Kerala Judicial Service (Mains) 2024

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 O.M.R. answer sheet. Answers marked/written elsewhere will not be evaluated). (15 x 1 mark = 15 marks)

1. In a petition seeking divorce filed by a Muslim wife on the ground that the whereabouts of the husband have not been known for a period of four years, details of whom among the following persons need not be stated in the petition? [1 mark]

(A) Mother of the husband
(B) Maternal uncle of the husband
(C) Brother of the husband
(D) Paternal uncle of the husband

2. Act of a party to a contract with intent to deceive another party thereto amounts to fraud as defined in Section 17 of the Indian Contract Act, 1872 if ..... (Choose incorrect option) [1 mark]

(A) the suggestion, he made as a fact is not true
(B) there is active concealment of a fact by him
(C) made a promise without any intention of performing it
(D) there was a mistake of fact which he had communicated

3. Pursuant to a notification inviting applications for admission to B.Tech course, 'A' secured admission and paid fees. Subsequently, 'A' discovered that the course offered is unauthorised having no recognition or affiliation with any University. Choose the correct option. [1 mark]

(A) 'A' cannot get a refund of fees since the caveat emptor rule applies
(B) 'A' cannot get a refund of fees if classes are imparted.
(C) 'A' will get refund of fees since the contract is void
(D) 'A' will get a refund of fees only if the court declared the contract to be void.

4. What is the period within which a suit for recovery of possession of an immovable property under Section 6 of the Specific Relief Act, 1963 is to be filed? [1 mark]

(A) One year
(B) Three years
(C) Three months
(D) Six months

5. A court can cancel a written instrument under Section 31 of the Specific Relief Act, 1963 if the document is ..... (Choose the most appropriate option) [1 mark]

(A) void
(B) void or voidable, and it may cause injury to the plaintiff
(C) voidable
(D) voidable, and whether or not it may cause injury to the plaintiff

6. Suit is one for perpetual prohibitory injunction against trespass upon an immovable property. What shall the plaintiff prove to get a decree? [1 mark]

(A) Plaintiff should prove settled possession.
(B) Plaintiff should prove title and possession.
(C) Plaintiff should prove both title and possession in a case where the defendant denied plaintiff's title.
(D) Plaintiff should prove only title

7. What way 'attested' defined in Section 3 of the Transfer of Property Act, 1882 differs from 'attestation' defined in Section 63(c) of the Indian Succession Act, 1925? [1 mark]
(A) Differs in the number of witnesses
(B) Differs in the case of a gift deed
(C) Differs in the case of a will
(D) No difference

8. A person professes to transfer property which he has no right to transfer and as part of the same transaction confers a benefit on the owner of the property. If the owner confirms such a transfer, it is ..... [1 mark]
(A) Estoppel
(B) Feeding the grant by estoppel
(C) Election
(D) Reversion

9. The doctrine of lis pendens applies from the ..... [1 mark]
(A) date on which the defendant receives summons in the suit
(B) date of the presentation of the plaint in the court.
(C) date on which the defendant enters appearance in the suit.
(D) date on which the defendant receives suit notice.

10. If a defendant in a suit expired, what is the period within which impleadment of his legal representatives can be allowed without insisting on a petition for condonation of delay? [1 mark]
(A) 150 days
(B) 90 days
(C) 120 days
(D) 60 days

11. What is the period of limitation for execution of a decree for mandatory injunction? [1 mark]
(A) 1 year
(B) 12 years
(C) No limitation
(D) 3 years

12. Right to lateral support to an immovable property can be a..... (Choose the incorrect option) [1 mark]
(A) natural right
(B) prescriptive easement
(C) easement by necessity
(D) purchased right

13. Which among the following cannot be prescribed as an easement even by satisfying the requirements of Section 15 of the Easements Act, 1882? [1 mark]

(A) Right to light to a building
(B) Right to light to an open land
(C) Right to air to a building
(D) Right to access to a residential building

14. In a suit for partition of a Hindu father's property between two children, the court passed a composite decree. That decree [1 mark]
(A) invalid since the law insists on passing a preliminary decree in a partition suit always
(B) valid since a composite decree is the rule when the number of parties is limited
(C) invalid since the law prohibits passing a composite decree
(D) valid if a composite decree can be passed without further enquiry

15. In the case of a Hindu, the mother inherits from a female differently than a male. If a female dies, mother will be a sharer only if the deceased has no..... [1 mark]
(A) sons, daughters, children of predeceased son and daughter and the husband
(B) sons and daughters
(C) sons, daughters and children of predeceased son and daughter
(D) sons, daughters, children of predeceased son and daughter, husband and father

PART - II

Answer any 15 questions. Answer 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 x 3 mark = 45 marks)

16. 'B' borrowed money from 'A' and issued a cheque for payment. The cheque when presented, was dishonoured for insufficiency of funds. Thereupon 'A' filed a suit on the dishonoured cheque. 'B' contended that the suit is not maintainable for want of notice preceding the institution of the suit. Discuss regarding the sustainability of the defence plea. [3 marks]

17. How is the market value of the following determined for the purpose of valuation of the court fee? [3 marks]
(a) Agricultural land
(b) Building
(c) other properties.

18. Explain how court fee is chargeable when [3 marks]
(a) plaint contains separate and distinct reliefs on the same cause of action.
(b) the plaintiff seeks alternative reliefs on the same cause of action.
(c) the plaintiff seeks alternative reliefs on different causes of action.

19. Explain the theory of reciprocal promises in the context of "readiness and willingness" in relation to an agreement for sale of an immovable property. [3 marks]

20. Explain appropriation of payments rule. [3 marks]

21. Explain "offer" and "acceptance" with reference to tenders. [3 marks]

22. Explain the concept of 'right of lateral support'. [3 marks]

23. Explain customary right and customary easement. [3 marks]

24. What are the essentials to establish for an easement right of way by necessity? [3 marks]

25. What are the grounds for declaring an election to be void under the Municipalities Act, 1994? [3 marks]

26. The suit was instituted against a Panchayat for widening a way by encroaching into the plaintiff's property. Is the suit maintainable in the light of protection given to official acts and in the light of Section 249 of the Panchayat Raj Act, 1994 stipulating for a notice for institution of any suits against the Panchayat? [3 marks]

27. What are the differences between a sham transaction and benami transaction? [3 marks]

28. Explain the doctrine of marshalling. [3 marks]

29. Can a gift deed be revoked except for the vitiating factors rendering a contract voidable or void? [3 marks]

30. What is the effect of a succession certificate issued after contest, in a subsequent suit on title? [3 marks]

31. What are the conditions to be satisfied for a grant of decree for mandatory injunction? [3 marks]

32. An additional defendant was impleaded after the expiry of the period of limitation for filing the suit. When is the suit deemed to have been instituted against the additional defendant? Is there any exception? [3 marks]

33. Limitation bars the remedy and not the right. Is there any exception to this Rule? [3 marks]

34. 'A' while in possession of an immovable property was dispossessed by 'B'. 'A' filed a suit for recovery of possession on the strength of his possession after twelve years. 'B' contended that he has prescribed title by adverse possession. What is your opinion about the frame of the suit, defence and sustainability of the plaint claim? [3 marks]

35. Landlord has let out a three roomed building by the side of a road to a tenant. Landlord want to start a business of his own in two rooms. He is residing in a building situated on its rear side. He has only a footpath for access to his residence. He wants to demolish one room to widen the way. He proposes to file a Rent Control Petition for eviction of 2 rooms on the ground of bona fide need for own occupation and a civil suit for eviction regarding the room required to widen the way. Comment. [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 x 8 marks = 40 marks)

36. Explain briefly the grounds of eviction available for the landlord under the Kerala Buildings (Lease and Rent Control) Act, 1965. [8 marks]

37. What are the acts of the creditor that discharges surety?. [8 marks]

38. Frustration and restitution are the two sides of the same coin. Explain. [8 marks]

39. What is the concept of "stop proceedings" in a rent control petition? When does such situation arise? Explain with reference to the relevant statutory provision. [8 marks]

40. Explain the effect of (a) fraud (b) coercion (c) undue influence (d) misrepresentation (e) mistake, on contracts. Are there any exceptions with regard to the consequence of existence of such vitiating factors on the contract? [8 marks]

41. Explain "right of subrogation" under the Transfer of Property Act and under the Contract Act.

42. Explain "Lis Pendens". [8 marks][8 marks]

43. What are the modes of extinction of easements? [8 marks]