



## Previous Year Paper

### HARYANA CIVIL SERVICE JUDICIAL MAINS EXAM 2007

#### PAPER I CIVIL LAW PART A

Q.1. S, an owner of a premises, situated in Mohali, where Rent Act does not apply, filed a suit for ejectment for possession of his premises against A and B. S alleges that A, his tenant, had sublet the premises to B illegally. In the protracted trial, all the defences of B, who claimed to be the owner himself on the basis of an agreement to sell dated 23.6.1990 allegedly having been executed by S in favour of his deceased father M, were found to be false. The alleged agreement to sell has been declared to be forged and fabricated document. The suit succeeds in favour of S and a decree for ejectment is passed against A and B jointly and severally. B's appeal, second appeal and even SLP against the order are dismissed right up to the Apex Court.

In the light of the above, answer the following:

(a) The trial of the suit had been transferred to Chandigarh from Mohali by the High Court at B's behest. The execution proceedings have been filed at Chandigarh and objections of B were dismissed by the executing court. Now should S continue proceedings at Chandigarh or not? Also what should be the remedy of S for expeditious conclusion of the execution proceedings without unwarranted obstruction or resistance of B?

(b) P, the mother of B, meanwhile files an independent suit against S, all of a sudden, claiming in the plaint that her husband M had in fact entered into an agreement to sell with S on 23.6.1990. The decree obtained by S against B should be declared null and void. She claimed to be in possession of the premises in question along with her son B. Therefore, her possession should not be disturbed by S with the help of the aforesaid fraudulent decree in which S failed to implead her. Discuss the maintainability of P's case in the light of section 11 of CPC. Also advise S as to whether any extraordinary remedies are available to him for getting P's suit dismissed or stayed or finished without a protracted trial.





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Q.2. (a) A and B get married at Panchkula. Thereafter, they got work permit and shifted to Atlanta in the USA. A daughter C was born to them in Atlanta within one year of their stay there. Shortly thereafter, A finds his wife to be having illicit relations with their countryman Z, who holds green card in the USA. B gets pregnant through Z. When A finds out all this, she aborts the child. By now, A has ample evidence of B's misdemeanor. Thereafter, A comes back to India with C who is three year old now. A filed a suit for being appointed the guardian of C before the Guardian Judge, Panchkula. Mean-while, having learnt that A has fled with her daughter to India, B filed a criminal case against A in the USA and obtained arrest warrants against him B also files a custody petition in the USA wherein the court grants an ex-parte decree in her favour. B comes to Panchkula and applies for the execution of the ex-parte custody decree in the court of Civil Judge, Senior Division, Panchkula. B also raises the said decree in defence to guardian proceedings initiated by A.

In the light of this fact situation, answer the following:

(a) Discuss the objections that A can take to the execution petition of B. In how many ways can A challenge the said decree?

(b) Discuss the defence of B in guardian proceedings. Can the USA court decree entitle her to defeat the guardian court proceedings in the light of her conduct?

Q.3. (a) Under what circumstances can a person file suit for getting back possession of immovable property from which he has been dispossessed?

X was in possession of a house belonging to Y. Y dispossessed X from the house. X files suit for possession under the Specific Relief Act claiming that he was a tenant in the house. Y pleads that X was merely a licensee under a license deed. Y further contends that he had a right to revoke the license at any time. Y claims that he revoked the license and dispossessed X. Decide.

(b) List out the persons in whose favour specific performance cannot be enforced under the Specific Relief Act, section 16.

(c) Discuss the exceptions to the rule of 'caveat emptor under the Sale of Goods Act.

(d) Ram Lal and Shyam Singh carried on the business of vegetable oil in partnership under the name and style of 'Rising Sun'. The partnership was dissolved but Ram Lal continued to carry on business under the same name. Ram Lal, using an earlier letterhead of the firm bearing names of both partners, placed an order for the purchase of vegetable oil to company 'Dalda'. 'Dalda' initiated proceedings against Shyam Singh for recovery of the price of vegetable oil. Decide.

Q.4. (a) (i) Under what circumstances can a Court attach the property or part thereof the defendant under the relevant provisions of CPC?



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(ii) Identify the tests to be applied for granting temporary injunction to preserve status quo under the relevant provision of CPC.

(b) What is meant by 'concluded contract'? Can the rule of 'promissory estoppel' apply to a concluded, contract?

Bank P launched a scheme to grant house loan upto Rs. 4 lacs. R applied for the loan in accordance with the scheme but finally settled for the loan of Rs. 3 lacs. R completed all the formalities and executed contract with the Bank. Bank declined R's request. On refusal to pay the original loan, the Bank filed recovery suit. R pleaded that he is not bound by the contract as the Bank had failed to fulfil its commitments as per the scheme. Will R succeed?

Q.5. (a) What is meant by 'frustration of contract'? What are the prerequisites for excusing parties from performing the contract on the ground of frustration?

X contracts to sell 7 acres of land to Y for Rs. 7 lacs. Y pays Rs. 2 lacs as advance money. Subsequently, X refused to comply with the contract on the ground that out of these 7 acres of land 2 acres belonged to his brothers and the contract has become impossible to be fulfilled. Decide.

(b) "The relationship of principal and agent is a fiduciary relationship." In the light of this statement, explain the concept of agency pointing out the difference, if any, between an agent and a trustee.


Life Insurance Corporation (LIC) launched a salary saving insurance scheme for employees wherein the employer was to deduct the premium from the salary of the employees and deposit the same to LIC at concessional rates. Employer X got the scheme for his 200 employees. Subsequently, because of losses, X failed to give salary to his employees and also did not deposit the premium on their behalf. LIC consequently refused to pay the assured amount to those employees who asked for it. These employees claimed that X was the agent of LIC for their scheme. LIC must pay the assured amount. Will the employees succeed?


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## PAPER II CIVIL LAW

- Q.1. (a) Discuss the desirability of expressly introducing irretrievable break-down of marriage as a ground of divorce. Critically examine how will it help in the resolution of marriage conflict problems? Illustrate your answer in the light of the judicially decided cases.  
(b) Write short critical notes on the following:  
(i) Compulsory registration of marriages.  
(ii) Consequence of solemnization of marriage between two Hindus in violation of provisions of section 7 of the Hindu Marriage Act, 1955.  
(iii) Concept of partition under Mitakshara Hindu Law.  
(iv) Doctrine of Antecedent Debt under modern Hindu Law.
- Q. 2. (a) Critically examine the impact of the Hindu Succession (Amendment) Act, 2005 on the Mitakshara concept of coparcenary.  
(b) Apparently, there is a conflict between sub-section (1) and sub-section (2) of section 14 of the Hindu Succession Act, 1956. How would you like to resolve this seeming conflict in the light of relevant case-law?
- Q.3. (a) Discuss if a Hindu widow can adopt a son to her deceased husband in the light of the relevant provisions of the Hindu Adoptions and Maintenance Act, 1956 and the decisions of the Apex Court  
(b) Can a mother be the natural guardian in the presence of non-caring father under the provisions of Hindu Minority and Guardianship Act, 1956?  
(c) Bring out the significance of the right of Hizanat under Muslim law. Is this right absolute?  
(d) How the concept of marriage under Muslim law is different from that of under modern Hindu Law?  
(e) Distinguish the concept of 'legitimacy' under Muslim law from the concept of 'Legitimation' under modern Hindu law.
- Q.4. (a) Applicability of section 125 of Cr. P.C. to Muslims after the enactment of Muslim Women (Protection of Rights on Divorce) Act, 1986.  
(b) A Muslim, who died leaving behind her husband, made a Will of her entire property in favour of her friend "F". What is the maximum share to which 'T' is entitled to under Muslim law?  
(c) A Muslim made a Will of his properties in favour of his two friends 'Y' and 'Z' by stipulating that the former would get 12 and the latter 14 of his property. His heirs did not approve of the Will.





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Determine the respective shares to which each would be entitled under the Sunni law and Shia law.

(d) Delineate the characteristic features of Wakf under Muslim law.

(e) A maternal grandfather made a gift in favour of his newly born grand child. The mother of the child accepted the gift on behalf of the minor. State the circumstances under which this gift is valid under Muslim law.

- Q.5. (a) 'Custom is a question of fact and not of inferences'. Comment.
- (b) 'Law of limitation simply bars judicial remedy. It neither affects extra-judicial remedies nor the substantive right itself.' Comment.
- (c) Discuss if a deed of dower by a Muslim husband in favour of his wife transferring to her immovable property of the value of Rs. 10,000 in lieu of satisfaction of the dower debt due to her required registration under the relevant provisions of the Registration Act.
- (d) Discuss the functional difference between void and voidable marriages.
- (e) Discuss whether the ground stipulated under section 13B of the Hindu Marriage Act is truly a ground of divorce by mutual consent.

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## PAPER III

### CRIMINAL LAW

- Q.1. (a) Define the term 'Culpable Homicide Amounting to Murder. Do you agree with the view that culpable homicide shall not be considered as murder if the offender, in the exercise in good faith of the right of his private defence, exceeds right and causes the death of the person against whom he is exercising such right of defence?
- (b) A and B were both security guards posted outside the home of a senior army officer Mr. X. They often used to exchange hot words with each other in one context or the other. On the day of Deepawali, both of them had a verbal exchange due to the fact that both wanted to go home early for the festival. That led to altercation between the two. Both of them instantaneously aimed their revolvers at each other respectively. C, who was also on duty with them intervened and pacified both of them. Both lowered their weapons respectively. The moment B noted that A had lowered his revolver, he immediately fired A and killed him. On being tried, B was awarded death sentence. However, on appeal, the High Court acquitted B on the plea of self-defence. The State intends to go in for appeal against the decision of the High Court. Please advise in the light of the case-law on the subject?
- Q.2. (a) What are the various provisions laid down in the Code of Criminal Procedure, 1973 with regard to the registration of First Information Report (FIR) and the powers of the Police to investigate on that basis?
- (b) Rita was working as an assistant supervisor in a garment manufacturing factory at Bhuvaneshwar. One day late evening in the month of December 2006, her supervisor Mr. R.K. Khanna called her in his office and raped her. After a few days, she was again raped by Mr. Khanna. Due to the fear of losing the job, she did not disclose the incident to anybody in the family. However, about four months, when she learnt that she was pregnant, she disclosed it to her mother who took her to the Police Station. Mr. Khanna was arrested, challaned under sections 376 and 506 of the Indian Penal Code, 1860. The trial court found the accused guilty and convicted him. The High Court, however, reversed the decision and acquitted him on the ground of delay in lodging the First Information Report. The state is to go in appeal against the aforesaid decision. Please advise. Support your answer with the suitable case-law?
- (c) (i) Can an anonymous telephonic message, that is first in point of time but does not clearly specify a cognizable offence having been committed be treated as the First Information Report?





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- (ii) Can a police officer refuse to register a First Information Report on the ground that the said Police Station does not have territorial jurisdiction over the place of crime?
- (iii) Is the First Information Report a substantive piece of evidence or can it only be used to corroborate the statement of the maker?
- (iv) Is mandatory that the names of all witnesses be mentioned in the First Information Report?

**Q.3. (a) What do you mean by the term 'Circumstantial Evidence? Do you agree with the view that "when there is no direct evidence of any crime, conviction can be based on the circumstantial evidence alone, provided the court weighs all circumstances relating to a particular crime as in integrated whole and that any missing link could be fatal to the prosecution case"? Please highlight some of the prominent observations made by the Supreme Court of India on the subject of circumstantial evidence in some of the leading pronouncements.**

**(b) Ranjit Kumar was charged with the murder of the deceased Amritpal. There was no eye-witness to the gruesome murder committed by Ranjit Kumar. However, there were a few points that came for consideration before the trial court. These were:**

- (i) A few days before the killing of Amritpal, Ranjit Kumar had allegedly threatened him;
- (ii) A cartridge was found near the cot of the deceased Amritpal;
- (iii) A pistol was recovered from his house; and
- (iv) The fire-arm expert gave his opinion that the cartridge found near the cot of the dead body was fired from the pistol produced by the accused. Do you think the above circumstances are adequate enough to convict the accused Ranjit Kumar? If yes, why; if not, why not. Please support your answer with suitable examples from the decided case-law.

**Q.4. Write brief notes on any four of the following:**

- (a) Statements under section 164 Cr. P.C., their admissibility and value.
- (b) Approvers and accomplices
- (c) The manner in which statements under section 161 of Cr. P.C. can be used in criminal trial by prosecution, defence and the court.
- (d) Leading questions
- (e) Confessions
- (f) Case Diaries.

**Q. 5 (a) "A dying declaration is a statement made by a person who is dead; also to cause of his death or as to any circumstances of the transaction which resulted in his death, in case in which his death comes into questions, such statements**



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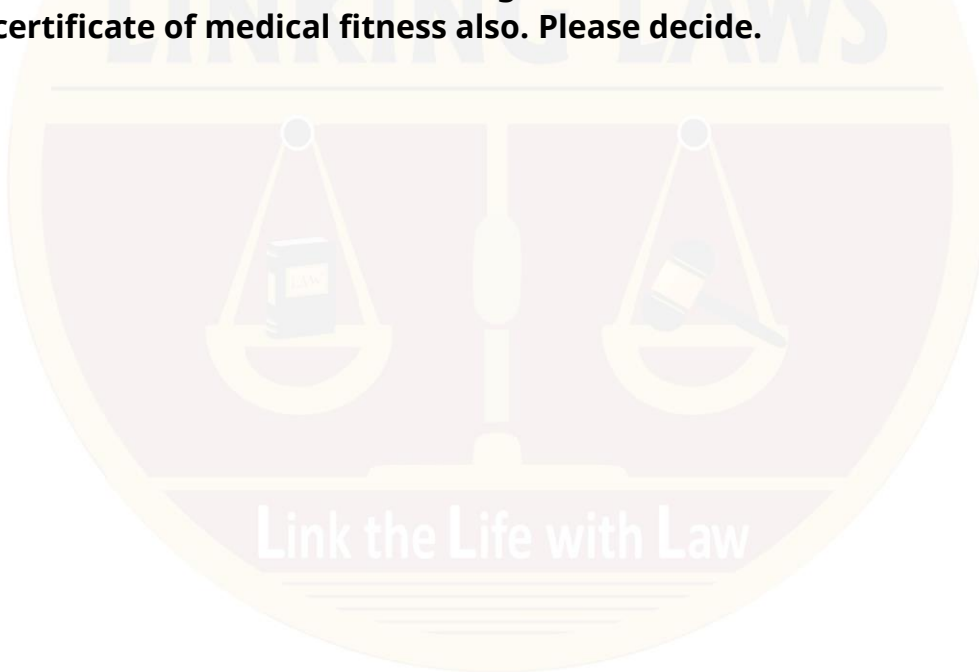
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are relevant under section 32 of the Indian Evidence Act, 1872, whether the person who made these was or was not, at the time when they were made, under expectation of death and whatever may be the nature of proceeding in which the cause of his death comes into question. Elucidate.

(b) Ranjit, Suraj and Naseem were classmates and were staying in the Bangalore University Hostel. One day they had an argument on a trivial matter. Both Ranjit and Suraj attacked Naseem with iron rods that were lying outside their hostel room as the construction work was going on the campus. Naseem fell down and when some fellow students took him to the nearby Anand Nursing Home in an unconscious state. He was immediately taken to the operation theatre and was operated upon. On being informed, the local police reached the nursing home. Before Naseem succumbed to his injuries, his statement was recorded. However, when the case was committed for trial, the dying declaration of Naseem was the major evidence against Ranjit and Suraj. Their counsel, however, pleaded for their acquittal on the ground that the aforesaid dying declaration was supposed to have been taken by the Investigating Officer, when Naseem was still under the general anaesthesia and that there was no certificate of medical fitness also. Please decide.



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