Haryana Civil Judge (Mains) 2011

Civil Law I · compulsory paper

1. (a) What is the difference between res sub judice in Section 10 and res judicata in Section 11 of the Code of Civil Procedure, 1908?

(b) What causes of action can be joined, without the leave of the court, to a suit for recovery of immovable property?

(c) A agrees to sell and deliver to B 500 kgs of sugar at the rate of Rs. 50 per kg on date X. On the same day he agrees to sell and deliver to C a like quantity of sugar at the same rate on the same date. Can B and C join together as plaintiffs in one suit against A and, if not, why not?

(d) What are the powers given by Section 94 to a Civil Court for preventing the ends of justice from being defeated?

2. (a) What are the alternative methods of dispute resolution in the Code of Civil Procedure, 1908?

(b) A is a tradesman in Calcutta. B carries on business in Delhi. B buys goods of A through his agent in Calcutta and requests A to deliver them to the Indian Railways. A delivers the goods accordingly in Calcutta. Where can A sue B for the price of the goods delivered by him to B?

(c) When can a civil court impose costs by way of compensation and costs for causing delay?

(d) How has the Code of Civil Procedure, 1908 defined the following: (i) summary procedure; (ii) mesne profits; (iii) judgment and order; (iv) legal representative?

3. (a) Yamuna Developers Pvt. Ltd. (YDPL) contracted with Jaipur Tiles Ltd. (JTL) for supplying various kinds of tiles to its Green Valley Project with an actual cost of Rs. 50,00,000. JTL fulfilled its own part but YDPL had paid only Rs. 20,00,000. After one year, JTL agreed to accept Rs. 20,00,000 in satisfaction of its claim of Rs. 30,00,000. Later on JTL filed a suit for the enforcement of the contractual obligation. Decide the case on the basis of relevant legal provisions and case law.

(b) A contract for the sale of a horse is entered into on the condition that the buyer should have it for eight days for trial and be at liberty to return it at the expiration of that period if he did not find it suitable. The horse dies, without any fault on the part of either party, three days after it was delivered to the buyer for trial. Whether the contract can be enforced?

(c) Discuss the law relating to privity of contract in English and Indian law with its qualified exceptions. Discuss relevant case laws.

(d) Write short notes on the following: (i) Unjust enrichment; (ii) Holding out.

4. (a) (i) Mr. and Mrs. Kaur are running a Legal Aid Clinic. Is it a kind of partnership? Discuss. (ii) What is the implied authority of a partner? In what circumstances can implied authority not be used by a partner?

(b) What are the rights of a surety against the creditor? Discuss with the relevant provisions of the Indian Contract Act.

(c) What are the rights of an unpaid seller against the goods? How will the rights of an unpaid seller vary in case of part delivery of goods?

(d) Explain the circumstances, along with the relevant provisions of the Statute, in which the Civil Court may order a licensed petition-writer to rewrite any petition written by him.

5. (a) Digvijay proceeds against Srijayan in a civil court claiming compensation for the injury caused to him. He adduces the following evidence in addition to other documentary and oral evidence. Decide whether the following facts are relevant and admissible: (i) the judgment of the Criminal Court convicting Srijayan for causing grievous hurt by rash and negligent driving; (ii) the advice note given in confidence by the public prosecutor who had instructed Digvijay to make certain statements during his deposition.

(b) Rajesh, a student, got a marks-sheet from the Haryana Education Board showing that he had passed in biology, physics and chemistry with good marks. Rajesh, as a matter of fact, had never opted or appeared for biology. However, he remained silent and sought admission in the 1st year of the MBBS course at Guru Nanak Dev Medical College. When he had to appear in his 1st professional course of MBBS, the Haryana Board, realising the error, served a notice on him for the wrong mark-sheet. Subsequently, the Medical College cancelled his admission. Rajesh consults you for using estoppel against the Haryana Board. Give your opinion with reasons.

(c) Enumerate the situations when leading questions can be asked during examination-in-chief and re-examination. Also point out when it is not allowed during cross-examination.

(d) Can a Judge base his judgment on answers to irrelevant matters? What are the restrictions on the power of the Court to compel a witness to produce any document?