# Kerala Judicial Service Mains 2019 · 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)** A is said to be "agnate" to B under the Hindu Succession Act in which among the following case? [1 mark]

(A) A is the son of the paternal uncle of B
(B) A is B's paternal sister's son
(C) A is the daughter of maternal aunt of B
(D) A is B's maternal uncle's son

**(2)** Which one among the following is not the duty of DLSA? [1 mark]

(A) Perform functions authorized by state authority.
(B) Coordinate activities of Taluk Legal Service authorities
(C) Organize Lok Adalath
(D) Conduct Arbitration

**(3)** One person who is dispossessed of a property files a suit under section 6 of Specific Relief Act within 6 months from the date of dispossession. It is dismissed on merits. What is the most appropriate remedy available to him? [1 mark]

(A) To file an appeal against the decree
(B) To file a suit for mandatory injunction
(C) To file a suit for recovery of possession
(D) No further remedy is available

**(4)** Vested interest is ..... [1 mark]

(A) heritable and inalienable
(B) Non heritable and inalienable
(C) heritable and alienable
(D) Non heritable and alienable

**(5)** The provision which enables the State Government to constitute a special Court for trying certain types of suits under Specific Relief Act is? [1 mark]

(A) S.20C
(B) S.20B
(C) S.22A
(D) S.21A

**(6)** Which one among the following is not a compulsorily registerable document under the Registration Act 1908? [1 mark]

(A) Contract of sale of right of way for Rs.200
(B) Lease deed of an immovable property for 3 years
(C) A power of attorney in favour of an agent for the sale of immovable property valued more than

Rs.1000
(D) Sale of standing timber in a property

**(7)** In the course of trial of election petition in a Panchayath election, the Court concludes that, 2 candidates who had secured highest votes have equal votes, and that, returning officer had not taken any decision on votes. How the issue will be resolved by Court? [1 mark]
(A) by ordering recounting of votes
(B) by declaring the election as void
(C) by declaring re-election
(D) by deciding the returned candidate from among the two, by drawing of lots

**(8)** In Narayani v. District Judge (1991(1) KLT 646) Kerala High Court had held that the term "Rent Controller" was an obvious mistake. What is the reason? [1 mark]
(A) Rent Controller and Accommodation Controller are two separate authorities
(B) Kerala Building (Lease and Rent Control) Act and Rules do not employ the term Rent Controller
(C) Act has used the term Rent Controller, though Rules do not use that term
(D) Act does not use the term Rent Controller, though Rule 7(A4) has used the above term

**(9)** S.5 of Limitation Act is applicable to which among the following? [1 mark]
(A) Institution of suit
(B) Institution of appeal
(C) institution of execution petition
(D) institution of election petition

**(10)** Plaint was insufficiently stamped. Plaintiff failed to pay the deficit court fee. Consequently, plaint was rejected. Court fee paid will be .....? [1 mark]
(A) refunded in full
(B) refunded by half
(C) forfeited
(D) refunded after deduction of costs

**(11)** In a suit for declaration of plaintiff's exclusive right to use a book valued at Rs.900/-, the court fee is liable to be paid on .....? [1 mark]
(A) Rs.1000
(B) Rs.900
(C) market value of book
(D) thrice the value computed in the plaint

**(12)** A defendant is added after issues are framed. He pleads that suit has not been properly valued. When shall the question of valuation be decided? [1 mark]
(A) before evidence is recorded
(B) after evidence is recorded
(C) at the time of passing of final judgment
(D) at the time of final hearing

**(13)** Which among the following is not a void agreement under the Indian Contract Act? [1 mark]
(A) An agreement to give Rs.10,000/- without consideration
(B) An agreement by which one party undertakes not to do any business

(C) An agreement by an employee not to conduct any rival business near the shop of the employer
(D) An agreement by which wife undertakes not to claim any maintenance from husband under S.125 CrPC

**(14)** Which one among the following is not the duty of a seller? [1 mark]
(A) to disclose patent defects
(B) to answer all questions regarding title
(C) to produce for examination of buyer all relevant title deeds
(D) to give possession to person whom buyer directs such possession, as its nature admits.

**(15)** Which one among the following does not constitute a promissory note? [1 mark]
(A) I promise to pay B or order Rs.2000/-
(B) For value of Rs.2000 received from B, I will pay Rs.2000 on demand
(C) I promise to pay on demand to B or his order Rs.2000/-
(D) I promise to pay Rs.2000/- to B and all other sums due to him

**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)** Distinguish between Lok Adalath and Permanent Lok Adalath. [3 marks]

**(17)** A Hindu converts to another religion in 2000. He dies in the year 2006. His major son who has been professing Hindu faith since childhood claims inheritance in 2007 under the Hindu Succession Act. Is he entitled to claim succession under the Act? [3 marks]

**(18)** A enters into a contract for sale of immovable property of B, with a pond situated therein. As per the terms, the pond will be filled by him within 3 months and conveyed within 6 months. On finding that, it was not filled up in 3 months, A fills up through an agency. B thereafter conveys the property to A within 6 months. Can A file suit for recovery of cost and expenses incurred for filling up pond. Explain with reasons. [3 marks]

**(19)** A, a young girl files a suit against B, contending that she was in love with B and that he had promised to marry her. She produces few letters written by B to her and various photographs to support it. It is alleged that his marriage with another women is proposed to be held next Sunday. Marriage invitation card is produced. A seeks permanent prohibitory injunction restraining the defendant from marrying any other girl than plaintiff. An interim injunction application is filed in the above terms. Can interim injunction be granted? Answer with reasons. [3 marks]

**(20)** A who is a Manager in an establishment contends that, he is permanently employed since 2010 and he has service upto 2030. However, raising false allegations of misconduct, he is about to be terminated. A domestic enquiry was conducted and report filed. He has been issued with a notice to show cause within 3 days as to why he shall not be terminated. He files a suit for permanent prohibitory injunction to restrain the management from terminating him. He seeks an interim injunction against termination of service and from preventing him from discharging his duties. Appointment order and show cause notice are produced along with several other documents. Is he entitled for interim injunction? [3 marks]

**(21)** On the strength of a valid agreement for sale, transferee has taken possession of the property. Alleging that, he is ready and willing to perform his part of the contract and that, he is tried to be forcefully evicted, he files a suit for prohibitory injunction restraining the transferor from dispossessing him, otherwise than by due process of law. Defendant appears and contends that the plaintiff is only entitled to seek relief under section 53A of Transfer of Property Act and he is entitled to use the right, if any, under section 53A, as a shield only. Is that contention sustainable? Explain. [3 marks]

**(22)** A, B and C mortgage their individual properties valued at Rs.50,000/-, Rs.1 lakh and Rs.2 lakhs respectively and receives a sum of Rs.2 lakhs. A takes Rs.1 lakh out of it and B and C at Rs.50,000/- each. When the mortgage money becomes due, on what basis the rate of contribution should be fixed. Explain. [3 marks]

**(23)** Explain a statutory tenant and a tenancy by holding over. What are the characteristics of both? [3 marks]

**(24)** In a monthly lease under the Transfer of Property Act, the lessor issues a one month notice determining lease and directs the lessee to quit on expiry of lease period. After 6 months, he issues another one month notice determining lease. Is he entitled to seek eviction with effect from the date of 1st notice? Explain with reasons. [3 marks]

**(25)** What are the documents executed in favour of Government, that are exempted from Registration under the Registration Act? [3 marks]

**(26)** A suit is filed against A and the Municipality alleging that A is constructing a building in violation of the approved plan and license granted by the Municipality, that it is encroaching into the property of plaintiff and that a portion of the super structure projects into his property. It is further alleged that Municipality is not taking any action inspite of written complaint. Mandatory injunction is sought directing the Municipality to take appropriate action and for directing first defendant to demolish illegal structures. Injunction is sought against granting of completion certificate. Municipality, inter alia, contends that, in the light of specific bar under the Municipalities Act, suit is not maintainable. Is the suit not maintainable? [3 marks]

**(27)** What are the grounds on which an election under the Panchayath Raj Act can be declared as void by Court? Can the Court declare any other person than the petitioner as elected? If so, under what circumstances? [3 marks]

**(28)** In case of failure of tenant to pay rent to the Landlord, before the institution of a Rent Control Proceeding and during the pendency of proceedings, what are the remedies available to a landlord? What is the procedure to be followed by the Court? [3 marks]

**(29)** A document styled as a Registered sale deed was executed by plaintiff in favour of defendant, on receipt of an amount. On the same day a contemporaneous agreement was executed by both, by which plaintiff undertook to repay the amount and to secure reconveyance of property. Plaintiff claimed that the transaction was a mortgage by conditional sale, which was refuted by defendant. Examine whether the contention of plaintiff is sustainable? [3 marks]

**(30)** In a suit for declaration of plaintiff's title over a property and for recovery of possession, defendant raised a plea of limitation. It was contended by defendant that limitation period for declaration of title under S.34 of Specific Relief Act was 3 years and suit was instituted after 3 years

and hence barred, though limitation for institution of suit for possession on basis of title was 12 years. Is it sustainable? [3 marks]

**(31)** "Once time has begun to run, no subsequent disability or inability to institute a suit or to make an application stops it". Explain with reference to various provisions of Limitation Act, 1963. [3 marks]

**(32)** Explain the mode of valuation of court fee under Kerala Court Fees and Suit Valuation Act 1959 payable on separate and distinct reliefs, ancillary reliefs to main reliefs and alternative reliefs on same or distinct causes of action. [3 marks]

**(33)** Explain the impact of partition of dominant heritage, on the easement attached to it? Explain with examples. [3 marks]

**(34)** Explain the features of contingent contracts under the Indian Contract Act? [3 marks]

**(35)** Briefly explain the Rule against perpetuity under the Transfer of Property 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 characteristics which distinguish a lease from a license? Explain with decisions? [8 marks]

**(37)** What is the procedure to be adopted under the Kerala Stamp Act when an insufficiently stamped instrument is produced before any authority to receive evidence, or a court when it is sought to be tendered in evidence? Will it make any difference, if it is produced only for any collateral purpose and not tendered in evidence? What will be the position, if it is produced before an (a) arbitrator (b) criminal court? Who is to pay the penalty, if the stamp duty is payable by the other party to document, than the one producing it? [8 marks]

**(38)** Is the Appellate authority under S.18 of Kerala Buildings (Lease and Rent Control) Act 1965, a persona designata? Have they power to condone delay under S.5 of Limitation Act? Examine in the light of decisions of Supreme Court in Mukri Gopalan v. C.P. Aboobacker (1995(2) KLJ 136) and M.P. Steel Corporation v. Commissioner of Central Excise (2015(3) KLJ 147) [8 marks]

**(39)** Explain the grounds on which a Muslim woman is entitled to a decree of dissolution of marriage under Act 8 of 1939. [8 marks]

**(40)** What are the ingredients to be pleaded and established in a claim for easement by necessity and easement by prescription. Can both easements be claimed in relation to same right? Explain. [8 marks]

**(41)** What are the Special Rules of Evidence under Chapter XIII of Negotiable Instruments Act 1881?

**(42)** Distinguish between indemnity and guarantee under the Indian Contract Act? [8 marks][8 marks]

**(43)** Explain the rights and liabilities of mortgagee. [8 marks]