Assam Judicial Service Grade III (Mains) 2013

Paper III · Law I · compulsory paper

100 marks · 3 hours · 9 February 2014 (2013–14 examination) · all questions carry 5 marks

GROUP A — CONSTITUTION OF INDIA. Answer any five questions.

1. What kinds of freedom are guaranteed under article 19 of the Constitution of India as fundamental rights? What are the limitations that may be imposed thereon? What is the test of reasonableness of a restriction?

2. "Right to freedom of speech and expression includes right to acquire and disseminate information". Explain this proposition with reference to relevant case law.

3. Explain the principle of collective responsibility of Council of Ministers?

4. Explain the status of the President of India in relation to His Council of Ministers.

5. Explain the constitutional provisions regarding repugnancy of statutes enacted by Parliament in one hand and the State Legislature on the other.

6(a). Write short notes on any two — A Money Bill.

6(b). Appellate jurisdiction of the Supreme Court in regard to criminal matters.

6(c). Supervisory Jurisdiction of the High Court.

6(d). Courts of record.

7. Describe the status of Administrative Tribunals.

8. Explain the doctrine of pleasure incorporated in Article 310 of the Constitution of India.

GROUP B — INDIAN CONTRACT ACT, 1872. Answer any five questions.

1. Explain the law relating to compensation for breach of contract where the contract contains stipulation by way of penalty.

2(a). Write short notes on any two — Reciprocal promises.

2(b). Contract of guarantee.

2(c). Contract made under a mistake of fact.

2(d). Bailment of pledges.

3. Describe the relationship between a principal and a sub-agent.

4. Explain voidable contracts. How can a voidable contract be enforced?

5. What are the contracts that need not be performed?

6. What is the obligation of a person enjoying benefit of a non-gratuitous act? How does it differ from the responsibility of finder of goods?

7. What are the exceptions to the general proposition that agreement without consideration is void? Can a minor enter into an agreement without consideration?

8. Explain the "Doctrine of Ratification". What are the acts that cannot be ratified?

GROUP C — TRANSFER OF PROPERTY ACT, 1882. Answer any five questions.

1. Explain the "rule against perpetuity" envisaged in Section 14 of the Transfer of Property Act, 1882? What effect does it have on an agreement to sell property in future?

2. What is a conditional transfer? How can a condition precedent be fulfilled?

3. What is the transfer of property by an ostensible owner? How does it differ from a Benami transaction?

4. Explain the principle of lis pendens.

5(a). Write short notes on any two — Usufructuary mortgage.

5(b). Subrogation.

5(c). Onerous gift.

5(d). Mortgaged debt.

6. How can a lease of immovable property be determined? How does waiver of notice to quit affects the determination of a lease?

7. What are the rights of a mortgager to redeem the mortgaged property? What is the extent of entitlement of such mortgager regarding accession of the mortgaged property?

8. "A transferee can avail the protection provided under Section 53-A of the Transfer of Property Act as a shield only and not as a sword." Explain the proposition.

GROUP D — THE CODE OF CIVIL PROCEDURE, 1908. Answer any five questions.

1(a). Write short notes on any two — Decree.

1(b). Inter pleader suit.

1(c). Mediation.

1(d). Equitable set-off.

2. Describe the procedure relating to suits by or against the Government or a public Officer.

3. Explain the doctrine of res judicata. What is the distinction between estoppel and res judicata?

4. Explain the doctrine of restitution with reference to Section 144 of the Code of Civil Procedure.

5. What is the distinction between a necessary party and a proper party? What shall be the effect of non-joinder thereof?

6. "Death of a plaintiff or defendant shall not cause the suit to abate if the right to sue survives." Elucidate.

7. Who may be appointed as guardian ad litem? Explain the procedure for appointment and removal of guardian for the suit.

8. What are the basic principles governing grant of temporary injunction? Whether jurisdictional aspect of the matter can be considered while granting such injunction?