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## JUDICIARY EXAMS QUESTION PAPER

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# **Odisha Judicial Service**

**Main Examination, 2012- Question Papers (All 7)**

**JS – 12/6**

**Law of Contract**

*Time : 3 hours*

*Full Marks : 150*

*The figures in the right-hand margin indicate marks.*

*Answer six questions, selecting two questions each from any two Sections and one each from remaining two Sections.*

**SECTION – A**

1. (a) "The test of contractual intention is objective, not subjective. What matters is not what the parties had in mind, but what a reasonable person would think, in the circumstances, their intention to be"? Analyse this statement with the help of the judicial decisions in view of the common intention of the parties to enter into legal obligation. 15
- (b) Analyse the concept of mistake of fact as provided under the Indian Contract Act, 1872. 10

2. (a) "Section 73 of the Indian Contract Act is declaratory of the common law principle as to damages." Critically analyse the above statement with judicial decisions. 15
- (b) 'A', a singer enters into a contract with 'B', the manager of a theater party to sing at his theater two nights in every week during the next two months in a consideration of Rs. 100 for each night's performance. On the sixth night, 'A' willfully remains absent. With the assent of 'B', 'A' sings in the seventh night. State the effect of refusal of party to perform promise wholly and determine the rights and liabilities of the parties. 10
3. (a) "The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract." Explain this with the provisions of law and judicial decisions. 15
- (b) The Board of Directors of a company appoints Mr. 'X' as managing director for

managing the affairs of the company with expressly limiting his powers to order goods only up to Rs. 5,000 and beyond that amount with the prior sanction of the Board. But Mr. 'X' orders goods worth of Rs. 10,000 to Mr. 'Y' the third party.

Analyse the authority of Mr. 'X' and determine the liability of the company before 'Y', the third party in the context of agent's authority. 10

### SECTION – B

4. (a) Define 'sale' with its essentials. Distinguish between 'Contract of Sale' and 'Hire-purchase'. 15
- (b) 'A' sold a car by auction to 'X', the highest bidder. 'X' offered to pay for the car by a cheque and he was allowed to do so when he signed the document stating that the property in the car would not pass to the buyer 'X' until the amount of the cheque had

been credited to A's account. The cheque was subsequently dishonoured, but in the mean time, 'X' sold the car to 'Y' and 'Y' sold it to 'Z'. Then 'A' sued 'Z' to recover back the car and his contention was that 'Z' could not get a good title to the car because 'X' had not become the owner of the car as the cheque given by him had been dishonoured and no transferee from him could get a good title.

Can 'A' recover the car from 'Z' ? Decide by giving justifications. 10

5. Discuss the rules regarding delivery of goods. Explain the duties and liabilities of the seller when he delivers the goods to the carriers or wharfinger. 25
6. (a) Explain the maxim **nemo dat quod non habet** with exceptions to the rule. 15
- (b) "The implied conditions and warranties provided in the Act are binding in every

contract of sale unless they are inconsistent with any express conditions and warranties agreed to by the parties." Explain. 10

### SECTION – C

7. "The scope of the implied authority of a partner has been limited through statutory restrictions." Explain this. Can restrictions of implied authority be imposed through an agreement between parties ? 25
8. (a) 'The rights of the parties to make any contract to regulate their mutual rights and duties is subject to the provisions of the Partnership Act.' Explain. 15
- (b) 'D' who is not actually a partner in the firm consisting of 'A', 'B', 'C' represents to 'X' that he is also a partner in that firm. On the faith of that representation, 'X' gives credit to the firm. Can 'X' make 'D' liable under the doctrine of holding out ? Decide with suitable case laws. 10

9. (a) Explain the position of minor admitted to the benefits of Partnership. What would happen to the firm if a minor is made full-fledge partner in the partnership firm at the time of its creation. 15
- (b) 'A', 'B', 'C' entered into partnership and contributed a capital of Rs. 20,000 and Rs. 5,000 respectively, but they share the profits and losses equally. On dissolution, if the assets realize Rs. 17,000 only, there is deficiency of capital to the extent of Rs. 18,000. Determine the mode of settlement of accounts. 10

#### SECTION – D

10. (a) Explain the conditions necessary to be a holder in due course. What is the difference between holder in due course and holder for collections ? 15
- (b) State the legal validity of 'electronic cheque' and 'truncated cheque'. 10

11. (a) Explain the circumstances in which the maker, acceptor or indorser are discharged from liability. 15
- (b) 'X' has his account with 'Y' bank. One day in the morning the balance in X's account was Rs. 1,000. About 1 PM of the same day, Rs. 500 was paid into his account ; a little later at 3 PM a cheque drawn by 'X' for Rs. 1,200 was presented. Rs. 500 have not yet been credited to the account of 'X', the payment was refused. Discuss with case law, whether the refusal is justified. 10
12. (a) "Presumption as provided under the Negotiable Instrument Act operate in favour of or against parties to the negotiable instrument or their privies." Explain this with the special rules of evidence. 15
- (b) A bill of exchange was drawn by 'A' in California where the rate of interest is 25%, and accepted by 'B', payable in Washington where the rate of interest is 6%. The bill is

indorsed in India, and is dishonoured. An action on the bill is brought against 'B' in India. Discuss the liability of 'A' if he is charged as drawer.

10



**JS – 12/3**

**Law of Crime And Law of Torts**

*Time : 3 hours*

*Full Marks : 150*

*The questions are of equal value.*

*Answer **six** questions, selecting **three** from  
Section – A and **three** from Section – B.*

**SECTION – A**

1. Discuss the scope of “joint liability” for a Criminal Act based on the existence of common intention.
2. What are the different punishments enumerated under the Indian Penal Code to which offenders are liable ?
3. Referring to Indian Penal Code discuss the views of the Supreme Court on the offence of attempt to commit suicide.
4. Critically examine the concept of insanity and intoxication as defences available under the Indian Penal Code.

5. "Vicarious liability is unknown to Criminal Law". Critically evaluate the statement in the light of the provisions of the Indian Penal Code recognising such liability.
6. Distinguish between the following :
  - (a) Abetment and Criminal Conspiracy
  - (b) Sec. 34 and Sec. 149 of IPC
  - (c) Rape and Adultery
  - (d) Kidnapping and Abduction
  - (e) Motive and Intention

### **SECTION – B**

7. "A tort is a civil injury, but all civil injuries are not torts." Discuss the statement referring to essential ingredients of tort.
8. Discuss, in detail, different legal remedies provided in the law of tort.
9. What do you mean by absolute liability in tort ? Explain the concept of absolute liability with the help of decided cases.

10. The law of negligence concerns itself with carelessness only when there is a legal duty to take care. Discuss.
11. Explain the concept of the tort of defamation. Discuss the defences available against it.
12. Write notes on the following :
- (a) Donoghue Vrs Stevens
  - (b) Wagon Mound Case
  - (c) Bhopal Gas Leak Disaster Case
  - (d) Ubi jus ibi remedium
  - (e) Damnum sine injuria



JS – 12/1

General English

Time : 2½ hours

Full Marks : 150

The figures in the right-hand margin indicate marks.

Answer all questions.

1. Translate the following into English : 25

ଦୁର୍ନୀତି ନିବାରଣ ପାଇଁ ଏକ ଅନୁକୂଳ ପରିବେଶ ଦରକାର । ମୂଲ୍ୟବୋଧର ଯେଉଁ ଅବକ୍ଷୟ ଘଟିଛି, ସେଥିରେ ପରିବର୍ତ୍ତନ ଦରକାର । ଶିକ୍ଷକ, ପିତାମାତା ଓ ଗୁରୁଜନମାନଙ୍କର ଏ କ୍ଷେତ୍ରରେ ଏକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ଭୂମିକା ରହିଛି । ଦୁର୍ନୀତି ଏକ କଳ୍ପସିତ ମାନସିକତାର ପରିପ୍ରକାଶ । ପିଲାଦିନରୁ ସେମାନଙ୍କର ମାନସିକତା ଯେପରି କଳ୍ପସିତ ନ ହୁଏ, ସେଥିପାଇଁ ତତ୍ପରତା ଦରକାର । ଆଦର୍ଶ ବିନା ଆଜିକାଲିର ପିଲାମାନଙ୍କୁ ଉତ୍ତମ ମାର୍ଗରେ ଯିବାକୁ ପ୍ରବର୍ତ୍ତାଇବା କଷ୍ଟକର । ସେଥିପାଇଁ ଗୁରୁଜନ, ପିତାମାତା ଓ ଶିକ୍ଷକ ସେମାନଙ୍କ ଦୈନନ୍ଦିନ ଜୀବନରେ ଏପରି କୌଣସି କାର୍ଯ୍ୟ କରିବା ଉଚିତ ନୁହେଁ, ଯାହାଫଳରେ ପିଲାମାନେ ଭୁଲ ବାଟରେ ଚାଲିଯିବେ । ଯେଉଁ ପିତାମାତା ଦୁର୍ନୀତି କରନ୍ତି, ସେମାନେ ପିଲାମାନଙ୍କ ଆଗରେ କିପରି ଆଦର୍ଶ ହୋଇପାରିବେ ? ସାଧୁତା ପ୍ରତି ଆଦର ବହୁ ଓ ଦୁର୍ନୀତି ପ୍ରତି ଘୃଣା ଭାବ ସୃଷ୍ଟି ହେଉ । ସୁଫଳ ଆଜି ବା କାଲି ନ ମିଳିପାରେ ; କିନ୍ତୁ ଭବିଷ୍ୟତରେ ନିଶ୍ଚୟ ମିଳିବ । ରାଷ୍ଟ୍ର ଓ ଗଣତନ୍ତ୍ର ପାଇଁ ଦୁର୍ନୀତି ନିବାରଣ ଅପରିହାର୍ଯ୍ୟ ।

2. Translate the following into Oriya : 25

We are in conflict with ourselves. On the one hand, we yearn for the ideal way of life in peaceful coexistence. At the same time, we are out to destroy the earth. The pursuit of comfort at the cost of the environment is the other side of humanity that may take us all down along with our planet.

Sometimes, the ultimate test of a civilisation's greatness comes at the time of adversity. Not a single culture or nation exists that has not been struck by natural or man-made disasters. The world has survived wars, natural calamities and pestilence. In most instances, what brought the nation back on its feet was the sense of community that compelled people to help one another. We have seen that during communal flare-ups and terror attacks, when people took it upon themselves to do extraordinary acts of selflessness, offering succour and solace where needed.

3. Write a short essay in about 150 (one hundred and fifty) words on any one of the following : 50
- (a) In Praise of Idleness
  - (b) Privatisation of Education

- (c) Women in Politics
- (d) Terrorism in India
- (e) Advertisements and Social Responsibility

4. Make a précis of the following passage in about 100 (one hundred) words : 25

The duty of every citizen to safeguard the health of society is most neglected today. Everyone wants to have a benign society and wants it served on a platter. At the same time, people endorse socially disruptive agendas to bolster their vested interests. We pay lip-service to values ; but we assume that values are, most often, for others to follow for our benefit. No principle is welcome when upholding it goes against our interests. We want the courts, for example, to be impartial, but we throw a tantrum when judicial impartiality goes against our calculations. We seem to have lost the ability to look beyond our noses. We are doing everything imaginable to erode the health and wholeness of our society. And we are, today, paying the price for it.

A society, not less than the individuals who comprise it, is vulnerable to ill-health.

Disharmony between the constituent parts is the pattern of illness in both the cases. Physical illness implies organic anarchy. The same pattern applies to macro-systems like societies and nations. When these symptoms of collective pathology are neglected over time, societies begin to degenerate and collapse into anarchy.

Our foremost need as a nation, faced with unprecedented challenges and pressures in the wake of globalisation, is to enunciate and internalise a shared vision for the country in harmony with the spirit of the Constitution. Given how integral religious plurality and cultural diversity are to the history and ethos of India, a project of religious and cultural homogenisation is sure to turn India into a Sri Lanka, ten times over. Religious minorities, numbering some 200 million, and dalits of an even larger chunk cannot be wished away or browbeaten into submission forever. There is room enough in this country for all ; or there will be room for none. That is the truth, unless the logic of history has changed for the sake of some misguided elements who happen to enjoy official patronage today. But the

rest of us cannot afford to entertain any illusion on this count : precipitating social anarchy is a singular act of national subversion : it is terrorism from within, which is far more dangerous than cross-border terrorism of the worst kind.

5. Read the following passage and answer the questions that follow : 5×5 = 25

Ahimsa has been part of the Indian religious tradition for centuries : Hindu, Jain and Buddhist. It was Gandhi's genius that transformed, what had been an individual ethic into a tool of social and political action. This he did in the course of his twenty-year long struggle against racialism in South Africa. Since 1894, he had been pleading with the colonial regime for the removal of iniquitous curbs and disabilities from which Indian immigrants in Natal and Transvaal suffered.

He made little headway. In 1906 an exceptionally humiliating law was enacted for registration of Indians in the Transvaal ; Gandhi found he had reached a dead end. The colonial government in Pretoria, supported by the dominant European Community, was adamant ; the Government of India was indifferent, and the imperial

government in London reluctant to intervene. A stage was reached in Gandhi's agitation when something more than reasoning and persuasion were demanded. It was at this critical juncture that he stumbled upon a new technique of fighting social and political injustice. He called it satyagraha (holding on to truth). Its principles were to gradually evolve in the ensuing years ; its author was a man for whom theory was the handmaiden of action. Of one thing Gandhi had no doubt ; it was to be a method without hatred and without violence. During the next eight years he used this method with a measure of success until 1914 when he reached an agreement with the South African Government and left for India. It was as the author and sole practitioner of satyagraha that he entered the Indian political scene in 1919-20, which he was to dominate for the next three decades.

Gandhi's ideas have quelled not only struggles against foreign domination and tyrannical rule, but also crusades against the piling up of nuclear weapons and the havoc being wrought by

developed countries through wanton and wasteful use of the resources of the planet. Petra Kelly, a leader of the Green Peace Movement in Germany who was influenced by the ideas of Martin Luther King and Gandhi, denounced methods of production which depended upon a ceaseless supply of raw materials and were leading to the exhaustion of natural resources and threatening ecological devastation. Speaking almost in the Gandhian idiom, she said, 'We cannot solve any political problem, without also addressing spiritual ones.'

Despite these examples of non-violent struggles over the past two decades, which have highlighted the power potential of the oppressed, it must be admitted that Gandhi's ideas and methods are still appreciated by only a small enlightened minority in the world. Gandhi himself had no illusions about their ready acceptance. He did not claim finality for his views, which he regarded within a broad ethical framework as aids for bettering the lives of his fellow men ; they could be altered if they did not work. Though he

expounded his philosophy of life in hundreds of articles and letters, he never tried to build it into a system. Nevertheless, the truth is that more than sixty years after his death, his deepest concerns have become the concerns of thinking men and institutions working for a peaceful and humane world.

- (i) How did Gandhi transform the Indian concept of Ahimsa ?
- (ii) Explain the South African origin of the principle of Satyagraha.
- (iii) What is Satyagraha ? Comment on its effectiveness.
- (iv) How have Gandhi's ideas influenced the Green Peace Movement in Germany ?
- (v) What was Gandhi's attitude to his own views and ideas ?



**JS – 12/7**

**Jurisprudence And Constitu-  
tion of India**

*Time : 3 hours*

*Full Marks : 150*

*The questions are of equal value.*

*Answer six questions, selecting three from  
Section – A and three from Section – B.*

**SECTION – A**

1. Explain the importance of the historical school of law in the present day context.
2. Write notes on the following :
  - (a) Two principles of Justice evolved by John Rawls
  - (b) Comparison of 'Rule of Recognition' with 'Grundnorm'
3. Define Law. Distinguish between law and morals.
4. Discuss the importance of Precedent as a source of law. Mention some circumstances which increases the authority of a precedent.

**KE – 7/2**

**(Turn over)**

5. Rights and Duties are Jural Correlatives. Discuss. Mention some of the characteristics of a legal right.
6. Define the term 'person' and distinguish between 'natural' and 'legal' persons. Mention two circumstances in which beasts may be thought to persons legal rights.

### **SECTION – B**

7. 'All laws in force in the territory of India immediately before the commencement of the constitution, in so far as they are inconsistent with the provisions of this part, shall to the extent of such inconsistency be void.' Attempt an exhaustive analysis of the above constitutional provision.
8. The Right to Education has been conferred the status of a fundamental right. Discuss the constitutional significance of the amendment incorporating right to education as a fundamental right.

9. Article 39A of the Constitution of India provides for Equal Justice and Free Legal Aid. Attempt an analysis of the aforesaid provision and its impact on the working of the Constitution.
10. The President of India can seek advisory opinion of the Supreme Court as certain matters. Examine the above in the context of Article 143 (1) and (2) of the Constitution.
11. Attempt an exhaustive analysis of the law of detection in India as provided for under the Tenth Schedule.
12. Discuss the extent and scope of protection provided to Civil Servants under the Constitution of India.



**JS – 12/4**

**Personal Law**

*Time : 3 hours*

*Full Marks : 150*

*The questions are of equal value.*

*Answer six questions, selecting three from*

*Section – A and three from Section – B.*

**SECTION – A**

1. Explain two prominent schools of Hindu Law. What are the differences between two ? Are there any sub-schools of one of above schools ? State their differences also.
2. Discuss various conditions of a Valid Marriage as provided under Hindu Marriage Act, 1955. Voilation of which condition makes the marriage void and voidable. Explain.
3. State the legal effects of a Valid Adoption. What do you mean by the theory of Relation Back ?

KE – 4/2

(Turn over)

How the Supreme Court revived this theory after the commencement of Hindu Adoption and Maintenance Act, 1956 ? Explain with citing of the cases decided by the 'Supreme Court'.

4. Explain the rules of succession of Self Acquired Property left by a Hindu Male dying Intestated as provided in Hindu Succession Act, 1956.
5. Explain the Term 'Coparcenary'. What are the main elements of a Hindu Coparcenary ? State the rules of succession of a coparcenary property after Hindu Succession Act, 1956. What changes have been brought by the Hindu Succession Amendment Act, 2005, in this regard ?
6. Write short notes on the following :
  - (a) Maintenance Pendente Lite and Permanent Alimony
  - (b) Natural Guardians of a minor child, and their powers

### **SECTION – B**

7. Discuss various sources of Mohammadan Law.

8. Explain various conditions of a Valid Muslim Marriage. In which circumstances a Marriage becomes Batil (Void) and Fasid (Irregular). State the consequences of such Marriage.
9. Discuss various forms of Talaq as recognized in Muslim Personal Law.
10. "The right of 'Pre-emption' under Muslim Law is a very weak right." Explain the statement stating The Law of Pre-emption as prevailed in Muslim Law.
11. Explain the concept of 'Dower' and its various classes as recognized in Muslim Law.
12. Explain the following :
  - (a) Doctrine of 'Aul' and 'Rud'
  - (b) Rule of Acknowledgement and Legitimacy of a child



**JS - 12/2**

**Procedural Laws**

*Time : 2½ hours*

*Full Marks : 150*

*The figures in the right-hand margin indicate marks.*

*Answer **six** questions, selecting **two** from  
Section - A and **two** from Section - B and  
**two** from Section - C.*

**SECTION - A**

1. (a) Draw distinction between Executive and Judicial Magistrate. What are the powers of an Executive Magistrate and a Police Officer in dispersing an Unlawful Assembly ?  
10
- (b) Define Arrest. When a Police Officer can arrest a person and what precautions he must follow while taking a person into Police Custody. Explain with the help of decided cases from the Supreme Court of India. 15

2. (a) Enumerate the ways of process to compel a person to appear in Court ? How long does a Warrant of Arrest remain in force ? 10
- (b) Define Suspension, Remission and Commutation. What are the powers given to the Government to suspend, remit and commute sentences ? 15
3. (a) What are the necessary contents of a Judgement ? Can a Criminal Court alter or revise its own judgement after it is signed and delivered ? 10
- (b) Briefly explain, when a Criminal Court can order to pay compensation to the Injured or Aggrieved Person ? 15
4. Explain with reasons and relevant Provisions of Law : 5×5 = 25
- (a) A 9 year old son was living with his father who is a habitual offender. On the petition of the Child's Mother, can the Magistrate issue a search warrant against the Father considering such custody as wrongful confinement and an offence ?

- (b) On 12th May, 2009, 'B' informs the Police that 'A' is planning to murder him on 18th May, 2009 at New Hotel, Buxi Bazar, Cuttack. On 18th May, 2009 Police arrested 'A' from the said Hotel. Is the Preventive arrest of the police is legal ?
- (c) A Magistrate orders 'Z' to pay maintenance of Rs. 500 per mensem to his unemployed and disabled Father under Section 125 of Cr. P. C 1973. Can 'Z' prefer an Appeal or Revision against such order ? If so, in which Court ?
- (d) On 23rd April, 2009, a Police Sub-Inspector while on Night Patrol duty arrested 'M' for selling illicit liquor, 'N' for prostitution and 'Q' for extortion. Can 'M', 'N', and 'Q' be tried jointly ?
- (e) Do you think a Magistrate can tender a pardon to an accomplice under Section 306 of Cr. P. C., 1973 ?

### **SECTION – B**

5. (a) Explain briefly the Rules relating to

- Appearance of Parties and Consequence of Non-Appearance under Order IX., Code of Civil Procedure, 1908. 15
- (b) When the court may allow and refuse the Amendment of Pleadings ? 10
6. (a) Emumerate the Supreme Court's guide line for the grant of Temporary Injunction. 10
- (b) Draw distinction between Second Appeal and Revision. Can the High Court *suo moto* exercise the Revisional Jurisdiction ? 15
7. Explain with relevant provisions of law :  $5 \times 5 = 25$
- (a) Whether 'Equitable Execution' is mandatory or discretionary ?
- (b) As American Court passed an order for payment of Matrimonial Maintenance against an Indian Husband currently residing in India. Can this order be executed by an Indian Civil Court ?
- (c) Can a Civil Court through Review of Judgement alter it's own Judgement ?

- (d) 'X' wants to sue 'Y' an I. A. S. officer. Do you think 'X' is bound to give notice under Section 80 of CPC to 'Y' ?
- (e) Do you think parties to the Civil Suit are entitled to get a copy of the Judgment free of cost ?
8. Explain with relevant provisions of law :  $5 \times 5 = 25$
- (a) Do you think every Civil Court has inherent power to decide the question of its own jurisdiction ?
- (b) 'X' files a suit against 'Z' for declaration that he is entitled to certain landed property as the legal heir of 'M'. The suit is dismissed. Can 'X' claim the same property on the ground of adverse possession in a subsequent suit ?
- (c) Do you think all Civil Courts can *suo motu* transfer suit, appeal and other proceedings to another Court ?
- (d) 'A' and 'B' co-plaintiffs obtain a decree for Rs. 1000 against 'C' and 'C' obtains a decree for Rs. 1000 against 'B'. Can 'C' treat his decree as a cross decree ?

- (e) Can a substantive suit be filed to set aside a decree passed by a Court on an objection as to the place of suing ?

### SECTION – C

9. (a) Can a Court of Sessions convict an accused solely on the basis of Circumstantial Evidence ? Discuss briefly the Rules of Circumstantial evidence as enumerated by the Supreme Court of India. 15
- (b) It is trite to say that every confession must necessarily be an admission, but, every admission does not necessarily amount to a confession. Explain the evidentiary value of 'Retracted Confession'. 10
10. (a) Define 'Secondary Evidence'. Explain the kinds of Secondary Evidence. Do you think that secondary evidence is not admissible until the non-production of primary evidence is satisfactorily proved ? Discuss with case laws. 15
- (b) Explain the evidentiary value of 'Polygraph

**Examination' and 'Narco-Analysis Techniques' with the help of relevant provisions of law and decided cases. 10**

11. (a) Draw distinction between 'Burden of Proof and 'Onus of Proof'. Enumerate the Rules of Burden of Proof. 15

(b) What questions can not be asked to an accused or Witness during Cross Examination ? 10

12. Estimate the evidentiary value of the following :  
5×5 = 25

(a) Testimony of an accomplice

(b) Relevancy of facts forming part of same transaction

(c) Professional Communication

(d) Oral Evidence

(e) Medical Evidence



**JS – 12/5**

**Law of Property**

*Time : 3 hours*

*Full Marks : 150*

*The questions are of equal value.*

*Answer six questions, selecting two from*

*Section – A, two from Section – B and*

*two from Section – C.*

**SECTION – A**

1. (a) Ashish, a Hindu, who was separated from his father, sells to Santosh three fields A, B and C representing that he is authorized to transfer the same. Field – C does not belong to Ashish, as it was retained by his father at the time of partition, but after his father's death Ashish being the heir obtained Field-C. Santosh did not rescind the contract of sale and asked Ashish to deliver Field-C to

him. Whether Santosh will succeed ?  
Decide.

(b) Write short notes on the following :

- (i) Doctrine of marshalling
- (ii) Once a mortgage, always a mortgage
- (iii) Forfeiture of lease

2. (a) Ashok has the properties – Property 'A' and Property – 'B'. He sells property – 'B' to Bikash and puts a condition that Bikash should not construct on property – B more than one storey so that Ashok's property – A which he retains should have good light and free air. Is such a condition valid ? Give reasons in support of your answer.

(b) Explain the following :

- (i) Doctrine of 'lis pendens'
- (ii) Doctrine of 'part-performance'

3. (a) Discuss the rights of an ostensible owner to transfer property under Transfer of Property Act.

- (b) Discuss briefly the law relating to subrogation provided in the Transfer of Property Act, 1882.
4. (a) Bhavani effects an insurance policy on his own life with the Life Insurance Corporation of India (LIC) and deposits it with a bank for securing payment of an existing debt. Bhavani dies and Bank claims the amount from LIC contrary to the claims of Bhavani's heirs. Decide whether the claim of the bank is maintainable.
- (b) Akhil makes a gift of some immovable property of Sunita. But before the registration of gift document Akhil dies. Can the document be presented for registration after his death ? If yes, what will be the effect of registration ?
- (c) "An absolute restraint on disposition is a clog on ownership." Explain this fully with reference to provisions of the Transfer of Property Act.

## SECTION – B

5. (a) Dr. Sunil agrees to perform a certain operation and takes an advance of Rs. 50,000 from the patient. Later on, Dr. Sunil refuses to operate. Decide, giving reasons, whether a patient can get a decree of performance from the court against Dr. Sunil.
- (b) Write a critical comment on provisions relating to **Preventive Relief**.
6. (a) Adarsh without Brajesh's authority contract to sell to Sanjay an estate which Adarsh knows belong to Brajesh. Can Adarsh enforce specific performance of this contract if Brajesh is willing to confirm at.
- (b) What are the prerequisites for ordering for a specific performance ?
7. (a) Explain the salient features of the Specific Relief Act, 1963.
- (b) State when the court will order "Rectification of Instrument".

8. (a) Sujata, a singer agreed to sing at Anapurna's theatre from September to December, 2009 and not to sing anywhere else during that period. Afterwards, she entered into a contract to sing at Lakshmi's theatre during the said period and refused to sing at Anapurna's theatre during that period. Anapurna filed an injunction application to appropriate court. What relief Anapurna is entitled to get, and for which part court may refuse to grant injunction ? Decide giving reasons.

(b) Explain :

(i) Declaratory Decree

(ii) Specific Performance

### SECTION – C

9. (a) Explain that the Limitation Act is statute of repose, peace and justice, yet it is at times arbitrary and inequitable.

- (b) Discuss the effect of acknowledgement on the period of limitation.
10. (a) Aswini has taken Rs. 5,000 as a loan from Bhushan and has promised to return the loan amount within one year. Aswini failed to return the loan amount within the stipulated period, but he has written a letter to Bhushan that he would pay the amount within a month. Whether the period of limitation will start after expiry of one year or from the date when Bhushan received the letter ? Give reasons.
- (b) What do you mean by 'Sufficient cause' as explained in the Limitation Act ? What are the condition precedent for its application ?
11. (a) Explain the general principles of Limitation under the Limitation Act.
- (b) Explain the effect legal disability on the operation of the period of limitation with relevant illustration.

12. (a) Examine the grounds on which the courts have the power to extend the period of limitation.
- (b) "Every suit instituted, appeal preferred or application made after the period prescribed therefore be the 1st schedule shall be dismissed". Discuss.

