Gujarat Civil Judge (Mains) 2011

PAPER - I (CIVIL) · compulsory paper

16th October, 2011, Sunday · 10.00 A.M. to 1.00 P.M. · Total Marks: 100

Notes:

Answer to Short Note should not exceed 250 words.

Carefully read the instructions given on first page of Answer Book.

1. Describe different modes of settlement of disputes outside the Court under Section 89 of the Code of Civil Procedure. [10 marks]

OR

Write a note on principle of Res Judicata under Section 11 of the Code of Civil Procedure.

OR

Write a note on territorial jurisdiction under the Code of Civil Procedure.

2. Write short notes on any two of the following : [10 marks]

(a) Exclusion of time consumed in the proceedings bona fide in Court without jurisdiction for computing the period of limitation.

(b) Effect of acknowledgment in writing on limitation.

(c) Extension of period of limitation under Section 5 of the Limitation Act.

(d) Adverse possession.

3. Write short notes on any two of the following : [10 marks]

(a) What agreements are contracts ?

(b) Who are competent to contract ?

(c) Explain the term “free consent” under Section 14 of the Contract Act, 1872.

(d) Explain the term “consideration” as defined under Section 2(d) of the Indian Contract Act, 1872.

4. Define partnership and discuss requirements of valid partnership. [10 marks]

OR

Write short notes on the following :

(a) Partnership at will.

(b) Dissolution of firm.

5. Write a note on specific performance of contract. [10 marks]

OR

Write short notes on the following :

(a) Contracts which cannot be specifically enforced.

(b) Damages in lieu of specific performance.

6. What are the provisions made in Section 138 of the Negotiable Instruments Act with respect to dishonour of cheque ? [10 marks]

OR

Write short notes on the following :

(a) Who are the persons deemed to be guilty in case the person committing offence under Section 138 of the Negotiable Instruments Act is a Company ?

(b) Provisions made under Section 142 of the Negotiable Instruments Act for offence of dishonour of cheque.

7. Write an essay on any one of the following in English only. [10 marks]

(1) Role of a Judge in achieving speedy trial.

(2) Independence of judiciary.

(3) Legal Aid : importance in Indian Judicial system.

(4) My idea of an ideal judge.

(5) Women's empowerment.

8. Translate the following paragraph into Gujarati : [10 marks]

The law relating to bail is contained in Sections 436 to 450 of chapter XXXIII of the Code of Criminal Procedure, 1973. Section 436 deals with situation,in what kind of cases bail should be granted. Section 439 deals with the special powers of the High Court or the Court of Sessions regarding grant of bail. Under Sections 437 and 439 bail is granted when the accused or the detenu is in jail or under detention.

The provision of anticipatory bail was introduced for the first time in the Code of Criminal Procedure in 1973. The Code of Criminal Procedure, 1898 did not contain any specific provision of anticipatory bail. Under the old Code, there was a sharp difference of opinion amongst the various High Courts on the question as to whether the Courts had an inherent power to pass an order of bail in anticipation of arrest, the majority of view being that it did not have such power.

9. State whether the following statements are true or false : [20 marks]

1. Period of limitation for challenging the decree obtained fraudulently is three years from the date of knowledge of the plaintiff.

2. In the event of dishonouring of cheque, notice for recovery shall have to be given before expiry of 15 days period before filing complaint under Section 138 of the Negotiable Instruments Act.

3. Registration of partnership firm is a must for filing the suit by the firm in the Court of law.

4. On compromise between the parties in a Civil Suit, prior to settlement of issues, 2/3rd of the total amount of Court fees would be refundable.

5. Temporary injunction is not the relief available under the Specific Relief Act, 1963.

6. Breach of promise to marry a person entitles him to get damages under the law of Contract.

7. Payment of subsistence by the third party to the minor can be recovered from his (minor) assets under the Contract Act.

8. In the event of death of a party, the suit shall abate on non joining of his heirs within 60 days of the date.

9. Once arguments of both sides are concluded, delivery of judgement is a must within 15 days of the date of conclusion under the Code of Civil Procedure.

10. Upon passing an order of civil imprisonment against the defendant, such order cannot be executed till plaintiff pays subsistence allowance.

De Facto IAS