Himachal Pradesh Civil Judge (Mains) 2023

Paper II · Civil Law II · compulsory paper

JSHP-23(M)-CIVIL LAW-II · 19 September 2023 · 3 hours · 200 marks

Question paper specific instructions

1. This question paper contains eight questions.

2. Question No. 1 and 8 are compulsory. Attempt any three questions from the rest.

3. Each question carries equal marks. Marks are divided and indicated against each part of the question.

4. Write legibly supporting your answers with relevant statutory provisions and appropriate judicial pronouncements as may be desirable.

5. Each part of the questions must be answered in sequence in the same continuation.

6. If question are attempted in excess of the prescribed number only question attempted first up to the prescribed number shall be valued and the remaining answer will be ignored.

7. Re-evaluation/re-checking of answer book are not allowed.

Q.1 With the help of decided cases, discuss the following:

(a) 'Doctrine of Frustration' under the Contract Act, 1872. (10)

(b) Effect of Fraud or Mistake on the Law of Limitation, 1963. (10)

(c) Constitutional Validity of Section 9 of Hindu Marriage Act, 1955. (10)

(d) 'Feeding the Grant by Estoppel' under the Transfer of Property Act, 1882. (10)

Q.2 Explain the following:

(a) Essential conditions for a valid adoption under Hindu Adoption and Maintenance Act, 1956 (HAMA), Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) and Adoption Regulations, 2017. (14)

(b) Special Procedure for the disposal of applications for eviction on the ground of bonafide requirement under Section 16 of the HP Urban Rent Control Act, 1987. (13)

(c) Sameer is the owner of building X. Rohan owns the land adjacent to X. Rohan digs a tank on his land without causing any immediate apparent injury to the building, but a portion of X subsides. Sameer wants to sue Rohan for compensation for the damage/loss caused 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 the Limitation Act, 1963 and the relevant case law. (13)

Q.3 Differentiate between the following:

(a) Coercion and Undue Influence under the Indian Contract Act, 1872. (14)

(b) Vested and Contingent Interests under the Transfer of Property Act, 1882. (13)

(c) Void, Voidable and Invalid Marriage under the Hindu Marriage Act, 1955 (HMA) (13)

Q.4

(a) Chaman Lal Bali v. State of Himachal Pradesh AIR 2016 HP 168; SCC Online HP 1342 is an important case decided by the HP High Court on August 2, 2016, with respect to the HP Urban Rent

Control Act, 1987. Discuss the judgment while highlighting the significant points held by the Court. (14)

(b) Jili Sonaya is a renowned Dharam Guru allegedly involved in some scam. During a press conference, Honey, a notorious young man, repeatedly shouted certain abusive words for him in the presence of many other devotees and followers. Jili Sonaya filed a case of defamation against Honey. Honey hired advocate Mr. Shyam Dangal who successfully defended him in the trial court of Delware. However, when Mr. Dangal asked for the payment of his fee, Honey refused to pay and told him that he is a minor and therefore, not liable to make any payment to him.
Discuss the liability of Mr. Honey assuming that he is a minor. (13)

(c) Describe the applicability of relevant provision of the Limitation Act, 1963, date on which the period of limitation shall be computed in case of claim of Set-off and Counter-claim. Substantiate your answer with the decided case laws. (13)

Q.5

(a) Megha made a gift of her property to her nephew's daughter Khushi for her life and then to Khushi's male descendants absolutely, if she had any. In case, if she had no male descendants, then to Khushi's daughter without any power of alienation. In case, Khushi had neither male nor female descendants, then the property was to revert to her nephew. Khushi died without any child. Find out the validity of the gift. (14)

(b) What is the order of succession in the event of death of the person continuing in possession after the termination of the tenancy as provided under Sec. 2 of the HP Urban Rent Control Act, 1987? (13)

(c) The State of Himachal Pradesh (HP) filed a suit for recovery of land against Mr. Bhurelal after expiry of the limitation period. Mr Bhurelal pleaded that the said suit was barred by limitation. Whether the state of HP is right in taking this plea that the State Government is exempted from limitation rules? Decide. (13)

Q.6

(a) In contracts, Time is usually considered to be of an essence.
Akshira (seller) and Samyak (buyer) entered in an agreement of sale of residential flat 'Prateeksha' located in Bandra, Mumbai in Dec.2020. There was no mention originally of the time of performance being of the essence. Samyak completed all the formalities as well as the payment as per the agreement by Dec. 2022. However, Akshira did not hand over the possession to Samyak till July 2023. Samyak repeatedly reminded Akshira for the same, but she did not respond even once.
In Aug. 2023, she communicated that she would hand over the possession to Samyak by Dec. 2023.
Discuss the relevant issues/case law/provisions that are necessary to determine whether in this case time is of the essence or not. (14)

(b) In the case of Shilpa Sailesh vs. Varun Sreenivasan (2023), the SC has ruled that it has the power to dissolve a marriage if the marriage is irretrievably broken down. Discuss the existing law on the irretrievably broken down of marriage under the Hindu Marriage Act, 1955 (HMA). (13)

(c) Mr Suleman filed a suit against Mr. Rehman based on an acknowledgement of payment made by him in the written statement of a previous suit as provided under Section 19 of the Limitation Act. Decide. (13)

Q.7

(a) Standard Form Contracts are very common these days as big corporates find them easier in view of the ever-increasing consumer base of goods and services. Discuss the safeguards available to the consumers and applicability of the doctrine of Contra Proferentum to such contracts. (14)

(b) Write a detailed note on Adverse Possession. (13)

(c) What are the grounds to be considered by the Controller before making an order for eviction of the tenants under the HP Urban Rent Control Act, 1987? (13)

Q.8 Describe the provisions and procedure for the following as prescribed under HP Urban Rent Control Act, 1987:

(a) Time limit for making deposit and consequences of incorrect particulars in application for deposit (10)

(b) Provision relating to Penalties if any person contravenes the provisions of the HP Urban Rent Control Act, 1987. (10)

(c) Landlord's duty to keep building or rented land in good repairs. (10)

(d) Recovery of possession in case of tenancies for limited period (10)