

Haryana Civil Service (Judicial Branch) Examination – 2015

Civil Law-II: Paper-II

Time: Three hours

Maximum marks: 200

Notes:

- (i) Candidates are required to attempt all the five questions of equal weightage in the same serial order as they appear in the Question Paper including the parts and sub-parts of the attempted question.
 - (ii) Marks are indicated against each part or sub part of the given question.
 - (iii) Support your answer with relevant provisions and judicial precedents.
 - (iv) No extra sheet will be provided and the candidates are expected to confine their answers within the limit of the sheets provided in the answer book.
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Q.-1 (a) Two sisters (twins) of tender years are found to be abandoned by their biological parents and rescued by an adoption placement agency.

Can they both be validly adopted under the Hindu law by a childless couple? If there are any legal impediments, how could those be validly circumvented in the interest of children under the general law applicable to all including the Hindus? 20 marks

(b) (i) What is the concept of marriage under the Hindu Marriage Act, 1955 and how it is different from relationship, which is 'in the nature of marriage'? 10 marks

(ii) Can a woman admittedly in a void marriage claim maintenance against her husband under Hindu law? 10 marks

Q.-2 (a) What do you understand by the expression, "Joint Hindu Family governed by the Mitakshara law"? 10 marks

(b) How does the 'devolution of interest in coparcenary property' take place under the Mitakshara law and how this notion of devolution has undergone changes successively under the Hindu Succession Act, 1956 in the light of their varying judicial expositions. 15 marks

(c) Critically examine the character of property inherited by the son from his father in his hands vis-à-vis his son under the provisions of the Hindu Succession Act, 1956 in the light of their varying judicial expositions. 15 marks

Q.-3 (a) What are the conditions that enable a female Hindu to hold the property possessed by her as "full owner thereof and not as limited owner" under the Hindu Succession Act, 1956? 10 marks

(b) Has the concept of 'limited ownership' of a female Hindu been done away under the Hindu Succession Act, 1956? Amplify your answer. 10 marks

(c) Seemingly, there is a conflict between sub-section (1) and sub-section (2) of Section 14 of the Hindu Succession Act, 1956, inasmuch as sub-section (2) instantly takes away the gains of sub-section (1). How would you reconcile this seeming conflict and determine the respective ambit of both the sub-sections in the light of the propounding of 3-Judge bench decision of the Supreme Court in V. Tulasamma (1977). 20 marks

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Q.-4 (a) Whether a Muslim girl below the age of 18 years could contract a valid marriage – Nikah – without the consent of her parents. Explain in the light of the basic principle of Islamic jurisprudence.

10 marks

(b) Whether a divorced Muslim woman is entitled to seek maintenance under Section 125 of Cr.P.C after iddat period in view of the aftermath of Shah Bano case and enactment of Muslim Women (Protection of Rights on Divorce) Act, 1986.

10 marks

(c) Can a Muslim in the exercise of his right as a natural guardian of his children claim the custody of his 9 years old daughter from her mother (his estranged wife)? Explain in the light of the concepts of wilayat and hizanat under Muslim law.

10 marks

(d) A father made a gift inter vivos to his minor son. Critically examine the validity of the said gift in the light of the essentials of hiba under Mohammadan law.

10 marks

Q. -5 (a) 'Custom is a question of fact and not of inferences.' – Comment and elucidate.

10 marks

(b) 'Law of limitation simply bars judicial remedy; it neither affects extra judicial remedies nor the substantive right itself.' Explain.

10 marks

(c) How do you construe 'legal disability' as embodied under the Limitation Act, 1963?

10 marks

(d) Critically examine the circumstances in which registration of a document can be validly refused by the registering Authority.

10 marks