Himachal Pradesh Civil Judge (Mains) 2014

Paper II · Civil Law II · compulsory paper

Himachal Pradesh Judicial Services Main Examination 2014 · 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) Compare with the help of decided, the Section 41 and Section 43 of the Transfer of property Act, (10)

(b) Explain the maxim “lex non cogit ad impossibilia” Refer to decided cases.(10)

(c) “Mimmansa" as a source of Hindu Law, (10)

(d) A husband obtained the signature of his wife to a gift deed without making a misrepresentation as to its character, but subsequently included two more plots in the deed. Discuss the validity of this transaction and refer to case law. (10)

2.

(a) Discuss the doctrine of Public policy, It is an illusive concept or described as an “unruly house", Illustrate your answer.(14)

(b) A appointed 'B' to look after his cultivation and his affairs. as he had become too old to manage them himself ‘B’ asked him to grant him a lease of his land. ‘A' agreed to it and placed his thumb impression upon a deed. Which was in fact a gift of the land Decide and refer to decided Cases. (13)

(c) 'A' was singing for the firm of ‘B’, Her (A’s) songs were recorded by them. During the process of recording, she did not seem to have acted gratuitously, ‘B’ enjoyed the benefit of her recordings they commercially marketed the cassettes and CD’s of her song recording.There was no formal contract. ‘B’ had no right to make any business by use of her performance Can ’B’ liable to Pay for her services? Decide and refer to case law. (13)

3.

(a) He, who accepts the benefits under the instruments, must also bear the burden". Explain, and also discuss whether this doctrine is available to cure an illegality?(14)

(b) ‘A’ sells his property to ‘B’ and before the sale deed is registered, sells it again by a registered sale deed to ‘C’. ‘B's sale deed through registered later, has priority, ‘C’ can claim that ’A’ was, a ostensible owner, ‘B’ can claim protection under Section 41 of the Transfer of Property Act. Decide. (13)

(c) Discuss Notice to quite tenancy under Section 106 of the Transfer of property Act is necessary, if so, give reasons and also mention the relevant case law. (13)

4.

(a) Discuss the powers, obligations and duties of ‘Shebait’ under Hindu Law. (13)

(b) Discuss the pious obligation of a Hindu son to pay debts of his deceased father, when no property is inherited from her father? Further mention the effects of recent amendment in Hindu

succession (Amendment) Act, 2005, Refer to Case Law. (14)

(c) Critically examine the Concept of irretrievable breakdown of Marriage, Can the Courts invoke this Concept for granting divorce under Hindu Marriage Act, 1955. Refer to recent case-law. (13)

5.

(a) What are the Pre-Requisites of establishing "Adverse possession" in Hindu law and Limitation Act. (13)

(b) Whether consideration of an application for condonation of delay in filling of an application would be different from the one for condonation of delay in refilling of an application? Discuss and illustrate your answer. (14)

(c) Cheque dated 15th , 16th March 2005 bounced, when presented for encashment Notices were served on accused on 29.9.2005 who failed to pay amount within 15 days as per Section 138 Negotiable Instrument Act, period of 15 days in the present case expired on 14.10.2005. complaints were filed on 15.10.2005, objection was raised that the complaints were filed beyond time. Decide, objection in the light of Limitation Act. (13)

6.

(a) Discuss in the light of recent Supreme Court Judgment, the place of “Live-in relationship under Hindu Marriage Act, 1955. (14)

(b) ‘A’ incurs a debt to a firm of which ‘C’, ’D’ and ‘K’ are partners. ‘C’ and ‘D' are insane and ‘k‘ is a minor. When does the period of Limitation run against them? (13)

(c) Define fraud. How far may silence go “under contract Act”? Refer to recent case Law, (13)

7.

(a) ‘A’ was appointed as lecturer in the Delhi university by the Vice Chancellor, though the post on which he was appointed was not sanctioned by the U.G.C. But he was working and taken classes for one year. ‘A’ filed a case for re-imburse the salary. Will ’A’ succeed? Decide. (13)

(b) discuss the utility of Restitution of Conjugal Rights decree under Hindu Law. Refer to recent case law. (14)

(c) “Limitation bar the remedy, but it does not extinguish the right”. Explain and illustrate your answer.(13)

8.

(a) Discuss the procedure of determination of ‘fair rent’. Under what circumstances the fair rent can be increased? Refer to recent Cases. (14)

(b) Discuss the relevant provisions regarding the leases of vacant building under the H.P Urban Rent Control Act, 1987. (13)

(c) Discuss with the help of decided Cases the procedure of eviction of tenants under the H.P Urban Rent Control Act, 1987. (13)