

Jharkhand (Junior Division) Judiciary Mains 2019

Law Paper - I

Section - A

1. (a) The plaintiff is a resident of Faridabad and filed a suit for declaration against the defendant, a resident of Gurgaon, in District Courts, Gurgaon that he has half share in a house situated in Ghaziabad (U.P.) and a sum of 1 Lakh is deposited in 881, Gurgaon. The defendant wrongly executed the house in his name and is also not admitting the claim in the amount lying in the bank. The defendant contested in the suit that the Gurgaon Courts have no jurisdiction to hear the case. How will you decide ? Give reasons. [10 Marks]

1. (b) Answer any two of the following : 5 x 2 = 10 Marks

- (i) Rateable distribution
- (ii) Mesne Profit
- (iii) Interpleader suit
- (iv) Garnishee Order

2. (a) Distinguish between Res Judicata and Constructive Res Judicata. Also, explain the provisions of constructive res Judicata in Civil Procedure Code, 1908, [10 Marks]

2. (b) 'A' filed a suit against 'B' for declaration of title in a land. The suit was dismissed by the Trial Court as well as Appellate Court on the ground that 'A' has no possession in the land. 'A' moved an application for amendment in pleadings seeking the relief for possession also over the land in second appeal. Can the amendment be allowed, although the relief for possession on the date of application for amendment in pleadings was barred ? Decide. [10 Marks]

Section - B

3. (a) What do you understand about the doctrine of autre fois acquit and autre fois convict ? How does it ensure fair trial ? [10 Marks]

3. (b) Critically examine the major changes introduced by the Criminal Law (Amendment) Act, 2013 in the provisions of Code of Criminal Procedure, 1973, especially with regard to the crimes related to women. [10 Marks]

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4. (a) Whether the Trial Court has discretion while awarding concurrent or consecutive sentences to an accused in a criminal trial ? [10 Marks]

4. (b) Answer any two of the following : 5 x 2 = 10 Marks

- (i) Cognizable and Non-cognizable offence
- (ii) Anticipatory Bail
- (iii) Plea bargaining
- (iv) Search and Seizure

Section - C

5. (a) 'Private defence is not available for retaliation but for averting the danger which is not created by himself.' Under what circumstances a person can go to the extent of killing in defence of his person ? Answer with the help of decided cases. [10 Marks]

5. (b) 'A' severely injured a beautiful girl walking in the market by throwing acid on her body. She is admitted to hospital in a dying state. What offence 'A' has committed and how much punishment he deserves under Indian Penal Code, 1860? [10 Marks]

6. (a) It is not necessary to the commission of offence of abetment by conspiracy that the abettor should concur with the person who commits the offence. It is sufficient if he engages in conspiracy in pursuance of which the offence was committed. Explain with decided cases. [10 Marks]

6. (b) 'X', a photographer displays a nude photograph of a young female film artist in his studio. What offence 'X' has committed ? If tried in a court, what arguments would you present in his defence ? [10 Marks]

Section - D

7. (a) Explain the 'Privileged Communication'. " 'A' client confides in 'B', his lawyer, that he has a forged deed in his possession on the basis of which he wants to file a case against 'C' to get possession of land." Is this communication protected under the law from disclosure ? Critically examine the statement. [10 Marks]

7. (b) Write detailed notes on : [5 X 2 =10 Marks]

- (i) The doctrine of Res Gestae
- (ii) FIR is not a substantive piece of evidence.

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8. (a) 'An accomplice shall be a competent witness against an accused person and a conviction shall not be illegal merely because it proceeds upon uncorroborated testimony of an accomplice.' Answer with the help of decided cases. [10 Marks]

8. (b) Explain the following any two : [5x2=10 Marks]

- (i) Falsus in uno falsus in omnibus.
- (ii) Essential conditions of Dying Declaration
- (iii) Cross Examination
- (iv) Hostile Witness

Section - E

9. (a) Law of Limitation simply bars judicial remedy. It neither affects extra-judicial remedy nor the substantive right. Discuss. [10 Marks]

9. (b) Explain the maxim. 'Vigilantibus non dormientibus jura subquenant'. To what extent the doctrine is incorporated in the law of limitation in India ? Explain. [10 Marks]

10. (a) Can an acknowledgement made under Section 18 of the Limitation Act, 1963, after the expiry of limitation but when there are vacations and the courts are closed, save the limitation ? Discuss. [10 Marks]

10. (b) A Hindu wife executed a mortgage deed of the property of her husband, as if it were her own, after the 5 years her husband had disappeared. The mortgage was invalid as the presumption of death does not arise until 7 years. The mortgagee filed a suit more than 7 years after the execution of the mortgage deed and proved that her husband has not been heard of since the last seven years. Discuss the validity of the claim of the mortgagee. [10 Marks]

Law Paper - II

Section - A

1. (a) "All illegal agreements are void but all void agreements are not necessarily illegal." Discuss statutory provisions along with illustrations and decide cases in the light of this statement. [10 Marks]

1. (b) State grounds on which a surety is discharged from his liability under a contract of guarantee. [10 Marks]

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2. (a) Explain the facts of and the principles of law laid down in Hadley V. Baxendale and its position under the Indian Contract Act, 1872. [10 Marks]

2. (b) Write a note on Bailee's duty of care and support it with statutory provisions and decided cases. [10 Marks]

Section - B

3. (a) What are essentials of a contract of sale of goods ? Distinguish it from an agreement to sale. [10 Marks]

3. (b) What do you understand about the Unpaid Seller's lien ? When will this lien be terminated ? [10 Marks]

4. (a) Discuss in detail the provisions relating to transfer of property in the goods under the Sale of Goods Act, 1930.[10 Marks]

4. (b) Write short notes : 5x2 = 10 Marks

(i) Sale by description

(ii) Goods perish before sale but after agreement to sell.

Section - C

5. (a) Explain the provisions relating to discharge from liability on a negotiable instrument as provided in the Act. [10 Marks]

5. (b) 'A' issues a post dated cheque for 5,000 in favour of 'B'. 'B' takes it to the bank and the bank marks it as good for payment. Before the due date the amount to credit of 'A' in the bank falls to 3,000 and the bank refuses to honour the cheque when presented by 'B'. Advice 'B' and the Bank. [10 Marks]

6. (a) Define 'negotiation'. Explain fully its different modes. Illustrate your answer. [10 Marks]

6. (b) Define Endorsement and describe the different forms of Endorsement generally recognized by law.[10 Marks]

Section - D

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7. (a) Define an arbitration and differentiate between Permanent Court and Arbitral Tribunal. [10 Marks]

7. (b) "If a clause in an agreement between the parties clearly shows their intention that any dispute arising between them shall be decided by a particular person, then it is an 'arbitration clause' irrespective of the fact that the words 'arbitrator' or 'arbitration' have not been used therein."

Amplify the above statement in the light of essential elements of an arbitration agreement. [10 Marks]

8. (a) State the provisions relating to appeal from orders of arbitral tribunal under the Arbitration and Conciliation Act, 1996. [10 Marks]

8. (b) Discuss the provisions laid down in Arbitration & Conciliation Act, 1996 regarding the lien on arbitral award and deposits as to costs. [10 Marks]

Section - E

9. (a) Define 'immovable property'. Explain the term in reference to things attached to earth. [10 Marks]

9. (b) What is 'conditional transfer' ? Under what circumstances a conditional transfer becomes void ? Discuss. [10 Marks]

10. (a) Discuss the doctrine of Lis pendens' and give its basis. Does the doctrine apply to an execution proceeding ? Elucidate. [10 Marks]

10. (b) Define lease. What are the different ways in which a lease may determine ? [10 Marks]

Law Paper - III

Section - A

1. (a) "Judicial Separation is considered to be the stepping stone towards divorce." Elucidate the statement. [10 Marks]

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1. (b) Discuss the changes introduced with regard to the property held by women under Hindu Succession Act, 1956. Substantiate your answer with the help of decided case law. [10 Marks]

2. (a) 'A' and 'B' were married for 18 years and recently they got divorced. They have 'C', an 8 year old child. 'A' claimed custody of 'C' on the grounds that he is a rich person and can sponsor the best education of 'C'. 'B' is a school teacher demanding custody of 'C', saying that she will do her best to give the best care to 'C'. Discuss what are the requirements for claiming custody of a child. Decide who is entitled to get the custody in above circumstances.[10 Marks]

2. (b) Can a Hindu widow adopt a son to her deceased husband ? Answer your justification in the light of provisions and decided case law under Hindu Adoption and Maintenance Act, 1956.[10 Marks]

Section - B

3. (a) 'P', a Muslim has a son 'S', a wife 'W' and a grandson 'D' from another predeceased son. 'P' bequeaths the entire property in favour of 'D'. Decide the validity of his bequest under Muslim Law.[10 Marks]



3. (b) 'M' and 'H' got married during the Iddat period of 'H'. Three years after the death of 'M', 'H' claimed the share of his property under Muslim Law. The other heirs resisted the claim as the plea that the marriage of 'H' with 'M' was void. Decide with reasons.[10 Marks]

4. (a) Who can claim Haq-Shufa (preemption) ? Discuss the requirements for claiming the same. State the legal device for evading the right of preemption. [10 Marks]

Section - C

5. (a) Define 'Standard Rent'. Describe the powers of the controller to fix the standard rent under the Jharkhand Buildings (Lease, Rent and Eviction) Control Act, 2011.[10 Marks]

5. (b) Answer any two: 5 x 2 = 10

- (i) Distinction between lease and licence**
- (ii) Essentials of a lease**
- (iii) Inheritance to tenancy**
- (iv) Revision**

6. (a) A person aggrieved from the order of the controller may within stipulated period from the date of receipt of the said order file an appeal before the Appellate Authority. Discuss the procedure for filing an appeal under the Jharkhand Buildings (Lease, Rent and Eviction) Control Act, 2011. [10 Marks]

6. (b) 'Jharkhand Buildings (Lease, Rent and Eviction) Control Act, 2011 specifically provides that Landlord of a tenanted premises can not interfere with the amenities enjoyed by the tenant'. Critically examine the statement. [10 Marks]

Section - D

7. (a) 'A', a famous singer entered into an agreement with Hotel Taj to give performance on each evening from 1 Nov. 2017 to 1 December 2017 and subsequently entered into another agreement with Hotel Maurya to give performance on each evening from 1 November 2017 to 1 December 2017. Hotel Taj filed a suit for specific performance against 'A',

'A' contested the claim that the replies for specific performance cannot be given / allowed. Decide with reference to relevant provisions and the decided cases under Specific Relief Act, 1963. [10 Marks]

7. (b) What is the importance of 'Ready and Willingness to perform' in a suit for specific performance? What happens when it is not specifically aversed in pleadings of a suit by the plaintiff? Explain.[10 Marks]

8. (a) 'He who seeks equity must do equity.' Explain the statement with reference to the relevant provisions and the illustrations under the Contract Act, 1872, the Specific Relief Act, 1963 and the Transfer of Property Act, 1882.[10 Marks]

8. (b) (i) 'Injunction is a judicial process whereby a penalty is ordered to do or refrain from doing a particular thing.' Explain with special reference to the discretionary power of the court in granting the injunction. [5 Marks]

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8. (b)(ii) Under what circumstances can the injunction be refused by the court ? [5 Marks]

Section - E

9. (a) Elucidate the contribution of Austin and H.L.A. Hart to Analytical Positivism in Jurisprudence.[10 Marks]

9. (b) Write notes on any two of the followings : [5 x 2 =10 Marks]

- (i) Judicial precedent
- (ii) Obiter dicta
- (iii) Equity, Justice and Good Conscience
- (iv) Social Solidarity

10.(a) 'Possession is nine points at law, and ownership only one point.' Explain with the help of decided cases. [10 Marks]

10. (b) Discuss the importance of Capital punishment in the light of recent views expressed by the supreme court of India to retain the death penalty in statute book, instead of abolishing the same. Also discuss the advantages and disadvantages of retaining the death penalty as a form of punishment in India. [10 Marks]

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