Haryana Civil Judge (Mains) 2013

Civil Law II · compulsory paper

Time allowed: 3 hours · Maximum marks: 200

Question 1

1. (a) Respond to the following fact-situations by applying relevant Statutes of Hindu law and citing case-law wherever required.

(i) Kanika married Sanjeet in 2001 and they were living with the latter's parents. In 2004, Sanjeet died in a car accident. After his death, Kanika was denied financial support and share in the ancestral property by her in-laws. Since Kanika's parents were not economically well off and had to support their son's education as well, Kanika did not want to burden them with her problems. What are the rights available to Kanika in Hindu law for her maintenance?

(ii) Aachal and Basant, both Hindus, got married to each other in 2002. In 2005, Basant got converted to Islam and married a Christian lady named Veronica without dissolving his first marriage. Draw up a line of argument for Aachal if she wishes to sue Basant.

1. (b) Respond to the following fact-situations by applying relevant provisions of the Hindu Marriage Act. 1955 and citing case-law wherever required:-

(i) Prakhar and Aaradhya have been living together at Gurgaon for 6 years now. In January this, they had a violent fight. Aaradhya was hit hard by Prakhar as a result of which, she sustained injuries. After they broke up, Aaradhya sued Prakhar for maintenance, among other things. Discuss the parameters that need to be satisfied for claiming maintenance in this regard and decide whether Aaradhya is entitled to maintenance in this domain?

(ii) Krishna and Kajal married each other in 2010. Kajal was 16 years old when she got married and krishna was 25. Despite repeated attempts by Krishna to consummate the marriage with his wife, the couple failed to do so because of Kajal's strong resistance and willingness. After three years of marriage, Krishna sought termination of the marriage. Marriage records revealed that Kajal was a perfectly normal woman biologically and that her resistance to intercourse is only psychological. What are the remedies available under the Hindu Marriage Act, 1955 if Krishna wants to terminate his marriage with Kajal?

(iii) Sujoy Chatterjee and Momita Banerjee got married in 2000. At the time of marriage. Momita was not aware of the fact that Sujoy was suffering from Schizophrenia and that his illness was acute. When she got to know of it within two months of her marriage, she was disappointed. However, she decided to continue with the marriage hoping for things to get better in future. Five years later, she approached the court claiming divorce on the ground of Fraud. Against this background, discuss the concept of Fraud and decide whether Momita is entitled to relief on this ground? What other options are available to Momita under the Hindu Marriage Act. 1955 if she wishes to terminate her marriage with Sujoy.

Question 2

2. (a) Trace the history from the Shah Bano judgement which led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986 and critically analyse the provisions of this legislation. Discuss the issues in relation to the constitutionality of this Act as raised before the Supreme Court in Danial Latifi and Another v. Union of India, AIR 2001 SC 3958.

2. (b) In Abdul Kadir v. Salima (1886) 8 All 149, Justice Mahmood stated, "Marriage among Muslims is not a sacrament but purely a civil contract." O the other hand, another noted scholar of Muslim Law, Abdul Rahim states that marriage among Muslims is both an Ibadat (devotional act) as well as muamlat (dealings song men). In the light of these statement, discuss the exact nature of Nikah, pointing out its essential features and referring to case-law wherever required.

2. (c) Analyse the concept of Will in islam and explain clearly the requirements of a valid Wasiyat and the means by which a Wasiyat can be revoked. Highlight the exceptions to the one-third rule of testamentary disposition of property among Muslims. Also, reveal the difference between the Shias and Sunnis with respect to the Law of Wills.

Question 3

3. (a) (i) Amartya and Jayaa have a daughter aged 12 years. They want adopt a girl child from a foster-home. Is it permissible under the existing legal provisions ? Give reasons for your answer citing relevant case-law.

(ii) Akhil and Niharika were married for 18 years and got divorced recently. They have an eight years old child, Anjan. Akhil claims custody of the child statin that Niharika is only a teacher in a primary school whereas he is a rich businessman and therefore, he can sponsor the best quality of education for Anjan. Niharika on the other hand, claims that she will do everything possible to raise Anjan in the best possible manner. Discuss the requirements for custody and decide whether Akhil or Niharika should be entitled to the custody of Anjan?

3. (b) Mahendra Nanda was a rich man owning a lot property. He is the owner of over 100 acres of land at karnal, a huge mansion in the heart of Delhi and bank deposits worth several crores of rupees in India and aboard. He had two sons Sahil Nana and Kapil Nanda and two daughters, Rekha and Ritu. Several years back, when Sahil and Rekha were returning from work, their car crashed and both of them died on the spot. Sahil had two sons, Keshav and Kamal and a daughter, Vaibhavi. Of them, Kamal was the eldest one who had died of heart disease few years after marriage even before Sahil lost his life in the car crash. Kamal is now survived by his widow, Aarti and two children-a son (Anant) and a daughter (Prerna). Keshav and Vaibhavi are unmarried. Sahil's widow is also alive. On the other hand, Rekha is survived by a son (Rishabh) a daughter (Riddhi). Kapil and Ritu are alive and unmarried. Mahendra Nanda died intestate few months back and is survived by the people as can be inferred from above in addition to his widow and mother. Keeping the aforementioned configuration in mind, determine the shares of each of the surviving members in Mahendra Nanda's property as per the Hindu Succession Act, 1956.

Question 4

4. (a) 'A' is the agent of 'P', who resides in Chandigarh and 'B' handles one branch of 'P's business in Mumbai. 'P' has a business of collecting antiques and selling them to interested buyers. For the same, 'A' is required to hold periodical auctions of valuable antique items in Mumbai. One such auction was held on 02.03.2008. Around 15 items were sold for a collective price of Rs. 25 lakhs. The said amount was less than the normal recovery which is to be expected in auction. 'P' enquiries regarding the same from 'A' over the telephone but does not receive any satisfactory answer. Due to his hectic schedule, 'P' is unable to visit Mumbai for the next years. He visits Mumbai on 20.03.2010. Upon reaching there, he makes extensive enquiry about the said transaction and finds out that 'A' had failed to give adequate notice to the public of the auction. The notice was given just 1 day before the auction and that too in a

newspaper with limited circulation. Thus, goods which would have fetched around Rs.75 lakh were sold for only Rs.25 lakhs for lack of competitive bidding. On his way back on 21.03.2010 he meets with an accident. He slips into a coma. He comes out of the coma on 10.06.2012. On 25.05.2013 he files a suit against 'A' for claiming damages for his losses. 'A' contends that the suit is barred by limitation as the limitation expires in 2011. 'P' contends that the period between 21.03.2010 and 10.06.2012 should be excluded in the computation of the limitation period. Adjudicate upon these contentions.

4. (b) 'X' wanted to institute a suit against 'Y' for the breach of contract by 'Y' in relation to a contract of sale of goods. The goods were delivered to 'Y' on 12.11.2011 in Yamuna Nagar. Since the date of delivery, 'Y' is yet to pay for the gods despite repeated reminders. The lawyers admits that 'X' has a good case and advises him to file a case in the Yamuna Nagar. 'X' is not inclined to file the suit in Yamuna Nagar as 'Y' resides there and would be able to secure good legal representation. 'X' wants to file the suit in the Faridabad where 'X' has some relatives where it will not be very inconvenient for 'X' to attend to the case. Thus 'X' files the suit in Faridabad on 06.06.2013. He is very diligent in attending the court and pursuing his case. He is personally present on each hearing. On 08.10.2014, the court in Faridabad dismisses the suit on the ground that it has no jurisdiction to try the said suit. 'X' institutes a suit against 'Y' in Yamuna Nagar on 20.11.2014. Discuss the rules of computation of limitation of limitation period applicable and decide the case?

Question 5

5. (a) Write short notes on any two of the following:-

(i) Doctrine of Factum Valet
(ii) Chadar Andazi
(iii) Anand Karaj ceremony

5. (b) 'A' bequeaths property worth Rs.2 Crores to his friend 'B'. A's family members allege that the bequest is invalid for want of registration. Decide the case.

5. (c) There is a contract to be signed between 'A', 'B', 'C' and 'D' on one hand and 'E' on the other hand. As per the arrangement the contract has to be first signed by 'A' and 'E' on 02.03.2013. Then 'B', 'C' and 'D' object to this by contending that the document can be registered only after 02.09.2013. Decide on whether the document can be registered on 01.06.2013?