Uttarakhand Civil Judge (Mains) 2023

Law — II (Evidence and Procedure) (Second Paper) · compulsory paper

CJE · Time allowed: 3 Hours · Maximum Marks: 200

Note: Candidate should attempt Question No. 1 as compulsory 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 are indicated against the question.

Compulsory Question

B, who is the owner of a plot measuring 500 sq metres situated in village Kalyanpur of Tehsil Kashipur, B agreed to sell aforesaid plot to A on 02.02.2021 for a total sale consideration of ₹ 20 lakhs. In this regard, B executed an agreement to sell on 03.12.2021 in favour of A after receiving ₹ 5 lakhs as earnest money subject to the condition that B shall execute the sale deed in respect of the same property in favour of A within 12 months from the date of execution of the agreement to sell at the cost and expenses of A after receiving remaining amount of sale consideration.

A requested B to execute sale within stipulated time but B did not pay any heed to his request.

Now, A wants to institute a suit against B.

1. (a) On the above facts, draft a plaint on behalf of A for execution of sale deed. 20
(Words limit : Maximum 200 Words)

1. (b) Draft a written statement on behalf of B in reply to the above plaint of A. And frame issues on the aforesaid pleadings. 20
(Words limit : Maximum 200 Words)

OR

Radha's marriage with Ramesh solemnized on 20th May, 2015 at District Sitagarh. After the marriage Radha lived with her husband. On 20th June, 2017 Radha as wife of Ramesh gave birth to a daughter. Thereafter, Ramesh and his parents demanded dowry from the parents of Radha. Due to this demand, they created cruelty against Radha. Ultimately Radha left the home of her in-laws and went to home of her parents at Sitagarh. Various times Ramesh went to the home of his in-laws for asking to Radha to live with him, but Radha refused to live with Ramesh. Finally, Radha filed a suit against Ramesh and his parents under the provision of Indian Penal Code.

1. (a) On the basis of above facts, prepare a First Information Report on behalf of Radha and frame the charges on Police report. 20
(Words limit : Maximum 200 Words)

1. (b) Write a judgment on the ground of above facts with the support of legal provision and case law.
(Words limit : Maximum 200 Words) 20

Section - A

2. (a) Explain the principle of res-judicata between co-defendants. How res-judicata differs from res-subjudice and estoppel ? 20
(Words limit : Maximum 200 Words)

2. (b) What are the circumstances in which court can order amendment of pleadings and what is the effect of failure to amend after the order ? Explain. 10

(Words limit : Maximum 100 Words)

2. (c) What is interpleader suit ? When and by whom can it be instituted ? Elucidate. 10
(Words limit : Maximum 100 Words)

3. (a) The object of supplemental proceedings under Civil Procedure Code is to prevent the ends of justice. Examine with case law. 20
(Words limit : Maximum 200 Words)

3. (b) What is meant by inherent jurisdiction of civil court ? Support answer with case law. 10
(Words limit : Maximum 100 Words)

3. (c) Explain with illustrations the rules relating to joinder of plaintiffs and defendants in civil suit. 10
(Words limit : Maximum 100 Words)

4. (a) Under what circumstances the property of defendant can be attached before judgement ? Explain. 20
(Words limit : Maximum 200 Words)

4. (b) Discuss the provisions of Civil Procedure code regarding the attachment and sale of property in execution proceedings. 10
(Words limit : Maximum 100 Words)

4. (c) Examine the procedure for bringing suit by or against the government. 10
(Words limit : Maximum 100 Words)

5. (a) "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. 20
(Words limit : Maximum 200 Words)

5. (b) What is representative suit ? Discuss the essential conditions of representative suit. 10
(Words limit : Maximum 100 Words)

5. (c) How a summon is served to the prisoners in jail under the Civil Procedure Code, 1908 ? Discuss.
(Words limit : Maximum 100 Words) 10

Section - B

6. (a) State the provisions contained in Criminal Procedure Code, 1973, relating to power to issue order in urgent cases of nuisance or apprehended danger. Support your answer with the help of suitable illustrations and decided cases. 20
(Words limit : Maximum 200 Words)

6. (b) Give a brief account of the procedure to be adopted regarding the dispute relating to immovable property. 10
(Words limit : Maximum 100 Words)

6. (c) Discuss the cases in which statement of relevant fact by person who is dead is relevant. Support the answer by illustrations and legal provisions. 10
(Words limit : Maximum 100 Words)

7. (a) Legal provisions of exclusion of evidence of oral agreement are subject to the exceptions. Elucidate with illustrations. 20
(Words limit : Maximum 200 Words)

7. (b) Discuss the presumption of evidence law with reference to dowry death. 10
(Words limit : Maximum 100 Words)

7. (c) Explain the presumption of evidence law with reference to absence of consent in certain prosecutions for rape. 10
(Words limit : Maximum 100 Words)

8. (a) Examine the provisions that in civil cases character to prove conduct imputed irrelevant, whereas, character as affecting damages is relevant. On the same way, elucidate relevancy of character in criminal cases also. 20
(Words limit : Maximum 200 Words)

8. (b) A witness, of whom nothing whatever is known, is asked at random, whether he is a dacoit. Decide the reasonability of this question in examination of witnesses with the legal provision. 10
(Words limit : Maximum 100 Words)

8. (c) 'A' is tried for the murder of 'B'. The fact that 'A' murdered 'C', that 'B' knew that 'A' had murdered 'C', and that 'B' had tried to extort money from 'A' by threatening to make his knowledge public. Whether this fact may be taken into consideration as relevant by the court ? Support the answer with the case law. 10
(Words limit : Maximum 100 Words)

9. (a) What is the Charge ? Can the court alter a charge ? If so, how and when ? If a charge is altered by the court, whether the witnesses be recalled ? Explain. 20
(Words limit : Maximum 200 Words)

9. (b) Under what circumstances police may arrest any person without warrant ? Elucidate. 10
(Words limit : Maximum 100 Words)

9. (c) Distinguish between the following : Cognizable and Non-cognizable offences. Conviction and Acquittal. 10
(Words limit : Maximum 100 Words)

10. (a) Who is expert ? When are the opinion of third person relevant ? What is probative value of such evidence ? What is difference between an expert and an ordinary witness ? Explain. 15
(Words limit : Maximum 150 Words)

10. (b) The provisions as to offences affecting the administration of justice under Criminal Procedure Code are for preventing the miscarriage of justice and strengthening the Authority of Law. Critically examine. 15
(Words limit : Maximum 150 Words)

10. (c) Describe briefly the procedure to be adopted by a Magistrate in complaint cases. 10
(Words limit : Maximum 100 Words)