Kerala Judicial Service Mains 2013 · Question papers

Paper II · compulsory paper

Marks: 100 · Duration: 3 hours

Part I

Answer all questions. (15 × 1 = 15 marks)

(1) Identify the correct statement [1 mark]

(A) An agent can never delegate

(B) The authority of an agent shall be expressed

(C) No consideration is necessary to create an agency

(D) The agent is not responsible to the principal for the acts of the sub-agent

(2) In which of the following cases the defence that the transfer of immovable property was for valuable consideration and without notice or that the transfer was bonafide and for consideration is not available? [1 mark]

(A) Transfer where a third person is entitled to maintenance from the profits

(B) Transfer made with intent to defeat or delay the creditors of the transferor

(C) Transfer pending the suit in which the right to the property is directly and specifically in question

(D) The ownership of the property has passed to the buyer before payment of the whole purchase money and a charge is claimed by the buyer

(3) A term which is not defined u/s.2 of the Limitation Act is [1 mark]

(A) easement

(B) acknowledgement

(C) bond

(D) prescribed period

(4) Specific performance of a contract cannot be enforced [1 mark]

(A) where the terms of the contract gives the plaintiff an unfair advantage over the defendant

(B) in favour of a person who would be entitled to recover compensation for its breach

(C) where the plaintiff has not been ready and willing to perform an essential term of the contract, the performance of which has been prevented by the defendant

(D) when the consideration has been proved to be inadequate 1

(5) Choose the wrong statement [1 mark]

(A) A right to the free passage of light to an open space cannot be acquired by prescription

(B) An easement cannot be acquired by virtue of a local custom

(C) A right of way is a discontinuous easement

(D) A right annexed to the house of a person to prevent another from building on his own land is a non-apparent easement

(6) Under the Kerala Buildings (Lease and Rent Control) Act a landlord is entitled to evict the tenant if

(A) the tenant uses the building in such a manner as to reduce its utility materially [1 mark]

(B) the tenant has in his possession a building of his own

(C) the tenant ceases to occupy the building for six months

(D) the period of lease has expired and a ground for eviction u/s.11 (3) is available to him

(7) Mark the odd one in relation to the Hindu Succession Act [1 mark]
(A) Father
(B) Mother
(C) Son
(D) Daughter

(8) No succession certificate shall be granted in respect of [1 mark]
(A) promissory note
(B) share in a company
(C) debenture issued by a Local Authority
(D) gold ornaments kept in a bank locker

(9) A Muslim woman is entitled to a decree for dissolution of marriage if [1 mark]
(A) the whereabouts of the husband have not been known for three years
(B) the husband without reasonable cause has failed to perform his marital obligations for three years
(C) the husband has been sentenced to imprisonment for three years
(D) the husband has been impotent for three years

(10) A written statement pleading a set off shall be chargeable with [1 mark]
(A) one - half of the fee payable on the plaint
(B) no fee
(C) fee in the same manner as a plaint
(D) one-tenth of the fee payable on the plaint

(11) Choose the wrong statement [1 mark]
(A) An industrial workman is entitled to free legal aid under the Legal Services Authorities Act only if his annual income is less than nine thousand rupees
(B) The object of Lok Adalat is to secure that the operation of the legal system promotes justice on a basis of equal opportunity
(C) A woman is entitled to free legal aid under the Legal Services Authorities Act even if she is the complainant in a case alleging commission of offence u/s.138 of the N.I. Act
(D) The Lok Adalat shall have the requisite powers to specify its own procedure

(12) In pursuance of any provision of the Kerala Panchayat Raj Act the Secretary of a Panchayat may enter and inspect any dwelling house [1 mark]
(A) between sunset and sunrise
(B) after giving the occupier at least 12 hours' notice
(C) after giving reasonable opportunity and facility to all the inmates to withdraw
(D) irrespective of the social and religious customs and usages of the occupants

(13) The Court competent to try election petitions shall be the Munsiff's Court having jurisdiction over the place in which [1 mark]
(A) the election is held
(B) the elected candidate resides
(C) the office of the Municipality is located
(D) the office of the returning officer is situated

(14) Identify the correct statement [1 mark]

(A) A legal representative of a deceased person who signs his name to a promissory note is liable only to the extent of the assets received by him as such legal representative

(B) Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied

(C) A holder of a negotiable instrument who derives title from a holder in due course does not have the rights thereon of that holder in due course

(D) A cheque may not be always payable on demand

(15) Which of the following documents is compulsorily registrable? [1 mark]

(A) Certificate of sale granted to the purchaser of immovable property sold by public auction by a civil court

(B) Grant of immovable property by the Government

(C) Endorsement on a mortgage deed acknowledging payment of the mortgage-money

(D) A decree of a civil court on a compromise comprising immovable property other than the subject-matter of the suit

Part II

Answer any 15 questions. Answers shall not exceed 120 words (1 page). If more than 15 questions are answered the first 15 answers alone will be evaluated. (15 × 3 = 45 marks)

(16) A, B & C promised to perform a contract. A & B die. What is the rule regarding the liabilities of the promisors? [3 marks]

(17) X agrees to sell his immovable property to Y for a consideration of ten lakh rupees and receives two lakh rupees as earnest money. Y commits breach of the contract. Y files a suit for refund of the earnest money Discuss the law? [3 marks]

(18) a) What are the rights of a transferee of a co-owner of an immovable property? b) A, B & C jointly purchase an immovable property. How are their rights in the property determined? [3 marks]

(19) A gifted his immovable property to B. A thereafter executes and registers a deed cancelling the gift. B files a suit to set aside the cancellation deed A contends that the gift is not valid. Discuss the law on these points [3 marks]

(20) A borrows one lakh rupees from B under a promissory note on 1.1.2007 On 31.12.2009 B dies. Thereafter A dishonestly removes the promissory note from the house of B. B's son C comes into possession of the promissory note on 1.1.2011. Two months thereafter C files a suit against A on the promissory note. A contends that the suit is barred by the law of limitation. How will you decide? [3 marks]

(21) What is the effect of substitution or addition of a new plaintiff or defendant under the Limitation Act? [3 marks]

(22) A suit for specific performance of an agreement for sale is decreed. The Court stipulates the period within which the plaintiff shall deposit in Court the balance sale consideration. The plaintiff files an application for extension of time and the defendant files an application for rescission of the contract. What is the law governing the situation? [3 marks]

(23) Distinguish between perpetual injunction and mandatory injunction? [3 marks]

(24) Write a note on the extent of easement and the mode of their enjoyment? [3 marks]

(25) a) A has prescribed a right of way as an easement through the property of B. B blocked the way. Three years thereafter A files a suit for declaration and injunction, both perpetual and mandatory. What is the fate of the suit? Why? b) Distinguish between easement of necessity and quasi easement? [3 marks]

(26) A & B are Hindus. Their marriage was solemnized under the Special Marriage Act. They have two sons and one daughter. B, the husband dies. His father is alive. Who are the legal heirs and what is the share to which each of them is entitled? Discuss the law [3 marks]

(27) a) A executes a Will by which he bequeaths all his books in his library to his eldest son. In the last paragraph of the Will he bequeaths his house including his books in the library to his youngest son. Who shall take the books in the library, and why? b) A bequeaths his property X to B & C. By the same Will A bequeaths his property Y to be divided equally between B & C. B predeceased A How do the bequeaths take effect? Discuss the law [3 marks]

(28) Along with the plaint the plaintiff produces an unregistered lease deed written on a plain paper. The period of lease is two years. The plaintiff wants to rely on it. What is the procedure to be followed by the Court? [3 marks]

(29) A suit is filed for recovery of land with a building thereon. How is the market value to be determined under the Kerala Court Fees and Suits Valuation Act? What is the procedure to be followed with regard to the valuation of property? [3 marks]

(30) Explain the provisions in the Negotiable Instruments Act regarding estoppel [3 marks]

(31) What are the rules governing payment and interest under the Negotiable Instruments Act?

(32) What is the effect of non-registration of a compulsorily registrable document? [3 marks] [3 marks]

(33) Write a note on prosecution for offences under the Kerala Panchayat Raj Act [3 marks]

(34) How court fee is levied in multifarious suits? [3 marks]

(35) Write a note on institution, withdrawal and compromise of civil and criminal actions under the Kerala Municipality Act [3 marks]

Part III

Answer any 5 questions. Answers shall not exceed 250 words (2 pages). If more than 5 questions are answered the first 5 answers alone will be evaluated. (5 × 8 = 40 marks)

(36) Write an essay on persons who should perform contracts [8 marks]

(37) Compare and distinguish mortgage, sale and lease [8 marks]

(38) Discuss the grounds of eviction of a tenant under the Kerala Buildings (Lease and Rent Control) Act [8 marks]

(39) Write an essay on exclusion of time in legal proceedings dealt with in Secs 12 to 15 of the Limitation Act [8 marks]

(40) Discuss the provisions in the Indian Succession Act regarding execution revocation and revival of unprivileged Wills [8 marks]

(41) Discuss the provisions regarding the Lok Adalat (excluding Permanent Lok Adalat) under the Legal Services Authorities Act [8 marks]

(42) a) What are the cases where a Munsiff may order refund of court fees? b) Mention five instances in which the Court may require the District Collector to pay court fees chargeable on plaints [8 marks]

(43) What is the procedure laid down in the Kerala Municipality Act regarding institution and disposal of election petitions? [8 marks]

De Facto IAS