Himachal Pradesh Civil Judge (Mains) 2017

Civil Law II · Paper II · compulsory paper

Time: 3 Hours. Maximum Marks: 200.

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 the law and relevant Case law. Each part of the question must be answered in sequence in the same continuation. Give reasons for your answer.

Q1. (a) Sri Sri Namosadhu Naadan is a spiritual guru. Ghamandilal, owner of a chain of hotels 'Madisson Flu' in Shimla and other states of India, is his blind follower. Under Guruji's advice, Ghamandilal transfers his chain of hotels in the name of 'Sri Sri Namosadhu Naadan Trust' being managed by Guruji. Later, he alleges a foul play by Guruji and wants to avoid the contract claiming that his consent was not free. Advise Dukhilal. [14 Marks]

(b) When a contract is made by post, it is clear law throughout that the acceptance is complete as soon as the letter is put into the post box, and where the contract is made. Discuss the above statement in the light of the provisions of Contract Law. [13 Marks]

(c) Priyanka executed a promissory note in favour of Deepika for Rs. 1,00,000 on 29th Nov. 2015. She was a minor at the time of the execution but made a false representation to Deepika that she was a major and obtained money under the promissory note. Later Priyanka refused to pay back. Deepika filed a suit of recovery of Rs.1,00,000 under the said note. Can Deepika recover the amount ? Decide with the help of relevant case law. [13 Marks]

Q2. (a) When can a contract be said to be discharged by frustration ? What are the grounds of frustration ? [14 Marks]

(b) The Limitation Act is a procedural law. It bars a suit for the enforcement of a right but does not extinguish the right itself. Comment on the statement. [13 Marks]

(c) Write a detailed note on Adverse Possession. [13 Marks]

Q3. (a) Mr X is the owner of a building B and Mr Y owns the land adjacent to B. Mr Y digs a tank on his land without causing any immediate apparent injury to the building but a portion of the building B subsides. Mr X wants to sue Mr Y for compensation for the injury done to the building. When does the period of limitation for his suit begin to run. Support your answer with the help of relevant provisions of Limitation Act, 1963 and the relevant case law. [14 Marks]

(b) The Transfer of Property Act deals with transfer intervivos. However, an interest may be created in favour of an unborn person. Discuss the relevant provision with the help of the decided case laws. [13 Marks]

(c) Once a mortgage always a mortgage. Comment on the statement with the help of relevant provisions and precedents. [13 Marks]

Q4. Differentiate between the following :

(i) Mitakshara and Dayabhaga schools of Hindu Law [14 Marks]

(ii) Vested and Contingent interests. [13 Marks]

(iii) Fraud and Misrepresentation. [13 Marks]

Q5. (a) Discuss the legal provisions regarding restitution of conjugal rights and judicial separation under the Hindu Marriage Act, 1955. [14 Marks]

(b) Discuss the changing concept of 'Cruelty' as a ground of matrimonial relief under the Hindu Law. Support your answer with landmark cases. [13 Marks]

(c) Section 13 of the Act casts a duty on the landlord to keep the building in good repairs and on his failure to do so, the tenant gets a right to carry out such work and the charges and costs incurred by him can be deducted from the rent. In view of HP Urban Rent Control Act, analyse the statement critically. [13 Marks]

Q6. Explain the following doctrines :

(i) 'Feeding the grant by Estoppel' [14 Marks]

(ii) 'Election' [13 Marks]

(iii) Lis-pendens [13 Marks]

Q7. (a) Under what circumstances can delay be condoned in the filing of appeals and applications. [14 Marks]

(b) Explain the doctrine of sufficient cause for condonation of delay. [13 Marks]

(c) State of Himachal Pradesh (HP) filed a suit for recovery of land against Mr. Yogi after expiry of the limitation period. Mr Yogi pleaded that the said suit was barred by limitation. Can the state of HP take this plea that the Government of HP is exempted from limitation rules ? Decide. [13 Marks]

Q8. Describe the provisions and procedure for the following as prescribed under HP Urban Rent Control Act :

(a) Determination revision of fair rent [10 Marks]

(b) Revision of fair rent [10 Marks]

(c) Eviction of tenant [10 Marks]

(d) Power to make rules [10 Marks]