Kerala Judicial Service Mains 2009 (NCA, Latin Catholics) · Question papers

Paper II · compulsory paper

Kerala Judicial Service Examination 2009 (NCA vacancies for Latin Catholics) · Duration: 3 hours · Marks: 100

Part I

Answer all the questions in one or two sentences. Each carries one mark.

1. What is the amount of court fee payable u/s. 4 A of the Kerala Court Fees and Suits Valuation Act at the time of institution of suit? If issues are to be framed in a case, what is the time prescribed for paying balance court fee?

2. Suit for injunction was filed against recovery of money from plaintiff to a tune of Rs. 1,00,000/- by the defendant. Under what provision the court fee has to be computed and what is the quantum?

3. An insufficiently stamped document was produced before a criminal court. Is it not mandatory to impound the document? Which is the relevant provision of law?

4. A case pending before a civil court was referred to the Lok Adalath. Out of many disputes, majority have been settled between the parties. Parties did not agree with respect to some of the disputes. Adalath passed a comprehensive award with respect to all the disputed matters. Is not the award legal? If not why?

5. A wanted to file a prohibitory injunction suit against a Panchayath, from granting licence to B for running a factory, apprehending that it would cause nuisance to him. Is a notice mandatory? If so, what is the time prescribed to file a suit after sending notice?

6. Explain the term “negotiation” of instrument.

7. Whether a sale certificate issued by a civil court is compulsorily registrable?

8. Plaintiff in a case produced a gift deed. The defendant contended that the gift deed is not valid because it was executed without any consideration. Is the contention sustainable? If not why?

9. A purchased property from B. In the sale deed it was mentioned that the purchase price was paid by A’s father. Subsequently the document was disputed by B saying that A did not pay consideration personally. Is the contention sustainable? Explain.

10. A alleged that a document executed by him in favour of B is vitiated by fraud. What is the legal effect if A proves the fraud?

11. A cheque was issued in respect of a time barred debt. When the cheque was dishonoured a suit was filed for compensation. Is the suit maintainable? State reasons.

12. A had a cause of action against B to sue for malicious prosecution. Can it be assigned to C for consideration?

13. A suit on a promissory note was filed after three years and two days from the date of its execution. The suit was filed with a petition u/s. 5 of the Limitation Act to condone the delay. Is the suit maintainable? Explain with reasons.

14. A suit for possession was filed under Sec. 6 of the Specific Relief Act 1963. It was dismissed after trial. An appeal was filed against the decree. The appellate court took a view that the appeal is not maintainable. Discuss.

15. In a suit, it is revealed by evidence that it is lawful to grant a relief of specific performance. But on consideration of equitable principles, the court found that the plaintiff is not entitled to get specific performance. Can the court deny specific performance in that situation?

Part II

Answer any 15 questions in not exceeding 120 words. Each carries 3 marks.

1. Distinguish between 'holder' and 'holder in due course' of a negotiable instrument.

2. A coerced B to execute a document in favour of former's son 'C'. Ina suit between B and C, B contended that the document is bad in law because of coercion exerted by A. Is the contention sustainable? Explain with reference to the statutory provisions.

3. A sold property to B for a certain consideration. Later it was revealed that A was a minor at the time of the transaction. Is the sale deed valid? If not, what is the remedy available to B against A? .

4. What happens to an agency when the principal dies or becomes of unsound mind? What is the duty of the agent in such circumstances?

5. How agency can be terminated? Is there any distinction if the agent has an interest in the subject matter?

6. Explain the term "clog on redemption" with statutory provision.

7. On a normal working day, the court was closed on account of holiday declared to mourn the death of a dignitary. 'A' had a cause of action against 'B' and the suit should have been instituted on that particular day, otherwise it would be barred by limitation. What is the option available to A? Explain with reasons.

8. What are the periods, if any, that can be excluded in computing the period of limitation for filing an appeal against a decree?

9. A trespassed upon the property belonging to B and kept possession with a hostile animus for 15 years. B did not file a suit for eviction of A. What is the benefit that A accrued by his illegal act?

10. In a suit for injunction after appreciating the evidence the court found that it is a fit case to award damages in addition to prohibitory injunction. Can the court pass a decree allowing damages also? Explain with reasons.

11. What are the personal bars to get specific relief u/s. 16 of the Specific Relief Act?

12. A claimed a prescriptive easement right of way against B in a suit. What are the ingredients that he will have to plead and prove?

13. When a licence becomes irrevocable? Explain.

14. A's land lies in a higher level than that of B. A constructed a compound wall on the extremity of his land. The wall collapsed and A filed a suit against B for mandatory injunction to reconstruct the wall alleging that he was responsible for its collapse. He claimed natural right u/s. 7 (b) of the Easements Act. Is the contention sustainable?

15. Who are the persons included in the term 'tenant' under the Kerala Buildings Lease and Rent Control Act? Give details.

16. What is the provision for execution of orders passed by a Rent Control Court u/s. 11 of the Kerala Buildings (Lease and Rent Control) Act? Who is competent to execute the order? Which is the forum to file revision against an order of execution passed by a competent authority?

17. What are the essential differences between the eviction of a tenant under Sec. 11 (2) (b) of the Kerala Buildings (Lease and Rent Control) Act and Sec. 12 of the Act? Can the order passed u/s. 12 of the Act be vacated on deposit of arrears of rent?

18. 'A' is the son of 'B'. They are Hindus. 'A' committed murder of his father 'B'. After B's death B's wife and children, excluding A, entered into a partition. Is the partition legally valid? Can A claim share in his father's property? Explain with reasons.

19. What are the changes brought about by Sec. 14 of the Hindu Succession Act in the limited estate of a female Hindu? Whether this section affects movable or immovable properties or both?

20. What is the purpose for which normally a succession certificate is issued in an application u/s. 372 of the Indian Succession Act? In our State which are the courts competent to issue succession certificates? What is the nature of proceedings? Can a Judge, who finds intricate and difficult questions arising in a given case, issue the certificate?

Part III

Answer any 5 questions in not exceeding 250 words. Each carries 8 marks.

1. What is the legal effect if one of the parties to a contract is a minor? What are the circumstances under which a minor becomes liable under a contract?

2. Explain the expression "fraudulent transfer" in Sec. 53 T.P. Act? Who can avoid a fraudulent transfer? Whether Sec. 53 T.P. Act applies to all properties? What should be the frame of the suit u/s. 53 T.P. Act?

3. What is the meaning of the term 'gift' in the Transfer of Property Act? How a gift can be made? What is an 'onerous gift'? A gift was made by one person in favour of another comprising of both existing and future property. What is the legal effect?

4. A owed two debts to B. A paid certain sum to B without specifying as to which debt the payment was made. The creditor B appropriated equal portions of the amount to both debts. Will this amount to acknowledgment of liability u/s. 19 of the Limitation Act? If the payment was made by A towards a particular debt, does it make any difference?

5. "Limitation bars only the remedy and does not extinguish the right itself'. Is there any exception to this rule? Explain with statutory provisions.

6. What is the essential fact that is to be established to claim specific performance of a contract? What are the personal bars to relief of specific performance? Explain various aspects constituting bars to the reliefs

7. What are the circumstances when permanent prohibitory injunction can be refused?

8. 'A' the landlord filed a petition against B, the tenant on the ground of bonafide need contending that his son wanted to start a business in the tenanted premises. B raised following contentions as defence -

(i) A's son has no expertise to conduct a business. (ii) A's son has lot of landed property fetching income. (iii) A has lot of other tenanted rooms, so that he could have claimed eviction of other tenants. (iv) B is living out of the income derived from the trade and no suitable building is available to shift his business. In the evidence, it is come out that A has another tenanted building and his son has some income from landed property. B did not adduce any evidence to prove that he is living out of the income from the trade. How will you decide the matter? What are the reasons for the decision?