Kerala Judicial Service Mains 2016 · Question papers

Paper II · compulsory paper

Marks: 100 · Duration: 3 hours

Part I

Answer all the questions. Answers to the questions in this Part should be marked only in the OMR Answer Sheet. Answers marked/written elsewhere will not be valued. (15 × 1 = 15 marks)

1. Which of the following is not a valid contract? 1 marks

A. A owes B ₹ 10,000/-, but the debt is barred by the Limitation Act. A signs a written promise to pay B ₹ 5,000/- on account of the debt.
B. A finds B's purse and gives it to B. B promises to give A₹ 5,00/-
C. A, for natural love and affection, promises to give his son ₹ 50,000/-. A puts his promise into writing.
D. A agrees to sell his car worth five lakh rupees to B for one lakh rupees. A's consent to the agreement was freely given.

2. Choose the correct statement. 1 marks

A. A transfer of property may be made without writing in every case in which a writing is not expressly required by law.
B. A vested interest is defeated by the death of the transferee even if he had obtained possession of the property transferred to him.
C. . An easement can never be transferred.
D. A usufructuary mortgagee can maintain a suit for sale, but not a suit for foreclosure.

3. Which of the following suits is not barred by any length of time? 1 marks

A. A suit for balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.
B. A suit by or on behalf of the Central Government or any State Government for any relief except possession of immovable property.
C. A suit to set aside a transfer of immovable property comprised in a Hindu religious and charitable endowment, made by the Manager thereof, for a valuable consideration.
D. A suit against a person in whom property has become vested in trust for any specific purpose.

4. Identify the wrong statement. 1 marks

A. The jurisdiction to decree specific performance is discretionary, and such relief may be refused even if it is lawful to grant it.
B. The court under no circumstance shall direct the specific performance of a part of a contract.
C. Specific performance of a contract cannot be enforced in favour of a person who would not be entitled to recover compensation for its breach.
D. A suit to have an instrument rectified is liable to be dismissed unless fraud, or mutual mistake of the parties, is alleged.

5. Mark the continuous easement. , 1 marks

A. A right annexed to one's house to receive light by the windows without obstruction by his neighbour.
B. A right of way annexed to one's house over his neighbour's land.
C. The right of every owner of land to so much light and air as pass vertically thereto.
D. The right of every owner of land abutting on a natural stream to use and consume its water for household purposes.

6. What shall the Rent Control Court do if the tenant denies the title of the landlord? 1 marks

A. It shall stay the proceedings till the landlord establishes, by suit, his title to the tenanted premises.
B. It shall proceed with the case and, if it allows the petition, direct the landlord to establish his title in the execution proceedings.
C. It shall decide whether the landlord has title to the tenanted building.
D. It shall decide whether the denial of title is bonafide.

7. A Hindu male was survived by his father, mother, widow and son. : The estate of the deceased would devolve under Sec.8 of the Hindu Succession Act upon 1 marks

A. the son to the exclusion of others
B. the widow and son to the exclusion of others.
C. the mother, widow and son to the exclusion of the father.
D. all of them.

8. An unregistered will recites, "I bequeath to my elder son all the properties mentioned in the schedule". But no schedule is attached to the will. The will is 1 marks

A. void for non-registration.
B. void for uncertainty.
C. valid in respect of the properties left by the testator.
D. valid in respect of all the properties the testator had at the time of making the will.

9. A Muslim woman is entitled to a decree for the dissolution of her marriage if 1 marks

A. the whereabouts of the husband have not been known for a period of two years.
B. the husband has been insane for a period of two years.
C. the husband has been sentenced to imprisonment for a period of two years.
D. the husband has failed to perform his marital obligations for a period of two years.

10. A plaintiff who is in joint possession of an immovable property sues for partition in a Munsiff's Court. What court fee shall be paid? 1 marks

A. ₹ 300/-
B. ₹ 150/- ,
C. ₹ 100/-

D. ₹ 50/-

11. An instrument which is not duly stamped is produced in a civil _ court and is sought to be admitted in evidence. The court shall 1 marks

A. impound it.
B. return it.
C. collect the deficit duty.
D. admit it in evidence and inform the Collector.

12. Which of the following is not a presumption under Sec.118 of the Negotiable Instruments Act? 1 marks

A. A promissory note was made for consideration.
B. A promissory note bearing a date was made on such date.
C. A promissory note bearing the signature of its maker was duly executed.
D. A lost promissory note was duly stamped.

13. Which of the following documents requires attestation if the value of the property is ₹ 100/- or more? 1 marks

A. Sale deed
B. Gift deed
C. Lease deed
D. Exchange deed

14. A contracts to pay to B one lakh rupees if B's house is burnt. This is 1 marks

A. a contingent contract.
B. a conditional contract. .
C. a void contract
D. not a contract at all.

15. Which provision of the Specific Relief Act permits post decree rescission of contract? 1 marks

A. Sec.30
B. Sec.29
C. Sec.28
D. Sec.27

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. Answers to the questions in this Part should be written in the Common Answer Book. (15 × 3 = 45 marks)

16. Define free consent. What consideration and objects of an agreement are lawful? 3 marks

17. To what extent an agreement in restraint of initiating legal proceedings to enforce a right under or in respect of a contract by a party thereto valid? 3 marks

18. 'All leases of immovable property may be made either by a registered instrument or by an oral agreement accompanied by delivery of possession'. Comment. 3 marks

19. A plaint was filed along with an application to sue as an indigent person on the last day of the period of limitation. The court after enquiry dismissed the application. The plaintiff thereafter remitted the requisite court fees. Defendant raised objection that there was a delay of three months in instituting the suit as on the date of payment of the court fees. Decide. 3 marks

20. A contract the performance of which involves the performance of a continuous duty which the court cannot supervise cannot be specifically enforced. Is there any exception? If so, explain. 3 marks

21. Define license. When will a license become irrevocable? 3 marks

22. Certain rights cannot be acquired u/s 15 of the Indian Easements Act, 1882. What are those rights? 3 marks

23. The tenant deposited arrears of rent with interest and costs along with an application to vacate the direction of eviction ordered u/s 11 (2) (b) of the Kerala Buildings (Lease & Rent Control) Act, 1965. Landlord contends that the application shall be dismissed since there is no direction by the Rent Control Court in its order to vacate the order for eviction on deposit of the arrears of rent, interest and costs. Decide. 3 marks

24. How the property of a Hindu female dying intestate would devolve upon her heirs? 3 marks

25. What are the rules according to which an unprivileged will shall be executed? " 3 marks

26. To what share the husband surviving his Christian wife is entitled when his wife has left no lineal descendants, but her father? 3 marks

27. A Muslim marriage was dissolved by a Court on the ground that whereabouts of the husband have not been known for a period of 4 years. Later the husband moved the same court with an application to set aside the decree. Decide. 3 marks

28. Is there any difference in the rules for refund of court fees if the Court i) decides the suit on a compromise or on admission of the parties; ii) refers the suit to an Adalat and it passes an award? 3 marks

29. In a suit for cancellation of a sale deed court fee was paid on the market value of the property determined u/s 7 of the Kerala Court Fees & Suits Valuation Act, 1959. Comment. 3 marks

30. What is the meaning of 'feeding the grant by estoppel'? Give an illustration. 3 marks

31. What is the meaning of negotiation of instruments? Who may negotiate? 3 marks

32. Is it required to register a certificate of sale of immovable property granted by a court? Discuss the provision of law on the point. 3 marks

33. Is it mandatory for a Munsiff to impound every document produced before him, which is not duly stamped? Is there any difference if the production is before a Magistrate? 3 marks

34. Explain the scope of a recrimination under the Kerala Panchayat Raj Act, 1994. 3 marks

35. What are the rules regulating jurisdiction of Lok Adalats and cognizance of cases by Lok Adalats? 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. Answers to the questions in this Part should be written in the Common Answer Book. (5 × 8 = 40 marks)

36. Explain the powers and limitations of a court to award compensation in a suit for specific performance. Specify the principles for determining the amount of such compensation. 8 marks

37. Enumerate and explain the modes of termination of agency under . the Indian Contract Act 1882. 8 marks

38. What are the rights of a buyer against a seller under a contract for sale of an immovable property? 8 marks

39. Write short notes on: ; 1) Jurisdiction of courts to grant Succession Certificate (3 marks) 2) Procedure on an application for grant of a Succession Certificate (3 marks) 3) Extension of Certificate. (2 marks) 8 marks

40. Enumerate and briefly explain corrupt practices under the Kerala Municipality Act, 1994. 8 marks

41. During the pendency of a petition under section 11(12) of the Kerala Buildings (Lease and Rent Control) Act, 1965 the vacant building was destroyed by fire. What shall be the fate of the . petition? Discuss with reference to the relevant provisions. 8 marks

42. Pending a suit filed by a wife against her husband for maintenance and seeking charge over his property, the husband sold the property to a stranger. The suit was decreed as prayed for. The stranger filed a claim petition contending himself to be a bonafide purchaser. Decide the petition. 8 marks

43. A minor aged 17 years was dispossessed from a property by its true owner. Can the former file a suit under section 6 of the Specific Relief Act after cessation of his minority? Explain. 8 marks