Odisha Judicial Service (Mains) 2021

Law of Property · optional paper

JSM – 21/5 · 3 hours · 150 marks

The figures in the right-hand margin indicate marks. Candidates should attempt six questions, selecting two from Section A, two from Section B and two from Section C.

Section A

1. (a) Under what circumstances a person can be said to have notice of a fact? [10 marks]
(b) (i) State the essential conditions for a valid attestation of an instrument. [10 marks]
(b)(ii) Can a money lender to the mortgagee validly attest the mortgage instrument ? [5 marks]

2. (a) Referring to the provisions of the Transfer of Property Act, 1882, state the properties which cannot be transferred. [15 marks]
(b)(i) Discuss the validity of following conditions on transfers: 'A mortgages a property to 'B' with a condition that 'B' will never sub mortgage the property to anyone. [5 marks]
(b) (ii) 'A' transfers a farm to B' for his life with a condition that in case 'B' cuts down any tree of the farm, the transfer shall cease to have any effect. [5 marks]

3. (a) What kinds of subrogations are recognized by the Transfer of Property Act? [15 marks]
(b) Point out the circumstances under which a lease of an immovable property is determined. [10 marks]

4. (a) Explain the rights of a mortgagor on redemption of a mortgage. [10 marks]
(b) (i) Can a person interested in a share only of the mortgaged property redeem his own share only ? [5 marks]
(b)(ii) Who is regarded as universal donee? [10 marks]

Section B

5. (a) Explain the provisions of Specific Relief Act relating to recovery of possession of immovable property. [15 marks]
(b) Discuss liability of person in possession of movable property, of which he is not the owner, to deliver the same to the person entitled to its immediate possession. [10 marks]

6. (a) State the conditions for enforcing the specific performance of a contract. [15 marks]
(b) When can the court direct the specific performance of a part of a contract ? [10 marks]

7. (a) Who are the persons against whom specific performance of a contract may be enforced? [15 marks]
(b) Explain the provisions relating to substituted performance of contract under the Specific Relief Act, 1963. [10 marks]

8. (a) What are special provisions under the Specific Relief Act, 1963 for contracts relating to infrastructure projects ? [10 marks]
(b) Discuss the power of court to award compensation in a suit for specific performance of a contract. [15 marks]

Section C

9. (a) Explain the principles for extention of prescribed period under Section 5 of the Limitation Act, 1963. [15 marks]
(b) Limitation bars the remedy but not the right. Explain with illustrations. [10 marks]

10. (a) Explain the provisions with illustrations under the Limitation Act, 1963 relating to extension of period of limitation on the ground of legal disability. [15 marks]
(b) (i) The limitation period for instituting a suit by M expired when M was a minor. Should M file the suit within a reasonable time immediately after the becomes a major or within the prescribed period of limitation, after he becomes a major ? [5 marks]
(b) (ii) A house belonging to P is taken possession of by a trespasser. The period of limitation for recovery of the possession is 12 years from the date of dispossession. P dies before the expiry of this period, leaving a minor son S, who attains majority after the period has expired and brings a suit for recovery of the house in 14th year from the date of dispossession. Is S entitled to extension of period of limitation on the ground of legal disability ? [5 marks]

11. (a) Explain the provisions under the Limitation Act, 1963 relating to exclusion of time in legal proceedings in computing the period of limitation. [15 marks]
(b) Discuss the provision under the Limitation Act, 1963 relating to exclusion to time of proceeding bona fide in Court without jurisdiction. [10 marks]

12. (a) State the requisites of a valid acknowledgement for extension of limitation period. [15 marks]
(b) What is the effect of death, fraud or mistake in computing the period of limitation ? [10 marks]