Bihar Judicial Service (Mains) 2014

Law of Evidence and Procedure · compulsory paper

1. (a) Explain the meaning of following: (i) Precept; (ii) District; (iii) Mesne profit.
(b) Explain the provisions relating to raising of objection to the jurisdiction of the court under the Code of Civil Procedure.

2. (a) Explain the principle of res judicata. How does it differ from 'stay of suit'? Also state whether res judicata applies to execution proceedings.
(b) Explain the provisions of the Code of Civil Procedure as regards filing of second appeal. Is there any case in which second appeal may not lie?

3. (a) What is an interpleader suit? Explain the circumstances in which such a suit can be instituted.
(b) What are the orders from which appeal lies? Whether an appeal lies from an order passed by a court in the exercise of its appellate jurisdiction?

4. (a) What is a fact in issue? Whether it is a relevant fact? Explain the circumstances when the conduct of a party to the proceeding becomes relevant.
(b) What are the circumstances when confession of a co-accused may be proved against an accused?

5. (a) What is a leading question? Whether and in what circumstances a leading question may be asked?
(b) Explain the law as to the proof of legitimacy of a child. Is it enough to prove that the child was born during a valid marriage?

6. (a) Explain the judge's power to put questions or require production of documents from a party during trial of a case.
(b) Write note on the following: (i) May presume; (ii) Shall presume; (iii) Conclusive proof.

7. (a) When and under what circumstances a court may exercise the power of appointment of an arbitrator or umpire?
(b) When and how an award made by an arbitrator but not filed in the Court can be made into a decree of the court? If any party to the agreement objects to it, how shall the court proceed?

8. (a) Discuss the conditions for and the power of the court to stay legal proceedings when there is an arbitration agreement between the parties.
(b) How far the provisions of the Limitation Act apply to the arbitration agreement under the Arbitration Act?

9. (a) State to whom warrant of arrest may be directed. Whether such a warrant may be directed to a private person? Explain the circumstances and law in this regard.
(b) What is preventive arrest? Whether and in what circumstances it is competent for a police officer to arrest a person without a warrant? Is it permissible to detain such person in police custody beyond 24 hours?

10. (a) According to law, no judge or magistrate or a public servant, not removable from his office save by or with the sanction of the government, accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, shall be tried for such offence except with the previous sanction of the Central or the State Government, as the case may be. Whether

taking or accepting illegal gratification is an act done in discharge of the official duty for which such a sanction is necessary?

(b) A is convicted of three offences by a criminal court competent to try such offences and the court passes sentence of imprisonment in all three cases. Individually the Court is competent to pass the sentences but the aggregate of them exceeds the punishment prescribed for any single offence. Whether A needs to be sent for trial to a higher court? State the law.

De Facto IAS