Uttarakhand Civil Judge (Mains) 2009

Law II (Evidence and Procedure) · compulsory paper

Time allowed: Three Hours · Maximum Marks: 200

Candidates should attempt Question No. 1 and four more. At least one question must be attempted from each section. In all five questions are to be answered. Marks carried by each question have been indicated against the questions. However, all questions carry equal marks.

1(a) [30 marks]

Plaintiff 'A' is the owner of a house. In one of its portions, defendant 'B' resides. The defendant has not paid rent for last 10 months. On this very ground the plaintiff wants to get his house vacated and also to recover the arrears of rent. On the above facts, draft a plaint on behalf of 'A' for eviction and recovery of arrears of rent.

1(b) [10 marks]

Draft a written statement on behalf of 'B' in reply to the above plaint of 'A'.

OR

[40 marks]

Write a judgment convicting the accused under Section 300-B of Indian Penal Code after framing appropriate charge for the offence.

Section A

2(a) [20 marks]

Distinguish between the following: a decree and an order.

2(b) [10 marks]

Distinguish between appeal and revision.

2(c) [10 marks]

Distinguish between principle of Res Judicata and principle of Estoppel.

3(a) [20 marks]

What do you understand by inherent powers of the Court? Explain and illustrate.

3(b) [10 marks]

Under what circumstances the property of defendant can be attached before judgment?

3(c) [10 marks]

When can a temporary injunction be granted by a Civil Court?

4(a) [20 marks]

What facts are essential in a notice under Section 80 Civil Procedure Code? If no notice is served what will be the effect upon the suit against Government Officers?

4(b) [10 marks]

State the circumstances under which foreign judgment becomes conclusive.

4(c) [10 marks]

What do you understand by a representative suit? By whom and under what circumstances can such suit be brought? Explain.

5(a) [20 marks]
Explain the expression suit of Civil Nature.

5(b) [10 marks]
What is 'Constructive Res Judicata', how it originates and what is extent of its bindingness?

5(c) [10 marks]
State the procedure for filing of a pauper suit.

Section B

6(a) [20 marks]
Describe in brief the procedure for Sessions Trial.

6(b) [10 marks]
Describe some of the cases in which bail can be claimed as a matter of right.

6(c) [10 marks]
What offences may be tried summarily and by whom?

7(a) [15 marks]
Illustrate and distinguish between cognizable and non-cognizable offence.

7(b) [15 marks]
Illustrate and distinguish between bailable and non-bailable offence.

7(c) [10 marks]
Illustrate and distinguish between enquiry and trial.

8(a) [20 marks]
Define 'charge' and enumerate the contents of the charge.

8(b) [10 marks]
State the law of remand prescribed under Section 167, of the Code of Criminal Procedure, 1973.

8(c) [10 marks]
When can warrant be issued by a court in lieu of summons?

9(a) [10 marks]
Explain: 'Silence may sometimes amount to an admission'.

9(b) [10 marks]
Explain: 'No confession made to a police officer is admissible against the accused'.

9(c) [10 marks]
Explain: 'Oral evidence must be in all cases direct'.

9(d) [10 marks]
What is 'fact in issue'? Illustrate.

10(a) [10 marks]
What are leading questions? Who can put them? Illustrate your answer.

10(b) [10 marks]
How arrest is made? State the circumstances under which a private person also arrests. Does power to arrest give a right to cause death? Explain.

10(c) [10 marks]

Hearsay evidence is no evidence. Explain and state the exceptions, if any.

10(d) [10 marks]

Explain the doctrine of Estoppel with the help of decided cases.

De Facto IAS