Uttarakhand Civil Judge (Mains) 2014

Law II (Evidence and Procedure) · compulsory paper

Time allowed : Three Hours · Maximum Marks : 200

Note: Candidates should attempt Question No. 1 as compulsory and four more questions. Atleast 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 question. However, all questions carry equal marks. The parts of same question must be answered together.

1(a) [30 marks]

On June 10, 2012, Harish is married to Manisha. Marriage is solemnized at Lalkurti Meerut, residence of Manisha. On 11th of June, 2012, Manisha with Harish came to Haridwar at Harish's residence. On July 3, 2012 Manisha felt uneasiness. Harish with his wife Manisha went to District Hospital, Haridwar where the lady doctor Smita after checking Manisha congratulated Harish for two months pregnancy to Manisha. Harish was surprised hearing two months pregnancy to Manisha. On 16th of July, 2012, Harish consulting his advocate, asks him to file a suit against Manisha and her parents for nullity of marriage as they have committed a fraud in marriage as Manisha was already pregnant before marriage by some person.

Draft a plaint for nullity of marriage against Manisha and her parents.

1(b) [10 marks]

In reply to the above plaint, draft a written statement on behalf of defendants Manisha and her parents.

1 (OR) [40 marks]

A beautiful young girl of 18 years, Neha is a student of 12th class in D.A.V. Inter College, Allahabad. Some students generally used to tease girls. One day some girls including Neha went to the office of the Principal Dr. Hardeo to make a complaint against those students. Next day Principal called those students in his office and heard them. The Principal warning them strictly said if any such complaint is received in future they will be expelled from the college. After 4 days i.e. on 25th of August, 2013 when Neha was returning from her college library, two students of her class stopped her. One of them put his hand on Neha's shoulder and the other kissed her. Both of them threatened her that if she made any complaint of this, they will deface her by acid.

On the basis of the above facts, prepare a case and give decision.

Section A

2(a) [20 marks]

"Court shall have jurisdiction to try all suits of civil nature excepting suits of which cognizance is barred." In the context of this statement, interpret the nature of civil cases.

2(b) [10 marks]

On the basis of title 'A' for the possession of land, files a suit against 'B'. The suit is decreed. In the suit 'B' did not claim that he was entitled for compensations for improvements made on the land. Can 'B' files a fresh suit for compensation ? Give answer with reasons.

2(c) [10 marks]

How a summon is served to the prisoner in jail under O-5 R-24 of the Civil Procedure Code, 1908 ?

3(a) [20 marks]

In what circumstances the court may order the parties to appear in person before the court ? Who is exempt from personal appearance ?

3(b) [10 marks]

What is representative suit ? Discuss also the essential conditions of representative suit.

3(c) [10 marks]

Discuss the grounds on which a plaint is returned or rejected.

4(a) [20 marks]

Explain the procedure for filing suit for and against an unsound person as laid down under the Civil Procedure Code, 1908. Point out the conditions which can be imposed on next friend and defendant ad litem.

4(b) [10 marks]

What do you understand by interpleader suit ? When and who can file interpleader suit ?

4(c) [10 marks]

What is "Caveat" ? Discuss the law relating to caveat under the Civil Procedure Code, 1908.

5(a) [20 marks]

Define pleading and underline its object, importance and basic rules.

5(b) [20 marks]

Who can make a reference under Section-113 of CPC and what are the conditions of such reference ?

Section B

6(a) [20 marks]

Distinguish between the following :

(i) Investigation and Enquiry

(ii) Enquiry and Trial

(iii) Discharge and Acquittal

(iv) Summons case and Warrant case

6(b) [10 marks]

Explain which court can try offences committed by juveniles in conflict with law.

6(c) [10 marks]

When may a court order of attachment of property of an absconded person ? Explain.

7(a) [20 marks]

Discuss the circumstances in which court may require a person to execute a "bond" on the following :

(i) for keeping peace [10 marks]

(ii) for keeping good behaviour [10 marks]

7(b) [10 marks]

Discuss the provisions of law relating to pronouncement of absconded person under Criminal Procedure Code, 1973.

7(c) [10 marks]

Examine the irregularities which vitiate and which do not vitiate criminal proceedings under the

Criminal Procedure Code, 1973.

8(a) [20 marks]

"Whatever relevant is not necessarily admissible but all whatever admissible is relevant." Explain.

8(b) [10 marks]

"Facts which are not in issue are so connected with a fact in issue as to form the same transaction are relevant, whether they occurred at the same time and place or at different time and place." Explain the statement with the help of examples.

8(c) [10 marks]

Explain the facts which need not to be proved in the court.

9(a) [20 marks]

'A' is being tried for writing an obscene letter. Explain whether the opinion of the following witness is admissible in the case.

(i) B is acquainted with the handwriting of 'A', opinion of B that letter is not in A's handwriting. [10 marks]

(ii) B knows 'A' for last 10 years, B's opinion that 'A' can never write such letter. [10 marks]

9(b) [10 marks]

Explain with example that "in law of evidence, oral evidence must always be direct". Is there any exception to this rule ? Clarify it.

9(c) [10 marks]

What do you understand by hearsay evidence ? Why hearsay evidence is not admissible ? When can hearsay evidence be admissible ?

10(a) [20 marks]

What are leading questions ? When can they be asked and when cannot be asked ? Explain.

10(b) [10 marks]

'A' is being tried in a particular case. 'B' has been called as witness to answer relevant questions. Can 'B' after taking oath, deny to answer relevant questions ?

10(c) [10 marks]

'A' is wife of 'B'. Before marriage 'B' said about some facts to 'A'. Can 'A' be compelled to disclose those facts after marriage ? Give reasons.