Rajasthan Civil Judge (Mains) 2015

Law Paper I · compulsory paper

Time: 3 Hours · Maximum Marks: 100 · 19 questions in four parts: Questions 1 to 8 carry 3 marks each, 9 to 12 carry 5 marks each, 13 to 15 carry 6 marks each, 16 to 18 carry 8 marks each and Question 19 carries 14 marks

Instructions to the candidates

1. Write the required particulars only on the flap provided on the top of "Question Paper-cum-Answer Book"; and not at any other place.

2. Do not write any mark of identity inside the "Question Paper-cum-Answer Book" (including paper for rough work) i.e. Roll Number, Name, Address, Mobile Number/ Telephone Number, Name of God etc. or any irrelevant word, sentence or figure other than the answer of question. Such act will be treated as unfair means. In such a case his candidature shall be rejected for the entire examination.

3. A candidate found creating disturbance at the examination centre or misbehaving with Invigilating Staff or cheating will render him liable for disqualification. He shall also be liable for penal action under "The Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992".

4. The question paper is divided into four parts 'A', 'B', 'C' and 'D'. The number of questions to be attempted and their marks are indicated in that part.

5. The answer of the questions in all all four parts i.e. 'A', 'B', 'C' and 'D' should strictly be written in the space provided below question and not elsewhere, otherwise, such answer shall not be assessed by the examiner.

6. The candidate should not write the answers beyond the space prescribed. No Supplementary Answer Book shall be provided in any case.

7. Attempt answers either in Hindi or in English, not in both. Specify an option by ticking in box of "Medium of Answer" on the flap.

8. In any question, if there is any discrepancy in English & Hindi versions, the English version is to be treated as standard.

9. In case the "Question Paper - cum- Answer Book" is torn or not printed properly, bring it to the notice of invigilator for change or direction at earliest, otherwise the candidate will be liable for that.

10. Possession of any electronic device is strictly prohibited in the Examination Hall.

Note: Attempt all the questions. Questions no. 1 to 8 each carries 3 marks, question no. 9 to 12 each carries 5 marks, question no. 13 to 15 each carries 6 marks, question no. 16 to 18 each carries 8 marks and question no. 19 carries 14 marks.

Part A (24 marks): attempt all the 8 questions, each carrying 3 marks

1. Briefly discuss the applicability of doctrine of severability under Article 13(1) of the Constitution of India. [3 marks]

2. Briefly discuss the provisions of Civil Procedure Code, 1908 regarding examination of parties by the court at the first hearing of the suit. [3 marks]

3. Dilate on admissibility of unregistered and insufficiently stamped document affecting immovable property in evidence for collateral transaction, in context of provisions of Section 49 of the Registration Act, 1908 and Section 39 of Rajasthan Stamp Act, 1998. [3 marks]

4. "Where once time has begun to run, no subsequent disability or inability stops it". Explain in brief. [3 marks]

5. Deliberate on "Rule against the perpetuity" provided under the provisions of Transfer of Property Act, 1882. [3 marks]

6. Briefly explain the different modes of dissolution of a firm under the Indian Partnership Act, 1932. [3 marks]

7. Whether the witness is entitled for permission to be seated while giving evidence in the Court? If so, under what circumstances? How the witnesses produced by the plaintiff and defendant and the witnesses called and examined by the court are required to be numbered? Indicate with reference to the relevant provisions of General Rules (Civil), 1986. [3 marks]

8. Briefly discuss the power of the court under Section 89 of Civil Procedure Code, 1908 and Section 8 of Arbitration and Conciliation Act, 1996 to refer parties to arbitration for settlement of the dispute. [3 marks]

Part B (20 marks): attempt all the 4 questions, each carrying 5 marks

9. Elaborate the provisions under the Civil Procedure Code, 1908, regarding non-appearance of the parties and consequence of non-appearance. [5 marks]

10. Discuss the entitlement of a divorced Muslim woman for mahr, maintenance and other properties under the provisions of Section 3 of Muslim Women (Protection of Right on Divorce) Act, 1986. [5 marks]

11. Dilate on unpaid seller's lien as contemplated under Section 47 of the Sale of Goods Act, 1930. What are the circumstances whereunder unpaid seller's lien shall stand terminated? [5 marks]

12. Write short notes :
(each carries 2.5 marks)
(i) Doctrine of Lis pendens
(ii) Easement of necessity. [5 marks]

Part C (42 marks): attempt all the 6 questions; questions 13 to 15 carry 6 marks each and questions 16 to 18 carry 8 marks each

13. Explain the difference between following:
(each carries 03 marks)
(i) Return of plaint and Rejection of plaint
(ii) Malice in law and Malice in fact [6 marks]

14. "Arbitrariness is antithesis to Article 14 of the Constitution of India", Elaborate. [6 marks]

15. Elaborately discuss the remedies falling in the realm of civil law, provided under the Protection of Women from Domestic Violence Act, 2005, to those women who have been in domestic relationship with the respondent as defined under provisions of Section 2(q) of the said Act. [6 marks]

16. Elaborately discuss the principles guiding the discretion of the court in granting decree for specific performance of the contract. [8 marks]

17. Discuss the rules governing the devolution of property of Hindu male dying intestate among heirs in class I and II of the Schedule appended to the Hindu Succession Act, 1956. [8 marks]

18. "Consent is said to be free when it is not caused by coercion or undue influence or fraud or misrepresentation or mistake." Discuss with reference to provisions of Section 14 to 22 of the Indian Contract Act, 1872. [8 marks]

Part D (14 marks)

19. Frame the issues on the basis of the pleadings of the parties noticed below and write the judgment. [14 marks]

M/s. B.G. & Company, Nokha, a partnership firm, entered into an agreement with M/s. P. Patel & Company, Unjha, to purchase 200 bags of Cumin for consideration of Rs.3,20,000/-. However, before the actual trans-shipment of the goods, M/s. S. Sethia & Company, Bikaner, purchased the said goods from M/s. B.G. & Company after full payment of the value of the goods. Accordingly, the original vendor M/s. P. Patel & Company at Unjha was instructed to direct the goods for delivery to M/s. S. Sethia & Company. The goods were dispatched from Unjha to Bikaner through North Western Railways. The goods were not delivered by the Railways to M/s. S. Sethia & Company within reasonable time and therefore, its representative contacted concerned authority of Railways at Bikaner time and again, however, the concerned authority informed that the goods had not reached to its destination so far. Later, after a lapse of about one month, the vendee M/s. S. Sethia & Company was informed about the arrival of the goods at the Railway Station, Bikaner. The goods were brought in a wagon different than a wagon wherein the same were initially trans-shipped. The vendee M/s. S. Sethia & Company found that the goods were in the highly damaged condition and therefore, it claimed for open delivery. The Railways claimed demurrage, which was duly paid by the said firm. During the course of open delivery, it was found that the goods were damaged to such an extent that the same were not fit for human consumption. The assessment of the damage was made by the Railway authorities and the loss suffered was quantified at Rs.1,60,000/-. The vendee M/s. S. Sethia & Company after serving a notice upon the Railway authorities under Section 80 CPC read with Section 106 of the Railways Act, 1989, filed a suit before the District Judge, Bikaner claiming compensation for the damage caused to the goods and interest thereon, a sum of Rs.1,60,000/- and Rs.8,000/- respectively.

The suit was contested by the Railways by filing a written statement thereto wherein, while trans-shipment of the goods from Unjha to Bikaner was accepted, however, the ownership of the goods of the plaintiff M/s. S. Sethia & Company was denied. It was averred that the train wherein the goods were initially loaded met with an accident between the station Unjha to Abu Road and consequently, the wagon wherein the goods were loaded was badly damaged and therefore, later same were re-loaded in another wagon, which reached the destination after a lapse of about one month. It was also averred that the accident did not occur on account of negligence on the part of the Railway employees and it being an act of god, the Railways cannot be held liable for damages. Regarding the damage assessment report, the stand of the Railways was that the same having been prepared without prejudice to the interest of Railways, is not admissible in evidence. The Railways raised an objection that since the plaintiff has no right, title or interest in the disputed goods and therefore, it has no locus standi to maintain the suit. Though, the receipt of the notice alleged to have been sent by the plaintiff was not denied, it was averred on behalf of the Railways that the notice was not served in conformity with the provisions of Section 106 of the Railways Act, 1989 and therefore, the suit is liable to be dismissed on this count alone. The Railways also questioned the maintainability of the suit on the ground that by virtue of Section 15 of Railway Claims Tribunal Act, 1987, no court or other authority

have or is entitled to exercise any jurisdiction, powers or authority in respect of claim for compensation for damages and therefore, the suit being barred by law, deserves to be dismissed.

De Facto IAS