Andhra Pradesh Civil Judge (Mains) 2019

Paper I: Civil Laws · compulsory paper

Date: 9 November 2019, 10.00 a.m. to 1.00 p.m. · Maximum marks: 100. The paper consists of 10 questions; answer all the questions. Each question carries 10 marks; where a question has sub-questions or parts, the marks for each are indicated. Answer in English.

1. 'A' holder of a promissory note demanded 'B' promissor (debtor) to repay the debt by issuing legal notice and 'B' replied denying the execution of the promissory note and borrowal of the amount. So, 'A' transferred the promissory note to 'C' for consideration in view of his dire necessity for money and handed over the promissory note and legal notices exchanged between 'A' and 'B' to 'C'. Thereafter, 'C' the holder in due course filed a suit on the strength of the transfer endorsement on the promissory note against 'B' for recovery of money due under the promissory note. 'B' opposed the claim stating that the transfer of promissory note is not legally valid as the transfer took place after knowledge of dishonour of the promissory note and it lost its negotiability and as there exists a defect in the title of the 'A' as 'B' denied the execution of the promissory note in his reply notice and as he obtained transfer of promissory note with knowledge that execution of it was denied by 'B'.

Explain with detailed reasons with reference to relevant sections of law, whether claim made by 'C' the holder in due course against 'B' is valid under law and whether he is entitled for recovery of the money.

10 Marks

2. (a) Is there any period of limitation prescribed for filing a petition under Order IX Rule 7 CPC to set aside the order passed against the defendant under Order IX Rule 6(1)(a) CPC that the suit be heard ex parte against the defendant. If so, what is the period of limitation and what is the relevant provision of law?

(b) Explain whether a defendant who remained ex parte after receiving summons from the Court can subsequently participate in the trial of the suit without having the ex parte order set aside? If so, to what extent he can participate? Whether there is any limitation on his right to participate?

(c) Also explain when the right of the defendant to file written statement is forfeited on his failure to file written statement within the stipulated time, whether he can participate in the trial of the suit without his pleadings? If so, to what extent and whether there is any limitation on his right to participate in the trial?

(d) Explain whether one of the defendants to the suit can be examined as a witness of the plaintiff? If so, what are the limitations?

(4 x 2½ = 10 Marks)

3. What is the duty of the Court when an instrument, which is liable to be stamped but not duly stamped, is produced before the Court and is tendered for being marked as an exhibit? What is collateral purpose? Whether such a document can be permitted to be exhibited for collateral purpose? And, if so, when?

10 Marks

4. Law of limitation bars the remedy; but, does not extinguish the right. Explain with an illustration. Are there any exceptions to this rule? If so, state the same?

Whether a person claiming the title by virtue of adverse possession can maintain a suit under Article 65 of Limitation Act, 1963 for declaration of title and for a permanent injunction seeking the protection of his possession thereby restraining the Defendant from interfering in the possession or for restoration of possession in case of illegal dispossession by a Defendant whose title has been

extinguished by virtue of the Plaintiff remaining in the adverse possession or in case of dispossession by some other person? Answer with reference to the latest case law on the subject. 10 Marks

5. Write short notes on the following:

(a) Res subjudice.

(b) Doctrine of election.

(c) Doctrine of feeding the grant by estoppel.

(d) Cause of action.

(e) Force Majeure. (5 x 2 = 10 Marks)

6. (a) Explain whether a gift once made can be revoked by the donor under Section 126 of the Transfer of Property Act? If so, state the grounds on which a gift can be revoked under Section 126 of the Transfer of Property Act.

(b) Explain whether a husband is implied agent of wife in respect of her immovable property and whether husband can sell the immovable property of wife without her consent? To what extent and for what purpose, husband can be said to be an implied agent of wife in respect of her daily necessities? (2 x 5 = 10 Marks)

7. Write short notes on:

(a) Quantum meruit and in what case does a claim for quantum meruit arise?

(b) Quasi contracts.

(c) Nature of liability under contract of indemnity and guarantee.

(d) Novation of contract. (4 x 2½ = 10 Marks)

8. Write a note on:

(a) Temporary and permanent injunction.

(b) Mandatory injunction.

(c) Contracts not specifically enforceable.

(d) Rights of purchaser or lessee against a person without title or imperfect title. (4 x 2½ = 10 Marks)

9. (a) When a Judge who heard the arguments in a suit has written the judgment, but vacated office without pronouncing the judgment, what is the procedure to be followed and who is the competent officer to pronounce the judgment? Explain with reference to the relevant provision of law in CPC.

(b) Similarly, when a Judge who vacated the office after pronouncing the judgment, but without signing the decree drawn up in accordance with such judgment, what is the procedure to be followed and who is the competent officer to sign the decree? Explain with reference to the relevant provision of law in CPC.

(c) When a suit of the plaintiff opposed by the defendant is dismissed for default owing to his non-appearance when the suit is called for hearing under Order IX Rule 8 CPC, whether the plaintiff can file a fresh suit on the same cause of action or whether he is precluded from filing any fresh suit? What is the remedy available to the plaintiff in the said circumstances? Explain with reasons with reference to the relevant provision of law in CPC.

(d) Explain whether the provisions of Order XXI CPC relating to execution of the decrees (including provisions relating to payment under a decree) apply to the execution of order or not with reference to the relevant provision of law in CPC. (4 x 2½ = 10 Marks)

10. (a) What are the disqualifications for inheritance under Hindu Succession Act, 1956?

(b) What is escheat?

(c) What are the rights of inheritance of a child in womb under Hindu Succession Act?

(d) Define the terms 'cognates', 'agnates', 'full blood', 'half blood' and 'uterine blood'.

(e) What is right of preemption? (5 x 2 = 10 Marks)