UP PCS-J (Mains) 2012

Law Paper I: Substantive Law · compulsory paper

Candidates attempt Question Nos. 1 and 2 and not more than four of the remaining ones; six questions in all.

1. (a) Explain the rule of severability with reference to clauses (1) and (2) of Article 13 of the Constitution. Eight sections of Bombay Prohibition Act, 1949 are declared ultra vires on the ground that they infringed the Fundamental Rights of citizens. Can the rest of the Act survive? 15 Marks

1. (b) "Article 14 of the Constitution of India forbids class legislation, but does not forbid classification." Explain. Section 118 of the Indian Succession Act, 1925 imposes restrictions on Christians alone in the matter of bequest to religious or charitable purposes. Examine the constitutionality of this provision on the touchstone of Article 14. 15 Marks

1. (c) Write a critical note on Maneka Gandhi vs. Union of India, AIR 1978 SC 597 case. 10 Marks

1. (d) Discuss the scope of powers of the President and of the Governor under Articles 72 and 161 respectively relating to grant of pardons, etc., and to suspend, remit or commute sentences in certain cases. 10 Marks

2. (a) Discuss in brief, various grounds on which a decree of divorce may be granted under the Hindu Marriage Act, 1955. "A" files a petition for divorce on the ground that he cannot move in society with his wife who had been gang raped and it is a kind of cruelty on him. Decide. 10 Marks

2. (b) "An agreement without consideration is void" explain. What are the exceptions to this rule? 10 Marks

2. (c) Write a note on the right of redemption of mortgagor. Can he exercise this right before the expiry of the term of mortgage? Refer to case law. 10 Marks

3. (a) Explain the rule against perpetuity. Are there any exceptions to this rule? Discuss. 20 Marks

3. (b) "M", a member of a housing society purchases a plot and later on sells it to "D", a non-member. Under the bye-laws of the society, such transfer is not permitted. "M" claims that the bye-law of the society infringes Section 10 of the Transfer of Property Act. Decide. 10 Marks

4. (a) Explain the term 'trust' and point out the distinction between executory trust and executed trust. Also discuss the method of creation of a trust. 20 Marks

4. (b) Point out if a trust is created in the following cases:
(i) "A" wills some property to "B" with the hope that the property will always be retained in the family. [05 Marks]
(ii) "A" by will gives some property to "B" with full confidence that he will dispose it of for the benefit of "C". [05 Marks] 10 Marks

5. (a) Discuss the rights and liabilities of partners of a partnership firm. Can a minor become a partner? Discuss his liabilities also. 15 Marks

5. (b) What are the rights of a beneficiary as given in the Indian Trust Act? Discuss in detail. 15 Marks

6. (a) Discuss the nature and character of preventive relief granted under the Specific Relief Act, 1963.

6. (b) Define easement and point out its main characteristics. 15 Marks15 Marks

7. (a) Critically discuss the rule laid down in the case of Hadley v. Baxendale. 15 Marks

7. (b) Discuss the ingredients of the tort of defamation. What defences are available in an action for defamation? Discuss. 15 Marks

8. (a) Discuss the grounds on which a Muslim wife can seek a dissolution of her marriage. 15 Marks

8. (b) Who are the natural guardians of a minor under the Hindu Minority and Guardianship Act, 1956 and what are their powers? Can the mother of a minor become first or equal guardian when the father is alive? Explain. 15 Marks

9. (a) Discuss fully the rule of strict liability laid down in Rylands v. Fletcher. Has this rule been modified in India? Discuss. 15 Marks

9. (b) "M" barely six months after birth, lost his father. When he was five years, his mother remarried. The grandfather of "M" moved an application for guardianship of the minor "M" under the Guardians and Wards Act, 1890. It was claimed that second marriage of the mother disentitled her to "M's" custody. Decide. 15 Marks

10. Solve any three problems given below (10 marks each):
(a) "M" is unmarried daughter of "X" and is of 27 years of age. She claims maintenance from her father as she is not able to maintain herself. Is she entitled to maintenance under the Hindu Adoption and Maintenance Act, 1956?
(b) "A" is mother of a minor Muslim "B". She sells "B's" immovable property for his necessities and benefit. "A" is de facto guardian of "B". Discuss the validity of the sale.
(c) "B" climbed over "C's" wall in pursuit of a fowl. While in "C's" garden, an injury was caused to him by a spring-gun set by "C" without any notice. "B" files a suit for damages. Decide.
(d) "M" entered into an agreement with "B" and engaged him for the purpose of performing puja and offering prayers to Lord Shiva for "M's" success in a suit and promised to pay ₹ 10,000 to "B" in the event of success. The suit ended into compromise under which "M" obtained a substantial sum, much beyond his expectations. "M" refuses to pay ₹ 10,000 to "B". "B" files a suit against "M". Decide.
30 Marks