Odisha Civil Judge (Main) Examination, 2016-17

PAPER – I : General English

Time Allowed: 2.5 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Answer all questions

1. Translate the following into English: [25]

ପ୍ରତ୍ୟେକ ଅଞ୍ଚଳକୁ ଏକ ଶକ୍ତିଶାଳୀ ଆର୍ଥିକ କେନ୍ଦ୍ର ସାଙ୍ଗରେ ଯୋଡ଼ି- ହୋଇ ରହିବାକୁ ପଡୁଛି । ଏହା ହେଉଛି ଆଧୁନିକ ବିକାଶ ପଦ୍ଧତିର ଆବଶ୍ୟକତା । ଆଧୁନିକ ଅର୍ଥଶାସ୍ତ୍ର ଏହି ବିକାଶ ପଦ୍ଧତି ସାଙ୍ଗରେ ଏତେବେଶୀ ଜଡ଼ିତ ଯେ, ଯେଉଁଠି ପ୍ରତିବ୍ୟକ୍ତି ପୁଞ୍ଜିର ପରିମାଣ ଯଥେଷ୍ଟ ନୁହେଁ, ଯେଉଁଠି ବହୁ ଅଞ୍ଚଳର କଞ୍ଚାମାଲ ଓ ବଜାର ଉପରେ ନିୟନ୍ତ୍ରଣ ନାହିଁ, ସେଇଠି ଗୋଟିଏ ଅର୍ଥବ୍ୟବସ୍ଥା ହୋଇପାରେ ବୋଲି ଅର୍ଥଶାସ୍ତ୍ରୀମାନେ ଭାବିପାରନ୍ତି ନାହିଁ । ପୁଞ୍ଜିର ସଘନତା, ଯନ୍ତ୍ରବିଦ୍ୟାର ଅତ୍ୟାଧୁନିକତା ଓ ସୁଦୂରପ୍ରସାରୀ ବଜାରର ନିୟନ୍ତ୍ରଣ । ଏହି ତିନୋଟି କଥାର ସମ୍ଭାବନା ଯେଉଁଠି ଦେଖିହେଉନାହିଁ, ସେଥିରେ ବିକାଶର ପରିକଳ୍ପନା କରିହେବ କି ? ଏକ ସ୍ୱତନ୍ତ୍ର ଅର୍ଥ ବ୍ୟବସ୍ଥାର ଅବଧାରଣା କରିହେବ କି ?

2. Translate the following into Odiya: [25]

I live in a new location now. I miss my earlier house and familiar surroundings and neighbours. But as usual given the requirements of this job, these changes cannot be helped. Luckily for me, I have always been a bit of a loner. I prefer it this way, for then one does not have to depend on short-term friends for comfort or company. Incidentally, my best friends are not from the Army, but go a long way back to the good old school days. It was a fresh sunny morning with pansies and dahlias in full bloom in the lawn outside the gym. Yet, I was already a little bit (mentally) exhausted at being privy to the conversation between three young ladies, wives of Army officers, who supposedly come regularly to this 'meeting point to maintain a certain standard of fitness, well, some physical and some mental.

3. Write a short essay in about 150 (one hundred and fifty) words on any one of the following: [50]

(a) Noisy Neighbours
(b) Need for reforms in BCCI (Board of Control for Cricket in India)
(c) The Need for Value Education
(d) Effects of Domestic Violence on Children
(e) Creative Hobbies

4. Make a precis of the following passage in about 100 (one hundred) words: [25]

The history of the debates between tradition and modernity in India is a story that has been told twice. The first fable centres around the archives of the national movement and the second springs from the debates on science and technology enacted during the grassroots struggles of the last two decades. These debates in India, both in the colonial and post-colonial eras, have been marked by three qualities.
Firstly, the notion of hospitality. The national movement sought to overthrow colonial rule yet was confident enough to invite the British to participate in the debates on modernity. Some of the most fascinating contributions to the understanding of traditional systems came from these dissenting Englishmen. "The other colonialisms," one can call this genre of discourse, saw in India a set of possibilities that the West had lost out or rendered recessive. These Englishmen were particularly interested in creating a more humane transition to modern industrialism. Secondly, the Indian national movement also saw the West as a possibility. We fought the West but the West, like the Orient, was not just out there but something within ourselves. It became an experimental site for the free play of the nationalist imagination which sought to liberate the other Wests that England had suppressed within itself. Thirdly, while the concerns and experiments in science, technology, medicine, education were local, there was a feeling that the neighbourhood must reflect the interests of the cosmos. Furthermore, the debate did not reify the dualism of tradition and modernity, especially in the domain of knowledge, but sought an encounter that was both confrontational and dialogic. Tradition and modernity were not only self-critical sites but what might be called a

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complicity of opposites. Unfortunately the pluralist archives of the nationalist movement did not receive the attention they deserved and became partially submerged in the fifties and sixties.

5. Read the following passage and answer the questions that follow: [5×5 25]

The last few years have seen a dramatic growth in the readership of regional language publications. Perhaps more than any other measure, this is a sign of the coming of the emerging consumer. For to begin reading a newspaper is to signal one's inclusion in the larger world. It is to acknowledge that one's existence is part of a larger network of relationships and that knowledge of the world is a pre-requisite in making one's way forward. For India to realise its dreams of being an economic superpower, its next wave of consumers must come good. The most striking thing about the emerging class is that it is not middle class. To be sure its dreams are influenced by the middle class but in many ways, the values it espouses are its own. This is a class that measures success more unapologetically in terms of consumption. Ambition is much more clearly arrayed along the axis of economic upgradation rather than moving up the social ladder. Even when the desire is of social recognition, it is usually expressed in terms of wanting to be someone with a lifestyle others envy. Education for children continues to be a very big driver, but here again the desire is for children to provide escape velocity out of their circumstances.

The consumption ethic too is often non-linear. Consumers think nothing of economising on shoes and clothes or using an expensive toothpaste. Desire is allowed free rein in a limited way; every family determines its own mosaic of demand in terms of what to scrimp on and where to splurge. Take the case of a family living in an illegal slum under threat of demolition using electricity illegally thinking about getting a computer for their child. At the same time, this is the segment where inflation is a dark cloud humid with foreboding; every small change in price rings heavily in the small space called home.

Ambition too is of two different kinds. One set of people seek escape from a sense of insecurity and crave some form of stability. And there is another growing segment that seeks urgent, discontinuous growth-the desire to vault over the next step and land quickly into one's final distination. This often involves a pragmatic acceptance of the legitimacy of using all means available. It also involves an incredibly accommodating network of invisible community, which works noiselessly together. Skills are passed on in acts of informal apprenticeship where the young work for free, develop skills and then move on. There is a strong undercurrent of pragmatism lacing the lives of the consumer next. They lead constrained lives that are often declared illegal; they live in unauthorised colonies, use illegal power, scrounge for water and work in places that are routinely raided. The footpath is often their factory and recycling of some kind is a fairly normal mode of manufacturing. In the midst of all this, there is a very strong sense of resilience and an immense faith in one's own ability to survive, come what may. Pleasure is found in what they have even as they strive for more. The good is acknowledged, as in the case of women who experience a much higher order of practical freedom living at the margins of the city than they do in villages and the bad is accepted as a circumstance to try and skirt around or copé with.

(a) For the writer, what does the reading of a newspaper indicate?
(b) How is consumption linked to the national economy?
(c) What is the author's view on consumption ethic?
(d) Explain the two types of ambition outlined in the passage.
(e) How is the emerging class of consumers more pragmatic?

PAPER – II : Jurisprudence & Constitution of India

Time Allowed: 3 Hours **Maximum Marks: 150**

The questions are of equal value.
Answer six questions selecting three from Section - A and three from Section - B.

Section - A

1. Discuss the inter-relationship of Fundamental Rights, Directive Principles of State Policy and Fundamental Duties.

2. Compare and contrast between the positions of President and Governors in India. What is the meaning of pleasure doctrine as contained in Article 156 (Term of Office of Governor)?

3. What special rights are available to the 'minorities' under Article 30(1) of the Constitution of India? Whether Union of India can establish an University exclusively for 'Minority' students?

4. "The anti-discriminatory provisions contained under Articles 14 to 16 includes the right not to be discriminated against on the grounds of sexual orientation and gender." Explain with reference to National Legal Services Authority v Union of India (2014) 5 SCC 438.

5. Right to know is included in right to speech and expression. Discuss with reference to case law.

6. Explain the 'Right to Freedom of Religion' as provided under the Constitution of India. Explain the restrictions on Freedom of Religion.

SECTION-B

7. Explain what do you mean by right-duty relationship. What is peculiar in right-duty relationship in Human Rights?

8. The 'Natural Law' theories reflect a perpetual quest for absolute justice. Elucidate.

9. "Possession is nine-tenths of ownership." Discuss.

10. "The concept of personality is wider than the concept of humanity." Discuss. Differentiate between the realist theory and fictions theory of corporate personality.

11. "International law is vanishing point of jurisprudence." Explain.

12. "The movement of progressive societies has hitherto been a movement from status to contract.' In the light of this observation discuss the contribution of Maine.

PAPER – III : Law of Crime and Law of Torts

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Answer six questions, selecting three from Section-A and three from Section - B.

Section - A

1. What is the scope and significance of Right to Private Defence?

[25]

2. Explain the different types of offence against the state.

[25]

3. Examine the objective and salient features of the Juvenile Justice Act, 1986 as amended till date.
Do you think that in the wake of Nirbhaya incident, the age reduction for application of Juvenile Justice Act is justified? Give a reasoned answer.

[25]

4. Rajani, a seventeen year old girl, allowed her teacher to have sexual intercourse with her because he told her that he will give her very poor grades unless she allows sexual favours. On coming to know of this, her parents lodged a complaint against him on charges of rape. Will he be liable for the same? What other charges could be made? Discuss the legal position with the help of case law.

[25]

5. Write a critical note on the ethical and legal dilemmas associated with capital punishment.

[25]

6. Write notes on the following:

[5x5 = 25]

(a) Extortion
(b) Grievous Hurt

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(c) Public Nuisance
(d) Fabrication of Evidence
(e) Section 498A of I. P. C.

Section - B

7. What are the essential elements of vicarious liability? Illustrate with case law.

[25]

8. Discuss, in detail, the tort of malicious prosecution.

[25]

9. What are the different defences available against tortuous liability?

[25]

10. An ardent fan of a popular movie star wanted to garland a huge cut out of his hero. He climbed up the 50 feet wooden cut out and while trying to garland he fell off and died on the spot. His family members filed a case claiming compensation from the owner of the theatre in whose premises the cut out was placed. Advise the owner regarding the defence available to him and illustrate it with case law.

[25]

11. Explain the concept of remoteness of damages.

[25]

12. Write notes on the following:

[5x5 = 25]

(a) Passing off
(b) Ryland Vs Fletcher
(c) Contributory Negligence
(d) False imprisonment
(e) Kinds of damages

PAPER – IV : Law of Contract

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Answer six questions, selecting two questions each from any two Sections and one each from remaining two Sections.

Group-A

1.
(a) "An offer need not be made to an ascertained person, but no contract can arise until it has been accepted by an ascertained person." Discuss.

[15]

(b) 'Mere silence is not fraud.' Explain.

[10]

2.
(a) "Initial impossibility renders an agreement void and subsequent impossibility renders a contract void." Discuss.

[15]

(b) A vacates the house without the payment of electricity bill. Consequently electricity is disconnected from the power house, B the successor tenant deposits the arrears of electricity bill and brings a suit for its recovery. Will he succeed?

[10]

3.
(a) "Surety's liability is co-extensive with that of Principal Debtor." Explain.

[15]

(b) Bowes a debt to C of which A is the surety. The debt becomes payable. C does not sue B for the debt. Is A discharged from his liability?

[10]

Section-B

4.

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(a) Explain the difference between a sale and agreement to sell. When does an agreement to sell become a sale? [15]

(b) The defendant agreed to sell at certain rate 200 kgs. of Potato which were to grow on the defendant's field, suddenly the entire crop was destroyed by a disease. Discuss the position of defendant legally. [10]

5. 'The buyer acquires no better title to the goods than the seller.' Discuss and point out the exceptions. [25]

6.
(a) When does a seller become an unpaid seller? What are his rights? [15]

(b) Write note on "Passing of Property". [10]

SECTION-C

7.
(a) Define Partnership and discuss its essentials. [15]

(b) Can minor become partner? [10]

8. Discuss the nature of non-partnership interests as provided under the Indian Partnership Act. [25]

9.
(a) Discuss the law relating to 'Partner by holding-out'. [15]

(b) State the disadvantages of non-registered firm. [10]

Section - D

10.
(a) "Every Cheque is a Bill of Exchange but every Bill of Exchange is not a Cheque." Comment. [15]

(b) What do you mean by Negotiability? Make the difference between negotiability and assignability. [10]

11.
(a) Explain the term holder and distinguish it from a holder-in-due course. [15]

(b) A is the payee of an order instrument. A endorses it in favour of B. C steals that instrument and forges B's signature and makes an endorsement in his own (C's) favour. C then endorses to D who takes it for consideration and without having sufficient causes to believe that any defect existed in the title of C. Is D a holder-in-due course? [10]

12.
(a) What do you mean by dishonour of cheques? Is dishonour of cheque for insufficiency of fund in the account an offence? Explain. [15]

(b) What do you mean by crossing of cheque ? State the law relating to the payment of crossed and uncrossed cheques. [10]

PAPER – V : Law of Property

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Candidates should attempt six questions, selecting two from Section - A, two from Section-B and two from Section - C.

Section - A

1.

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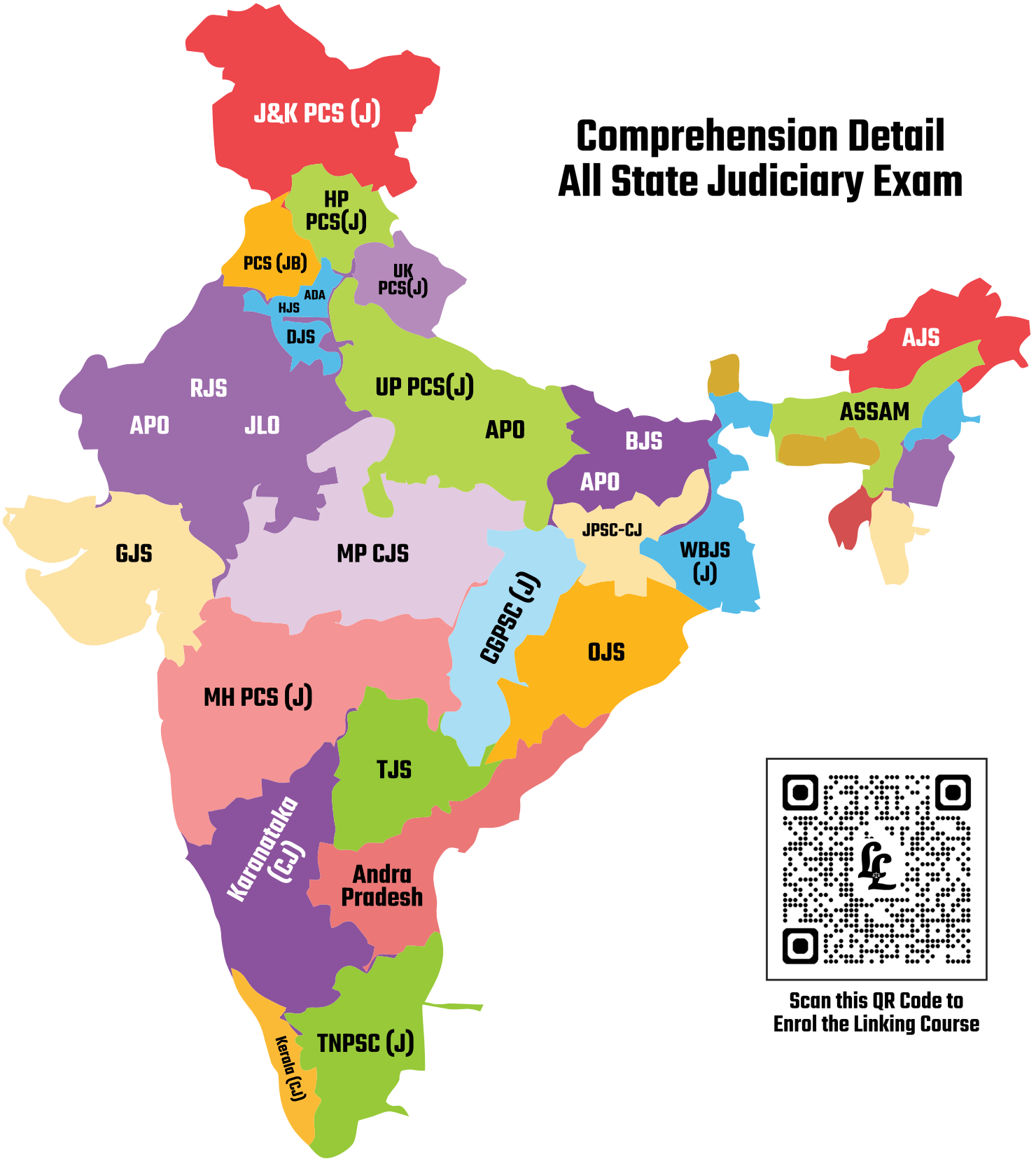

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(a) "Though the Transfer of Property Act, 1882 deals with transfer inter vivos, yet an interest may be created in favour of an unborn person." Discuss.

[10]

(b) What is the meaning of right of redemption? Who can exercise this right? Can this right be curtailed by an agreement between the parties? Explain it.

[5+5+5=15]

2.

(a) "The foundation of Doctrine of Election is that no one can approbate and reprobate at the same time." Discuss with illustrations.

[15]

(b) "Right of part performance can be exercised as a shield and not as a sword." Explain it.

[10]

3.

(a) Discuss the characteristics of different kinds of mortgages envisaged by Section 58 of the Transfer of Property Act, 1882.

[15]

(b) What is the distinction among a mortgage, a hypothecation and a pledge? Explain.

[10]

4.

(a) State the essential elements of a valid lease. How is a lease created?

[10+5=15]

(b) Discuss the doctrine of subrogation. What kinds of subrogations are recognised by the Transfer of Property Act?

[10]

Section-B

5.

(a) "Justice demands that a person wrongfully dispossessed of property shall recover it." Explain how is the Specific Relief Act, 1963 operating for this purpose:

[15]

(b) What are the main points of difference between an action for possession under Section 6 of the Specific Relief Act and recovery of possession based on the title?

[10]

6. Discuss the general principles on the basis of which the courts have been granting the relief of specific performance of contracts. Also enumerate the contracts which cannot be specifically enforced.

[15+10= 25]

7.

(a) What are the essential conditions for obtaining declaratory decree under Section 34 of the Specific Relief Act, 1963 ?

[15]

(b) Will a suit for declaration lie in the following cases ?

(i) A suit that P is a legitimate son 2½
(ii) A suit by first wife to declare husband's second marriage void 2½
(iii) A suit for correct date of birth 2½
(iv) A suit seeking mere claim of title without possession 2½

8. Explain the general principles on the basis of which temporary injunction is granted. Also discuss various kinds of injunction as provided under Specific Relief Act. State under what conditions can an injunction be refused by the court?

[10+10+5 = 25]

Section-C

9. "The Limitation Act bars the remedy and not the right but equitable considerations are out of place in any provision of law limiting the period of filing the suits of legal proceedings." Elaborate the statement.

[25]

10.

(a) Explain the term 'sufficient cause' under Section 5 of the Limitation Act, 1963.

[15]

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(b) "Once the time has begun to run no subsequent disability or inability to sue can stop it." Explain the above rule and state the exception, if any, to this general rule.

[10]

11. Discuss under what circumstances a fresh period of limitation shall be computed under the Limitation Act, 1963. Refer to decided cases.

[25]

12. In the light of 'computation of period of limitation' under the Limitation Act, 1963 discuss the following:

(a) Exclusion of time in legal proceeding

[6]

(b) Exclusion of time of proceeding bonafide in court without jurisdiction

[7]

(c) Effect of death on or before the accrual of the right to sue

[6]

(d) Effect of fraud or mistake

[6]

PAPER – VI : Personal Law

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Answer six questions, selecting three from Section-A and three from Section - B.

Section - A

1. 'Hindu Marriage is a sacrament, not a contract.'
Discuss this statement in the background of the Hindu Marriage Act, 1955. How far do you agree with the view that revolutionary changes effected by this Act? Explain.

[25]

2. Explain the concept of 'Joint Hindu Family' and 'Coparcenary'. Is there any change into these concepts after enactment of the Hindu Succession (Amendment) Act, 2005? Explain also the power of coparcener to alienate his coparcenary interest in Mitakshara Coparcenary.

[25]

3. In the light of recent Supreme Court decisions, explain the provisions of Section 13-B under the Hindu Marriage Act, 1955. Can a decree of divorce based on mutual consent be granted by the court even before the statutory period of six months? If yes, by which court and under what circumstances?

[25]

4. Who is natural guardian of a ward? What are the rights of a natural guardian under the Hindu Minority and Guardianship Act, 1956? Can he alienate the property of a minor? Explain.

[25]

5. What do you understand by 'pious obligation' of a son with regard to discharge the debt of his father? Discuss. Do you agree with the view that this theory has been diluted by the Hindu Succession (Amendment) Act, 2005 ? Explain.

[25]

6. What are the disqualifications for the heir to inherit the property under the Hindu Succession Act, 1956? Discuss and explain also the provisions of the Hindu Succession Act, 1956 regarding the succession of Male Hindu Dying intestate.

[25]

Section -B

7. "Quran is the first source of Muslim Law but it is not a complete legal code." While discussing the Quran as a source of Muslim Law also discuss the other primary sources of Sunni and Shia Law.

[25]

8. It is said that under Muslim Law any husband, who is of sound mind and has attained puberty, may divorce his wife, whenever he may wish. Discuss the husband's right to divorce his wife.

[25]

9. Whether Dower is a sale price of a Muslim wife or a restriction on unlimited power of a Muslim male to pronounce Talak or it is being given as a token of respect? Discuss.

[25]

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10. Define Waqf and discuss its characteristics. Can a Muslim create Waqf for the repair and maintenance of a Mandir (Hindu Temple)?

[25]

11. What are the essential conditions for a valid will under Muslim Law? Discuss the limitations under the Muslim Law on power of making valid will.

[25]

12. Write explanatory notes on any two of the following:
(a) Right of pre-emption
(b) Right of representation
(c) Parentage
(d) Conversion and Apostasy

PAPER – VII : Procedural Law

Time Allowed: 2.5 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Candidates should attempt six questions, selecting two from Section - A, two from Section-B and two from Section - C.

Section - A
(Code of Criminal Procedure, 1973)

1. An FIR was lodged against certain journalists of a national TV channel that they had demanded money from the company of a rival national TV channel for not telecasting its alleged involvement in the scam of the allocation of coal blocks by the Union Government. The Police Officer conducting the investigation searched the studios of both the channels, recovered several recordings, had the recordings containing the voice of the journalists typed out and asked the witnesses to such recordings, to sign these. Further, with the consent of the journalists he organized a voice test by the Central Forensic Science Laboratory. For the voice test he asked the journalists to read out from a script containing sentences from the recordings inculpating them. Comment on the legality of the search, the signing by the witnesses to the recordings and the nature of the voice test?

[25]

2.
(a) Can a substantial amendment to a criminal complaint on the basis of subsequent events be allowed by a court? Discuss the law on such an amendment in the light of the latest judgment of the Supreme Court?

[15]

(b) What are the contents of a plea bargaining application and how does a court ensure that the application is voluntary?

[10]

3. In the case of a person arrested without a warrant, why are the following orders of a Magistrate, legal or illegal; explain in short.

(a) Authorising the person's custody by the police on his first production before him by electronic video linkage.

[5]

(b) Authorising detention of the person in judicial custody for a total period of fifty days, where the investigation relates to an offence punishable with death, life imprisonment or a minimum jail sentence of ten years.

[5]

(c) Ordering stoppage of further invetigation into a summons case in which investigation has not been completed within six months of the arrest of the accused.

[5]

(d) Ordering a woman accused, of less than eighteen years, produced before him, to police custody.

[5]

(e) Ordering police custody of an accused without stating reasons.

[5]

4.
(a) What is an extra judicial confession and how is it treated as evidence by a court. Discuss with relevant Supreme Court judgments?

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[15]

(b) Can a Magistrate take cognizance of an offence on his own knowledge and if so, does he have a duty towards the accused before taking evidence?

[10]

Section - B
(The Code of Civil Procedure, 1908)

5. Why are the following legal or illegal? Explain.

(a) Mesne profits of property include the profits received by a person in wrongful possession of property due to improvements made by such a person to the property.

[5]

(b) A preventively detained person, whose evidence is material in a suit, cannot be ordered by a court to be produced for giving evidence.

[5]

(c) Cause of action is very piece of evidence which is necessary to prove each fact in support of the right to the judgment of the court.

[5]

(d) Share in a corporation does not include debentures.

[5]

(e) In the absence of any specific contrary provision in the Civil Procedure Code, the recovery of rent by a landholder of agricultural land from the produce of such land cannot be had under the remedy provided by the local law.

[5]

6.

(a) What are the conditions for a court to state a case and refer it to the High Court?

[10]

(b) When does an appeal lie to the Supreme Court from a civil proceeding of a High Court?

[8]

(c) State the categories of cases in which a High Court is prohibited from exercising its revisional power.

[7]

7.

(a) State the particulars that must be contained in a plaint generally and in suits for money and immovable property specifically.

5

(b) A suit is dismissed for non- compliance with an order for discovery of documents. Explain, whether a minor plaintiff in the suit can bring a fresh suit for the same cause of action as in the dismissed suit.

[5]

(c) A dies intestate and indebt to B. C takes out administration to A's effects and B buys part of the effects from C. In a suit for the purchase money by C against B, B claims a set off of the debt against the purchase price. Decide the validity of his claim.

[5]

(d) What are the conditions for a valid counter claim to be entertained by a court?

[5]

(e) What are the rules of a plaint or a written statement which apply to claim for a set off or a counter claim?

[5]

8.

(a) Describe the plaint particulars, the procedure for the appearance of the defendant and for the defendant to defend the suit, in a summary suit.

[10]

(b) The recording of a finding as to the existence of a triable issue can be said to be the backbone of the entire procedure under Order XXXVII. Comment with relevant Supreme Court Judgments.

[15]

Section-C
(The Indian Evidence Act, 1872)

9. Why are the following propositions legal or illegal, discuss in short.

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(a) Evidence may be given of any fact.

[5]

(b) A fact in issue is any fact arising in a case.

[5]

(c) Oral evidence means any statement made by a witness.

[5]

(d) Presumption of facts as raised in the various clauses of Section 114 of the Indian Evidence Act, 1872, is evidenced by itself.

[5]

(e) The court can presume that the originator of an electronic message was the person who sent the message to the addressee.

[5]

10. What is a chance witness, what should be the court's approach to the testimony of such a witness and whether the conduct of such a witness subsequent to the incident in question can be taken into consideration by the court? Analyse with reference to Supreme Court judgments.

[25]

11. In a dowry death case, the key prosecution witness was not confronted with his written statement, recorded by the Police under Section 161 Cr. P. C. His statement marked for the purpose of contradiction, was not read out to the Investigating Officer. Discuss, with reference to relevant Supreme Court judgments, whether the court can look into the written statement of the witness for discrediting his testimony and the prosecution version?

[25]

12.

(a) The term "hostile", "adverse", or "unfavourable" witnesses are alien to the Indian Evidence Act, since they are all terms of English law. State the difference(s), if any, between the Indian and English law in terms of Sections 154 and 155 of the Indian Evidence Act, 1872.

[15]

(b) Under the Indian Evidence Act, 1872, what is the difference, if any, between taking judicial notice of facts under Sections 57 and 56, on the one hand, and presumption by the court of the existence of certain facts under Section 114?

[10]

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