into Three Volumes :

Volume One consists of Four Parts. *Part One* attempts to explain the general principles of the 'Law of Contract' and provides a background against which the Special Contract dealt with in Part Two can be seen in a clearer perspective. *Part Two* deals with some 'Special Contracts'. *Part Three* is concerned with 'Law of Insolvency'. *Part Four* deals with 'The Consumer Protection Act, 1986'; 'The Foreign Exchange Management Act, 1999'; 'The Information Technology Act, 2000', 'The Competition Act, 2000' and Amended in 2002 and a New Chapter on 'Goods & Services Tax (GST)'.

Volume Two deals with Company Law as amended upto 2019.

Volume Three deals with Industrial Law and has Seven Parts. *Part One* deals with 'Working Conditions'. *Part Two* deals with 'Social Security'. *Part Three* deals with 'Disputes'. *Part Four* deals with 'Standing Order', *Part Five* deals with 'Workers' Organisations', *Part Six* deals with 'Bonus' and *Part Seven* deals with 'Miscellaneous'.

Each Chapter in Volume One is followed by a summary of the important provisions, Test Questions and Practical Problems (with Hints and Solutions). In Volumes Two and Three, only Test Questions and Practical Problems (with Hints and Solutions) have been given at the end of each chapter.

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For students preparing for different examinations, the following special editions of *Elements of Mercantile Law* have been prepared with the twin objective of (a) lowering the price, and (b) including in a special edition of a book only the precise portions which are required for the particular course:

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ELEMENTS OF **MERCANTILE LAW**

Including Company Law and Industrial Law

*[For B.Com. and B.B.M. Courses of all Indian Universities, M.B.A. and
I.A.S. Examinations and other Professional Courses]*

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Preface

To the Thirty-eighth Edition

We have great pleasure in presenting the 38th Revised and Enlarged Edition of the book entitled “*Elements of Mercantile Law*” to our esteemed readers. The new edition, like its predecessors, attempts to present the basic principles of Mercantile Law, Company Law and Industrial Law in a way that makes the subject easily intelligible even to a non-specialist. This object has been achieved by –

- (a) explaining the subject with the help of 496 illustrative cases and they have been highlighted by using different type face to make it more reader friendly and easily assimilated by the reader;
- (b) showing how law is derived from Statutes and Decided Cases and how the Principles of Law are applied to the problems which arise in day-to-day life and in the conduct of business;
- (c) giving a summary of important provisions at the end of each chapter in Volume One so that the reader can recapitulate what he has learnt; and
- (d) giving 815 Test Questions and 779 Practical Problems (with Hints and Solutions) with the idea of testing the depth of knowledge of the reader, basic understanding of concepts and his ability to apply whatever he has learnt to a particular situation or problem.

The Book explodes the myth that law is a difficult and dry subject. Even a lay or general reader who wishes to know the broad principles of Mercantile Law will find the discussion interesting and lively. Care has been taken to see that the reader at the primary stage of his study does not find himself lost in the quagmire of legal jargon and in the niceties of legal concepts and interpretations.

The salient features of the present edition are as follows:

1. A new chapter on ‘Goods and Services Tax (GST)’ has been included in this edition. In order to bring uniformity in Tax rates and to simplify the tax mechanism, Central Government rolled out Goods and Services Tax (GST) from 1st July, 2017. GST is considered to be a path breaking and biggest tax reform since independence. It is a single indirect tax levied on the supply of goods and services for the entire country, which has made India a unified common market, “One Nation-One Market-One Tax”.
2. ‘The Insolvency and Bankruptcy Code, 2016’ is the Bankruptcy Law of India. The Insolvency and Bankruptcy Code Bill, 2015 was introduced in Lok Sabha on 21st December, 2015 and by Rajya Sabha on 11th May, 2016. The Code received the assent of the President of India on 28th May, 2016.
3. A chapter on ‘Limited Liability Partnership’ popularly known as LLP has been added in the present edition. LLP combines the advantage of both the Company and Partnership into a single form of

organization. The Limited Liability Partnership Act, 2008 was published in Official *Gazette* of India on 9th January, 2009 and has been notified with effect from 31st March, 2009.

4. Volume II of the book on Company Law with Schedules has been thoroughly updated and amended upto 2019.
 - Amendment of Section 2 in clause (41); 12 (Insertion of sub-section 9); 14 [sub-section (1) and (2)]; 26 [in Sub-sections (4), (5) & (6)]; 29; 35 in sub-section (2) in clause (c); 53 for sub-section (3); 64 for sub-section (2); 77 in sub-section (1), in clause (a) and clause (b); 86 sub-section (1) & namely-sub-section (2); 90 sub-section (4), (4A), (9), (9A) and (11); 92 sub-section (5); 105 sub-section (3); 117 for sub-section (2); 121 sub-section (3); 132 sub-section (1) following sub-section is inserted namely (1A), (3), (3A), (3B) and (4) in clause (c) for sub-clause (B); 135 sub-section (5), (6), (7) & (8); 137; 140 for sub-section (3); 157 for sub-section (2); 164 sub-section (1), after clause (h); 165 sub-section (6); 191 sub-section (5); 197 sub-section (15); 203 in sub-section (5); 212 sub-sections (8), (9) and (10), after sub-section (14) sub-section (14A) shall be inserted; 238 in sub-section (3); 241 in sub-section (2), after sub-section (2), (3), (4) and (5) shall be inserted; 242 after sub-section (4) sub-section (4A) shall be inserted; 243 sub-section (1) sub-sections (1A) and (1B) are inserted, (b) in sub-section (2); 248 in sub-section (1) in clause (c) and after clause (c); 272 in sub-section (3); 398 in sub-section (1) in clause (f); 441 in sub-section (1), in clause (b), for sub-section (6); 446B; 447 in the provision, for the words “twenty lakh rupees”, the words “fifty lakh rupees” shall be substituted; 454 in sub-sections (3), (4) and (8) in clause (i) in clause (ii) have been amended.
 - Insertion of new Sections 10A; 454 A – (Penalty for repeated default) has been inserted.
 - Substitution of new Section for Section 159 – (Penalty for default of certain provisions).
5. To improve the grasp and understanding of the subject-matter, more questions like – 526 Objective Type (Multiple Choice, Fill in the Blank, True and False) have been updated.
6. New Typography of the book makes the book strain-free and reader friendly.
7. A comprehensive “Subject Index” adds to the value of book facilitating readers to easily search the topic of his / her interest.

We acknowledge with gratitude the help received from scholars, friends and well-wishers at the various stages of preparation of this Revised Edition. Suggestions are invited to further improve the book. Kindly share your views at info@sultanchandandsons.com

Editorial Team

Sultan Chand & Sons

To the First Edition

The chief aim in writing this Book is to present the fundamental principles of Mercantile Law, Company Law and Industrial Law in a simple and easily intelligible manner. The intricate points of law have been illustrated by examples, and the subject has been dealt with by topics rather than in the strict order of Sections in the various Acts. This has been done to avoid cross-referencing to enable the students to grasp each aspect of the subject thoroughly.

The Book is unusual in simplicity with which the various topics have been dealt with. At the same time, the treatment of the subject is both comprehensive and easy to follow.

The subject has been discussed in the light of Statute law and *ratio decidendi*. At places, reference has also been made to English Law which is the most important source of Indian Mercantile Law.

February 13, 1967

N.D. KAPOOR



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