Jharkhand Civil Judge (Mains) 2015 (Backlog)

Paper III · compulsory paper

Full Marks: 100 · Time: 3 Hours. Answer five questions, selecting one question from each Section.

Section A

1. (a) Can we, after passing of the Hindu Marriage Act, 1955, still say that Hindu marriage is a sacrament? Critically analyse the nature of Hindu marriage. 10 Marks

(b) 'A's wife 'W' has deserted him for a long time and ignored all his attempts to resume cohabitation, so much so that she never replied to even his single letter. Ultimately 'A' obtained a decree of judicial separation against her. Therefore, having no son, he adopted a son without further reference to 'W'. Discuss the validity of the adoption. 10 Marks

2. (a) (i) Discuss the 'Doctrine of Pious Obligation'. Is the liability of the son personal in nature? 5 Marks

(ii) Comment on the 'Presumption relating to legitimacy'. 5 Marks

(b) (i) Discuss the powers of a testamentary guardian to dispose of the property of a minor. 5 Marks

(ii) 'A', a male Hindu, has two wives 'B' and 'C'. He adopts a son after consulting his senior wife 'B' but without consulting wife 'C', who is of sound mind. The second wife challenges the validity of the adoption. Decide. 5 Marks

Section B

3. Which of the following marriages are Fasid, Batil or Sahih? Give reasons for your answers: 20 Marks, 5 each

(a) A marriage under the Sunni School without witnesses

(b) A marriage with a woman undergoing iddat

(c) A marriage with the sister of step-mother

(d) A marriage with sister's foster-mother

(e) A muta marriage by a Shia man of the Ithna Ashari sect who has already four living wives.

4. (a) What is the nature of the widow's right to the husband's property in case her dower remains unpaid? Whether this right of retention is heritable and transferable? Cite case law to support your answer. 10 Marks

(b) (i) In what cases can Hiba be revoked? 5 Marks

(ii) 'A' executes a deed in favour of his wife whereby he grants certain immovable property to her in lieu of her dower. Possession of the property is not delivered to the wife. Whether the transaction is valid? Discuss. 5 Marks

Section C

5. (a) (i) What do you mean by Standard Rent under the Jharkhand Building (Lease, Rent and Eviction) Control Act, 2011? Who fixes it and how? Explain the procedure. 5 Marks

(ii) Enumerate the buildings which are exempted from the operation of the Jharkhand Building (Lease, Rent and Eviction) Control Act, 2011. 5 Marks

(b) Point out the cases and relevant provisions of law where the right to recover immediate possession of a building accrues. 10 Marks

6. (a) Discuss the special procedure for disposal of cases for eviction on the ground of bona fide requirement. 10 Marks

(b) (i) If any party is aggrieved by the decision of the Controller, what remedy is available to him? 5 Marks

(ii) Critically discuss the provisions of the Jharkhand Building (Lease, Rent and Eviction) Control Act, 2011 for appeal and revision. 5 Marks

Section D

7. (a) (i) 'A' had given his house on rent to 'B' for one year. After expiry of the one year's period, 'B' neither vacated the house nor paid any rent and continuously remained in occupation. After six months, 'A' with his friends entered the house and got the house vacated by putting all the goods of 'B' out of the house. Discuss the remedies available to 'A' and 'B'. 5 Marks

(ii) If a person having possession of a particular article of movable property is not the owner of it, then to whom should he deliver the possession and in which cases? Elaborate. 5 Marks

(b) If a person, having no title or only an imperfect title, sells or lets certain immovable property, what rights shall be available to the purchaser or lessee? Explain. 10 Marks

8. (a) Are there some contracts which cannot be specifically enforced under the Specific Relief Act, 1963? Discuss by giving suitable examples. 10 Marks

(b) What do you understand by the discretionary jurisdiction of the court? Whether discretionary is arbitrary? Explain the cases where the court may properly exercise discretion not to decree specific performance. 10 Marks

Section E

9. (a) What do you mean by 'Social Engineering Theory'? Is such social engineering possible in India? Explain. 10 Marks

(b) Examine the legal status of the following: 10 Marks

(i) Child in womb

(ii) Dead person

(iii) Mosque

(iv) Joint Hindu Family

10. (a) Are rights and duties always co-relative? Discuss. Explain the characteristics of a legal right.

(b) Write short notes on the following: 10 Marks 10 Marks

(i) Law and morality

(ii) Subordinate legislation