Jharkhand Civil Judge (Mains) 2018 (held September 2019)

Paper III · compulsory paper

Full Marks: 100 · Time: 3 Hours. Answer five questions, selecting one question from each Section. In case of any ambiguity in the Hindi version the English version shall be considered authentic. Questions can be answered in Hindi (Devnagri) or English (Roman) only.

Section A

1. (a) "The Judicial Separation is considered to be the stepping stone towards divorce." Elucidate the statement. 10 Marks

(b) Discuss the changes introduced with regard to the property held by women under Hindu Succession Act, 1956. Substantiate your answer with the help of decided case law. 10 Marks

2. (a) 'A' and 'B' were married for 18 years and recently they got divorced. They have 'C', a 8 year old child. 'A' claimed custody of 'C' on the ground that he is a rich person and can sponsor the best education of 'C'. 'B' is a school teacher demanding the custody of 'C', saying that she will do her best to give the best care to 'C'. Discuss what are the requirements for claiming the custody of child. Decide who is entitled to get the custody in above circumstances. 10 Marks

(b) Can a Hindu widow adopt a son to her deceased husband? Answer your justification in the light of provisions and decided case law under Hindu Adoption and Maintenance Act, 1956. 10 Marks

Section B

3. (a) 'P', a Muslim has a son 'S', a wife 'W' and a grandson 'D' born from another predeceased son. 'P' bequeaths the entire property in favour of 'D'. Decide the validity of his bequest under Muslim Law. 10 Marks

(b) 'M' and 'H' got married during the Iddat period of 'H'. Three years after the death of 'M', 'H' claimed the share of his property under Muslim Law. The other heirs resisted the claim as the plea that the marriage of 'H' with 'M' was void. Decide with reasons. 10 Marks

4. (a) Who can claim Haq-Shuffa (preemption)? Discuss the requirements for claiming the same. State the legal device for evading the right of preemption. 10 Marks

(b) Who is Mutawalli? Can a Mutawalli appoint his own successor under Muslim Law? 10 Marks

Section C

5. (a) Define 'Standard Rent'. Describe the powers of the controller to fix the standard rent under the Jharkhand Buildings (Lease, Rent and Eviction) Control Act, 2011. 10 Marks

(b) Answer any two: 5×2 = 10 Marks

(i) Distinction between lease and license

(ii) Essentials of a lease

(iii) Inheritance to tenancy

(iv) Revision

6. (a) A person aggrieved from the order of the controller may within stipulated period from the date of receipt of the said order file an appeal before the Appellate Authority. Discuss the procedure for filing an appeal under the Jharkhand Buildings (Lease, Rent and Eviction) Control Act, 2011. 10 Marks

(b) 'Jharkhand Buildings (Lease, Rent and Eviction) Control Act, 2011 specifically provides that Landlord of a tenanted premises can not interfere with the amenities enjoyed by the tenant.' Critically examine the statement. 10 Marks

Section D

7. (a) 'A', a famous singer entered into an agreement with Hotel Taj to give performance on each evening from 1 Nov. 2017 to 1 December 2017 and subsequently entered into another agreement with Hotel Maurya to give performance on each evening from 1 November 2017 to 1 December 2018. Hotel Taj filed a suit for specific performance against 'A'. 'A' contested the suit that the relief for specific performance cannot be given / allowed. Decide with reference to relevant provisions and the decided cases under Specific Relief Act, 1963. 10 Marks

(b) What is the importance of 'Ready and Willingness to perform' in a suit for specific performance? What happens when it is not specifically averred in pleadings of a suit by the plaintiff? Explain. 10 Marks

8. (a) 'He who seeks equity must do equity.' Explain the statement with reference to the relevant provisions and the illustrations under the Contract Act, 1872, the Specific Relief Act, 1963 and the Transfer of Property Act, 1882. 10 Marks

(b) (i) 'Injunction is a judicial process whereby a party is ordered to do or refrain from doing a particular thing.' Explain with special reference to the discretionary power of the court in granting the injunction. 5 Marks

(ii) Under what circumstances can the injunction be refused by the court? 5 Marks

Section E

9. (a) Elucidate the contribution of Austin and H.L.A. Hart to Analytical Positivism in Jurisprudence. 10 Marks

(b) Write notes on any two of the followings: 5×2 = 10 Marks

(i) Judicial precedent

(ii) Obiter dicta

(iii) Equity, Justice and Good Conscience

(iv) Social Solidarity

10. (a) 'Possession is nine point at law, and ownership only one point.' Explain with the help of decided cases. 10 Marks

(b) Discuss the importance of Capital punishment in the light of recent views expressed by the supreme court of India to retain the death penalty in statute book, instead of abolishing the same. Also discuss the advantages and disadvantages of retaining the death penalty as a form of punishment in India. 10 Marks