Tamil Nadu Civil Judge (Mains) 2023: Law Paper I — Solution

Tamil Nadu Public Service Commission · 4 November 2023.

Section A — Code of Civil Procedure

Part A

Q1. [3 marks]

Explain Compensatory costs with relevant provision under CPC.

Under Section 35A CPC, a party may object that a claim or defence, including in execution, is false or vexatious to the knowledge of the party raising it. If the claim or defence is later disallowed, abandoned or withdrawn, the court may award compensation to the objector after recording its reasons. The central text caps the award at ₹3,000 or the court's pecuniary jurisdiction, whichever is less. The provision excludes appeals and revisions. Any compensation awarded is taken into account in a later suit for damages concerning the same claim or defence.

Q2. [3 marks]

Define : (a) Mesne profit (b) Crown debt and (c) Precept.

(a) Mesne profits. Under Section 2(12) CPC, these are profits actually received, or reasonably obtainable with ordinary diligence, by a person in wrongful possession, together with interest. Profits attributable to that person's improvements are excluded.

(b) Crown debt. This is a debt due to the Government. Ordinary Government debts have priority over competing unsecured debts in appropriate cases. An existing secured interest is governed by its own law and any overriding statutory priority.

(c) Precept. Under Section 46 CPC, the court that passed a decree may direct another competent court to attach specified property of the judgment-debtor. The provisional attachment ordinarily lasts two months, subject to extension or transfer of the decree with an application for sale.

Q3. [3 marks]

When can a Judgment debtor be arrested for non disclosure of assets and liability?

Under Order XXI Rule 41(2) CPC, if a money decree remains unsatisfied for 30 days, the court may on the decree-holder's application require the judgment-debtor, or an officer of a corporate judgment-debtor, to file an affidavit disclosing assets. If the person disobeys the order, Rule 41(3) permits detention in civil prison for up to three months unless the court directs an earlier release. This is enforcement of the disclosure order. Detention solely to enforce payment of the money decree is subject to the separate conditions in Section 51.

Q4. [3 marks]

Mention any 6 kind of properties which cannot be attached in the execution of money decree?

Six examples from the proviso to Section 60(1) CPC are necessary wearing apparel, necessary cooking vessels, necessary beds and bedding, tools of artisans, books of account, and a mere right to sue for damages. Other examples include a right to future maintenance and an agriculturist's implements of husbandry. The particular statutory qualifications matter. For example, an agriculturist's cattle and seed-grain are protected only to the extent the court considers necessary to enable the person to continue earning a livelihood as an agriculturist.

Q5. [3 marks]

Why and In what context in CPC the expression 'substantial question of law' is used?

The expression sets the threshold for a second appeal to the High Court under Section 100 CPC. The memorandum must state the substantial question of law precisely, the High Court must formulate it if satisfied that it arises, and the appeal ordinarily proceeds on that question. The court may hear another substantial question of law for reasons recorded. The requirement preserves the finality of factual findings and directs second appeals to legal issues material to the outcome, such as a material finding based on a legally erroneous test.

Q6. [3 marks]

Explain whether Indian Courts are empowered to issue 'Mareva injunction'.

Yes. A civil court may restrain disposal or removal of assets in a suitable case, including under Order XXXIX Rule 1(b) CPC where the defendant intends to dispose of property to defraud creditors. Order XXXVIII Rule 5 separately permits security or conditional attachment before judgment on its specified grounds. The applicant must show a prima facie case and a real evidentiary basis for the threatened dissipation. The restriction should be proportionate and preserve the efficacy of any eventual decree. It does not itself confer a security interest.

Q7. [3 marks]

Explain discovery by interrogatories with relevant provision under CPC.

Section 30 and Order XI Rules 1–2 CPC permit written questions to an opposite party with the court's leave. The proposed questions must relate to matters in issue and assist fair disposal or save costs. A further set to the same party requires a court order. An interrogated party may object on grounds such as privilege or irrelevance, and the court may strike out oppressive questions. Answers ordinarily come by affidavit within ten days or another time fixed by the court.

Part B

Q8. [5 marks]

Explain what are the powers conferred to a Civil Court to prevent the ends of justice being defeated?

Section 94 CPC empowers the civil court to preserve the fair and effective conduct of the suit or execution, in the manner prescribed by the Rules.

The court may bring the defendant before it and require security for appearance, with civil detention on default where the governing requirements are met. It may require security to produce property or attach property. It may grant a temporary injunction and enforce it by civil detention and attachment and sale. It may appoint a receiver and enforce the receiver's duties by attachment and sale of the receiver's property. It can make other just and convenient interlocutory orders.

Apply the relevant safeguards in Orders XXXVIII, XXXIX and XL. Inherent power under Section 151 supports procedural orders needed for justice or to prevent abuse where compatible with the Code.

Q9. [5 marks]

Explain the role and responsibility of a Receiver appointed by the court. How a receiver differs from a commissioner appointed by the court in his functions and duty to the court?

Under Order XL Rules 1 and 3 CPC the court may appoint a receiver where just and convenient. Within the powers conferred, the receiver takes custody, preserves or manages property, collects income and may bring or defend proceedings. The receiver must furnish any security ordered, account for receipts, pay amounts due as directed, and answer for loss caused by wilful default or gross negligence. The property is held under the court's control for all interested parties.

Under Section 75 and Order XXVI a commissioner performs a defined inquiry, such as local investigation, examination of a witness or taking accounts, and returns the material or report to the court. A commissioner ordinarily has no continuing power to manage the property. Both are accountable to the appointing court and must act within the terms of appointment.

Q10. [5 marks]

What was principle laid by the Hon'ble Supreme Court in Anathula Sudhakar – va – Buchi Reddy case with regard to suit for prohibitory injunction relating to immovable property?

A plaintiff in lawful or settled possession facing interference can ordinarily seek a prohibitory injunction alone. If the plaintiff is out of possession and title is clear, the ordinary relief is recovery of possession with an injunction if needed. If there is a real cloud on title, the plaintiff should seek a declaration and consequential injunction, adding recovery of possession if dispossessed.

In Anathula Sudhakar v P Buchi Reddy, the Court explained that an apparent defect or a prima facie adverse claim can cast a cloud on title. A bare denial by a trespasser is insufficient. In an injunction suit the court generally determines possession. A straightforward title issue can be decided incidentally where the necessary pleadings, issue and evidence exist. A serious or complex dispute over title calls for a suit for declaration.

Q11. [5 marks]

Can a suit be disposed in exercise of power under Order V after framing of issues?

Order V CPC deals with issuing and serving summons. It does not supply a power to decide the merits after issues have been framed. Rule 5 distinguishes a summons for settlement of issues from one for final disposal and prescribes the latter in a Small Cause Court. A summons for final disposal gives notice of the hearing's purpose. The court still needs a separate procedural basis for its decision.

For example, Order XIV Rule 2 permits trial of a preliminary issue of law on jurisdiction or a statutory bar where it can dispose of the case or part of it. Order XV governs specified cases of disposal at the first hearing. Otherwise the court tries the issues and pronounces judgment in the usual way.

Section B — Code of Criminal Procedure

Part A

Q12. [3 marks]

Explain the difference between, 'a person in police custody' and 'a person in judicial custody'.

Under Section 167 CrPC (BNSS Section 187), police custody means that the accused is committed to the investigating police, ordinarily for necessary interrogation or investigation under the Magistrate's authority. Judicial custody means detention under the court's authority, ordinarily in jail. Police do not have control of the person and require permission where access is sought. Under the CrPC ordinarily applicable in 2023, police custody is restricted to the initial fifteen-day remand period. Judicial custody may continue subject to statutory limits and bail, including default bail when applicable.

Q13. [3 marks]

What are the procedures to be followed by the officer while making arrest of a person?

Give the grounds of arrest promptly and explain the right to bail in a bailable case under Section 50 CrPC (BNSS Section 47). Under Section 41B (BNSS Section 36) wear visible identification and prepare an arrest memorandum, witnessed and countersigned by the arrestee. Inform a nominated person and record the notification under Section 50A (BNSS Section 48). Facilitate access to an advocate during interrogation as permitted by Section 41D (BNSS Section 38). Arrange medical examination under Section 54 (BNSS Section 53) and produce the person before the competent authority without unnecessary delay and within the statutory limit, excluding necessary journey time.

Q14. [3 marks]

At what stage and when a court can order further investigation?

Section 173(8) CrPC (BNSS Section 193) permits further investigation after the police report. A Magistrate may also direct further investigation where the record reveals gaps or a need for a proper investigation. Under the exam-date law this power remains available even after cognizance and appearance of the accused, before trial commences. It allows continuation leading to a supplementary report and preserves the earlier investigation. A fresh or de novo investigation that displaces the original is distinct. Further investigation by police should ordinarily be brought to the court's notice.

Q15. [3 marks]

What is the maximum period of imprisonment a Judicial Magistrate can impose in one trial when the accused is tried for more than one offences?

Under Section 31 CrPC (BNSS Section 25), imprisonment for several convictions at one trial may run consecutively unless the court directs concurrency. A consecutive aggregate is capped at fourteen years and at twice the court's sentencing competence for a single offence. Under Section 29 CrPC (BNSS Section 23), the ordinary maximum for one offence is three years for a first-class Magistrate and one year for a second-class Magistrate, hence corresponding consecutive limits of six and two years. For a Chief Judicial Magistrate, the ordinary single-offence limit is seven years and the aggregate limit is fourteen years.

Q16. [3 marks]

What is the difference between discharge and acquittal?

Discharge terminates the case at the applicable preliminary stage when the record does not justify proceeding against the accused, for example under Sections 227, 239 or 245 CrPC (BNSS Sections 250(2), 262(2) and 268 respectively). An acquittal is a judicial determination of non-guilt, commonly after trial, though the Code also provides for it in specific situations such as withdrawal after charge. Section 300 CrPC (BNSS Section 337) protects a subsisting acquittal against a second trial within that section. A discharge in the ordinary sense does not carry the same statutory bar.

Q17. [3 marks]

How, property seized during investigation and produced before the court but not marked as case property in the trial, be disposed after completion of trial?

Section 452 CrPC (BNSS Section 498) applies at conclusion of the trial to property brought before the court or held in its custody, even if the item was not formally marked in evidence. Identify the property, hear relevant claimants and make a reasoned order for delivery to the person entitled to possession, destruction, confiscation or other appropriate disposal. Delivery may be subject to a restoration bond. Ordinarily defer giving effect to the order for two months or until appeal disposal, subject to the statutory exceptions.

Q18. [3 marks]

Explain the pre and post inspection procedures to be followed, when the Judicial Magistrate decides to conduct Local Inspection.

Section 310 CrPC (BNSS Section 347) permits a local inspection where viewing the site will assist the court in properly appreciating evidence. Before visiting, give the parties due notice. Inspect the alleged scene of offence or any other place necessary for that purpose. Promptly thereafter make a memorandum of relevant observations and place it on the record. On request, supply a free copy to the prosecutor, complainant, accused or another party. The visit aids evaluation of the evidence already given and should not become an independent investigation.

Part B

Q19. [5 marks]

On receipt of a written complaint, the judicial magistrate exercising power under Section 156(3) of Cr.P.C order the jurisdiction police to investigate and report. The police after investigation, files closure report. Guide the Judicial Magistrate what he should do on receipt of the closure report.

On receiving the closure report under Section 173 CrPC (BNSS Section 193), the Magistrate must independently consider the police material. Before accepting closure or declining to proceed against a person named by the informant, give the informant notice and an opportunity to be heard.

The Magistrate may accept the report by a reasoned order, disagree and take cognizance on the police material under Section 190(1)(b) CrPC (BNSS Section 210), or order further investigation where the record calls for it. The Magistrate cannot compel the police to submit a charge-sheet. A protest petition may also be treated as a complaint if it contains the necessary allegations and the proper complaint procedure under Sections 200 and 202 CrPC (BNSS Sections 223 and 225) is followed.

Q20. [5 marks]

Explain with relevant provision of the Code, the circumstances and the procedure for withdrawal from prosecution of any person, by the public prosecutor.

Under Section 321 CrPC (BNSS Section 360), the public prosecutor or assistant public prosecutor in charge may, before judgment is pronounced, seek the court's consent to withdraw against any person or in respect of some or all offences. The prosecutor must independently assess whether withdrawal serves public justice. The court checks that the request is made in good faith and is consistent with the proper administration of justice.

Where the statutory proviso applies, for example to a qualifying investigation by the Delhi Special Police Establishment, a prosecutor not appointed by the Central Government must first obtain and produce its permission. Withdrawal before charge results in discharge for the relevant offence. Withdrawal after charge, or in a case where no charge is required, results in acquittal.

Q21. [5 marks]

What are the steps a Judicial Magistrate should take to secure the accused absconding during the trial? (a) If he is the sole accused. (b) If there are other accused appearing before the trial court regularly on the hearing dates.

First issue the appropriate warrant. If the court has reason to believe the person has absconded or concealed himself so the warrant cannot be executed, use proclamation and, where justified, attachment under Sections 82 and 83 CrPC (BNSS Sections 84 and 85).

(a) Sole accused. If abscondence and no immediate prospect of arrest are proved, the competent court may preserve prosecution testimony under Section 299 CrPC (BNSS Section 335). After arrest, it may use those depositions against the accused only if the statutory conditions concerning the witness's later unavailability are shown.

(b) Remaining accused present. Record reasons, separate the absconder's case where necessary under Section 317(2) CrPC (BNSS Section 355), and proceed with the others. Continue process against the absconder and preserve evidence separately if Section 299 is satisfied.

Q22. [5 marks]

After completion of trial but before signing the judgment, the Judicial Magistrate realises it is a case which ought to have been tried by a court of sessions. What then the Judicial Magistrate do?

Section 323 CrPC (BNSS Section 362) expressly applies at any stage before the Magistrate signs judgment. The Magistrate should record why the case ought to be tried by the Court of Session and commit the case under the applicable committal provisions. Send the record and material objects in accordance with those provisions and make the necessary custody or bail directions. Chapter XVIII on trials before a Court of Session then applies. The Magistrate should stop short of deciding guilt: completion of the evidence has no effect on the statutory duty to commit before signing judgment.

Section C — Indian Evidence Act

Part A

Q23. [3 marks]

Whether an oral admission as to the content of document which is not produced before the court is relevant? Why?

An oral admission about what a document says is ordinarily irrelevant under Section 22 of the Evidence Act (BSA Section 20). An exception applies where the party relying on the admission shows legal entitlement to give secondary evidence of the contents, or where the genuineness of a document produced is in question. Mere failure to produce a document does not establish the foundation for secondary evidence. Distinguish an admission of an independent fact from an oral account of the contents of a document.

Q24. [3 marks]

Character Good and Bad, how it is relevant in criminal cases?

Under Section 53 of the Evidence Act (BSA Section 47), an accused's previous good character is relevant in criminal proceedings. Under Section 54 (BSA Section 49), previous bad character is generally irrelevant unless the accused first gives evidence of good character, in which case bad character becomes relevant in reply. The exclusion does not apply where bad character itself is a fact in issue. A previous conviction is evidence of bad character under the section when that issue properly arises.

Q25. [3 marks]

Whether statement of one conspirator in the absence of other conspirator with regard to the acts done pursuant to conspiracy is admissible. Why?

Section 10 of the Evidence Act (BSA Section 8) can make a conspirator's statement in the absence of another conspirator relevant against the latter. First, there must be reasonable ground to believe two or more persons conspired to commit an offence or actionable wrong. The statement must be in reference to the common intention while the conspiracy subsists. A subsequent confession or historical narrative after the common design has ended does not become evidence against another person under this provision simply because it describes acts done during the conspiracy.

Q26. [3 marks]

Explain with illustration the relevancy of a fact which speaks about cause and effect.

Section 7 of the Evidence Act (BSA Section 5) makes relevant facts that are the occasion, cause or effect, immediate or otherwise, of a fact in issue or a relevant fact. It also covers the state of things under which the event happened and facts that gave an opportunity for it. For example, where the issue is a struggle at a particular place, fresh marks of struggle there may be relevant as effects. The link establishes relevance, and the court then assesses how much weight the fact deserves.

Q27. [3 marks]

Section 6 of the evidence Act is one of the exception to the general rule hearsay evidence is inadmissible. Explain.

Section 6 of the Evidence Act (BSA Section 4) makes facts forming part of the same transaction relevant. This can admit a spontaneous statement so closely connected to an occurrence that it forms part of that occurrence. For example, a victim's immediate cry identifying an assailant during the attack may qualify, even when repeated by a witness who heard it. The court examines continuity, proximity and opportunity for concoction. A description given after time for reflection is ordinarily hearsay and must find a different basis for admission.

Q28. [3 marks]

Define Digital signature and how to prove a digital signature.

A digital signature is electronic authentication using an asymmetric cryptosystem and a hash function under Section 3 of the Information Technology Act, 2000. Under Section 67A of the Evidence Act (BSA Section 66), except where the electronic signature is secure, prove that the signature is the subscriber's. Section 73A (BSA Section 73) permits the court to require the relevant certificate and use the certified public key for verification. Proof of attribution of the signature and admissibility of the electronic record are separate questions.

Q29. [3 marks]

Explain with relevant provision under Indian Evidence Act: (a) Hostile witness (b) Leading questions (c) Refreshing the memory of the witness.

(a) Hostile witness. Under Section 154 of the Evidence Act (BSA Section 157), the court may allow the party calling a witness to ask questions available in cross-examination. Reliable parts of the testimony remain usable.

(b) Leading question. A suggested answer makes a question leading under Section 141. Sections 142 and 143 regulate its use in examination-in-chief, re-examination and cross-examination (BSA Section 146). Introductory matters, undisputed matters and matters already sufficiently proved may justify permission.

(c) Refreshing memory. Sections 159–161 (BSA Sections 162–164) permit consulting specified contemporaneous writings and protect the adverse party's right to inspect and cross-examine.

Part B

Q30. [5 marks]

(a) An accomplice is unworthy of credit (b) An accomplice shall be a competent witness against an accused. Whether the above statements (a) and (b) are contradictory to each other or complimentary to each other. Explain referring the relevant provisions under the Evidence Act.

The statements work together. Section 133 of the Evidence Act (BSA Section 138, with changed wording) made an accomplice competent to testify. Under the former law, a conviction was not illegal merely because the testimony was uncorroborated. Illustration (b) to Section 114 (BSA Section 119) allows the court to presume that an accomplice is unworthy of credit unless corroborated in material particulars.

The first rule concerns admissibility and legal competence. The other reflects caution in assessing weight. Ordinarily the court seeks independent assurance linking the accused to the offence on material particulars, since the accomplice may minimise his own role or shift blame. Corroboration need not repeat every detail.

Q31. [5 marks]

'A' gone missing 7 years ago. His wife wants a declaration that her husband is dead. The mother of 'A' asserts that her son is alive and seen by her and her relatives within 30 years. On whose shoulder the burden to prove lies?

Section 107 of the Evidence Act (BSA Section 110) initially puts the burden on a person asserting death if the person is shown to have been alive within thirty years. Section 108 (BSA Section 111) shifts the burden to the person asserting life once it is proved that for seven years the person has not been heard of by those who would naturally have heard of him if alive.

The wife must first establish this seven-year silence. The mother's bare assertion that people saw A at some point within thirty years does not answer proof of the seven-year period. If credible evidence shows a sighting within that period, the foundation for the shift may fail. The presumption determines death for the purpose at hand and supplies no specific date of death.

Q32. [5 marks]

Explain reverse burden of proof referring the statutes and with illustration.

The party who asserts the facts on which a legal right or liability depends normally bears the burden under Section 101 of the Evidence Act (BSA Section 104). A reverse onus puts proof of a particular defence or rebuttal on the other party once the necessary statutory foundation is established.

For example, under Section 105 (BSA Section 108), an accused relying on private defence must establish circumstances bringing the case within the exception. Under Section 113B (BSA Section 118), proof that the woman was subjected soon before her death to dowry-related cruelty or harassment by the person in question triggers a presumption of dowry death against that person. The prosecution must first prove the foundational facts. A reverse onus does not allow conviction on an allegation alone.

Q33. [5 marks]

Relevancy of former statement of a witness: When it can be used for corroboration and who can use it for contradiction. Is there any exception, if the witness who made the former statement is not alive or not traceable.

Section 157 of the Evidence Act (BSA Section 160) permits corroboration by proof of a witness's earlier statement on the same facts made at or about the time of occurrence or before a legally competent investigating authority. For contradiction by a prior writing under Section 145 (BSA Section 148), put the specific passages to the witness before proving them. The opposing party may do this in cross-examination. The party calling the witness may do so with the court's leave under Section 154 (BSA Section 157).

If the maker is dead or cannot be found, ordinary corroboration or contradiction is unavailable. A prior statement may still be substantive evidence if it falls under an exception in Section 32 or if prior testimony meets Section 33's conditions, including the previous opportunity to cross-examine (BSA Sections 26 and 27).

Section D — Constitution of India

Part A

Q34. [3 marks]

During emergency, the fundamental rights can be put under suspension - Comment.

A proclamation under Article 352 does not suspend all fundamental rights. Article 358 relaxes Article 19 constraints for qualifying laws and executive action during an emergency declared on grounds of war or external aggression. Article 359 allows a presidential order suspending the right to move courts to enforce specified Part III rights for the prescribed period. Articles 20 and 21 are expressly excluded from that power. Both provisions have conditions limiting the protection for emergency-related laws and action.

Q35. [3 marks]

Part IV of the Indian Constitution will prevail upon Part III of the constitution - Comment.

Fundamental rights are enforceable. Article 37 makes the Directive Principles non-justiciable but fundamental to governance. Courts read the two Parts together and seek to give effect to both. Article 31C protects qualifying laws giving effect to Article 39(b) or (c) against challenges under Articles 14 and 19. The extension of that protection to every Directive Principle was struck down. A Directive Principle supplies no general defence to a law violating Part III.

Q36. [3 marks]

Can the preamble to the Indian Constitution be amended through Ordinance.

An ordinance under Article 123 is an exercise of temporary legislative power. A constitutional amendment requires the constituent procedure of Article 368, beginning with a Bill introduced in either House of Parliament, followed by the prescribed special majorities and presidential assent. For specified changes, state ratification is also necessary. The Preamble can be amended through that constitutional procedure within the limits of the basic structure doctrine. It cannot be changed by an ordinance.

Q37. [3 marks]

Critical note on the comment: Basic structure theory is an invention of Court. Parliament power to amend the constitution is supreme and absolute.

Article 368 confers constituent power on Parliament, subject to the required procedure and preservation of the Constitution's basic structure. The doctrine is judicially articulated, but it distinguishes alteration from destruction of the constitutional framework. Parliament can amend fundamental rights and other provisions while preserving the identity of the Constitution. Judicial review tests the effect of the amendment on basic features such as constitutional supremacy, democracy and the rule of law. Procedural compliance alone does not save an amendment that destroys a basic feature.

Q38. [3 marks]

Write a short note on the Superintendent power of the High Court over the courts/tribunals subordinate to it.

Article 227 gives the High Court superintendence over courts and tribunals within its territorial jurisdiction, apart from courts or tribunals constituted under laws relating to the Armed Forces. It includes calling for returns and making procedural rules and forms, subject to constitutional requirements. Judicial superintendence keeps subordinate bodies within their jurisdiction and corrects grave procedural or jurisdictional failures. It is exercised with restraint and does not supply an ordinary appeal on facts.

Q39. [3 marks]

Whether right of a person to travel abroad is unfettered. Explain with case laws.

Travel abroad is part of personal liberty under Article 21. Article 19(1)(d) concerns movement within India. In Satwant Kumar Sawhney v D Ramarathnam, the Supreme Court held that restricting foreign travel requires authority of law. In Maneka Gandhi v Union of India, it held that a procedure interfering with personal liberty must be fair, just and reasonable. Statutory restrictions, such as lawful passport impounding, therefore require valid grounds and fair procedure. The right is subject to those conditions.

Q40. [3 marks]

Explain the Doctrine of repugnancy.

Article 254 addresses conflict between a State law and Parliamentary law concerning a Concurrent List matter. If compliance with both is impossible or Parliament intended a complete scheme that excludes the conflicting State provision, Parliamentary law prevails and the State law is void to the extent of repugnancy. A State law reserved for and receiving presidential assent may prevail in that State under Article 254(2). Parliament may later override it. Questions about legislative competence under the Lists are distinct.

Part B

Q41. [5 marks]

Short note on : Doctrine of eminent domain and the constitutional right to hold property.

Eminent domain is the State's power to acquire private property for a public purpose under authority of law. Article 300A protects every person against deprivation of property without legal authority. It gives an enforceable constitutional right outside Part III. An executive direction alone cannot take property. An acquisition must satisfy the governing statute, including its procedures and compensation scheme. A wholly illusory compensation arrangement or deprivation lacking a legitimate public purpose may invite constitutional scrutiny. A court should first identify the precise statutory power and then test how the authority exercised it.

Q42. [5 marks]

What is the special feature of IX Schedule of the Indian Constitution?

Article 31B protects Acts and regulations specified in the Ninth Schedule against invalidation merely for inconsistency with Part III, subject to repeal or amendment by a competent legislature. The Schedule was introduced to protect reform legislation, particularly agrarian reform.

The protection does not exclude basic-structure review of constitutional amendments inserting laws into the Schedule after 24 April 1973. The court examines whether the effect of granting immunity for the law damages a basic feature of the Constitution. Inclusion in the Schedule also does not cure an independent defect such as lack of legislative competence.

Q43. [5 marks]

Explain the significance of Article 141 and Article 142 of the Constitution to the Indian Judiciary.

Article 141 makes the law declared by the Supreme Court binding on all courts in India. Identify the legal principle necessary for the decision and apply it to materially similar facts. An observation or fact-specific direction does not automatically constitute binding law.

Article 142 empowers the Supreme Court to make orders necessary for complete justice in a cause or matter pending before it. Such decrees or orders are enforceable throughout India in the manner prescribed. The power can fill remedial gaps in an individual case and must be exercised consistently with the constitutional framework. Article 141 governs precedent. Article 142 enables effective relief in the matter before the Supreme Court.

Q44. [5 marks]

Why Indian Constitution is known as a quasi federal constitution?

India has a written supreme Constitution, a division of legislative powers under Article 246 and the Seventh Schedule, governments at Union and State levels, and an independent judiciary. Specified constitutional amendments need ratification by at least half the States under Article 368.

The federal features operate alongside a strong Union. Parliament has residuary legislative power. It can legislate on State List subjects in constitutionally defined situations, including during a national emergency. Articles 356 and 357 provide for exceptional Union intervention in State government. An integrated judiciary and single citizenship are further unifying features. These characteristics explain the description “quasi federal”.