Kerala Judicial Service (Prelims) 2011

High Court of Kerala · Preliminary Examination, held 11.06.2011 · 100 questions

PART A

1. Ina suit for specific performance of agreement for sale of an immovable property the defendant-seller denies readiness and willingness on the part of the plaintiff-buyer. In addition, he alleges mistake in the Survey Number of the property which according to him is the result of fraud.

(A) The defendant may ask for correction in the same suit.
(B) The defendant is not entitled to ask for correction in the same suit.
(C) S. 92 Evidence Act bars evidence of it.
(D) The defendant should file a separate suit for correction.

2. The case in which perpetual injunction can be granted is

(A) if it will amount to abuse of the process of court
(B) against a true owner of the property if the plaintiff is in settled possession
(C) against' a true owner even if the plaintiff is not in settled position
(D) The plaintiff wants to do a positive act.

3. In a case in which time had not been fixed for specific performance, the court refused to grant the relief to the plaintiff on the ground that suit was not filed within a reasonable time. The order is

(A) illegal
(B) null and void
(C) legal
(D) irregular

4. Ina suit for specific performance of agreement for sale of immovable property the plaintiff gets title to the property when

(A) the decree is passed
(B) the sale deed is executed
(C) the suit is filed
(D) the sale consideration is paid

5. Which of the following suits is a representative suit?

(A) suit to declare a transfer of an immovable property as fraudulent
(B) suit founded on the principle of part performance
(C) suit on mortgage
(D) suit for partition

6. The mortgage to which the provisions as to a simple mortgage will apply is

(A) Usufructuary mortgage
(B) English mortgage
(C) Equitable mortgage
(D) Anomalous mortgage

7. The period of 15 days mentioned in S.106 T.P. Act shall commence from

(A) the date of receipt of notice
(B) the date of notice
(C) the end of the month in which notice was issued
(D) the end of the month in which notice was received

8. When the day of commencement of a lease of immovable property is not expressed, the time limited by the lease begins from

(A) the making of the lease
(B) from the first day of the month of the lease
(C) from the first day of the next month
(D) from the next day of the making of the lease

9. Arrears of rent can be transferred

(A) by the execution of an instrument in writing
(B) by a registered document only
(C) by an oral statement
(D) by an attested document only

10. Choose the correct statement.

(A) The making of a promissory note is completed by its execution.
(B) The making of a cheque is completed by its execution.
(C) A cheque payable to bearer is not negotiable by its delivery.
(D) A cheque payable to order is negotiable by the holder by endorsement and delivery.

11. A minor is a payee of a cheque. He endorses it in the favour of his father. The drawee refuses to honour the cheque on the ground that it was endorsed by a minor. The action of the drawee is

(A) illegal
(B) legal
(C) proper
(D) regular

12. As to the law of a foreign country regarding a cheque

(A) there is no presumption.
(B) there is an irrebuttable presumption that it is the same as that of India. .
(C) there is a rebuttable presumption that the law is the same as that of India
(D) there is a conclusive presumption that the law is the same as that of India.

13. To condone the delay in filing a complaint u/s. 138 N.I. Act sufficient cause

(A) must be shown in the complaint itself
(B) must be shown in the petition for condonation of delay
(C) must be shown in an affidavit
(D) may be shown in the complaint or in the petition or in the affidavit.

14. Choose the correct statement.

(A) A cheque issued for a time barred debt, if dishonoured, does not attract S. 138 N.I. Act.
(B) A pay order is not a cheque for the purpose of S. 138 N.I. Act.
(C) The presumption u/s 139 N.I. Act can be rebutted only if the accused adduces evidence.
(D) S.29 Cr.P.C. is not applicable to the offence u/s.138 N.I. Act.

15. 'A' owes 'B' Rs. 1,00,000/- with interest. 'B' requires 'A' to send it through his servant. 'A' hands over the money to the servant. In the course of his journey the money is lost.

(A) the debt is discharged
(B) the debt is not discharged; but the interest will cease to run
(C) the debt is not discharged and interest will continue to run
(D) half of the debt is discharged

16. Which of the following statements is true?

(A) the obligation under a contract can be transferred
(B) the right under a contract cannot be transferred
(C) the right under a contract can be transferred
(D) the right and obligations under a contract can be transferred

17. 'A' lends Rs. 1,00,000/- to 'B' and B promises to repay it with interest at 12% per annum after one year. The agreement provides that if the amount is repaid within six months the rate of interest will be 10%. The stipulation is

(A) void
(B) voidable
(C) legal
(D) irregular

18. A lends Rs. 1,00,000/- to 'B'. 'C' and 'D' are sureties. 'A' institutes a suit against 'B' and 'C' alone for recovery of the amount.

(A) the suit should be dismissed for non-joinder of 'D'
(B) the plaint should be rejected for non-joinder of 'B'
(C) the suit should be proceeded with
(D) the plaint should be returned to implead 'D'.

19. Recovery of a loan granted by a bank became time barred. The bank adjusted the security of the guarantor. The action of the bank is

(A) illegal
(B) legal
(C) irregular
(D) improper

20. A bank advanced a loan of Rs. 5 lakhs to 'P'. 'X', 'Y', & 'Z' are his sureties. 'P' repaid Rs. 2 lakhs. As between the sureties their liability is

(A) Rs.5 lakhs
(B) Rs.3 lakhs
(C) Rs.2 lakhs
(D) Rs.1 lakh each

21. The fact which is not relevant to attract the principle of res judicata is

(A) The reliefs prayed for in the two suits should be the same.
(B) The parties should be the same.
(C) The subject matter of the two suits should be identical.
(D) The decree in the former suit was passed by a court of competent jurisdiction.

22. In which of the following cases a second suit is not barred.

(A) The plaintiff omitted to include a relief he was entitled to in respect of the cause of action in the first suit.
(B) A plaint was rejected for the failure of the plaintiff to correct the valuation.
(C) A suit dismissed for the default of the plaintiff to appear after the defendant has appeared.
(D) The plaintiff withdraws the suit without the permission of the court to file a fresh suit on the same cause of action.

23. If a defendant fails to pay costs for causing delay, the Munsiff may

(A) include the amount in the decree
(B) direct the defendant to claim it in execution
(C) leave it to the defendant to decide what to do
(D) draw up a separate order so that it may be executed

24. The Munsiff Court at Kasaragod transferred to the Munsiff Court at Kozhikode a money decree for execution. In the course of the enquiry in the latter court it was proved that the J.D. was residing at Kasaragod. The Munsiff issued a notice under Order 21 rule 37 CPC. The order is

(A) legal
(B) without jurisdiction
(C) improper only
(D) Irregular only

25. To set aside a sale under O.21 rule 89 CPC the J.D. should deposit

(A) the amount shown in the proclamation.
(B) the amount shown in the proclamation and 5% of the sale price.
(C) the amount specified in the proclamation less the amount paid after the proclamation and 5% of the sale price.
(D) the amount specified in the proclamation and 5% of it less the ; amount paid after the proclamation.

26. When an assignee of one of the joint decree holders files an execution petition

(A) notice to transferor or J.D. is not necessary before execution.
(B) notice to transferor alone is necessary before execution.
(C) notice to J.D. alone is necessary before execution.
(D) notice to transferor and J.D. is necessary

27. A Munsiff Court at Thiruvananthapuram passed a decree for Rs. 1,00,000/-. On the application of the decree holder the court attached the property of the J.D. situated at Kottayam and sent the decree to the Munsiff Court at Kottayam for execution. The order is

(A) legal
(B) illegal
(C) improper
(D) irregular

28. A Judgment Debtor who was detained in civil prison for non payment of decree debt was released on the expiry of the period of detention ordered by the court. .

(A) He is discharged from the debt
(B) He is not discharged from the debt
(C) He is liable to be re-arrested for the same debt
(D) He is not liable to be arrested for any debt

29. An immovable property was sold in execution on 1-1-2008. Application filed to set-aside the sale was filed on 21-2-2008, which was dismissed on 11-4-2008. But the confirmation of sale was recorded on 12-4-2008 only. The property vested in the purchaser on

(A) 1-1-2008
(B) 21-2-2008
(C) 11-4-2008
(D) 12-4-2008

30. A decree against a public servant in respect of an act done by him in his official capacity can be executed

(A) immediately
(B) if the decree remains unsatisfied for two months
(C) if the decree remains unsatisfied for three months
(D) six months after the date on which a copy of the decree was delivered to the D.H.

31. On 1-3-2010 a caveat was lodged. In a suit filed on 3-6-2010 in respect of the subject matter of the caveat, an application was filed. The court refused to issue notice to the caveator. The action is

(A) proper
(B) illegal
(C) irregular
(D) improper

32. The defendant wants to file an application u/s. 152 CPC to correct an accidental slip in a judgment. It should be filed

(A) within 30 days
(B) within 60 days
(C) within 90 days
(D) any time

33. A suit was filed against five defendants. Defendants 2 to 4 want the first defendant to act for them.

(A) It is sufficient for the 1st defendant to make a declaration in the court.
(B) Defendants 2 to 4 should give an authorization in writing which shall be filed in court.
(C) The first defendant or defendants 2 to 4 should get the permission of the court
(D) It is necessary for the 1st defendant to file a declaration in court and get the leave of the court.

34. The bar under O.2 Rule 2 relates to

(A) the grounds for reliefs
(B) the reliefs
(C) material particulars
(D) material averments

35. On the failure of the plaintiff to present copies of the plaint within 7 days from the date of order of the court, it rejected the plaint. The plaintiff presented a fresh plaint.

(A) the second suit is barred
(B) the second suit is not barred
(C) the second suit is continuation of the first suit
(D) the second suit is not barred if the defendant has no objection

36. When a document is rejected in evidence the court shall

(A) make relevant entries on it
(B) immediately return it
(C) not make any entries on it
(D) shall mark it as an exhibit

37. A garnishee failed to pay the amount into the court in spite of the order of the court. The court issued execution against the garnishee as if the order were a decree against him. The action of the court is

(A) illegal
(B) irregular
(C) improper
(D) valid

38. In an R.C.P. a landlord sought eviction of the tenant on the ground of bonafide own occupation of himself. Pending the petition he died. The court allowed his LRs to continue the proceedings. The action of the court is

(A) illegal
(B) legal
(C) proper
(D) regular

39. A person other than the tenant was found in occupation of the tenanted building. The landlord filed an RCP seeking eviction of the tenant on the ground of sublease. The court held that it was for the tenant to establish the jural relationship between himself and the occupier of the room. The finding is

(A) improper
(B) illegal
(C) irregular
(D) proper

40. A composite lease of building and land for a composite purpose was created. The Rent Control Court held that since it is difficult to break up the integrity of the lease a suit should be filed for eviction. The finding is

(A) illegal
(B) legal
(C) proper
(D) none of the above

PART B

41. In the case of consecutive sentences the maximum aggregate punishment that may be imposed by a Judicial First Class Magistrate is

(A) 3 years
(B) 6 years
(C) 7 years
(D) 14 years

42. The authority competent to direct an arrested person to subject himself to identification is

(A) The Station House Officer
(B) The Magistrate having jurisdiction
(C) The nearest Magistrate
(D) The Chief Judicial Magistrate

43. A Magistrate having no jurisdiction to whom an accused in custody is forwarded can authorize his detention in custody for a maximum period of

(A) 7 days
(B) 15 days
(C) 60 days
(D) 90 days

44. When a criminal case is 'referred' for want of evidence

(A) the investigating officer need not inform the informant
(B) the court is not bound to inform the informant
(C) the court is bound to issue notice to the informant
(D) the investigating officer shall inform the Chief Judicial Magistrate

45. In an enquiry u/s. 202 Cr.P.C. the accused is entitled

(A) to produce documents .
(B) only to watch the proceedings
(C) to cross-examine the complainant's witnesses
(D) to adduce evidence

46. When a complaint is made orally to a Magistrate who is not competent to take cognizance of the offence, he shall

(A) record it and conduct an enquiry
(B) direct the complainant to the proper court
(C) record it and forward it to the SHO
(D) direct him to give it in writing

47. An accused who was alleged to have committed an offence u/s. 326 IPC was in judicial custody for 60 days. On the 61st day the investigating Officer filed final report. On the 62nd day the accused filed a bail application. The Magistrate held that the accused has indefeasible right and released him on bail. The order of the Magistrate is

(A) illegal
(B) legal
(C) proper
(D) regular

48. Which of the following statements is wrong?

(A) A prosecutor cannot withdraw from prosecution during committal proceedings.
(B) If withdrawal from prosecution is made before a charge is framed, the accused shall be discharged.
(C) If withdrawal from prosecution is made after a charge has been framed, the accused shall be acquitted.
(D) Withdrawal from prosecution can be made even after the evidence of the prosecution is closed.

49. In a warrant trial, after the charge is framed, the Magistrate can

(A) stop the proceedings u/s. 258 Cr.P.C.
(B) drop the proceedings
(C) only acquit or convict the accused
(D) stay the proceedings in proper cases

50. In an enquiry u/s. 202 Cr.P.C. a Magistrate appointed an Advocate to conduct an investigation. The order is

(A) legal
(B) illegal
(C) irregular
(D) a nullity

51. In a warrant case instituted on a complaint if the complainant is absent, the Magistrate can discharge the accused

(A) before the charge is framed irrespective of the nature of the offence.
(B) even after the charge is framed.
(C) before the charge is framed if the offence is compoundable and non cognizable .
(D) before the charge is framed if the offence is either compoundable or non cognizable

52. Which of the following statements is wrong?

(A) oath may be administered to an accused before he is examined u/s. 313 Cr.P.C.
(B) an accused can be examined as a witness only on his request in writing
(C) an accused can refuse to answer any question when he is examined u/s. 313 Cr.P.C.
(D) the court can put to the accused any question at any stage of the trial

53. A Magistrate appointed an Advocate as a Commissioner to examine a witness who had been laid up for one year. The action of the Magistrate is

(A) legal
(B) illegal
(C) only irregular
(D) none of the above

54. When a person is added as an additional accused, the evidence already recorded

(A) can be relied on
(B) can be relied on only with his consent
(C) cannot be relied on even with his consent
(D) can be used with the consent of the Prosecutor

55. A Magistrate imposed on an accused a sentence of fine of Rs.5000/- and directed him to pay a compensation of Rs.1000/-. The order is

(A) legal
(B) illegal
(C) irregular
(D) proper

56. Which of the following statements is right?

(A) The period of imprisonment subsequent to conviction of an accused can be set off.
(B) The period of custody before conviction can be set off against the imprisonment ordered in default of payment of fine.
(C) The period of custody before conviction cannot be set off against the imprisonment ordered in default of payment of fine.
(D) The period of custody during enquiry cannot be set off

57. It is mandatory to give the Prosecutor an opportunity to be heard before the accused is released on bail if the offence is

(A) cognizable
(B) punishable with imprisonment exceeding 7 years
(C) punishable with imprisonment upto 7 years
(D) punishable with imprisonment for 7 years or more

58. Which of the following statements is not true?

(A) In every arrest there is custody.
(B) in every custody there is no arrest.
(C) Arrest does not include surrender of the accused before court.
(D) An accused in judicial custody may be arrested in another case.

59. Which of the following statements is true?

(A) Protest complaint is not in the nature of an objection to the final report.
(B) In a referred case court cannot take cognizance on the materials produced by the police.
(C) If cognizance is taken on a complaint after the police file a refer report the court should comply with the provisions in Chapter XV Cr.P.C.
(D) The provisions of sub sections (2) to (6) of S. 173 Cr.P.C. do not apply to a further investigation report.

60. Which of the following orders passed by a Magistrate in Kerala is legal?

(A) The Magistrate released an accused u/s. 360 Cr.P.C. on his conviction for the offence u/s. 324 IPC.
(B) The Magistrate released an accused u/s. 360 Cr.P.C. on his conviction for the offence u/s. 326 IPC.
(C) The Magistrate who convicted an accused of an offence u/s. 323 IPC refused to invoke the power u/s. 360 Cr.P.C.
(D) The Magistrate released u/s. 360 Cr.P.C. a woman who was convicted of an offence u/s. 325 IPC.

61. A Magistrate who tendered pardon to an accused allowed him to be cross examined u/s. 306 (4) Cr.P.C. The procedure is

(A) proper .
(B) regular
(C) legal
(D) illegal

62. A Magistrate allowed the request of an accused to conduct a Test Identification Parade in the course of an investigation. The action of the Magistrate is

(A) legal
(B) proper
(C) illegal .
(D) regular

63. Choose the correct answer.

(A) Article 137 Limitation Act is not applicable to Criminal Courts.
(B) Limitation is for taking cognizance and not for filing complaints.
(C) Speaking order is not necessary in case delay is condoned.
(D) Limitation is for offence charged and not proved.

64. During investigation the Magistrate directed an accused to give his specimen signature. The direction is

(A) invalid
(B) irregular
(C) improper
(D) valid

65. Which of the following actions of the Magistrate who is not empowered ; by law in this behalf will not vitiate the proceedings?

(A) makes an order for maintenance.
(B) takes cognizance of an offence upon his own knowledge.
(C) tries an offender summarily.
(D) issues search warrant u/s. 94 Cr.P.C.

66. An offence which is cognizable under IPC is the offence u/s.

(A) 341
(B) 334
(C) 323
(D) 352

67. A phrase which does not find a place in S. 304 (A) IPC is

(A) the death of any person
(B) rash or negligent act
(C) rash and negligent act
(D) not amounting to culpable homicide

68. Under IPC exhibition of an object with intent to insult the modesty of the woman is an offence u/s

(A) 353
(B) 294
(C) 509
(D) 293

69. An offence the attempt of which attracts $.511 IPC.

(A) Attempt to wage war against the Government of India
(B) Attempt to commit robbery
(C) Attempt to murder
(D) Attempt to cheat by personation

70. An offence under IPC which is not compoundable is the offence u/s

(A) 325
(B) 334
(C) 448
(D) 324

71. An offence under IPC for which anticipatory bail may be granted is the offence u/s.

(A) 324 .
(B) 325
(C) 354
(D) 419

72. The offence u/s. 195 (A) IPC is

(A) giving false evidence
(B) fabricating false evidence
(C) threatening any person to give false evidence
(D) issuing or signing false certificate

73. Which of the following orders is illegal?

(A) A woman accused of having committed the offence of adultery was discharged by the court
(B) A woman was convicted of the offence u/s. 376 IPC with the aid of S. 34 of the Code.
(C) A man and a woman were convicted of the offence of bigamy
(D) An accused was convicted of the offence of outraging the modesty of a woman though the victim was only one year old.

74. is not a secondary evidence.

(A) Carbon copy of a document prepared simultaneously with the original.
(B) Copies compared with copies made from the original.
(C) Copies made from the original by mechanical process.
(D) Oral accounts of the contents of a document by a person who himself saw it.

75. in which of the following cases any form of secondary evidence is not admissible.

(A) The document is lost.
(B) The document is in possession of the opposite party.
(C) The document is a public document.
(D) The document is destroyed.

76. Which of the following documents is a private document?

(A) Records of the acts of the Motor Accidents Claims Tribunal.
(B) Records of the acts of a Magistrate.
(C) Records of the acts of a District Magistrate
(D) Registered sale deed executed by a private person.

77. A case in which the initial burden lies on the accused is

(A) The case of strict liability.
(B) The case in which the accused claims benefit of an exemption.
(C) The case in which the accused pleads consent of the victim in a rape case.
(D) None of the above

78. Which of the statements is wrong?

(A) A statement of a dead person when it relates to the cause of his death should be in writing.
(B) A statement which may be used for contradiction of a witness should be in writing.
(C) A statement which may be used to refresh memory of a witness should be in writing.
(D) A statement of a witness which may be used for corroboration may be verbal or written.

79. A party to a sale deed is

(A) entitled to prove want of consideration
(B) not entitled to prove want of consideration
(C) entitled to prove that the consideration was less
(D) entitled to prove that the consideration was more

80. An item of evidence which is not a substantive evidence is

(A) Dying Declaration
(B) First Information Statement
(C) Admission of the party
(D) Admission of the authorised agent of the party

PART C

81. Appointment of persons to the Judicial Service of a State is made by

(A) Public Service Commission
(B) High Court
(C) Governor of the State
(D) Government

82. In India the right not to be deprived of property save by authority of law is a

(A) constitutional right
(B) fundamental right
(C) statutory right
(D) common law right

83. Government of a State may sue or be sued by the name of the

(A) Chief Secretary
(B) District Collector
(C) Chief Minister
(D) State

84. Which of the following statements is wrong?

(A) Under Part III of the Constitution the State includes authorities under the control of Government of India. .
(B) For the purpose of Article 13 of the Constitution a byelaw is a law.
(C) For the purpose of Article 13 of the Constitution of India custom is not a law.
(D) The laws passed by a legislature in India before the : commencement of the constitution and which were in force at that time are laws in force in India for the purpose of Article 13 of the constitution.

85. Which of the following statements is wrong?

(A) A person who had no domicile in India is not a citizen under Article 5 of the Constitution of India though he was born in India.
(B) Every person who had his domicile in India and either of whose parents was born in India at the commencement of the Constitution of India is a citizen of India.
(C) Every person who was a citizen of India at the commencement of the Constitution shall continue to be a citizen of India.
(D) Parliament has no power to make laws with respect to matters relating to citizenship except in accordance with Part II of the constitution.

86. Choose the wrong statement.

(A) In Parts III & IV of the Constitution of India, 'the State' has different meanings.
(B) The principles in Part IV of the Constitution of India are fundamental in the governance of the country.
(C) Part IV of the Constitution directs that the State shall endeavour to eliminate inequalities in status amongst groups of people residing in different areas.
(D) Securing maternity relief finds a place in Part IV of the Constitution.

87. An item of expenditure not charged on the consolidated fund of the State is

(A) emoluments and allowances of the Governor
(B) salaries and allowances of the Judges of the High Court
(C) salaries and allowances of the Judicial Officers of the State
(D) sum required to satisfy any judgment or decree of a court

88. All contracts made in the exercise of the executive power of a State shall be expressed to be made by the

(A) The Chief Secretary
(B) The Secretary of the department concerned
(C) The District Collector
(D) The Governor of the State

89. The right of an accused to be defended by a legal practitioner of his choice commences when -

(A) he is arrested
(B) he is remanded .
(C) charge is framed
(D) he pleads not guilty

90. The State which has only one house of legislature.

(A) Maharashtra
(B) Karnataka
(C) Tamil Nadu
(D) Uttar Pradesh

91. The authority empowered to transfer a Judge from one High Court to another High Court is the

(A) Prime Minister
(B) Chief Justice of India
(C) President
(D) Law Minister .

92. The annual financial statement of a state shall be caused to be laid before the legislature by the

(A) Chief Minister
(B) Speaker
(C) President
(D) Governor

93. The right to practise law is a

(A) constitutional right
(B) statutory right
(C) common law right .
(D) none of the above

94. The Chairman of the State Human Rights Commission is

(A) Justice V.P. Mohan Kumar
(B) Justice N. Dhinakar
(C) Justice A. Lekshmikutty
(D) Justice K.A. Abdul Gafoor

95. The Law Commission Chairman is

(A) Justice P.V. Reddy
(B) Justice M. Jagannadha Rao
(C) Justice K.T. Thomas
(D) Justice V.R. Krishna Iyer

96. sui juris means

(A) person incompetent to contract
(B) person competent to contract
(C) minor
(D) person under obligation

97. causa causans means

(A) the immediate cause
(B) the proximate cause
(C) the distant cause
(D) no cause

98. Alphabet : Word
? : Sentence

(A) words
(B) paragraphs
(C) syllables
(D) phrases

99. Suggest : Demand
Take : ?

(A) give
(B) grab
(C) receive
(D) grant

100. Entrance is related to exit. Loyalty is related to

(A) falsehood
(B) dishonesty
(C) disrespect
(D) treachery