Kerala Judicial Service (Mains) 2011 (NCA)

Paper IV · compulsory paper

Marks: 100 · Duration: 3 hours

Part -I

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

1. Who shall be made parties to a partition suit? [1 mark]

2. What is the purpose of lodgement schedule filed in a civil court? [1 mark]

3. What are the differences between A & B diaries? [1 mark]

4. What is the provision regarding local inspection by a Judge? [1 mark]

5. A case is posted to 26th September 2011. The plaintiff wants to move an application to obtain an urgent relief before that posting date. What shall he do? [1 mark]

6. How is summons served on a corporation in a criminal case? [1 mark]

7. Under what circumstances a police officer can seize a thing or document? [1 mark]

8. What is the information a police officer has to give when a person is arrested by him? [1 mark]

9. What is the procedure to be followed when gold and silver are produced in a criminal court? [1 mark]

10. What are the two circumstances in which a Judicial Magistrate shall enquire into the cause of death of a person? [1 mark]

11. When can a court which convicts a person release him on bail? [1 mark]

12. How are convicts classified and who makes the classification? [1 mark]

13. When partners are sued in the name of the firm, on whom the summons shall be served? [1 mark]

14. When a plaintiff sues in a representative capacity how can the court determine whether he is an indigent person? [1 mark]

15. What is the effect of a judgment pronounced when a defendant dies after the conclusion of the hearing and before the pronouncement of the judgment? [1 mark]

Part -II

(Answer any 15 questions in not exceeding 120 words. Each carries three marks)

16. How is arrest made under Cr.P.C? What is the special provision regarding arrest of a woman?

17. How is a proclamation for an absconding accused published under Cr.P.C.? [3 marks][3 marks]

18. What is the procedure to be followed when a Magistrate take cognizance of an offence? [3 marks]

19. What are the facts to be stated in a charge framed by the court? [3 marks]

20. What is the purpose of the examination of an accused u/s. 313 Cr.P.C.? What is the procedure to be followed in examining him? What is the relevance of the answers given in such examination?

21. Distinguish between cognizable and non-cognizable offences. [3 marks][3 marks]

22. What are the provisions regarding disposal of property by a criminal court? [3 marks]

23. When does the period of limitation commence under the Cr.P.C.? What is the period of limitation to take cognizance under Cr.P.C.? [3 marks]

24. What are the provisions in the CPC regarding objection to jurisdiction of a court? [3 marks]

25. What is the rate of interest a civil court can award in a money suit? What is meant by the principal sum adjudged? Can a bank realise compound interest for agricultural loans? [3 marks]

26. What is the effect of private alienation of property after attachment? When does a property sold in execution sale vest in the purchaser? [3 marks]

27. What are the circumstances in which an application for restitution may be filed? For the purposes of restitution what does the expression 'court which passed the decree or order mean? [3 marks]

28. What is the effect of the failure of a plaintiff to include the whole claim in his suit? [3 marks]

29. Comment on the joinder of cause of action and objection as to misjoinder of causes of action? [3 marks]

30. When can a court reject a plaint? What is the nature of the order rejecting the plaint? What is the remedy of the plaintiff whose plaint has been rejected? [3 marks]

31. What is the procedure to be followed- [3 marks]

a) when in a suit summons of a defendant is not served in consequence of the plaintiff's failure to pay costs

b) when the plaintiff alone appears

c) when the defendant alone appears What is the consequence of the order passed in the third situation mentioned above?

32. Can a suit be withdrawn without the leave of the court? What is the legal consequence of withdrawal of a suit without the leave of the court? When can the court allow the abandonment of a suit filed on behalf of a minor? When can the court grant leave to the plaintiff to withdraw the suit with liberty to file fresh suit on the same cause of action? [3 marks]

33. What is the procedure to be followed when a suit is instituted by a next friend of a minor and when a suit is instituted against a minor? [3 marks]

34. What are the circumstances in which the court can attach a property before judgment? Are properties of all kinds attachable under this provision? What is the nature of the order the court should pass? [3 marks]

35. When can the court order substitution or addition of a person as a plaintiff and strike out or add parties? When shall the proceedings as against an additional defendant be deemed to have begun? [3 marks]

Part -III

(Answer any 5 questions in not exceeding 250 words. Each carries eight marks)

36. (i) What are the provisions relating to the execution of decrees against Government? [8 marks]

(ii) What is the procedure to be followed to attach the salary of a J.D. if he is a government servant?

(iii) Is there any difference if he is a private employee?

(iv) What is the attachable portion of salary of a private employee drawing a monthly salary of Rs. 25,000/-?

37. (i) What are the grounds on which sale of an immovable property sold in court auction may be set aside? [8 marks]

(ii) Can delay in filing the application be condoned?

38. (i) What is owelty? [8 marks]

(ii) What are the matters to be determined in a preliminary decree for partitions.

(iii) What is the procedure to be followed if the whole amount required to purchase stamp paper for engrossing final decree is not deposited by no one of the parties?

39. (i) When can trial of a suit be stayed under CPC? [8 marks]

(ii) What is the scope of Section 151 CPC? How is it different from Section 152 CPC?

(iii) What are the circumstance under which a Munsiff can review his judgment?

40. Discuss the powers of a police officer investigating case? [8 marks]

41. (i) How is warrant trial different from summons trial? [8 marks]

(ii) Can a warrant trial be converted into a summons trial?

42. (i) Who can record confession u/s. 164 Cr.P.C? [8 marks]

(ii) What is the procedure to be followed in recording confession?

(iii) Is there any difference if it is the statement of a witness?

43. (i) What are the powers of a Judicial Magistrate to order detention of an arrested person during investigation? [8 marks]

(ii) An accused was arrested and produced before a Magistrate on 1-1-2010. He was ordered to be detained in hospital since he was seriously ill. His detention in hospital continued till 18-1-2010. On 19-1-2010, the investigating officer filed an application for police custody. The court rejected it. Was it legal? Give reasons.

(iii) A person accused of a bailable offence was released on bail. He failed to attend the court on a posting date and his bond was forfeited. He was arrested and produced. He again applied for bail. He claims that since it is a bailable offence, he has a right to be released on bail. Can his claim be upheld?