Himachal Pradesh Civil Judge (Mains) 2015

Paper II · Civil Law II · compulsory paper

Himachal Pradesh Judicial Services Main Examination 2015 · 3 hours · 200 marks

Question Nos. 1 and 8 are compulsory. Attempt three questions from the rest. In all five questions are to be attempted. Write legibly quoting provisions of law and relevant case law. Each part of the question must be answered in sequence in the same continuation. Give reasons for your answer.

1.

(a) With the help of decided cases, distinguish between void and illegal contracts. [10 Marks]

(b) Discuss in detail with the help of recent Supreme Court Judgments “Mutual Consent" as a ground of divorce under Hindu Law. [10 Marks]

(c) Distinction between Implied Contract and Equitable Estoppel. [10 Marks]

(d) How is the period of limitation reckoned under the Indian Limitation Act, 1963. Refer to recent Case Law. [10 Marks]

2.

(a) Discuss in detail Contract through Email under the Indian Contract Act. Refer to recent Case Law. [13 Marks]

(b) Explain the term 'Anticipatory Breach of Contract’.What are the effects of anticipatory breach of contract ? Refer to Case Law. [14 Marks]

(c) ‘A’ buys freight, from B for 5000 bales of cotton on a ship belonging to ‘B’ to be carried from Bombay to Afghanistan. The freight is paid in advance and the goods are put on board the ship. While the ship is still lying in the harbour, the export of cotton to Afghanistan is prohibited under orders of the government, and the voyage is abandoned. Is ‘A' entitled to a refund of the freight paid in advance ? Discuss with reference to Cases. [13 Marks]

3.

(a) What is partition according to MitaKshara law ? Is Communication of intention to separate necessary to effect a partition ? Can a minor demand partition ? If so, under what circumstances ? [14 Marks]

(b) Discuss doctrine of "relation back”. What changes in the doctrine of ‘relation-back’ have been brought by the Hindu Adoption and Maintenance Act, 1956 ? Refer to recent Case Law. [13 Marks]

(c) What remedy, if any, is available to a Hindu wife under the Hindu Marriage Act, in the following cases : (i) The marriage was contracted her father, when she aged 15 years. [6 Marks] (ii) Her husband left, her and taken up a job in the near city and refuses to join her. [7 Marks]

4.

(a) "The foundation of Doctrine of Election is that no one can approbate and reprobate at the same Time.” Discuss and illustrate your answer. [14 Marks]

(b) “Redeem up and foreclose down.” Comment with the help of decided cases. [13 Marks]

(c) 'A’ lease is effected for one year with the right given to the lessee to renew it, if he so likes. Can the lessor terminate it, against the wishes of the lessee on the expiration of one year ? Give reasons

and also mention the relevant provisions of Transfer of Property Act. [13 Marks]

5.

(a) What do you understand by acknowledgement of Liability ? Discuss the effect of acknowledgement on the running of Limitation period. [14 Marks]

(b) Explain the effect of fraud or Mistake on Limitation and also mention the relevant provisions of the Limitation Act. Refer to Case Law. [13 Marks]

(c) Can a court entertain an appeal after the expiry of the period of Limitation. If so, under what circumstances ? Give your reasons. [13 Marks]

6.

(a) What are the obligations which resemble a Contract ? Discuss, the rights and liabilities of parties to such an obligations. Illustrate your answer. [13 Marks]

(b) Critically examine with reference to Section 14 of the Hindu Succession Act, 1956 the circumstances under which a Hindu female can hold property inherited by her husband before the passing of the Act as full owner. State the effect of Section 14 of the Hindu Succession Act, 1956, upon the right of a reversioner. [14 Marks]

(c) The Law of Limitation bars the remedy in a Court of law when the period of Limitation has expired. However, there are certain exclusions in the computation of the period of limitation.Explain. [13 Marks]

7.

(a) What do you understand by a 'Wagering Contract' ? What are its essentials ? Can a Wagering Contract be enforced in a Court of Law ? Is partnership entered into to carry on business of Wagering Contracts valid ? [14 Marks]

(b) 'A' a Coparcener having incurred debts in connection with a business commenced in his individual capacity sold joint family properties for inadequate consideration and his brother Coparcener 'B' only joined him in executing the sale. Does the transaction bind the nephews of 'A'. (Who are sons of B'). Is the transaction of sale void, even against, the sons of 'A' ? Discuss. [13 Marks]

(c) What do you understand by "Clog on Redemption" ? Does taking collateral benefit amount to Clog on Redemption ? Answer with illustration and case law. [13 Marks]

8.

(a) Discuss with the help of decided cases the term "Non-residential Building" under the H.P. Urban Rent Control Act, 1987 Whether the profession of an Advocate as practice of law is business or not ? Give reasons and also refer the case law. [13 Marks]

(b) Answer the following with the help of Case law ; (i) New Tanant [5 Marks] (ii) Subletting [5 Marks] (iii) Bonafide requirement. [5 Marks]

(c) Discuss the law relating to recovery possession in case of tenancies for limited period. What is the importance of the Rent Controller permission in this regard ? Refer to relevant provisions of H.P. Rent Control Act, 1987 and decided Cases. [12 Marks]