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## JUDICIARY EXAMS QUESTION PAPER

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# Haryana Judicial Service

**Mains Examination, 1986**

**Question Paper**

# HARYANA CIVIL SERVICE JUDICIAL EXAMINATION, 1986

## Paper I Civil Law

Time: 3 hrs.

Max. Marks: 200

**Note:** Attempt any eight questions

**Q. 1.** (a) What is the scope and object of the doctrine of res judicata? Discuss the conditions necessary for its application in legal proceedings.

(b) Nine Akali Sikhs sue for removal of the Mahant of a religious institution. The suit is dismissed on the ground that the institution is a Hindu Dera and not a Sikh Gurudwara. Subsequently and after the passing of the Sikh Gurudwara Act, 1925, sixty-four Sikhs sue for a declaration that the institution is a Sikh Gurudwara. Is the suit barred by res judicata?

(c) A, a Hindu, dies leaving a widow and a brother, B. The widow sues B for recovery of certain property alleging that it was a self-acquired property of her husband, and that a will alleged to have been executed by her husband and relied upon by B was a forgery. B alleges that the property was joint family property and that on the death of A he became entitled thereto by right of survivorship, but he does not claim any title to the property under the will. The Court finds that the property was self-acquired property of A, and decrees the widow's claim. Subsequently B sues the widow to recover the same property from her, now claiming the same as a devisee under A's will. Is the suit barred as res judicata?

**Q. 2.** (a) What is the doctrine of restitution? Has a Court inherent power to grant restitution?

(b) A obtained a decree against B for possession. B filed an appeal against the decree, and obtained stay of delivery. The appeal was allowed and the suit dismissed. Against the dismissal A preferred a second appeal and that was allowed and the decree of trial court

restored. A applied in restitution for mesne profits from the date of stay order of the first appellate court to the date of the decree of the second appellate court. Is A entitled to the mesne profits so claimed?

(c) A obtained a decree ex parte against B, and in execution of the decree brought the properties of B to sale and himself became the purchaser. On appeal by B, the appellate court set aside the decree and remanded the suit for re hearing. Then B applied for restitution. While that application was pending, the suit was heard and again decreed. A then contended that as the suit had been decreed no restitution could be granted. Is B entitled to restitution.

**Q. 3.** (a) Does the Code of Civil Procedure make any provision for preventing courts of concurrent jurisdiction from trying at the same time two parallel suits in respect of the same cause of action? If so, what? Discuss.

(b) B, residing in Calcutta, has an agent at Calicut employed to sell his goods there. A sues B in Calicut claiming a balance due upon an account in respect of dealings between him and B. During the pendency of the suit in Calicut court competent to grant the relief, B institutes a suit against A in Calcutta for an account and damages caused by A's alleged negligence. Can the Calcutta court proceed with the trial of B's suit.

**Q. 4.** (a) What is the ambit and extent of declaratory action under the Specific Relief Act? Can declaratory action be granted outside the Act?

(b) A is husband of W. A, files a suit for declaration that a two years old boy allegedly born to the defendant wife W was not his son. An objection is taken that the suit was premature as no maintenance and rights in A's estate were being claimed against him, and that the interest of the minor should not be prejudiced by deciding a question which will arise in future. Can a declaration be granted to A?

(c) A, a worshipper files a suit for declaration that certain properties belonged to the deity. Here it is clear that the worshipper A is not claiming for himself and legal character or right in the property. The suit does not come within the purview of Section 34 and Section 35 of the Specific Relief Act. Is the worshipper entitled to maintain the declaratory suit?

**Q. 5. (a)** What are the principles for issue of injunctions under the Specific Relief Act? How many kinds of injunctions can be granted under the Act?

(b) A is wife of B. A files a suit for grant of injunction against her husband B restraining from marrying a second wife. Is A's suit for injunction maintainable?

(c) A Municipal Committee issue a notice to B a house owner for removing certain encroachments from the municipal land. B files a suit for injunction to restrain the Municipality from doing so. Can injunction be issued?

**Q. 6. (a)** A offered to buy B's bungalow 'ML' for Rs. 6,000, and B's agent cabled to B, 'Have had offer ML Rs. 6,000'. The agent received the reply, 'Wont accept less than Rs. 10,000'. A accept-ed the price of Rs. 10,000 and confirmed his acceptance by sending a letter to the agent. But B sold the bungalow to some-one else for a higher price. A sues B for specific performance of the contract. Can A succeed?

(b) A offered by letter to buy his nephew F's horse for Rs. 10,000 adding that, 'If I hear no more about this, I shall consider the horse to be mine at Rs. 10,000'. No answer was returned to this letter but F told B, an auctioneer, to keep the horse out of sale of his farm stock, as he intended to reserve it for his uncle A. B sold the horse by mistake. A sues F for breach of contract and claims compensation. Decide.

**Q. 7. (a)** A and B are friends. B treats A during A's illness. B does not accept payment from A for treatment and A promises B's son X, to pay him Rs. 1,000. A, being in poor circumstances, is unable to pay. X sues A for the money. Can X recover.

(b) A, a female singer agreed to sing in the theatre of B for two days in September, 1984. One day before the programme was scheduled, she attended a party and took lot of ice-cream. The result was that her voice was cracked and she was unable to sing on the days agreed upon in B's theatre. B sued A for damages. Can B succeed?

**Q. 8. (a)** A entered the shop of X, a jeweller and posed himself to be a certain respectable person. A gave a cheque for two diamond rings purchased from X's shop and the cheque was dishonoured. A sold the two rings to Y, X sues Y to recover the rights. Will X succeed?

(b) Harun, a horse dealer, employed Ben Bella, his brother to sell a horse to Gymkhana Race Club instructing him (Ben Bella) not to warrant the horse. Ben Bella never tackles gave a warranty, and the horse being in fact unsound, Gymkhana Club sued Harun for its breach. Discuss Harun's liability.

**Q. 9. (a)** The Central India Machinery Manufacturing Co. Ltd. agreed to manufacture and supply wagons to the Union Government. The agreement was made between the Company and the Railway Board which acted on behalf the Union Government. Is it a contract of sale of goods or a contract for work and labour?

(b) A sold to B a scooter for a sum of Rs. 7,000. B pays the whole price except Rs. 1,000 which he promised to pay within five days. A holds the possession over the scooter until the rest of money is paid. But before the expiry of the stipulated time B becomes insolvent. A resold the scooter to C for Rs. 7,500 without giving notice to B. B claims from A Rs. 500, i.e. profit on resale. Is A liable?

**Q. 10. (a)** A and B are partners. A becomes bankrupt. B continues to carry on the trade of the firm and pays partnership moneys into a bank to meet current bills of firm. The bank claims money against the receiver in bankruptcy. Decide.

(b) A and B enter into a partnership for a period of 15 years. B pays a sum of Rs. 10,000 to A as premium. Long before the expiry of 15 years A is adjudged bankrupt. B claims refund of proportionate premium which he has paid to A. Decide.

**Q. 11. (a)** Under what circumstances are previous depositions admissible in subsequent proceedings?

(b) A contracts in writing with B for the delivery of wheat upon certain terms. The contract mentions the fact that B had paid A the price of other wheat contracted for verbally on another occasion. Oral evidence is offered that no payment was made for the other wheat. Is the evidence admissible? Give reasons for your answer.

**Q. 12. (a)** Define and explain the law of Estoppel as laid down by the Indian Evidence Act.

(b) A has been adopted by B. A sues B as his adoptive mother for the property of his deceased adoptive father. B disputes the fact of

adoption. It is admitted that she (i) took part in the adoption ceremony, (ii) allowed A to perform the funeral rites of the adoptive father. Is B estopped?

## Paper II Civil Law

Time: 3 hrs.

Max. Marks: 200

**Note:** Answer any Five questions out of which Three must be from Part A and Two from Part B.

### Part A

**Q. 1.** Explain:—

- (a) Conditions essential for a Hindu marriage.
- (b) Requisites of a valid adoption.

**Q. 2.** Section 14 of the Hindu Succession Act, 1956 makes property of a female Hindu to be her adoptive father or mother for all purposes with effect from the date of adoption.

**Q. 3.** Discuss the law relating to the right of divorced Muslim woman to claim maintenance.

**Q. 4.** 'Marriage among Mohammedans is not sacrament, but purely a civil contract.' Discuss this statement with reference to the contractual nature of a Muslim marriage.

**Q. 5.** (a) Explain fully the concept of Wakf. Discuss the effects of the Mussalman Wakf Validation Acts of 1913 and 1930.

(b) When is a Hindu entitled to claim maintenance? Discuss.

**Q. 6.** (a) Discuss the importance of customary rules as a source of Hindu and Muslim law. What is the effect of legislation on such rules? Explain giving illustrations.

(b) Who are the natural guardians of a Hindu minor? What are their power? Discuss.

### Part B

**Q. 7.** (a) '...Every suit instituted, appeal preferred, and application made after the period of limitation prescribed therefore ... shall be dismissed'. Explain the statement with reference to its exceptions, if any.

**Q. 8.** (a) Discuss the provisions of the Indian Limitation Act, 1908 regarding the acquisition of ownership by possession.

(b) A gives a promissory note to B on 1.1.1983. A was out of India from 1.1.1984 to 1.1.1986. B sued A on 2.1.1986. Is this suit within the period of limitation? Discuss.

**Q. 9.** (a) There are some documents of which registration is optional. Which are those documents? Explain the effects of registration.

(b) A presented a document written in Tamil for registration. The registration officer refused to register it on the ground that he did not know that language. Advise A.

**Q. 10.** (a) Discuss the provisions of the Indian Registration Act, 1908 regarding presenting and deposit of wills for registration.

(b) A lease for one year containing an option to the tenant to renew for a further period of one year. Is such a lease compulsorily registrable? Explain giving reasons.

## Paper III Criminal Law

Time: 3 hrs.

Max. Marks: 200

**Note:**

- (1) Answer eight questions.
- (2) Figures to the right indicate full marks.
- (3) Answer should be precise.
- (4) Reference of sections and important decisions wherever relevant should be given.

**Q. 1.** What do you understand by 'abetment of an offence'? Discuss with the help of illustrations and decide cases.

**Q. 2.** (a) In what way is the offence of dacoit different from a robbery and theft?

(b) A along with the child was crossing a river-bridge. B appears suddenly on the bridge, picks up the child and threatens to throw it down into the river unless A gives him his golden ring and the money

bag. When A refuses to part with the above object, B put back the child on the bridge and runs away from the sight. What offence, if any, was committed by B?

**Q. 3.** Distinguish between the two offences mentioned below:

- Riot and affray.
- Theft and extortion.
- Cheating and criminal breach of trust.
- Criminal trespass and mischief.

**Q. 4.** Write short notes on any four of the following:

- Criminal intimidation.
- Criminal conspiracy.
- Criminal liability of minor.
- Mistake of fact.
- Insanity.
- Vicarious liability.

**Q. 5.** What procedure a magistrate has to follow when there is a dispute regarding possession of immovable property giving rise to apprehension of breach of peace? What is the scope of such proceedings?

**Q. 6.** What is the scope of criminal appeal and revision? When can a revision be filed and in which court and on what grounds?

**Q. 7.** State with reasons which of the courts shall have jurisdiction to try the cases arising out of the following facts:

- A is kidnapped from Lucknow and is recovered from a house in Kanpur.
- Injuries were caused to X at Lakhimpur. He dies of those injuries at Kanpur where he was brought for treatment.
- A dacoity was committed in town Patna, the dacoits were arrested at Dhanbad, the looted property was recovered from a goldsmith at Gaya.

**Q. 8.** Explain any three of the following:

- First Information Report.
- Summary Trial.

- Search warrant.
- Joinder of accused persons.
- Arrest without warrant.
- Discharge and Acquittal.

**Q. 9.** What are the rules of burden of proof? What is nature of burden of proof on an accused under Section 105, Indian Evidence Act?

**Q. 10.** Oral evidence is excluded by documentary evidence. Explain this rule and state the exceptions, if any, to this rule.

**Q. 11.** Define the expression 'Estoppel' and discuss its kinds. A takes a house on rent from B and lives in the same as tenant. Can A be permitted to deny the title of B, his landlord regarding the said house. If not, why?

**Q. 12.** Discuss the following:—

- Hostile witness.
- Judicial notice.
- Privileged communication.
- Circumstantial evidence.

## English Composition

Time: 3 hrs

Max. Marks: 200

Write an essay on one of the following:—

- Man and machines
- India of my dreams
- Life is action, not contemplation
- Students and politics

## Hindi

Time: 3 hrs

Max. Marks: 100

- किसी एक विषय पर तीन सौ शब्दों में निबन्ध लिखिए:—  
(क) विश्व-शान्ति की स्थापना में भारत का योगदान

- (ख) विज्ञान और जीवन-मूल्य  
 (ग) धर्म-निरपेक्षता की अनिवार्यता  
 (घ) हमारी शिक्षा-प्रणाली में सुधार  
 (ङ) मेरे स्वप्नों का भारत  
 (च) 'परहित सरिस धर्म नहीं भाई'

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2. नीचे दिए गए पद्यांश की हिन्दी में व्याख्या कीजिए:-

- (क) क्रूर यहाँ पर कहलाता है शूर,  
 और हृदय का शूर सदा ही दुर्बल क्रूर:  
 स्वार्थ सदा रहता परार्थ से दूर,  
 यहाँ परार्थ वही, जो रहे  
 स्वार्थ से ही भरपूर;  
 जगत् की निद्रा है जागरण  
 और जागरण, जगत् का, इस संसृति का  
 अन्त-विराम-मरण

अथवा

सलिल-कण हूँ कि परावार हूँ मैं  
 स्वयं छाया, स्वयं आधार हूँ मैं  
 बंधा हूँ, स्वप्न हूँ, छोटा बना हूँ;  
 नहीं तो व्योम का विस्तार हूँ मैं।

समाना चाहती जो बीन उर में;  
 विकल उस शून्य की झंकार हूँ मैं।  
 भटकता खोजता हूँ ज्योति तम में;  
 सुना है, ज्योति का आगार हूँ मैं।

(ख) यह सत्य है कि 'जो बाह्य है, यह अंतः नहीं; किन्तु दोनों एक-दूसरे से प्रभावित होते रहते हैं। मनुष्य के बाह्य जगत् के सौन्दर्य का उपभोग तो न्यूनाधिक मात्रा में प्रायः सभी कर सकते हैं, परन्तु अंतः प्रकृति के सौन्दर्य का उपभोग करने की क्षमता कवि ही रखता है। जीवन में बाहर जो

सौन्दर्य देखा जाता है, वह भीतर के माधुर्य को पुष्ट करता है और भीतर के सौन्दर्य से बाहर उद्दीप्त होता है। जो कवि रूप-सौन्दर्य के साथ ही गुण-सौन्दर्य का चित्रण कर सकता है, वही सच्चा कवि है।

अथवा

हमारा युग भ्रांति, संदेह, अनिश्चित का युग है। अब प्राचीन रूढ़ियों और अंधविश्वासों की जड़ें हिल रही हैं। हमें नवीन तथ्यों की खोज करनी है। अन्याय, यातना, अप्रसन्नता और संसार की अन्य कठिनाइयाँ हमें भयभीत कर, हमारे मस्तिष्क की अंधकाराच्छन्न बना सकती हैं। किन्तु यदि इन नैराश्यपूर्ण विचारों से पराभूत होकर हम हाथ-पर-हाथ रखकर बैठ जायें तो समझना चाहिए कि हम जीवन की वास्तविक शिक्षा से बहुत दूर हैं। इतिहास की नसीहत हम नहीं जानते, क्योंकि इतिहास मनुष्य के अनवरत विकास और प्रगति की शिक्षा देता है।

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3. इस अंग्रेजी का हिन्दी में अनुवाद कीजिए:-

In democratic Society, the three essential parts of the Constitution are the executive, the legislature and the judiciary. The initiative for legislation is generally taken by the executive. The legislature discuss, deliberates and frames laws. The laws should be clear, precise and intelligible. The legislatures attempts to maintain the laws up to date. It is for the judiciary to clarify laws, to interpret them. Though the courts do not make laws but only declare what they are, their interpretation is binding on all the states and the citizens. The interpretations should have in view the growing sense of public justice, the equality of man and the inborn dignity of the human being. They should see to it that government is carried on under the rule of law. It is for the judiciary to maintain what is called the supremacy of law. 20

4. इन मुहावरों और कहावतों में से किन्हीं चार के अर्थ लिखिए और उन्हीं का अपने वाक्यों में प्रयोग कीजिए:-

- (क) कल पड़ना  
 (ख) उल्टी गंगा बहाना  
 (ग) बरस पड़ना

- (घ) नानी याद आना  
 (ङ) लेने के देने पड़ना  
 (च) अन्न का कन्न करना  
 (छ) घाव हरा होना  
 (ज) तीन तरह होना

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5. इन वाक्यों में से किन्हीं पांच को शुद्ध करके लिखिए:-

- (क) कई रेलवे के कर्मचारियों की गिरफ्तारी हुई।  
 (ख) सारे देश भर में यह बात फैल गयी।  
 (ग) सभा के बान नेता वापस लौट गए।  
 (घ) तब शायद यह काम जरूर हो जाएगा।  
 (ङ) यह ऐसी पहेली है जिसे सुलझा सकना संभव नहीं हो सकता है।  
 (च) हिन्दी और अंग्रेजी में सबसे कठिन कौन-सी भाषा है।  
 (छ) वह पांच किला गेहूँ खरीदा।  
 (ज) मैंने पहुंचा ही था जब कि वे आ गए।

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6. (क) किन्हीं चार शब्दों के विपरीतार्थक शब्द लिखिए:-

- |           |             |
|-----------|-------------|
| 1. उत्तम  | 2. कृत्रिम  |
| 3. अनुकूल | 4. हर्ष     |
| 5. निन्दा | 6. स्वार्थ  |
| 7. गौरव   | 8. आविर्भाव |

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(ख) इन वाक्यांशों के लिए समानार्थक एक-एक शब्द लिखिए -

1. जिसकी उपमा न हो।
2. सबसे प्रिय।
3. जो सब कुछ जानता है।
4. आंखों के सामने।

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