Gujarat Civil Judge (Mains) 2016

PAPER – II (CIVIL) · compulsory paper

19.03.2017 · 2½ Hours · 75 Marks

Note

(1) Answer to each question must be written in separate answer sheet.

(2) Answer to Short Note should not exceed 250 Words.

(3) If more questions are attended than required, the best combinations of the answers shall be taken into consideration.

Q.1 Answer the questions : (any two) **[10 marks]**

(1) What are the essentials of pleadings ?

(2) What are the exceptions to the rule of "No consideration, No contract" ?

(3) Can a minor be admitted as a partner of a firm ? If so, can he subsequently ratify or revoke such partnership. Describe the rights and liabilities of such minor partner.

(4) What do you mean by specific performance of a contract ? What contracts cannot be specifically enforced ? Can a part of contract be specifically enforced ? Explain with suitable illustrations.

Q.2 Explain in brief : (any two) **[10 marks]**

(1) Explain the provisions, as also principles to invoke the jurisdiction of Civil Court.

(2) 'The Executing Court cannot go behind the decree. However, it does not mean that the Court has no duty to find out the true effect of the decree.'

(3) Explain 'The doctrine of frustration' according to the Contract Act with illustrations.

(4) "Law of limitation simply bars judicial remedy, it neither affects extra judicial remedies nor the substantive right itself." Comment

Q.3 Discuss in detail : (any two) **[10 marks]**

(1) Mention the various types of injunctions and discuss how far it is correct to say that injunction is purely a preventive relief.

(2) The provisions and principles with regard to Summary Suits.

(3) 'All contracts are agreements, but all agreements are not contracts.'

(4) 'The liability of a surety is co-extensive with that of the principal debtor.'

Q.4 Answer the questions : (any two) **[10 marks]**

(1) Difference between a contingent contract and a wagering agreement.

(2) Difference between Res Judicata and Res Sub Judice.

(3) Difference between Partnership and Joint Hindu Family Business.

Q.5 Write Short Notes : (any two) **[10 marks]**

(1) Amendments of Pleadings.

(2) Attachment before Judgment.

(3) Lis Pendens.

(4) Effect of Non-registration of a Firm.

Q.6 Write an Essay only in English : (any one) (Answer in Gujarati/Hindi to this Question-6 will not be considered.) **[10 marks]**

(1) ADR Mechanism.

(2) Legal Aid – Ambit and Scope in Indian Judicial System.

(3) Principle of Natural Justice.

Q.7 State whether True or False : (any five) **[10 marks]**

(1) In Gujarat, as per the recent amendment, the pecuniary limit of jurisdiction of a Court of Civil Judge is Rs. 10,00,000/-

(2) The principle of Res Judicata applies also as between two stages of the same litigation.

(3) Even if the guardian of the minor fails to execute the decree passed in favour of the minor, the right of the minor to execute the decree within three years, after attaining majority, is not affected.

(4) Court is duty bound to dismiss the suit which is barred by limitation, irrespective of question, where issue was raised or not by the defendant.

(5) Even an unregistered partnership firm can initiate criminal proceedings.

(6) As per the recent amendment made in the Gujarat Court Fees Act, now process fees are not required to be paid in any Civil or Criminal proceedings.

Q.8 Draw the Order granting or refusing exparte interim injunction : **[5 marks]**

An agriculture land Survey No. 723 of village Ranakpur Talkula Dwarka is an ancestral property. The plaintiff Omprakash is a government servant and residing at Valsad with his family, since last more than 12 years. The defendants Ramprakash and Krishnaprakash, brothers of the plaintiff, are residing at village Ranakpur since beginning and cultivating the land jointly. As per say of the plaintiff, every year 1/3 share of the profits is being given to him by the defendants. It is the case of the plaintiff that due to considerable rise in the value of the land, his brothers have now declined to give him share saying that he is residing separate since last more than 12 years at Valsad and has not spent any amount towards development of the land in question. It has been alleged by the plaintiff that the defendants are trying to dispose of the said ancestral land without the consent of the plaintiff. The plaintiff has therefore, filed the suit for declaration and permanent injunction. Along with the plaint the plaintiff has also submitted an application (Ex. 5) for interim injunction in respect of transfer and possession of the land, and also claimed relief to restrain the defendants from prohibiting the plaintiff in entering in the suit land.