Tamil Nadu Civil Judge (Mains) 2018

Law Paper I · compulsory paper

Duration : 3 Hours · Max. Marks : 100

General Instructions to Candidates

i) Section A, B and C have 6 questions each and the candidates shall answer 5 questions each from each of these sections. Each question in these sections carry 5 marks each.

ii) Section D contains 2 questions and both the questions should be answered. Each question in this section carries 10 marks.

iii) Section E contains 1 question and it carries 5 marks.

iv) The facts and particulars provided in the Question Paper i.e. the court name, place, case numbers, names of parties etc., found in the questions are fictional and may not be true in the real and legal sense. Yet candidates have to conclusively assume them to be true for the purposes of solving the questions.

v) Candidates may write the answers either in English or in Tamil but not in both.

vi) The question paper is printed in Tamil and English versions. In all matters and the cases of doubt, the English version is final.

SECTION A — (5 x 5 = 25)

CODE OF CIVIL PROCEDURE

1. [5 marks]

A sale deed was executed by Aravind in favour of Balu with respect to certain properties in Ponneri. Claiming share in the said properties Chandran s/o Aravind filed a suit seeking Permanent Injunction restraining the Sub Registrar, Ponneri from registering the sale deed executed by Aravind in favour of Balu before the District Munsif Ponneri. Discuss with reasons about the maintainability of the Suit before the civil court.

2. [5 marks]

Do the principles of Res judicata apply between two stages in the same litigation — Discuss briefly.

3. [5 marks]

A suit for declaration of title and for recovery of possession of immovable properties was filed and the same was decreed by the trial court without considering and going into the plea of adverse possession raised by the defendant. In the Execution petition filed by the plaintiff/decree holder, the defendant/Judgment debtor filed an application under Sec. 47 Code of Civil Procedure, 1908, stating that the decree is not executable and perse void for the reason that his defence of adverse possession was not considered. He also filed Kist receipts and patta in his favour. Would the claim of the defendant/Judgment Debtor be sustainable? Elaborate your answer with reasons.

4. [5 marks]

For action against Public nuisance - who can initiate proceedings before the Civil Court? Discuss quoting the relevant provisions in the Code of Civil Procedure, 1908.

5. [5 marks]

In an Execution proceeding, -the Judgement Debtor/Défendant was set exparte for non-appearance and order was passed. After 35 days of the order, the Judgement Debtor/Defendant filed an application to set aside the exparte order along with an application under Section 5 of the Limitation Act, 1963 to condone the delay in filing the set-aside application. Would the executing court be justified in allowing the petition filed under Section 5 of the Limitation Act, 1963? Discuss with reasons.

6. [5 marks]

Interpleader Suit — discuss giving illustration.

SECTION B — (5 x 5 = 25)

CODE OF CRIMINAL PROCEDURE

7. [5 marks]

Briefly narrate the Procedure for trial of Warrant Cases instituted otherwise than on Police Report.

8. [5 marks]

Whether a Magistrate could order police custody when the Accused pleads right of silence and alleges that no information would be disclosed by him in the police custody even if he is sent to police custody. Qualify your answer with reasons.

9. [5 marks]

During the course of trial before a Magistrate, from the deposition of the witnesses it is revealed that offences triable by Court of Sessions has also been committed by the accused. What is the course to-be adopted by the Magistrate? Explain with relevant section.

10. [5 marks]

Discuss the scope and powers of Court under Sec. 357A Code of Criminal Procedure, towards Victim Compensation.

11. [5 marks]

Kumar is convicted for offences under section 326 Indian Penal Code and 506(II) Indian Penal Code and sentenced to undergo three years rigorous imprisonment and 2 years Simple Imprisonment respectively by the Judicial Magistrate, Alandur. The court directed that the sentences should run consecutively and the sentence of rigorous imprisonment for 3 years should follow the sentence of simple imprisonment for 2 years. Does the court have power to specifically indicate as to which of the sentences would commence first. Explain by citing the relevant section.

12. [5 marks]

The accused was sentenced to simple imprisonment for 1 year and was also directed to pay compensation of Rs. 50,000/- to the defacto complainant and in default to undergo imprisonment for 3 months. The accused did not pay the compensation and he under-went the default sentence also. Would the accused still be liable to pay compensation? Give your reasons with reference to the relevant provisions of the Code of Criminal Procedure, 1973.

SECTION C — (5 x 5 = 25)

INDIAN EVIDENCE ACT

13. [5 marks]

Can a Witness or his Counsel object to the questions asked by the Court to the witness on the ground that it is irrelevant? Elaborate your answer citing the relevant provisions of Indian Evidence Act, 1872?

14. [5 marks]

Can secondary evidence be let in with respect to Electronic record. What precautions are to be taken before admitting such evidence?

15. [5 marks]

During cross examination of the prosecution witnesses, some of them admitted that they were interviewed by the Public Prosecutor on that day before trial. Whether the credibility of the witnesses is impeached by the above admission. Discuss briefly.

16. [5 marks]

Whether an admission made by a party to the suit in an earlier proceeding, is admissible as against him in the subsequent proceedings?

17. [5 marks]

How can a document which requires attestation be proved when the Attestors are not alive?

18. [5 marks]

In a trial PW3, Anand was examined in chief, but was not cross examined. Hence his evidence was closed. Later on, an application was filed to recall PW3 and to cross examine him and the same was allowed. Witness summons issued to PW3, Anand, were returned with an endorsement that the said person had died. So he could not be cross examined. During arguments it was submitted on the side of the applicant that the evidence of 'PW3' cannot be considered as he was not subjected to cross examination. What is the evidentiary value of 'PW3's deposition? Discuss based on the relevant section.

SECTION D — (2 x 10 = 20)

CONSTITUTION OF INDIA

19. [10 marks]

Whether the Right to Life under Article 21 of the Constitution includes the Right to die? Discuss based upon recent citations of the Hon'ble Supreme Court.

20. [10 marks]

Elaborate on the Rights of accused as enumerated in D.K. Basu Vs. State of West Bengal, AIR 1997 SC 610.

SECTION E — (1 x 5 =5)

PLEADINGS

21. [5 marks]

If Mala Fides and Bias is pleaded, the party against whom Mala Fides and Bias is alleged, is to be added as a party. Discuss and explain this statement.