

PAPERATHON

Paper Analysis

Tansukh Paliwal (Linking Sir)



DJS-2019

Major Law (Civil)





INDEX

SR. No.		Subject	Range
1	✓	COI	1-4
2	✓	CPC	5-39
3	✓	Limitation	40-45

YT

App Spl

1. The Vice President is elected

(a) on the basis of adult franchise by the People of India

(b) by an electoral college consisting of all the members of Rajya Sabha by secret ballot.

(c) by an electoral college of all the members of both the Houses of Parliament.

(d) by electoral college consisting of all the members of both the Houses of Parliament in accordance with the system of proportional representation by means of single transferable vote and by secret ballot.

Fr.
V.P.
Cm.

✓

Const. Post-

Appl.

Electron

Removed
Resign

2. There is **no fundamental right** of a person arrested not to be detained in custody without being informed, as soon as may be, of the grounds for such arrest or for period beyond that of twenty-four hours of such arrest (excluding the time necessary for journey from place of arrest to court) without the authority of a Magistrate

(a) In case of one who for the time being is an **enemy alien.**

(b) In case of one who is arrested or detained under any law providing for preventive detention.

(c) Both (a) and (b) P

(d) None of these

A. 20
Conviction

A. 22
Amul/P et al

3. An amendment of the Constitution of India to make change in provision relating to establishment and constitution of the Supreme Court requires, before giving of assent by the President
- (a) To be passed by a majority of not less than two-thirds of members present and voting in each House.
 - (b) Ratification by resolution to that effect by legislatures of not less than one-half of the States.
 - (c) Both (a) and (b).
 - (d) None of these

Amend



A. 123

4. An ordinance promulgated by the President of India, in exercise of his legislative power, shall cease to operate or to have effect or to be same force as an Act of Parliament

(a) At the expiration of six weeks from reassembly of Parliament

(b) Upon passing of resolution by one House of Parliament endorsing the disapproval thereof expressed by resolution of the other House.

(c) Upon it being withdrawn by the President.

(d) All these

5. A suit is dismissed wrongly on the ground of being barred by limitation. The order of dismissal would operate as res judicata and bar a subsequent suit on the same cause of action.

- (a) The above statement is true
- (b) The above statement is false
- (c) It would depend upon the facts and circumstances of each case
- (d) None of these

6. Order VII Rule 11 of the Code of Civil Procedure provides for

- (a) rejection of the plaint.
- (b) return of the plaint. 0.3/10
- (c) dismissal of the suit.
- (d) All of the above depending on the facts of the case.

Grounds : (✓)

—

Plant


Appli

MoA

Control

Rejeal

7. In a suit for recovery of Rs. 25 lakh, the Defendant files its written statement and pleads that it does not owe any money to the Plaintiff but in fact, it is entitled to recover the sum of Rs. 40 lakh from the plaintiff. The Defendant, however, does not file a counter claim. Can the Defendant file the counter claim at a subsequent stage in the suit or file a fresh suit seeking recovery of Rs. 40 lakhs?
- (a) The counter claim and suit would be barred,
 - (b) Only the counter claim would be barred.
 - ✓ (c) The Defendant can file both either a counter claim or a suit
 - (d) The Defendant's claim stands abandoned.

8. 'A' files a suit for partition in the High Court of Delhi against her brother 'B'. 'B' relies upon a Will executed by his father bequeathing the entire estate in his favour.
- (a) B has to necessarily file counter claim seeking probate of the Will.
 -  (b) An issue will be framed as to the genuineness and validity of the Will which 'B' can establish without seeking probate.
 - (c) 'B' has to necessarily file a separate probate petition.
 - (d) the suit for partition will be stayed until B obtains a probate.

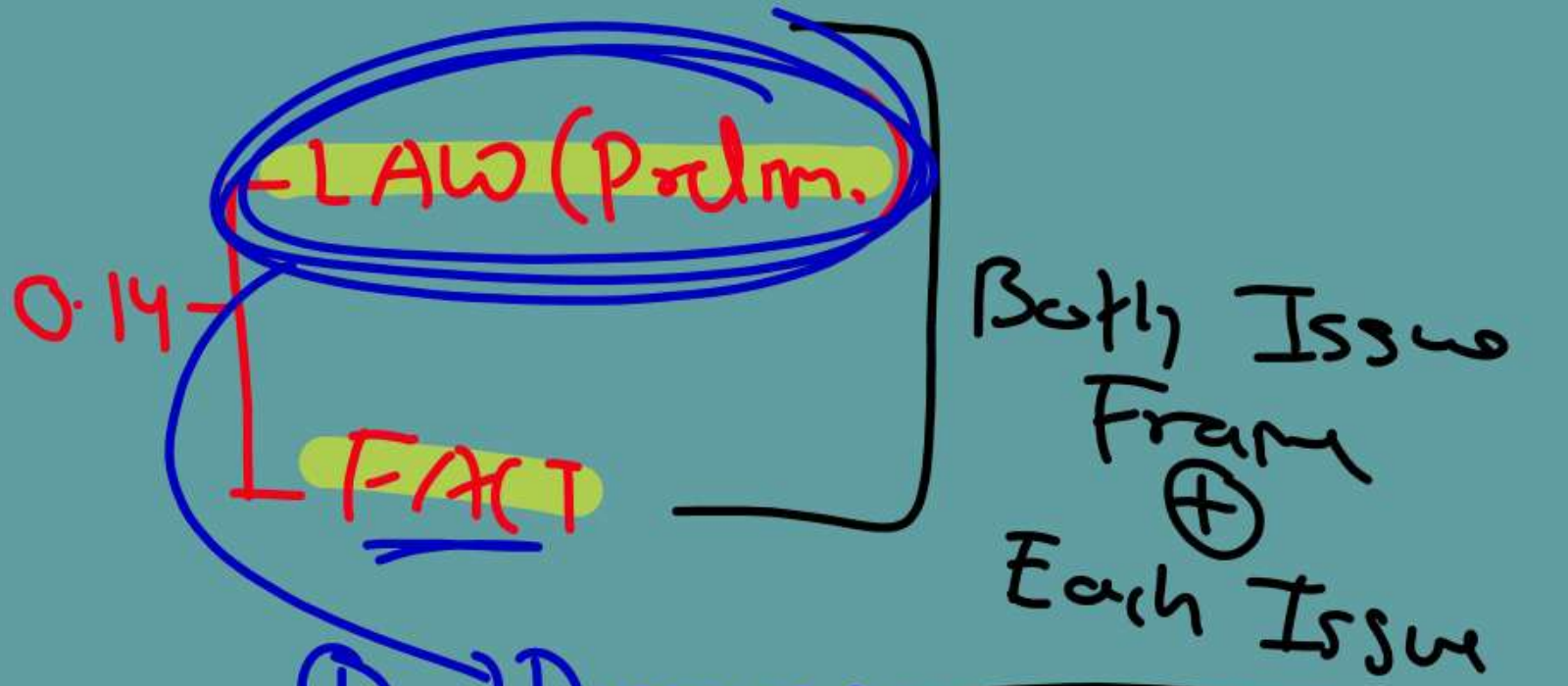
9. In a non commercial suit when issues both of fact and law arise and the Court is of the opinion that the suit may be disposed of on an issue of law only, the Court can

✓ (a) Frame issues of law and facts and adjudicate the issues of law as preliminary issues

(b) Frame issues both of fact and law and decide all issues together.

(c) Frame issues only on the issues of law and postpone the settlement of other issues.

✓ (d) Both (a) ~~and~~ (c)
✓✓



① → Dispose

② Only Law Issue — Postpon
Dispose .

10. For the purpose of amendment of pleadings under Order Vi Rule 17 CPC, the commencement of trial takes place
- (a) When the issues are framed. 0.14
 - (b) When the affidavits in evidence are filed.
 - (c) When the affidavits in evidence are tendered by the witness.
 - (d) Once cross-examination begins.

Trial Comm

11. 'X' files a suit against 'Y', which is a Partnership of four private individuals. 'X' does not issue notice under Section 80 CPC. The suit

- (a) Cannot be dismissed for non compliance.
- (b) Has to be dismissed for non compliance.
- (c) Can be dismissed at the discretion of Court if the circumstances require a notice.
- (d) Suit Plaintiff will be rejected

Answer to FOCUS

12. An ex-parte decree passed by Court 'A' was transferred to Court 'B' for execution and which execution proceedings are pending in Court 'B'. Court 'A' aside the ex parte decree and on re-hearing, a fresh decree was passed on the same terms.

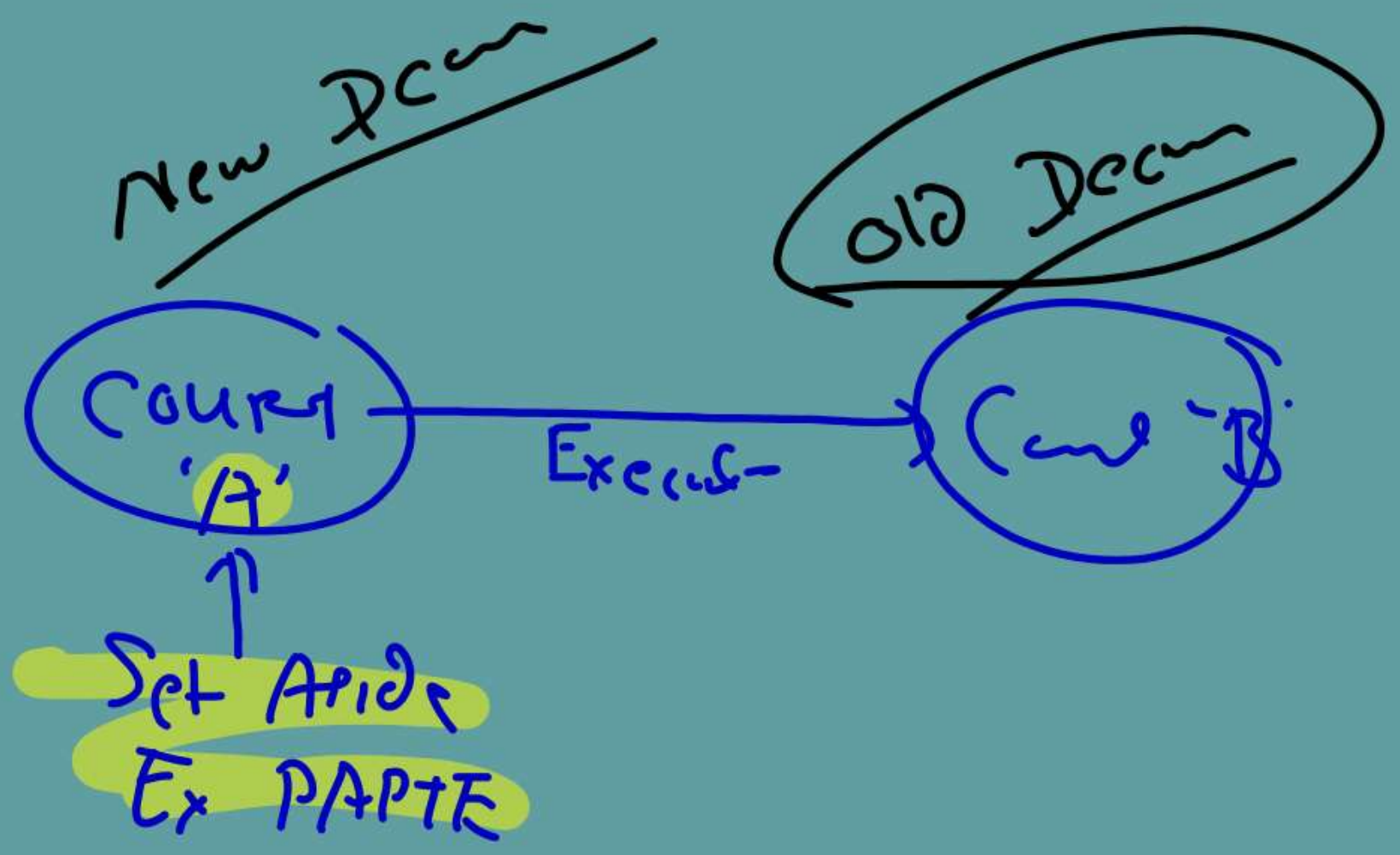
(a) Since the new decree is on the same terms, as the decree which is set aside, the execution proceedings will continue.

(b) Court 'B' can continue to execute the exparte decree since the order of transfer has not been recalled.

(c) The Decree Holder can seek amendment to the execution proceedings.

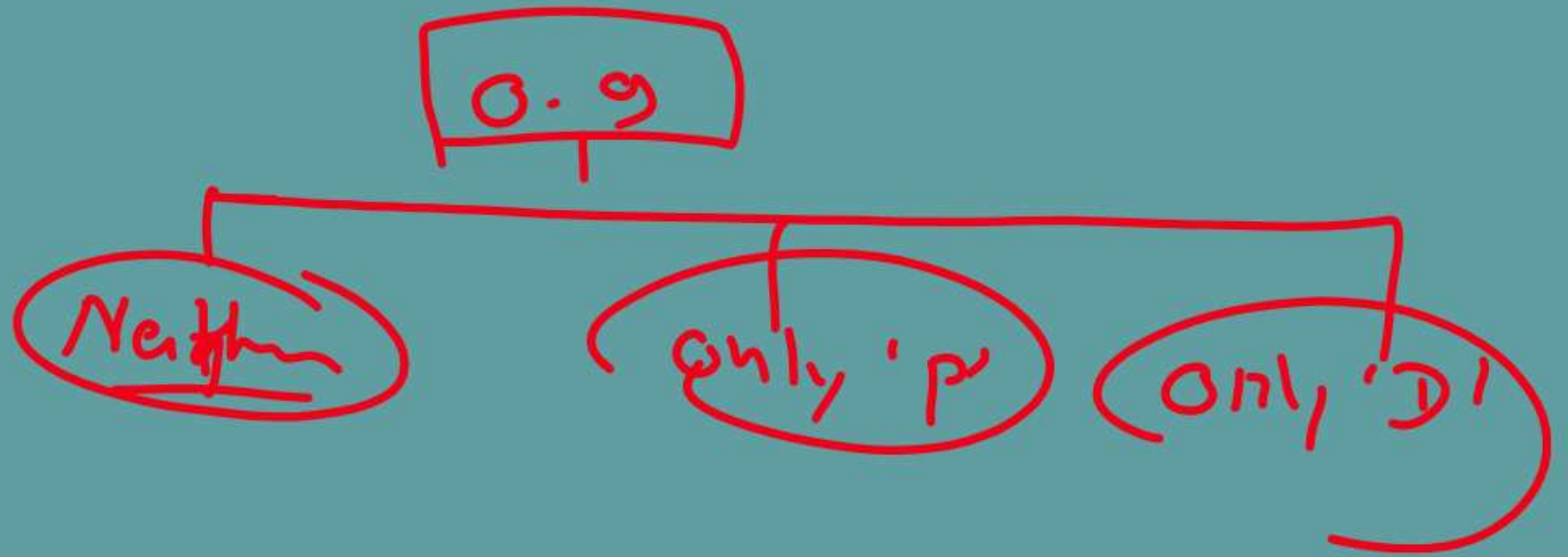
(d) The execution proceedings in Court 'B' come to an end a fresh execution petition would have to be filed of the new decree.

Logic



- 13. In a commercial suit, the time limit of 120 days for filing of written statement**
- (a) Can be extended, if the Defendant shows adequate reasons for non-filing.**
 - (b) Can be extended at the discretion of the Court**
 - ~~(c) Cannot be extended under any circumstances.~~**
 - (d) Can be extended with imposition of heavy costs.**

- 14. When the plaintiff appears and Defendant fails to file written statement despite service, the Court**
- (a) shall pronounce judgment under Order VIII Rule 10 CPC.**
 - (b) may either require the Plaintiff to prove its case by leading evidence or pronounce judgment against the defendant depending upon the nature of the case**
 - (c) ~~shall~~ necessarily require the Plaintiff to prove its case by leading evidence.**
 - (d) Direct personal appearance of the Defendant.**



15. Where an interim injunction has been granted without notice to the opposite party and the plaintiff fails to comply with the provisions of Order XXXIX Rule 3 CPC:

(a) The ex parte injunction lapses on the expiry of the time for compliance.

(b) The ex parte injunction would necessarily be liable to be vacated.

(c) The Court can extend the time for compliance of Order XXXIX Rule 3 CPC even after the Defendant has appeared and filed written statement.

(d) The ex parte injunction would be vacated if the non compliance is prejudicial to the defendant. [b]

- 16. Issues are framed by a Court. Onus of some of the issues is on the plaintiff and of some of the issues, the onus is on the Defendant. The Plaintiff has to**
- (a) file its affidavits in evidence on all issues.**
 - (b) file its affidavits in evidence in affirmative on issues onus whereof is on the plaintiff and evidence in negative on issues onus whereof is on defendant.**
 - (c) file its affidavits in evidence in affirmative on the issues onus whereof is upon the Plaintiff.**
 - (d) file its affidavits in evidence in affirmative on all issues, irrespective of onus.**

17. 'X' leases 'Y' a property for 10 years from 2000-2010 where the rent is payable on the 10th of every month. Y does not pay any rent from the inception of the lease. 'X' sues in 2011 for the arrears of rent from 2005-2010 only.
- (a) 'X' can thereafter file a fresh suit for the arrears of rent for the period from 2000 to 2004.
 - (b) 'X' can amend the plaint to include the recovery of rent from 2000-2004.
 - (c) 'X's' claim for arrears of rent would be restricted for the period of 3 year prior to the institution of the suit.
 - (d) 'X' having not claimed rent from 2000-2004, is barred from claiming rent for subsequent period.

- 18. In a suit under Order XXXVII CPC, the Court grants the Defendant conditional leave to defend subject to the defendant securing the suit amount by way of Bank Guarantee. The Defendant fails to furnish the Bank Guarantee in the prescribed period. The Court shall**
- (a) Permit the Defendant to file its written statement.**
 - (b) Convert the suit into an ordinary suit.**
 - (c) Decree the suit against the Defendant.**
 - (d) Direct the Plaintiff to lead evidence.**

19. 'A' supplies goods from Delhi to 'B' at Mumbai under a contract which provides "Courts in Mumbai would have jurisdiction to deal with disputes arising out of this agreement." 'A' sues 'B' in a Court at Delhi for the outstanding balance.
- (a) The Court would not admit the Plaint owing to the jurisdiction clause in the contract.
 - (b) The suit would be admitted and only if 'B' raises an objection to jurisdiction at Delhi would the Court determine the same.
 - (c) 'B' can prefer an appeal against the order of admission of the suit in the court at Delhi.
 - (d) 'B' can approach the Delhi High Court for transfer under section 24 CPC.

20. 'A', a resident of Delhi, files a suit at Delhi for infringement of Trade Mark by 'B', a resident of Mumbai, for using the Mark at Mumbai.
- (a) The court at Delhi has jurisdiction.
 - (b) The court at Delhi has no jurisdiction because 'B' is a resident of Mumbai and cause of action has arisen in Mumbai.
 - (c) The court at Delhi has jurisdiction with leave of court.
 - (d) The court at Delhi has jurisdiction only if 'A' does not have an office in Mumbai.

|||



21. A compromise decree

- (a) Operates as res judicata between parties to the compromise**
- (b) Does not operate as res judicata**
- (c) (a) or (b) depending upon facts and circumstances of each case.**
- (d) (a) or (b) depending on the discretion of the court.**



- 22. A decree for permanent injunction restraining the defendant from interfering with the possession of the plaintiff, finding the possession of the plaintiff to be settled, would operate as res judicata in a suit for partition filed by the Defendant for the same property.**
- (a) Yes**
 - (b) No**
 - (c) (a) and (b) depending on facts and circumstances of each case.**
 - (d) (a) and (b) depending on the discretion of Court.**

- 23. On receipt of an application for execution of a decree, if the requirement of Order XXI Rules 11 to 14 have not been complied with the defects are not remedied then**
- (a) The Court shall reject the application for execution.**
 - (b) Allow process of the application for execution.**
 - (c) (a) or (b) depends upon facts and circumstances of each case.**
 - (d) None of these**

24. 'A' holds a decree against 'B' for Rs. 5000/-.
'B' holds a decree against 'A' for Rs. 3000/-.

Both

'A' and 'B' apply for execution of decree to a Court which has jurisdiction to execute both decrees. The Court may

- (a) Allow execution of 'A's' decree of Rs. 2000/-**
- (b) Simultaneously proceed with execution of both decrees**
- (c) 'B' shall proceed separately with his decree.**
- (d) None of these**

- 25. The period of limitation for an application to restore a suit dismissed for default of appearance is**
- (a) 30 days from the date of dismissal.**
 - (b) 60 days from the date of dismissal.**
 - (c) 90 days from the date of dismissal.**
 - (d) 120 days from the date of dismissal.**

- 26. Where a suit is dismissed for non appearance by the Plaintiff and the defendant is not yet served or after service of the defendant both parties do not appear, the Plaintiff may**
- (a) Bring a fresh suit for the same cause of action**
 - (b) Apply for an order to set aside the dismissal.**
 - (c) File an appeal.**
 - (d) Either (a) or (b)**

27. 'A' granted an injunction restraining 'B' from use of a trade mark. 'A' alleged that 'B' had willfully disobeyed the injunction order. 'B' pleaded that he had no knowledge of the injunction order. Evidence was non conclusive. The Court shall order
- (a) Property to 'B' to be attached.
 - (b) 'B' to be detained in civil prison.
 - (c) 'B' to compensate 'A' by damages.
 - (d) None of these

- 28. A decree shall not operate as res judicata when**
- (a) Judgment is passed by a Court which does not have subject jurisdiction.**
 - (b) Judgment is obtained by fraud.**
 - (c) If collusion is proved between parties.**
 - (d) All these**

29. 'A' filed a suit against three defendants. Defendant No. 1 alleged that there was no cause of action against him under order VII Rule 11(d) CPC. The **Plaint is to be**
- (a) Rejected in whole.
 - (b) Rejected in part if the cause of action is not joint and several.
 - (c) proceeded with against all defendants.
 - (d) None of these

- 30. In a civil suit coming up for admission, if the Court does not have subject jurisdiction to grant relief in the suit, the court**
- (a) cannot grant interim relief under Order XXXIX CPC.**
 - (b) can still grant interim relief under Order XXXIX CPC.**
 - (c) has to nevertheless issue summons of the suit.**
 - (d) has to frame a question of law and refer it to the High Court**

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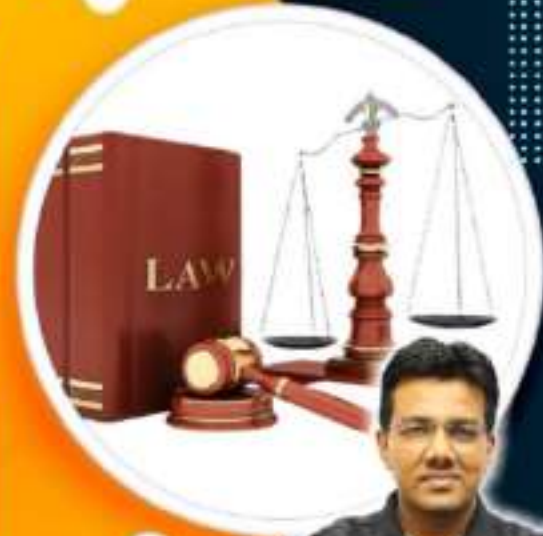
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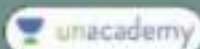
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- 31. In a suit for permanent injunction against a defendant company, the plaintiff sought an interim injunction restraining the defendant from prosecution the suit in a foreign court,**
- (a) temporary injunction can be granted restraining the foreign court from proceeding with the suit.**
 - (b) a temporary injunction restraining the foreign court can be granted if there is a prior pending suit in India, irrespective of where the defendant resides or carries on business.**
 - (c) a temporary injunction restraining the defendant from prosecuting the foreign suit can be granted if the defendant is amenable to the jurisdiction of the court.**
 - (d) All these**

- 32. An order passed under Order XXXIX Rule 1 CPC can be challenged by filing**
- (a) an appeal**
 - (b) a writ petition**
 - (c) a revision petition**
 - (d) None of these**

- 33. Under Order IX CPC where a suit is wholly or partly dismissed under Rule 8,**
- (a) the Plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action.**
 - (b) Plaintiff may apply for an order to set the dismissal aside.**
 - (c) Plaintiff may bring a fresh suit in respect of the same cause of action.**
 - (d) Either (a) or (b)**

- 34. During the pendency of an appeal by the four defendants in the suit, one of the appellants (defendants) dies and no steps for substitution of his legal representatives are taken and the appeal in so far as it relates to the said appellant abates. The five respondents (plaintiffs) apply for dismissal of the entire appeal as abated. Answer whether:**
- (a) The entire appeal abates and has to be dismissed.**
 - (b) The entire appeal abates only if the cause of action against all the defendants was one and allowing the appeal of the other defendants would lead to inconsistent decrees.**
 - (c) The appeal only of the deceased appellant abates and as far as the other defendants (appellants) are concerned has to continue.**
 - (d) the proceedings in the appeal have to be stayed and a second appeal is required to be filed for determination of this question.**

- 35. The Court, at the first hearing of the suit**
- (a) can only frame issues.**
 - (b) may permit cross examination of either party by the other.**
 - (c) to elucidate the matters in controversy in the suit, may examine either of the parties.**
 - (d) None of these**

- 36. Failure of the judgment debtor to file affidavit of assets under Order XXI Rule 41(b) of the Code of Civil Procedure can result in:**
- (a) civil imprisonment up to three months for the judgment debtor.**
 - (b) civil imprisonment up to six months from the judgment debtor.**
 - (c) civil imprisonment up to nine months from the judgment debtor.**
 - (d) imposition of fine on the judgment debtor of the decretal amount.**

- 37. The period of limitation for filing leave to defend in a suit under Order XXXVII of the Code of Civil Procedure is within**
- (a) 10 days of the receipt of summons for judgment.**
 - (b) 30 days of the receipt of summons for judgment.**
 - (c) 90 days of the receipt of summons for judgment.**
 - (d) 120 days of the receipt of summons for judgment**

- 38. The period of limitation for filing an application for review is**
- (a) 30 days of the judgment/order.**
 - (b) 60 days of the judgment/order.**
 - (c) 90 days of the judgment/order.**
 - (d) 120 days of the judgment/order.**

- 39. The period of limitation for filing revision petition to the High Court under section 115 of the Code of Civil Procedure is**
- (a) 30 days of the judgment/order.**
 - (b) 60 days of the judgment/order.**
 - (c) 90 days of the judgment/order.**
 - (d) 180 days of the judgment/order.**

- 40. Section 5 of the Limitation Act applies to**
- (a) Suits**
 - (b) Appeals/ Applications**
 - (c) Both (a) and (b)**
 - (d) None of these**

- 41. The period of limitation for filing a suit for damages for defamation is**
- (a) One year**
 - (b) Two years**
 - (c) Three years**
 - (d) None of these**

- 42. The period of limitation for filing a suit for possession under Section 6 of the Specific Relief Act is**
- (a) Six months**
 - (b) One year**
 - (c) Three years**
 - (d) Twelve years**

- 43. If no period of limitation is provided in the Limitation Act, the proceedings can be instituted within**
- (a) One year**
 - (b) Three years**
 - (c) Twelve years and two months**
 - (d) None of these**

- 44. Suit for arrears of maintenance can be filed within**
- (a) One year**
 - (b) Two years**
 - (c) Three years**
 - (d) None of these**

- 45. If the defendant is abroad during the period of limitation**
- (a) such period is excluded from the period of limitation.**
 - (b) such period is included in the period of limitation.**
 - (c) such period is excluded from the period of limitation only if the period to stay abroad is more than thirty days.**
 - (d) None of these**

Thank You!



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