Kerala Judicial Service Mains 2017 · Question papers

Paper II · compulsory paper

Marks: 100 · Duration: 3 hours

Part I

Answer all the questions. Mark answers in the OMR Answer Sheet only. Answers marked or written elsewhere will not be valued. (15 × 1 = 15 marks)

(1) Which one among the following constitutes spes successionis? [1 mark]

(A) Succession to a property by will.
(B) Intestate transfer of property.
(C) Mere chance of a heir apparent succeeding to an estate.
(D) Succession of a stranger to a property.

(2) Novation of a contract means? [1 mark]

(A) Removal of certain clauses in a contract.
(B) Addition of certain clauses to a contract.
(C) Substituting a contract with a new contract.
(D) None of the above.

(3) What is the period prescribed under the Limitation Act for instituting a suit for possession of immovable property on the strength of previous possession? [1 mark]

(A) 3 years from the date of dispossession.
(B) 12 years from the date of dispossession.
(C) One year from the date of dispossession.
(D) 6 months from the date of dispossession.

(4) Which one among the following is not a compulsorily registerable document? [1 mark]

(A) Instrument of gift of immovable property.
(B) Non-testamentary instrument which create title of immovable property.
(C) Leases of immovable property from year to year.
(D) Will relating to immovable property.

(5) Who shall be the Executive Chairman of the State Legal Services Authority? [1 mark]

(A) The Chief Justice of the State.
(B) A District Judge nominated by the Chief Justice.
(C) A serving or retired Judge of High Court, nominated by Governor in consultation with the Chief Justice.
(D) None of the above.

(6) In a suit, more than one reliefs are sought in the alternative, based on the same cause of action. How is the court fee chargeable on the plaint? [1 mark]

(A) Aggregate of the court fee payable in each relief.
(B) With the highest of the fees leviable in respect of any one of the reliefs.
(C) With the lowest of the fees leviable in respect of any one of the reliefs.
(D) None of the above.

(7) Specific relief can be granted for the enforcement of .....? [1 mark]
(A) Individual civil right.
(B) Individual civil wrongs.
(C) Public rights.
(D) None of the above.

(8) Two persons are said to be related to each other by half blood, under Hindu Succession Act, when they are descended from .....? [1 mark]
(A) A common ancestor but by different husbands.
(B) A common ancestor but by different wives.
(C) A common ancestor through same husband.
(D) A common grandfather or grandmother.

(9) Which one among the following is a discontinuous easement? [1 mark]
(A) Which is exercised at regular intervals.
(B) Which is enjoyed intermittently.
(C) Which needs the act of man for its enjoyment.
(D) Which is interrupted at regular intervals.

(10) What is the presumption under the Hindu Succession Act, for the purpose of succession regarding simultaneous death of two persons when the circumstances are uncertain whether either of them, and if so, which survived the other? [1 mark]
(A) Elder survived the younger.
(B) Younger survived the elder.
(C) Both died at the same time.
(D) None of the above.

(11) A right is attached to a house to draw 50 buckets of water a day. The dominant heritage is divided into 2 equal portions and one each given to one person. What is the right attached to each portion of dominant heritage? [1 mark]
(A) Right to draw 25 buckets of water each day.
(B) Right to draw 50 buckets of water each day.
(C) Right to draw 50 buckets of water on alternate days.
(D) Right to draw 50 buckets of water each day, but amount drawn by both must not exceed 50 buckets of water a day.

(12) A defeated candidate challenges an election under the Kerala Municipality Act with a prayer to declare election as void and to declare him as the elected candidate. Who should be arrayed as the respondent(s) in the election petition? [1 mark]
(A) The elected candidate.
(B) All other persons who had submitted nomination papers.
(C) All other candidates of recognised parties.
(D) All the other contesting candidates.

(13) Who is the sanctioning authority under the Kerala Panchayath Raj Act for prosecution of the President of a Panchayath? [1 mark]
(A) District Collector.

(B) Governor of the State.
(C) The Government.
(D) The Chief Minister.

(14) What is the limitation period for prosecution of any person who commits an offence under the Kerala Municipality Act and Rules. [1 mark]
(A) Twelve months from the date of commission of offence.
(B) One year from the date of commission of offence.
(C) Three months from the date of commission of offence.
(D) 90 days from the date of commission of offence.

(15) Under Chapter XIII of Negotiable Instruments Act, estoppel will not apply regarding which among the following? [1 mark]
(A) Denying the original validity of the instrument in a suit filed by the holder in due course.
(B) Denying the capacity of payee to indorse in a suit filed by the holder in due course.
(C) Denying signature or capacity of prior party to the instrument in a suit by a subsequent holder.
(D) Denying the receipt of consideration.

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. Write answers in the Common Answer Book. (15 × 3 = 45 marks)

(16) Discuss the duties of an agent towards his principal under the Indian Contract Act? [3 marks]

(17) What is the procedure to be followed by a court before whom an instrument chargeable under Kerala Stamp Act is produced, which, in the opinion of the court is not duly stamped? [3 marks]

(18) Distinguish vested rights and contingent rights under the Transfer of Property Act? [3 marks]

(19) Discuss the grounds on which an election can be declared void by the court under the provisions of Kerala Municipality Act. [3 marks]

(20) Explain the doctrine of election under the Transfer of Property Act? [3 marks]

(21) What is meant by indorsement of a negotiable instrument? What are its legal consequences? [3 marks]

(22) Comment on “Right of redemption of mortgage is co-extensive with right to foreclose”. [3 marks]

(23) Explain briefly, with reference to case laws, principles governing granting of temporary injunctions? [3 marks]

(24) Explain with the aid of case laws whether partition of property among the legal heirs involve a transfer of property as governed by Transfer of Property Act. [3 marks]

(25) Landlord and tenant entered into an agreement for sale of the tenanted premises. Later the agreement fell through. Will the original tenancy be resurrected? Explain with reasons and decisions? [3 marks]

(26) Discuss the scope of an award of Lok Adalath. What is its binding nature? Can it be challenged under any circumstance? [3 marks]

(27) “Unlike 'bona fide' employed under sections 11(3), 11(7) and 11(18), bona fides of the requirement for reconstruction can be manifested through other material evidence. Hence, non-examination of

landlord in a Rent Control Petition is not fatal, if he succeeds in proving statutory requirement under section 11(4)(iv) by other evidence to the satisfaction of Court" comment with cogent reasons. [3 marks]

(28) Explain whether a trespasser could claim adverse possession without denouncing the title of true owner necessary for a hostile animus apart from possession for the requisite period. [3 marks]

(29) "Easement by prescription and easement of necessity cannot operate together in respect of same immovable property". Critically analyze the above proposition with reference to case laws. [3 marks]

(30) Discuss the impact of Hindu Succession (Amendment) Act 2005 on section 6 of Hindu Succession Act with respect to the right of a daughter of a co-parcener? [3 marks]

(31) Write notes on: Negotiation of a negotiable instrument. [3 marks]

(32) Write notes on the effect of acknowledgment in writing of a liability on the period of limitation? [3 marks]

(33) What are the corrupt practices enumerated in Chapter XI of the Kerala Panchayath Raj Act? [3 marks]

(34) What is the effect of non-registration of documents required to be registered? Can such documents be received in evidence in any circumstance? [3 marks]

(35) What is the procedure for granting a succession certificate under the Indian Succession 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. Write answers in the Common Answer Book. (5 × 8 = 40 marks)

(36) What are the rules governing transfer of property to an unborn person under the Transfer of Property Act? [8 marks]

(37) Write note on void agreements under the Indian Contract Act? [8 marks]

(38) Discuss the grounds on which a Muslim women is entitled to seek dissolution of marriage under the Dissolution of Muslim Marriage Act, 1939? [8 marks]

(39) Analyze the rules of succession and manner of distribution among heirs of a female Hindu dying intestate. [8 marks]

(40) Explain with reference to statutory provisions; extinction and revival of easements. [8 marks]

(41) "Once a mortgage always a mortgage, nothing but mortgage" comment. [8 marks]

(42) Distinguish between lease and licence with reference to case laws? [8 marks]

(43) "Articles 42 and 48 of Stamp Act, pertaining to partition and release are explicitly distinct in their operation and not even remotely connected to each other" critically analyze the observation. [8 marks]