Tamil Nadu Civil Judge (Mains) 2019

Law Paper I · compulsory paper

Duration : 3 Hours · Max. Marks : 100

General Instructions to Candidates

i) The facts and particulars provided in the Question Paper i.e. the court's name, place, case numbers, documents details, names of parties and witnesses are fictional. Yet candidates have to take them to be true for the purpose of answering the questions.

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

iii) The Questions are provided in Tamil and English versions. In all matters and in case of doubt, the English version is final.

iv) The candidates need not provide the cause title with citation while answering the questions. Providing wrong or incomplete cause title or quoting a wrong citation will be detrimental to the candidates.

v) The candidates shall give answers briefly within the space provided for answering.

vi) Section A,B,C,D have seven 3 marks questions and four 5 marks questions respectively in each Part and candidates shall answer five 3 mark questions and two 5 marks questions respectively in each Part.

SECTION A

PART A — (5 × 3 = 15)

Answer any FIVE Questions.

CODE OF CIVIL PROCEDURE

1. [3 marks]

Explain, with relevant provisions, the powers of court to call a party to the suit for cross examinations in respect of the facts stated in the affidavit filed along with the application for temporary injunction.

2. [3 marks]

Discuss the legal provisions on the maintainability of caveat in execution proceeding?

3. [3 marks]

What are the principles to be considered by the Court while deciding a petition filed by one co-owner seeking injunction against another co-owner?

4. [3 marks]

What is the procedure to be adopted by the court, while deciding an applications seeking temporary injunctions, when the relief sought in the said applications and in the main suit are identical?

5. [3 marks]

What are the factors to be considered by the Court before it permits examinations of a witness before the examination of a party. Explain briefly with relevant provisions.

6. [3 marks]

Explain about the bar of subsequent suit for mesne profits, under Order 2 Rule 2 of Code of Civil Procedure.

7. [3 marks]

Describe the validity of transfer of property in violations of the order of temporary injunctions.

PART B — (2 × 5 = 10)

Answer any TWO Questions.

8. [5 marks]

(a) The Plaintiff withdrew a suit filed by him for injunction against his father as settled out of court by filing a memo. Subsequent to the dismissal of suit based on the said memo, he filed an application under order IX Rule 9 read with Section 151 of the code of civil Procedure to restore the suit with an allegations that his father played fraud on him by not settling the matter and he withdrew the suit believing the false promise of his father. Explain the maintainability of such application /

(b) Explain the maintainability of appeal against consent decree with relevant provisions.

9. [5 marks]

(a) What is the period of limitation for bringing the legal representatives of the deceased decree holder or judgement debtor in execution proceedings on record? Explain the procedure for bringing the legal representatives of the deceased parties on execution proceeding on record with relevant provisions.

(b) " A decision under Order XXII Rule 5 of the Code of Civil Procedure would act as res judicata in a subsequent suit between the same parties or persons claiming through them " Explain.

10. [5 marks]

Elaborate, how the defendant shall prove that the suit against him is barred under Order II, Rule 2 of Code of Civil Procedure?

11. [5 marks]

Explain the maintainability of the suit for damages in the light of the Tamil Nadu Property (prevention of Damage and loss) Act, 1992.

SECTION B

PART A — (5 × 3 = 15)

Answer any FIVE Questions.

12. [3 marks]

" During a criminal trial, the counsel appointed by the victim takes over the prosecution from the state Prosecutor ", Examine the same in the light of the legal provisions.

13. [3 marks]

When is a person said to be under arrest? Are the terms 'Custody ' and 'Arrest ' synonymous ? Explain with an illustration.

14. [3 marks]

Explain the role of a Magistrate in ensuring the production of an accused before him within 24 hours of arrest with relevant provisions.

15. [3 marks]

Elucidate the importance of registration of FIR and the validity of more than one FIR in one case.

16. [3 marks]

Explain the importance and relevance of pre-charge evidence in cases instituted otherwise than on police report. Explain the rights of the accused to cross examine the prosecution witness in such a stage.

17. [3 marks]

Why a session court cannot directly take cognizance of an offence even though such an offence is exclusively triable by such court? Explain the exceptions to the same with illustration.

18. [3 marks]

When a person is having two or more sons, explain his right to claim maintenance against all of them / What is the nature of liability of the sons in such a case? Is it a joint or several liability or joint and several liability?

PART B — (2 × 5 = 10)

Answer any TWO Questions.

19. [5 marks]

Explain the legal consequences of non compliance of the procedure contemplated while carrying out a search, the effect of illegal search, the admissibility of evidence gathered through an illegal search and the validity of trial with relevant provisions.

20. [5 marks]

Distinguish " further investigation " and " re-investigation ". Discuss the powers of police, court and the De-Facto Complainant's right in seeking " further investigation " in pre and post cognizance stage.

21. [5 marks]

When the magistrate receives a closure report and a protest petition, Explain the procedure to be adopted by the Magistrate.

22. [5 marks]

" Non - Submission of charge sheet within prescribed period of limitation even in pandemic situations would entitle an accused to get bail under Section 167(2) of Code of Criminal Procedure even in heinous offences " - Discuss.

SECTION C

PART A — (5 × 3 = 15)

Answer any FIVE Questions.

INDIAN EVIDENCE ACT

23. [3 marks]

What is the evidentiary value of an attesting witness in a will, when he does not know the contents of will. Discuss the suspicious circumstances shrouding the will?

24. [3 marks]

(a) What is the distinction between admission in pleadings and admission in evidence and admission in document? (b) Discuss judgement on admission.

25. [3 marks]

Explain the Role of courts in using DNA technology in Administration of justice.

26. [3 marks]

What is conclusive proof? State its evidentiary value. Differentiate it from other kinds of presumptions.

27. [3 marks]

Explain the admissibility and evidentiary value of CCTV footage.

28. [3 marks]

Write short notes with relevant provisions on the following:

a. Estoppel by tenant, Estoppel by bailee and Estoppel by licence b. Presumption as regards Electronic Documents. c. Relevancy of facts relating to right or customs

29. [3 marks]

Discuss the relevancy of character of a person or party under the Indian Evidence Act and difference between the relevancy of character of a person or party in civil and criminal cases.

PART B — (2 × 5 = 10)

Answer any TWO Questions.

30. [5 marks]

'X' made a statement before the police under section 161(3) of the code of criminal Procedure, that he saw 'A' stabbing 'c' to death; In the witness box, he states that he saw 'A' and 'B' stabbing 'c' to death. Discuss the importance of proving contradiction in accordance with the manner followed in the trial courts.

31. [5 marks]

Write short notes with relevant provisions on the following:

a. Best evidence rule b. Presumption of fact c. Presumption of Law d. Judicial Notice e. Privileged communications

32. [5 marks]

Explain the validity of the evidence recorded through video conference in a Criminal Trial and what are the precautions to be taken by the court while recording such evidence.

33. [5 marks]

Investigating Officer submitted several documents along with the final report. But during trial, the prosecution failed to mark the documents. Explain the consequences with the help of legal propositions.

SECTION D

PART A — (5 × 3 = 15)

Answer any FIVE Questions.

CONSTITUTION OF INDIA

34. [3 marks]

Write short notes on the following:

a. "Court of Record " b. Expenses charged on consolidated Funds c. 'PER INCURIAM "

35. [3 marks]

Write short notes on the following:

a. Equal pay for equal work b. Doctrine of waiver c. Doctrine of colorable legislation

36. [3 marks]

Write short notes on the following:

a. Constituent assembly b. Welfare State c. Attorney General as chief Adviser of Government of India.

37. [3 marks]

Describe the superintendence powers and duty of High Court to exercise such powers over Subordinate Courts with relevant provisions contained in Constitution and Code of Criminal Procedure.

38. [3 marks]

How far we have implemented the Directive Principles of State Policy. From which country, we have derived the directive principles of state policy.

39. [3 marks]

Write a brief note on the Rule of Law.

40. [3 marks]

What are the advantages and impediments in the implementation of the doctrine of Separation of powers under the Indian Constitution?

PART B — (2 × 5 = 10)

Answer any TWO Questions.

41. [5 marks]

"A law may be constitutional even though it relates to a single individual if on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by itself ". Elucidate with the help of relevant case laws.

42. [5 marks]

Food adulteration is a great challenge for Indian Society. Refer to the relevant provisions in the Constitution and discuss the same.

43. [5 marks]

What are the various types of privacies as contemplated in the justice puttaswamy case? Explain the same briefly.

44. [5 marks]

Did the right to clean environment entail a legal regulation on bursting crackers /fireworks during Diwali? Discuss in the light of relevant articles in Indian Constitutions and Judgements of the Apex Court in this regard.