

HARYANA CIVIL SERVICE JUDICIAL EXAMINATION, 2000

Paper I Civil Law

Time: 3 hrs.

Max. Marks: 200

Note: Attempt any eight questions

Q. 1. (a) Discuss fully the conditions which are required to constitute a matter res-judicata and comment upon the following statement. "A verdict against a man suing in one capacity will not stop him when he sues in another distinct capacity".

(b) 'A' files a suit for declaration that he is entitled to certain lands as heir to 'B'. The suit is dismissed. Can he claim in later suit title to the same properties on the basis of adverse possession?

(c) A Munsif decided in a maintenance suit that the husband had abandoned his wife and therefore, the later was entitled to maintenance. Does the subsequent petition filed by the husband for Judicial separation under Section 10 of the Hindu Marriage Act, 1955 operate as res-judicata? Give reasons for your answer.

Q. 2. (a) What is an 'inter-pleader suit'? When and by whom can it be instituted?

(b) When can temporary injunction be granted by a Civil Court?

(c) In what circumstances can the property of defendant be attached before Judgement?

(d) What is the procedure prescribed for suit by or against a firm?

Q. 3. (a) What facts are essential in a notice under Section 80 of Civil Procedure Code? What be the effect upon suit against the Central Government, the State Governments or their officers if the said notice is not given?

(b) What is a representative suit? By whom and under what circumstances can such a suit be filed?

(70)

(c) When can an auction sale of immovable property in execution of a decree be set aside? Who can get it set aside?

(d) State the provisions which govern the determination of the place of suing.

Q. 4. Explain and illustrate the following:

(a) 'Silence may sometime amount to an admission'.

(b) 'No confession made to a police officer is admissible'.

(c) 'Oral evidence must in all cases be direct!.

(d) Facts though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

(e) 'What is in writing shall only be proved by the writing'?

Q. 5. (a) Discuss fully the evidentiary value of retracted confession. Illustrate your answer.

(b) When are the opinions of experts relevant? What is their evidentiary value? Discuss.

(c) What is 'dying declaration'? Can an accused be convicted on the basis of dying declaration alone? Cite case law.

(d) How is the disputed handwriting of a person proved? Examine admissibility of the evidence of a handwriting expert.

(e) Explain 'Secondary evidence'? Under what circumstances it is admissible?

Q. 6. (a) Explain the scope of examination in-chief, cross-examination and re-examination under the Indian Evidence Act. State briefly their objects.

(b) What is confession? Distinguish between Judicial and extra-Judicial Confession.

(c) Distinguish between Latent and Patent ambiguities. Give examples of such ambiguities.

(d) Hearsay evidence is no evidence. Explain and state the exceptions.

Q. 7. (a) Discuss the Doctrine of 'Consideration' under the Indian Contract Act.

(b) 'A' made a contract in the month of June 1985 with 'B' for supplying a machine for Twenty Thousand Rupees by December 1985. The company which manufactured such machine temporarily stopped the production in the month of November 1985 but the machine available in black in market for Sixty Thousand Rupees. Can 'A' rescind this contract? Explain.

(c) What are the liabilities of a surety under the Indian Contract Act? When is the liability of a surety discharged?

Q. 8. (a) Explain "Free Consent" according to the Indian Contract Act.

(b) Explain the doctrine of frustration or impossibility citing three illustrations.

(c) Explain clearly the essential elements of "Wagering Contract". How is it different from speculative transaction? Explain with illustrations. Are both of these valid under the law of contract?

Q. 9. (a) What principles have been incorporated in the Indian Contract Act for determining the amount of damages to be awarded in the event of breach of contract? Discuss in the light of decided cases.

(b) All contracts are agreements, but all agreements are not contracts. What conditions have been laid down in the Indian Contract Act for an agreement to become a contract?

(c) 'A' owes Rs. 2,000/- to 'B' but the debt is barred by Limitation Act, 'A' signs a written promise to pay 'B' Rs. 1,000/- on account of debt. Is it a valid contract? Refer relevant provision of the Contract Act.

Q. 10. (a) "The relation of Partnership arises from Contract and not from status", Elaborate. How does Partnership differ from Joint Hindu Family?

(b) Examine the rights of the partners in the Contract of Partnership

(c) Write short notes on the following:—

(i) Compulsory dissolution of the firm,

(ii) Rights of an out going partner.

Q. 11. (a) Enumerate the essentials of a contract of sale. How does contract of sale differ from agreement to sell? Refer to decided cases.

(b) What are the effects of goods perishing before sale but after agreement to sell?

(c) Distinguish between the following:—

(i) Sale and Hire purchase,

(ii) Sale and Barter.

Q. 12. (a) "The remedies for non-performance of duties are either compensatory or specific". Explain this statement briefly in the context of specific reliefs available under the Specific Relief Act.

(b) "Justice demands that a person wrongly dispossessed of property should recover it," Explain how Specific Relief Act is operating for this purpose.

(c) He who comes for equity must do equity. Comment giving illustrations with reference to Specific Relief Act.

Paper II Civil Law

Time: 3 hrs.

Max. Marks: 200

Note: Attempt any Five questions out of which Three questions must be from Part A and Two from Part B.

Part – A

Q. 1. (a) When does a Hindu Widow get absolute ownership of a property if the property is given to her as limited owner by virtue of an instrument like 'Will'? Illustrate with case law.

(b) Who will be heirs of a female Hindu if she inherits the property from her relations?

(c) A Hindu 'H' and his wife 'W' had a son 'S' and the daughter-in-law 'D'. 'H' died prior to 'W'. Son 'S' also died prior to 'W' Property of 'W' was claimed by her husband's brother's son who was already in possession of the said property. Can 'D' successfully claim the property of 'W' after the death of 'W'? Discuss with the case law.

Q. 2. (a) A divorced Muslim wife has in her custody children born out of wed lock before divorce. Can the children claim maintenance from her and if so, how long?

(b) Can a Muslim mother, who is not appointed guardian of minor's property, effect sales of minor's property for their benefit? Discuss with decided cases.

(c) A Muslim executes a deed in favour of his wife whereby he grants certain immovable property to her in lieu of her dower but possession is not delivered to her. What is the nature and validity of this transaction?

Q. 3. (a) What are the powers of a "Karta" in Hindu joint family? Discuss in detail.

(b) Can "Karta" refer disputes to arbitration and if referred, are other family members bound by the Arbitral award?

(c) A, B and C are members of a Joint Hindu family. A and B are the managing members. A and B borrow money from P for the Joint family. Since they failed to repay in time, P filed a suit which was decreed against A and B as managers. Discuss whether this decree can be executed against C's share in the co-parcenary property. Can "C" file a suit for partition and claim injunction against T' from executing the decree against his share?

Q. 4. (a) Discuss whether a Mitakshara Hindu can effect gift of his undivided interest.

(b) Explain what is DONATIO-MORTIS-CAUSA.

(c) Discuss rule against perpetuity with illustrations.

Q. 5. (a) Can a person belonging to scheduled tribe be tried for BIGAMY? Give reasons.

(b) What are the effects of the remarriage by a Hindu Widow on inheritance before and after the Hindu Succession Act?

Q. 6. (a) Can a Hindu woman after her divorce give her child in adoption without the consent of her divorced husband?

(b) Can a Hindu male after his divorce give his child in adoption without consent of his divorced wife?

(c) What are the effects of adoption on:—

(i) Right to remarriage?

(ii) Inheritance?

(iii) Obligation to maintenance?

Part – B

Q. 7. (a) What are the consequences of non-registration of a document which by law requires to be registered?

(b) Is a will required to be compulsorily registered? Discuss the effects of non-registration of a will.

(c) What are the duties and powers of the Registrar under Indian Registration Act?

Q. 8. (a) In computing period of limitation for filing appeal against judgement of the Lower Court specify the days which are not to be counted or excluded.

(b) Can the court adjudicate upon the Bar of limitation though the written statement does not raise that issue?

(c) Can the court extend period of limitation for filing suit if sufficient causes are shown? What are the limitations on powers of condonation of delay by courts?

Q. 9. (a) What is the effect of addition of a plaintiff or defendant in a pending suit upon the limitation for filing such suit?

(b) Describe what is an "acknowledgement" under the Limitation Act. What are the effects of "acknowledgement" on limitation? Discuss with illustrations.

Q. 10. (a) What are the pro-requisites of establishing "ADVERSE POSSESSION" in Hindu Law and Limitation Act?

(b) What are the duties of government officers with reference to section 5 of the Limitation Act in a suit, where the government is a party?

Paper III Criminal Law

Time: 3 hrs.

Max. Marks: 200

Note: Attempt any Eight questions.

Q. 1. (a) Explain and illustrate the difference between preparation to commit an offence and attempt to commit an offence.

(b) State if any offence has been committed in the following cases:

(i) A intending to murder B buys a gun and loads it.

- (ii) A intending to murder B fires a gun at B.
- (iii) A intending to murder B by poison purchases poison and mixes the same with food, which remains in A's possession.
- (iv) A serves the poisoned food to B with the knowledge of its being poisoned.
- (v) A woman, with intention of committing suicide runs towards a well, but there she was caught by a person.

Q. 2. (a) Discuss fully the essential elements of criminal misappropriation of property and distinguish between criminal misappropriation of property and criminal breach of trust.

(b) From the body of a dead man found floating in a river A, the policeman on duty recovered an identity card of the deceased, a costly wrist watch and a gold ring. He did not record in the recovery memo the last two items and pocketed them. What offence if any were committed by A? Answer with reasons.

Q. 3. Define and distinguish between the following:—

- (i) Kidnapping and abduction
- (ii) Wrongful restraint and wrongful confinement
- (iii) Hurt and grievous hurt
- (iv) Theft and Extortion

Q. 4. (a) An injury was caused to a person with his consent. Under what circumstances such consent might not be a legal defence to the person inflicting injury?

(b) What are the ingredients of the offence of Rape? Explain with illustrations.

Q. 5. (a) What is the mode of delivery of a Judgement? Can a Court alter a judgement after it has been delivered?

(b) Accused A fails to appear on the date of judgement. Should the Court deliver judgement:

- (i) if A is to be sentenced to imprisonment?
- (ii) if A had been granted exemption from personal attendance during trial?

Q. 6. (a) "For every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried

separately". Comment. Also state the exceptions to the above rule if any.

(b) What is the effect of errors in charge?

Q. 7. (a) Analyse the provisions about the grant of anticipatory bail. Can anticipatory bail be allowed in a murder case? If so, when?

(b) What is the difference between ordinary bail and anticipatory bail?

Q. 8. (a) What do you understand by summary trial? Describe the procedure for summary trial.

(b) Explain the jurisdiction and powers of the Court of Sessions and of the High Court in revision proceedings.

Q. 9. (a) What is estoppel? State different kinds of estoppel?

(b) A intentionally and falsely leads B to believe that certain land belongs to A and thereby induces B to buy and pay for it. The land afterwards becomes the property of A and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. Decide.

Q. 10. (a) "Hearsay evidence is not admissible". Explain. What are the exceptions to this general rule?

(b) Can a dumb person be a competent witness?

Q. 11. (a) When is a confession said to be caused by inducement, threat or promise? Why is it not admissible?

(b) Whether the FIR given to the incharge of the Police Station by the accused himself for the commission of a cognizable offence can be an admissible evidence against himself.

Q. 12. (a) What do you understand by Burden of proof? On whom does it lie and how does it shift?

(b) A has not been heard of for more than seven years. On whom burden of proof lies that A is alive?

English Composition

Time: 3 hrs.

Max. Marks: 200

1. Attempt an essay on any one of the following:—

- (a) The Independence of the Judiciary in Indian Democracy.

- (b) The glory and significance of the Cultural Diversity of India.
- (c) Modern Information Technology.
- (d) The uses of History.
- (e) Environment and Industrial Development.

Hindi

Time: 3 hrs

Max. Marks: 100

1. किसी एक विषय पर तीन सौ शब्दों में निबन्ध लिखिए:-

- (क) संविधान में संशोधन की उपादेयता।
- (ख) अन्तर्राष्ट्रीय महिला वर्ष।
- (ग) भारत की विदेश नीति।
- (घ) अनिवार्य सैनिक शिक्षा।
- (ङ) विज्ञान के क्षेत्र में भारत के बढ़ते चरण।
- (च) संगणक यंत्र।

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2. किन्हीं पाँच शब्दों के विपरीतार्थक शब्द लिखिए:-

- | | |
|-------------|------------|
| 1. उत्तीर्ण | 2. आयात |
| 3. आलोक | 4. प्राचीन |
| 5. साम्य | 6. वाचाल |
| 7. मधुर | 8. कृत्रिम |

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3. किन्हीं पाँच वाक्यांशों के लिए समानार्थक एक-एक शब्द लिखिए:-

- (क) जो सब में व्याप्त है
- (ख) जो दूसरों का उपकार करता है
- (ग) जो बोल नहीं सकता है
- (घ) जो देखने में प्रिय लगता है
- (ङ) जिसके चार मुख हैं
- (च) जो सदा के लिए जीवित रहता है

- (छ) जिसकी आत्मा महान है

- (झ) जो यश से युक्त हो

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4. निम्नलिखित में से किसी पाँच के अर्थ लिखकर उनका वाक्यों में प्रयोग कीजिए-

- (क) जान हथेली में लेकर चलना
- (ख) गले का हार होना
- (ग) पीठ थपथपाना
- (घ) बेडा पार होना
- (ङ) डूबते को तिनके का सहारा
- (च) नाच न जाने आंगन टेढ़ा
- (छ) गंगा गये गंगाराम जमुना गए जमुनाराम
- (ज) होनहार विरवान के होते चिकते पात

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5. निम्नलिखित में से किन्हीं पाँच को शुद्ध करके लिखिए:-

- (क) हनुमानजी सीता का पता लगाया।
- (ख) चंडीगढ़ तीन राज्यों का राजधानी है।
- (ग) पंतजी प्रकृति की सुषमता से परभावित हैं।
- (घ) कलकत्ता में मैंने दुर्गा देवी का दर्शन किया।
- (ङ) बंदर का एक पूंछ होता है।
- (च) राम ने सीता को गाती हुई देखी।
- (छ) यहाँ सदा के हेतु रहने कौन आये है?
- (ज) जीवन के माने त्याग है।

6. नीचे दिए पद्यांश और गद्यांश की सरल हिन्दी में व्याख्या कीजिए:-

- (क) भव में नव वैभव व्याप्त करने आया,
नर को ईश्वरता प्राप्त कराने आया।
सन्देश यही मैं नहीं स्वर्ग का लाया,
इस भूतल को ही स्वर्ग बनाने आया।

अथवा आकर्षण पुण्यभूमि का ऐसा,
अवतरित हुआ मैं, आप उच्च फल जैसा।
जो नाम मात्र ही स्मरण मदीय करेंगे,
वे भी भवसागर बिना प्रयास तरंगेंगे।

अथवा

श्रेय होगा मनुज का समता-विधायक ज्ञान,
स्नेह-सिंचित न्याय पर नव विश्व का निर्माण।
एक नर में अन्य का निःशंक, दृढ़ विश्वास,
धर्मदीप्त मनुष्य का उज्ज्वल नया इतिहास
समर, शोषण, हास की विरुदाली से हीन,
पृष्ठ जिसका एक भी होगा न दग्ध, मलीन।
मनुज का इतिहास, जो होगा सुधामय कोश,
छलकता होगा सभी नर का जहाँ संतोष।

(ख) किसी ने कहा प्रेम आरोग्य का मूल कारण है—जो परमात्मा से हमारा मेल कराता है, तो किसी ने इसे जीवन का सबसे बड़ा आनंद माना। किसी ने इसे स्वर्गीय शक्ति का जादू माना, किसी ने इसे इस लोक का अमृत माना, किसी ने इसे मधु माना, किसी ने इसे वसंत समीर माना, किसी ने इसे चंद्रकिरण माना, किसी ने इसे धनुष की डोरी माना, किसी ने आग का दरिया माना, किसी ने इसे भगवान का सर्वश्रेष्ठ वरदान माना, किसी ने इसे मान-हृदय पर शासन करने का सर्वाधिक सशक्त उपकरण माना, किसी ने इसे आत्मविस्तरण माना, किसी ने इसे आत्मत्याग माना। किसी ने इसे बीज माना, जिसका वृक्ष परमात्मा है, किसी ने कहा है कि प्रेम गंगोत्री मिल जाए, तो परमात्मा-दर्शनिकों के महासागर तक सुगमता से पहुँच जा सकता है।

अथवा

जो मनुष्य किसी कर्म के साथ युक्त नहीं, उसकी बुद्धि काम नहीं करती। ख कार्लाइल ने ठीक ही कहा था कि जिस मनुष्य को काम मिल गया है, उसे किसी वरदान की आवश्यकता नहीं, उसका कर्मयोग ही उसके लिए विभु का सबसे बड़ा वरदान है। गोस्वामी तुलसीदास का कर्मयोग उनका रामयोग था,

जन्मभर इसी रामयोग की साधना वे करते रहे, राम के रूप में उन्होंने जीवन के बड़े से बड़े सत्य की उपलब्धि की। इसी प्रकार की बात हम गांधीजी के लिए भी कह सकते हैं। उनका कर्मयोग उनका सत्ययोग था और इसी सत्य की उपासना वे आजन्म करते रहे। महर्षि वाल्मीकि ने 'सत्यमेव वरो लोक धर्म : सत्ये सदाश्रितः' कहकर आस्था और दृढ़तापूर्वक सत्य को ही ईश्वर का रूप माना था। वर्तमान युग में महात्मा गाँधी ने भी सत्यरूपी ईश्वर की ही उपासना की थी।

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7. इस अंग्रेजी का हिन्दी में अनुवाद कीजिए:-

Public opinion formation is the very essence of democratic life. It has been well said that public opinion, once aroused, can move mountains. It can introduce social and economic changes at a rate hitherto unknown. Mass media of communication create an awareness in the citizen of his rights and privileges and the consciousness of his participation in the democratic process. Democracy grows through dissemination of information, discussion, expression of views, persuasion, argument and constructive criticism and for all this speedy communication is the most powerful vehicle. Mass media are the vital instrument of transmission of knowledge for political, social and economic action. Today, the strength of a democratic society depends, to a considerable extent on its free communication media.