

RESILIENCE LAW ACADEMY

QUESTIONS MAINS

PAST EXAMINATION QUESTIONS CONTRACT

1. "All agreements are not contracts but all contracts are agreements". Examine this statement.
2. What tests would you apply to ascertain whether an agreement is a contract?
3. A proposal need not be certain. Comment.
4. Define offer and distinguish between offer and invitation to offer.
5. What is a general offer? Illustrate.
6. Distinguish between 'general' and 'specific' offer.
7. "A counter-offer can constitute an acceptance of an offer". Comment.
8. Discuss the role of 'offer' and 'acceptance' in the formation of a valid contract.
9. "Acceptance is to offer what lighted match is to a train of gunpowder". Discuss with reference to revocation and communication for the formation of a valid contract.
- 9A. Explain the general rules relating to acceptance under the Indian Contract Act, 1872.
10. Discuss rules regarding communication of offer and acceptance.
11. Explain the effect of silence on acceptance.
12. State whether a contract is valid even if there is no proper communication of acceptance.
13. A mere mental acceptance is no acceptance. Comment.
14. Acceptance must be according to the mode prescribed. Discuss.
15. Explain role of communication, acceptance and revocation of proposals in the formation of valid contract.
16. Discuss the rules relating to offer and acceptance by post, and mention the circumstances under which an offer lapses.
17. Distinguish between void and voidable contracts.
18. Explain what do you understand by 'void', 'voidable', 'illegal' and valid contract. Briefly refer to the rights of parties under such agreements.
19. Distinguish between 'void', 'voidable' and 'illegal' agreements bringing out clearly the rights of the parties under such agreement collateral to them.
20. State essential elements of a valid contract?
21. What is 'contract'? State essentials of a valid contract. What is void contract?
22. State the contracts expressly declared void by the Contract Act?
23. Briefly explain 'competency to contract'. Who is competent to contract as per the Indian Contract Act?
24. Discuss the law relating to competency of parties to enter into a valid contract?
25. "A minor's contract is valid". Comment.
26. "A minor's contract is void". Discuss.

RESILIENCE LAW ACADEMY

27. Write a short note on “Minor’s contract for necessities”
28. State whether all void agreements are illegal.
29. Explain consent as an element of a valid contract.
30. What is free consent?
31. Analyse and explain the concept of ‘free consent’ of parties? State its essentials and impact on the formation of a contract?
32. What is free consent? When a consent will not be considered free?
33. Explain what do you understand by free consent and state its essentials and impact on the contract?
34. What is undue influence? State its legal effect.
35. Explain the undue influence and illustrate.
36. Explain the effect of undue influence on contract.
37. What is undue influence in a contract? State the relationships where presumption arises for the use of such influence.
- 37A. What is meant by ‘undue influence’? A applies to a banker for a loan at a time where there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. Whether the contract is induced by undue influence? Decide [November 2002]
38. What is the difference between coercion and undue influence.
39. When does mere silence of a party to an agreement become fraudulent.
- 39A. Explain the concept of ‘misrepresentation’ in the matters of contract. [May 2003]
40. Distinguish between fraud and misrepresentation.
41. Is agreement without consideration void?
42. “Consideration is essential for a valid contract”. Discuss briefly its essential aspects.
43. “Consideration is required for every kind of contract”. Comment.
44. Insufficiency of consideration is immaterial but an agreement without consideration is void. Comment.
45. Explain briefly:
 - (a) Agreement in restraint of marriage
 - (b) Invitation to treat does not amount to an offer
 - (c) Consideration must be sufficient but need not be adequate.
46. Explain briefly:
 - (a) Stranger to a contract
 - (b) Offer and invitation to offer
 - (c) An agreement without consideration.
47. What precisely is meant by a wagering contract.
48. State whether an agreement by way of wager is a voidable contract.
49. “All agreements against public policy are void”. Comment.
50. State whether all agreements which are against public policy of the State cannot be enforced.
51. “An agreement in restraint of trade is void”. Examine this statement mentioning exceptions, if any.

RESILIENCE LAW ACADEMY

52. What is a contingent contract? Explain the rules regarding enforcement of contingent contracts.
53. Explain the Doctrine of Frustration and discuss its application in India.
54. State Indian Law on Doctrine of Frustration.
55. What do you understand by impossibility of performance?
56. Write a short note on 'Doctrine of Supervening Impossibility'
57. What is novation? State its essential requirements.
58. Discuss the consequences of non-performance of a valid contract under the Indian Contract Act?
59. Briefly explain the various remedies for breach of contract.
60. Write a note (in brief) on the reliefs an injured party can obtain due to breach of contract.
61. State briefly the principles on which damages are awarded for breach of contract.
62. Where there is a right, there is a remedy. Amplify this statement and briefly explain the various remedies available for breach of contract.
63. Distinguish between 'Penalty' and 'Liquidated damages'.
64. Define contingent contract. Briefly explain its Rules.
65. Distinguish between 'contingent contract' and 'wager'.
66. State whether a contract to pay Rs. 10,000 by X if the house of Y is burnt a contingent contract.
67. Write a note on quasi-contracts.
68. Define and state nature of quasi-contracts.
69. Explain what is quasi-contract? State the various quasi-contracts as recognised by the Indian Contract Act.
70. State whether finder of goods is not entitled to sell.
71. State the grounds on which a contract may be discharged under the provisions of Indian Contract Act, 1872. [November 2002]

RESILIENCE LAW ACADEMY

CRIMINAL LAW – PREVIOUS YEARS' QUESTIONS

OFFENCE AGAINST PROPERTY

1. Someshwar, a domestic servant, was annoyed by the master's dilly-dallying in the payment of salary. To teach a lesson to the master he removed a jewel box from the almirah and placed it in the cow shed in the same house. The jewel box was located after searching for over a month. Discuss the offence for which Someshwar can be prosecuted? Would your answer be different if Someshwar had removed the jewel box with a view to ultimately stealing the jewels when the loss is forgotten? (Punjab Civil Services, 2001)
2. Rahamat knew about Gopalji's resolve not to sell his bullocks and cows to a butcher. Life Traders, a modern meat export unit had offered to pay higher price and commission to any one who could arrange supply for their slaughter unit. Rahamat who had procured animals for Life Traders earlier, took special pain in convincing Gopalji to sell his animals to the firm that earned valuable foreign exchange for the country. Gopalji sold his two bullocks and five cows to Life Traders for a good price. However, till after the sale Gopalji never knew that the animals were actually meant for slaughter. Can Rahamat be prosecuted for the offence of cheating? Would your answer be different if Rahamat had conveyed to Gopalji that Life Traders is a firm that undertakes breeding of quality animals? (Punjab Civil Services, 2001)
3. Write short note on difference between cheating and misappropriation? (Punjab Civil Services, 1995 II)
4. Explain the distinction between Criminal Misappropriation and Criminal Breach of Trust. (Civil Services, 1991)
5. A letter is received to the address of one A. Raman. A person bearing the same name and working in the same office as the former receives it. On opening it, he finds in it a dividend warrant, to which he knows he has no claim at all and has reason to believe that the former Raman could have. He however takes it and deposits it in his own bank account. What offence has he committed? Assuming that the former Raman has himself received the letter but gave it to the latter to be deposited in the former's bank account, what is the offence committed by the latter thereby? (Civil Services, 1991)
6. What is meant by 'stolen property'? When is receiving stolen property an offence? (Civil Services, 1992)
7. "A partner has undefined ownership along with other partners over all the assets of partnership, and if he chooses to use any of them for his own purposes, he cannot be held guilty of criminal misappropriation of property." Examine. (Civil Services, 1994)
8. Examine the criminal liability of a landlord who cuts off the electricity connection of his tenant in order to put pressure on him to pay enhanced rent. (Civil Services, 1994)
9. "In all robbery there is either theft or extortion." Comment. (Civil Services, 1998)

RESILIENCE LAW ACADEMY

10. Explain whether any offence is committed in the following instances and under what circumstances? Give reasons.
- A cheque issued by X on his bank having knowledge about insufficient funds in his account.
 - X burns a share certificate of Z due to which she suffered mental agony in addition of financial loss.
 - X has sexual intercourse with his wife without her consent.
 - X sells the estate of which he is not the owner and executes a conveyance deed in favour of the purchaser.
 - X takes Y a girl of 13 years of age without her knowledge to Mumbai to send her to Dubai to handover for marriage to a Sekh over there and dispatches her to Dubai for the above purchase. (Civil Services, 2002)
11. Distinguish between Criminal Misappropriation and Criminal Breach of Trust [U. P. PCS (J)]
12. Decide if any offence is made out in the following with reasons – A meets Z on the highway, shows a pistol, and demands Z's purse. Z in consequence surrenders his purse. [U. P. PCS (J)]
13. Write Short Notes on: Mischief, Cheating and Forgery [U. P. PCS (J)]
14. P causes cattle to enter upon a field belonging to Q intending to cause and knowing that he is likely to cause damage to the crop of Q. What offence has been committed by P? [U. P. PCS (J)]
15. Write Short Note on criminal conspiracy. [U. P. PCS (J)]
16. Distinguish between Criminal Misappropriation and Criminal Breach of Trust [U. P. PCS (J)]
17. a) A instigates B to burn C's house. B sets fire to the house and at the same time commits theft of property there. What offences have A and B committed. Discuss. [U. P. PCS (J)]
- b) A instigates B to give false evidence. B does not give false evidence. Has A committed any offence? Discuss. [U. P. PCS (J)]
18. Write Short Notes on: Criminal Breach of Trust, Arson and Mischief [U. P. PCS (J)]
19. a) What are ingredients of the offence theft? Explain and illustrate. [U. P. PCS (J)]
- b) 'A' intending to commit theft enters the house of 'B' at night and removes from one of the rooms a heavy box to the courtyard where he opens it. He does not find in the box anything worth taking and leaving it there goes away. Did 'A' commit any offence? If yes, what offence? [U. P. PCS (J)]
20. 'A' aims a knife at 'B' and tells 'C' that he will kill 'B' her son, if she does not deliver her gold chain to him. 'C' gives away the chain to 'A'. What offence, if any, has 'A' committed? Give reasons for your answer. [U. P. PCS (J)]
21. a) Analyse the definition of 'theft' as given in Section 378 I.P.C. [U. P. PCS (J)]
- b) Distinguish it from 'robbery' and 'extortion'. [U. P. PCS (J)]

RESILIENCE LAW ACADEMY

- c) When may a person be said to commit theft of his own property.
[U. P. PCS (J)]
22. Answer the following and state with reasons what offence, if any, has been committed –
- a) A enters a house with intention of committing theft. But moved by the poverty of the householder he drops a hundred-rupee note and leaves. [U. P. PCS (J)]
- b) A having lost the receipt for debt which he has paid to B makes out another receipt himself and when B sues him he puts up the made-up receipt in evidence. [U. P. PCS (J)]
23. Giving illustrations, state the ingredients of the following offences –
- a) Criminal breach of trust [U. P. PCS (J)]
- b) Criminal misappropriation [U. P. PCS (J)]
- c) Mischief [U. P. PCS (J)]
24. Explain the essential ingredients of following offences: Forgery and Theft
[U. P. PCS (J)]
25. What is "house-breaking"? Explain and illustrate it. [U. P. PCS (J)]
26. Discuss the essential ingredients of following offences: Lurking house trespass
[U. P. PCS (J)]
27. Distinguished between Theft and mischief [U. P. PCS (J)]
28. State with reasons, what offence, if any, has been committed by "A" in the following cases:
- a) "A", finds a valuable right on the road. He picks it up and sells it immediately. [U. P. PCS (J)]
- b) "A" instigates "B" to commit theft in the house of "C". "B" commits theft in C's house and afterwards sets fire to it. [U. P. PCS (J)]
29. State with reasons what offence, if any, has been committed in the following cases:
- a) 'A' flew away with an aeroplane without permission of the authorities. However, he restored the aeroplane at its place a day after. [U. P. PCS (J)]
- b) Six armed persons entered the house of "A" but on an alarm being raised, they took to their heels without any booty. [U. P. PCS (J)]
30. a) It is said that in every robbery or dacoity either there is theft or extortion. Explain with the help of cases and illustrations. [U. P. PCS (J)]
- b) Can one's signature of his own name amount to forgery? Answer giving reasons and illustrations. [U. P. PCS (J)]
31. a) When does theft become robbery? Make important distinction between robbery and dacoity. [U. P. PCS (J)]
- b) Can a man commit theft of his own goods? Answer with illustration.
[U. P. PCS (J)]
32. Distinguish between the following giving illustrations –
- a) Criminal misappropriation and criminal breach of trust
- b) Theft, extortion and robbery [R.J. S (J), 1971]
33. a) What are the ingredients of 'mischief'?

RESILIENCE LAW ACADEMY

- b) A purchaser of a mortgaged property removed the material and thereby diminished the security of the mortgagee. Can the purchaser be punished for mischief?
- c) The owner of the flock of sheep neglected to take reasonable precaution and allowed the herd to graze in the Government wasteland where grazing was prohibited. Can the owner be prosecuted for mischief?
- d) A, a wealthy man, claiming a right of way through the orchards of B who had put a shabby and a cheap gate at the entrance of the orchards, smashed the gate erected by B and carried the material in his truck. Can A be held guilty for mischief? [R.J. S (J), 1975]
34. A took wine at his friend's house and got tipsy. While under the effect of drink he entered the house of a neighbour thinking it was his own house and started beating the neighbour's wife thinking she was his own wife. Who had not prepared the meals for him. A was taken to the police station and then prosecuted on charges of house trespass and causing simple hurt. A pleaded drunkenness as his defence. Please discuss how far A was justified in raising this defence. [R.J. S (J), 1975]
35. Distinguish between Extortion and Robbery. [R.J. S (J), 1975]
36. Explain the difference between –
- a) House breaking and Lurking house trespass
- b) Robbery and Dacoity [R.J. S (J), 1976]
37. Distinguish between theft, extortion, robbery and dacoity. [R.J. S (J), 1977]
38. a) Define forgery?
- b) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending there by to obtain employment under Z. Is A guilty of forgery? If so, give reasons.
- c) A signs his own name to a bill of exchange intending that it may be believed that the bill was drawn by another person of the same name. Discuss whether it is forgery or not? [R.J. S (J), 1977]
39. A catches fish from a tank in the night and is caught by the chowkidar when A is loading them in the truck. Is A guilty of theft and if so, why? [R.J. S (J), 1977]
40. What do you understand by 'Criminal breach of trust'? A instructs B to invest a certain amount of money in Government securities. B, however, buys shares of a company instead, believing in good faith that it would be in A's advantage. The investment results in loss. What offence, if any, does B commit? [R.J. S (J), 1999]
41. Write short note on Forgery. [R.J. S (J), 1979]
42. a) A gives Z fifty strokes with a stick and causes injuries on several parts of his body. Is A liable to be punished separately for causing each injury?
- b) A intends to murder B, his enemy. He buys a knife for that purpose. A is arrested. Is A guilty of preparation to commit murder? [R.J. S (J), 1980-81]
43. 'A' goes to the house of 'B' and finds a pen lying on the table. He believes that it is his own pen and therefore takes away the pen without the consent of 'B'. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]
44. 'A' who lives alone, while sleeping at night wakes up on hearing some noise. He finds his main Door broken open. He finds someone moving inside his house armed

RESILIENCE LAW ACADEMY

with a knife. He shoots him dead. What offence, if any, is committed by 'A'?

[R.J. S (J), 1984]

45. 'A' while walking back home at night hears a woman crying for help. He finds that a man is trying to rape her. He hits the man with a stick on his head resulting in his death. What offence, if any, is committed by 'A'?

[R.J. S (J), 1984]

46. 'A' and 'B' decide to loot a bank and for that purpose they collect all necessary implements and weapons. Later on 'A' leaves that city and therefore does not join 'B'. What offence, if any, is committed by 'A'?

[R.J. S (J), 1984]

47. 'A' and 'B' go the hose of 'C' with the common intention of committing theft. After committing theft, while they are running away, 'C' catches 'B' who, with a view to escape, strangulates 'C'. 'C' dies. A sees this quietly from a distance but does nothing.

What offence, if any, is committed by 'A'?

[R.J. S (J), 1984]

48. Distinguish between theft and extortion, robbery and dacoity, Criminal trespass and house trespass.

[R.J. S (J), 1986]

49. A being ill and in expectation of death, delivered the key of his box containing his valuable articles to B who was looking after him. A died. Subsequently, B opened the box and took away the valuable articles in the night without the consent of the heirs and successors of the deceased A. What offence has been committed by B?

[R.J. S (J), 1986]

50. A theft has taken place in a shop during the night. The stolen property, a rare statue of 1600 AD, is recovered from the possession of B, after one year of theft. What offence B has committed.

[R.J. S (J), 1988]

51. In A's marriage with 'B', dowry Article worth of Rs. 50,000/- including gold ornaments were given to 'B', her husband. After some time 'B' turned out A along with children. On demand, 'B' refused to give ornaments and dowry articles to A. Under which Section of IPC 'B' can be convicted?

[R.J. S (J), 1988]

52. Define theft? What is the maximum sentence for an offence of theft?

[R.J. S (J), 1994]

OFFENCES AGAINST BODY

1. 'Person attempting to commit suicide should be subject for sympathy and positive help rather than punishment.' Discuss. (Civil Services, 1987)

2. X was in desperate poverty and tried to persuade his wife to go to her mother's house. She refused and said that if X insisted, it was better that she was killed. After asking her 2-3 times if she did not want to live, X cut her with a pen knife and killed her. Is X liable criminally and if so, for what offence? (Civil Services, 1987)

3. "The whole doctrine relating to provocation depends on the fact that it causes, or may cause a sudden and temporary lose of self control whereby malice which is necessary for the formation of intention to kill or to inflict grievous bodily harm, is negated." Discuss. (Civil Services, 1988)

4. Discuss the different theories of punishment. Examine also briefly the argument for an against the imposition of death sentence. Discuss also the constitutionality of death sentence. (Civil Services, 1988)

RESILIENCE LAW ACADEMY

5. a) Briefly delineate the new offences and the aggravated forms of the already existing offences, introduced into the Indian Penal Code by the First and Second Criminal Law (Amendment) Acts, 1983, for protecting women against (i) sexual outrages and misdeed, and (ii) cruelty to extract dowry.
- b) A, B and C agree to kill X. With the money given by A, B and C purchase two revolvers, go to the residence of X, and both shoot at him. X dies. It is not known whose shot actually killed X. For what offences may A, B and C be charged? (Civil Services, 1989)
6. A and B were married in 1988. A had been pestering B all along to bring from her parents money for him to buy a scooter and even subjecting her to cruelty. One day he gave her a severe thrashing on this account and left the house. When he returned home two hours later, he found her dead, having consumed cyanide poison. He reported the death to the police as a case of suicide due to some personal ailment. The police prosecuted him for dowry death, and in the alternative for abetment of suicide. At the trial, he did not produce any evidence of ailment from which she suffered. For what offence can he be held guilty? (Civil Services, 1991)
7. Assuming that the accused person had no intention to cause the death of the deceased, but had only the intention to cause bodily injury, explain when the accused may be held guilty of murder, culpable homicide not amounting to murder, or only voluntarily causing grievous hurt. (Civil Services, 1992)
8. The law relating to murder recognises the principle that “anger is a passion to which good and bad men are subject, and mere human frailty and infirmity ought not to be punished equally with ferocity or other evil feeling.” Elucidate. (Civil Services, 1993)
9. In spite of recent amendment in the law, the definition of “rape” with Indian Penal Code leaves certain loopholes making it difficult to secure convictions. Critically evaluate this statement. (Civil Services, 1993)
10. “Clause (4) of Section 300, Indian Penal Code, defining murder, cannot be applied until it is clear that Clause 1, 2 and 3 of the Section each or all of them fail to suit the circumstances.” Examine the above statement with the help of decided cases. (Civil Services, 1994)
11. “Under the Indian Penal Code an act which is done by one against his will is not his act.” Examine. (Civil Services, 1995)
12. “To hold an accused guilty of murder under Clause (3) of Section 300 of the Indian Penal Code the prosecution must move that there was an intention to inflict that particular injury, that is to say that the injury was not accidental or unintentional or that some other kind of injury was intended, and that particular injury was sufficient in the ordinary course of nature to cause death.” Examine. (Civil Services, 1995)
13. A, in association with B, relieved C of his watch in a running train, and when A and B tried to get down from the train C raised an alarm whereupon B slapped him. Discuss the liability of A and B. (Civil Services, 1995)
14. Examine as to whether a person who causes death of a pregnant woman is guilty of committing one homicide or two. (Civil Services, 1996)
15. When is a man said to commit the offence of rape? (Civil Services, 1996)

RESILIENCE LAW ACADEMY

16. "It is now a settled law in the India that death sentences can be imposed only in the rarest of the rare cases." Examine the above statement with the help of important decided cases clearly identifying as to what are rarest of rare cases. (Civil Services, 1997)
17. What test has the Supreme Court prescribed to understand 'the rarest of the rare cases' while inflicting capital punishment? Can one argue that capital punishment in any case is against human right jurisprudence? (Civil Services, 1998)
18. When will sexual intercourse by a man with his wife be "rape"? (Civil Services, 1998)
19. What changes are incorporated in the law dealing with the offence of rape in the recent past? (Civil Services, 1998)
20. How do you distinguish between wrongful imprisonment and wrongful restraint? Explain with illustrations. (Civil Services, 1998)
21. The accused succeeded in getting a decree of restitution of conjugal rights in his favour, but his wife, who was living separately with her parents, refused to rejoin him. He, thereupon, went to his in-law's place and there he had sex with his wife without her consent. The wife desires to have her husband criminally prosecuted for the offence of rape and seeks your legal advice. What advice will you give her? (Civil Services, 1999)
22. In the scheme of the Penal Code, "culpable homicide" is the genus and "murder" its species. All murder is "culpable homicide" but not vice-versa – Supreme Court in State of A.P. vs. Punnayya – 1977 Cr. L. J. I. (S. C.). Discuss and illustrate. (Civil Services, 1999)
23. A intentionally attacks B. While doing so, A does not know that B is suffering from an enlarged appendix. The blow falls on the appendix as a result of which the appendix bursts and B dies. Discuss A's liability. (Civil Services, 2001)
24. Explain whether any offence is committed in the following instances and under what circumstances? Give reasons.
 - a) X shakes his fist at Z so as to cause reasonable apprehension in the mind of Z that she would be hit.
 - b) X has sexual intercourse with his wife without her consent. (Civil Services, 2002)
25. Distinguished between Kidnapping and Abduction, Murder and Culpable Homicide not amounting to murder. [U. P. PCS (J)]
26. Decide if any offence is made out in the following with reasons –
A constable verbally ordered two other police constables to arrest two bad characters on a road and to fire if resisted. The accused challenged two of them and then fires as one of them did not stop and in consequence killed one man. [U. P. PCS (J)]
27. Discuss the essentials of wrongful confinement and distinguish it with wrongful restraint. [U. P. PCS (J)]
28. Who is the preferential heir in the following cases –
A female Bhumidhar holding in her own rights dies leaving her husband and uterine brother. [U. P. PCS (J)]
29. Discuss the law relating to 'grave and sudden provocation' as laid down in the Indian Penal Code and state the extent to which it may mitigate the responsibility of the

RESILIENCE LAW ACADEMY

accused for the offence of murder. Refer to case-law to illustrate your answer. [U. P. PCS (J)]

30. Distinguish between Culpable homicide and Murder, Wrongful restraint and Wrongful confinement. [U. P. PCS (J)]

31. A entered the house of B with the intention of committing theft. B and other members of his family surrounded and attacked 'A' with lathis. Finding his life in danger, A whipped out a revolver and fired causing the death of B. Is A guilty of murder under Section 302 of the Indian Penal Code? [U. P. PCS (J)]

32. a) What is abetment? What are the various methods by which abetment is possible? [U. P. PCS (J)]

b) A instigates B to burn C's house. B sets fire to the house and at the same time commits theft of property there. What offences have A and B committed? Discuss.

[U. P. PCS (J)]

33. a) Discuss the law relating to 'Rape' as laid down in the Indian Penal Code

[U. P. PCS (J)]

b) A Superintendent of Girls' Hostel commits sexual intercourse in the night with an adult inmate of the Hostel. What offence, if any, has been committed by the

Superintendent of the Hostel

[U. P. PCS (J)]

34. a) Differentiate between murder and culpable homicide

[U. P. PCS (J)]

b) A knows Z to be behind a bush. B does not know it, A intending to cause or knowing it to be likely to cause Z's death induces B to fire at the bush. B fires and kills Z. Comment on the criminal liability of A and B.

[U. P. PCS (J)]

35. How does abduction differ from kidnapping? Explain with suitable illustrations. [U. P. PCS (J)]

36. a) Differentiate between culpable homicide and murder

[U. P. PCS (J)]

b) A intending to kill B inflicts on B a mortal wound and mistakenly thinking him dead throws his body in a lake with the result that B dies by drowning. Is A guilty of murder. Answer with reasons.

[U. P. PCS (J)]

37. Answer the following and state with reasons what offence, if any, has been committed –

A, without the knowledge of the guardian takes away B, a girl of 16 years old, from her house on her request. He restored her after one week.

[U. P. PCS (J)]

38. Explain the essential ingredients of the following offences: Kidnapping from lawful guardianship and Criminal force.

[U. P. PCS (J)]

39. 'A' places men with fire-arms at the outlets of a house and warns 'B' that they will fire at 'B' if 'B' attempts to leave the house. What offence has 'A' committed?

[U. P. PCS (J)]

40. Explain with reasons, what offence, if any and by whom has been committed in the following cases:

a) 'A' personated as 'B' at the examination passed the examination and obtained the certificate in 'B's' name. 'B' thereupon applied to have his own name entered in the list of candidates for Government service.

[U. P. PCS (J)]

RESILIENCE LAW ACADEMY

- b) 'A' is a minor wife of 'B'. 'C' takes her forcibly and without the consent of B' and keeps her in his house for two months. There she develops intimacy with 'X' a neighbour of 'C' and run away with 'X' to Agra where both of them are arrested on the report of 'B'. What difference will it make if 'A' was a major when 'C' took her?
[U. P. PCS (J)]
41. Discuss the extent to which drunkenness can be pleaded as a defence to a criminal charge. [U. P. PCS (J)]
42. Discuss the essential ingredients of the offence: Dowry death [U. P. PCS (J)]
43. 'Provocation must go to the accused, he must not go to provocation'. Comment. [U. P. PCS (J)]
44. What offence has been committed in the following cases? [U. P. PCS (J)]
- a) A by shooting at a fowl with intent to kill a hiral it kills B, who is behind a bush, A not knowing that he was there.
- b) A intentionally gives a sword-cut to B sufficient in the ordinary course of nature to cause death. B dies in consequence.
- c) A without any excuse, fires a loaded pistol into a crowd of persons and kills one of them.
- d) A shakes his fist at B, intending or knowing it to be likely that he may thereby cause B to believe that A is about to strike B.
- e) A cuts down a tree on B's ground with the intention of dishonestly taking the tree out of B's possession without B's consent.
45. Distinguish between Kidnapping and abduction, Rape and adultery [U. P. PCS (J)]
46. Give reasons, state what offence if any, has been committed by A in the following cases:
- a) A placed a bomb in a medical store and gave the people inside three minutes to get out of it before the bomb exploded. B a paralysis patient, failed to escape and was killed. [U. P. PCS (J)]
- b) A and B swimming in the sea after a shipwreck, got hold of a plank not large enough to support both A pushed off B who got drowned. [U. P. PCS (J)]
47. Discuss the law relating to "grave and sudden provocation" as contained in the Indian Penal Code and State the extent to which it mitigates the responsibility of an accused for the offence of murder. Refer to case-law to illustrate your answer.
[U. P. PCS (J)]
48. a) "It is often said that there is a very thin but fine distinction between the offences of culpable homicide not amounting to murder and culpable homicide amounting to murder because the difference is merely of question of different degree of probability of death ensuing". Examine the correctness of the above statement with the help of legal provisions and decided cases. [U. P. PCS (J)]
- b) 'A' beats his wife. She becomes unconscious. Believing her to be dead and to save himself from being prosecuted for murder. He hangs her in a beam of the house with rope. Medical report discloses that she died due to hanging. Discuss A's liability.
[U. P. PCS (J)]

RESILIENCE LAW ACADEMY

c) A boy of 13 years studying in class IX creates indiscipline in the class. Even after the warning of the teacher he did not mend himself. The teacher caned him. During caning the removed his hand and one cane fell on another student and he was permanently deprived of his one eyesight. Decide the liability of the teacher.

[U. P. PCS (J)]

49. a) Define 'Kidnapping' and 'abduction' and distinguish between them.

[U. P. PCS (J)]

b) A Hindu girl of 17 years old studying in XII standard under the care and protection of her parents was living with them. She was having criminal intimacy with a shopkeeper running a shop near her house. One day the girl left her house and went to the shopkeeper and asked him to take her away permanently. The shopkeeper took her away to several places. Later on, he was arrested under section 363 of the Indian Penal Code. State with reasons whether the shopkeeper to convicted. Answer with reasons.

[U. P. PCS (J)]

c) A 15 years old girl went to see a fete with her maternal uncle. Due to heavy crowd in fete, she became separated from her maternal uncle. She could not remember even address of her house. One person enticed her to go to his house and took her away to his house. There at his residence he made preparations for the marriage of this girl with his son. In the mean time this person was arrested by police. Will he be convicted for kidnapping? Answer with reasons.

[U. P. PCS (J)]

ATTEMPT

1. How do you differentiate preparation for attempt at commission of a crime? 'To be guilty of an attempt, it is not necessary that the circumstances should be such as would facilitate the completion of the crime.' Comment. What is the punishment prescribed for a criminal attempt? (Civil Services, 1991)

2. The accused picked up a revolver and believing it to be loaded pulled the trigger with the criminal intention of shooting B dead. Fortunately for B, the revolver as not loaded and he escaped unhurt. What offence, if any, has the accused committed? Is it open to the accused to contend in his defence that when the intended offence was physically impossible of being accomplished on the facts as they turned out to be ultimately, he is entitled to a verdict of acquittal? (Civil Services, 1999)

3. A, a pickpocket, puts his hand in the pocket of B, a person who was reclining in the park. Incidentally, the person had a pistol in his pocket and as the pickpocket put his hand in the pocket, it touched the trigger and the pistol went off killing the person. Is A guilty of culpable homicide? Explain when culpable homicide does not amount to murder with the help of illustrations and decided cases. (Civil Services, 2000)

4. a) Describe the scope of intention, preparation and attempt to commit a crime.

[UP PCS (J), 1986]

b) A intending to murder Z by poison, purchases poison and mixes the same with food which he delivers to the servant of Z for placing it on Z's table. Discuss the criminal liability of A.

[UP PCS (J), 1986]

RESILIENCE LAW ACADEMY

5. a) Discuss "attempt" to commit an offence and distinguish "attempt" from "preparation" to commit offence. To what extent are these punishable?

[UP PCS (J), 1987]

b) Amar drew a loaded revolver completely from his pocket but his arm was seized by Balwant before Amar could take any aim at Balwant before struggling Amar said several times to Balwant, "I will kill you" but he could not press the trigger of the revolver. Can Amar be convicted for attempt to murder? Give reasons for your answer.

[UP PCS (J), 1987]

6. Discuss the liability of 'A' in the following case

'A' wants to kill 'B' with arsenic poison and with that purpose administers sugar to him in food, believing the sugar to be arsenic.

[UP PCS (J), 1991, 1992]

7. What are the different stages involved in the commission of a crime? How would you distinguish them inter se?

[UP PCS (J), 1992]

8. Distinguish between Preparation and attempt.

[UP PCS (J), 1997]

9. a) Point out the distinction between intention, preparation and attempt.

b) Is A guilty of criminal attempt in the following case?

A with the intention of picking the pockets of B, puts his hands into B's trousers and removes a bundle of papers. A subsequently discovers that the bundle contained old and discarded Laundry receipts which B had kept with him for the purpose of throwing them away in a dust bin.

[R.J. S (J), 1970]

10. Please bring out difference between 'preparation' and 'attempt to commit an offence'.

A pickpocket suspecting that B carried a purse in his pocket put his hand in it but the pocket was empty. Please record your opinion if A is guilty of attempt to commit theft.

[R.J. S (J), 1974]

11. a) A intends to murder B, his enemy. He buys a knife for that purpose. A is arrested. Is he guilty of preparation of commit murder?

b) A, a state prisoner escapes from jail. He is arrested from a place where he was

given shelter and food by B, his wife. Is B liable to be prosecuted? [R.J. S (J), 1980-81]

12. 'A' and 'B' decide to murder 'C' when he gets down at the Railway Station from the evening train. They go to the railway station for this purpose but 'C' does not arrive by the evening train. 'A' and 'B' come back home. What offence, if any, is committed by 'A'?

[R.J. S (J), 1984]

13. 'A' shoots at 'B' aiming at his head, but misses 'B' completely. What offence, if any, is committed by 'A'?

[R.J. S (J), 1984, 94]

OFFENCES AGAINST MARRIAGE

1. A and B are Hindus and are married under the Hindu Marriage Act, 1955. During the subsistence of their marriage A, the husband, embraces Islam and goes through a second marriage ceremony with C, his girl-friend. On the complaint of B, wife of the first marriage, A is prosecuted for the offence of bigamy under Section 494 of the Penal Code. Decide, citing relevant case law. (Civil Services, 1999)

RESILIENCE LAW ACADEMY

2. A promises to B, his student, and induced her to cohabit with him. He has given her a false assurance of marriage and also fraudulently gone through certain ceremonies of marriage making B to believe that she was a lawful wedded wife of A. Later A refused to recognise her as his wife. What is the offence committed by A? Explain its ingredients. (Civil Services, 2000)
3. Explain whether any offence is committed in the following case – X, husband of W, cohabits with Z. (Civil Services, 2002)
4. A says of a book published by B, "I am not surprised that B's book is foolish and indecent for B is a man of impure mind and bad character." Do these remarks amount to defamation and why? [R.J. S (J), 1977]
5. a) Define the criminal offence of adultery bringing out all its ingredients.
b) Chanchaldas married Seeta with Hindu rites and ceremonies in 1970. Failing to beget any child from Seeta, he married Radha in 1978. Seeta prosecuted him for adultery. Argue the case for Seeta.
c) Mathuradas married Sudha by Hindu rites and ceremonies in 1970. In 1979 he converted to Islam and married Rehana a Muslim girl, with Muslim rites. Sudha prosecuted him for adultery. Argue the case for prosecution. [R.J. S (J), 1979]
6. What are the offences relating to marriages? [R.J. S (J), 1986]

GENERAL DEFENCES

1. Write a short note on the right of private defence of a person. (Punjab Civil Services, 1995 II)
2. a) A, a surgeon, knowing that a particular operation is likely to cause death of Z, who suffers under a painful complaint, but not intending to cause Z's death and intending, in good faith, Z's benefit, performs that operation on Z with Z's consent. Z dies as a result of the operation. What offence if any, is committed by A? Give reasons.
b) Define an Abettor; and decide whether A in the following illustrations is an Abettor or not:
 - a. A intends to cause death of Z and instigates B, a child of 7 years of age to do an act which causes Z's death. B in consequence of the abetment did the act in the absence of A.
 - b. A instigates B to instigate C to murder Z. B accordingly instigates C who commits, the murder of Z. (Punjab Civil Services, 1995 II)
3. The village Harijans who had been denied minimum wages for considerable period had marched in a procession to the house of the landlord to demand justice. Some members of the procession were shouting abusive slogans and brandishing lathis to display their anger. The house of the landlord was well protected by high boundary wall and iron gate. On seeing the procession the guards closed the iron gate to keep away the approaching crowd. The Harijan leaders were having heated arguments with the watchmen for having blocked their access to the landlord by closing the iron gate and some of them were using force against the gate. Just then Raghuvendra, the

RESILIENCE LAW ACADEMY

youngest sons of the landlord, fired with his rifle two shots on the crowd and killed one person. Discuss: (i) Whether Raghuvendra has a right of private defence under the situation? (ii) Was Raghuvendra justified in going to the extent of causing death?

(Punjab Civil Services, 2001)

4. "It is not every kind of idle and frantic humour of a man or something unaccountable in his actions, which will show him to be such a mad man as is to be exempted from punishment, but where a man is totally deprived of his understanding and memory and does not know what he is doing any more than a wild beast, he will properly be exempted from punishment of law." Explain. (Civil Services, 1985)

5. A hung his umbrella at club counter at 5 p.m. on 29-7-87 but it was not there when he wanted to be back home at 9 p.m. He was upset by this loss and decided that he would take away the umbrella of some one else next day. When he was leaving the club next night, he saw an umbrella on the hanger and took it away. In fact, the man at the counter had kept A's umbrella under the counter on 29-7-87 while leaving for home, considering that some member had forgotten to collect back and he had put it up on the hanger next evening. Is A liable for attempt to commit theft in this case? (Civil Services, 1987)

6. "The defence of consent has but a limited purpose in criminal law." Discuss. (Civil Services, 1988)

7. Discuss the rule in Rylands vs. Fletcher. Examine whether this rule is applicable in case of physical injuries caused to innocent persons by discharge of noxious fumes from industrial plants. (Civil Services, 1989)

8. Examine the following statement: (i) Instigation of minor to commit suicide amounts to abetment of murder. (ii) Killing another in excessive self-defence but without pre-meditation is not murder. (Civil Services, 1991)

9. Explain how far the minority of the accused person may be pleaded as a ground of defence in a criminal prosecution. (Civil Services, 1992)

10. Amplify the view that our penal law does not recognise insanity that affects our emotions which prompt our actions, and the will by which our actions are performed. (Civil Services, 1993)

11. The law relating to murder recognises the principle that "anger is a passion to which good and bad men are subject, and mere human frailty and infirmity ought not to be punished equally with ferocity or other evil feeling." Elucidate. (Civil Services, 1993)

12. Examine the criminal liability of A in the following:

a) A, with a known background of sleep-walking, got up from sleep one night, walked to the garage while asleep and drove away in his car in that condition for quite some distance. He halted the car at his brother-in-law's place, entered the room where his brother-in-law was asleep and gave a hard blow to him, thereby severely injuring him. In a prosecution for attempt to commit murder A's lawyer pleads non-insane automatism, on the basis of which he seeks an acquittal. Decide. Do you think that this case should be dealt with under section 84 of the Indian Penal Code?

b) A buys milk from B knowing that it contains water, in order to have B prosecuted for selling adulterated milk. What offence has A committed? (Civil Services, 1996)

RESILIENCE LAW ACADEMY

13. "Under the Indian Penal Code there is not right of private defence in cases in which there is time to have recourse to the protection of public authorities." Examine. (Civil Services, 1997)
14. On what grounds can a person committing any harm on a consenting individual be not punished? Is there any limit to the harm or can it be a harm to any extent? (Civil Services, 1998)
15. "Nothing is an offence which is done by a person who is bound by law to do it." Discuss. (Civil Services, 2001)
16. "Mere medical insanity is not a valid defence under the Indian Penal Code but legal insanity is." Discuss. (Civil Services, 2001)
17. The defence of irresistible impulse has frequently been rejected in charges of murder. Critically examine. (Civil Services, 2002)
18. "The right of private defence extend under certain circumstances the causing of death." Explain the statement with illustration. [U. P. PCS (J)]
19. a) What type of persons can claim benefit of an exception embodied in Section 84 of the Indian Penal Code.
b) A, who suffered from a long illness became 'non-compos' and committed murder of B. Can he claim benefit under the exception dealt with in Section 84. [R.J. S (J), 1974]
20. a) Under what circumstances a person can claim the right of private defence of the body and the property? Whether such a right is available against a person of unsound mind?
b) B aimed his revolver at A. In order to save himself a dealt a 'pharshi' blow on the hand of B with a result that the revolver fell down on the ground. Thereafter A gave another 'pharshi' blow no the head of B causing the instantaneous death of B. Can A justifiably claim the right of private defence in causing death [R.J. S (J), 1974]
21. The accused A was Colonel in the Army and was in active service. One day he came home and found that his wife B was cold towards him. During the talks he learnt from her that during his absence his friend C had established liaison with B. A was provoked, lost self control and in a fit of rage went to C's house and shoot him dead. At the trial A pleaded grave and sudden provocation. Please record your opinion regarding A's liability in the circumstances. [R.J. S (J), 1974]
22. Define "Inquiry" with reference to Criminal Procedure Code. [R.J. S (J), 1976]
23. a) What do you understand by "Right of Private Defence"? Under what circumstances is that plea of any help?
b) There is a free fight between two parties, in which persons on both sides received injuries. Is any one of them entitled to claim the benefit of that plea? Imagine necessary fact in which the plea of self-defence is claimed by an accused charged under Section 326 of the Indian Penal Code and write a short order deciding that plea. [R.J. S (J), 1979]
24. Answer the following problems giving brief reasons for your answer:
a) A Session Judge at the trial convicts an innocent person for murder and sentences him to death. Can the Judge be prosecuted for this wrong?

RESILIENCE LAW ACADEMY

- b) A, a robber scales the wall and enters the house of B. B a wakened from sleep, seeing A, shoots him dead. Is this murder?
- c) A gang of armed dacoits compel a blacksmith to take his tools and open the door lock of a house. Is this abetment of house-breaking? [R.J. S (J), 1980-81]
25. A smith 'A' is forced by a gang of dacoits by threat of instant death to force the door of a house for the dacoits to enter and plunder it. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]
26. 'A' under influence of madness attempts to kill 'B'. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]
27. 'A' is surrounded in a jungle by his enemies who are armed with deadly weapons. Even before any one of them uses his weapon, 'A' takes out his pistol and shoots at them indiscriminately and thereby escapes, killing two of them. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]
28. 'A' genuinely suspecting 'B' of having committed theft in his house, informs the police about his suspicion. It is later found that 'B' had noting to do with the theft in the house of 'A'. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]
29. 'A' who lives alone, while sleeping at night wakes upon hearing some noise. He finds his main door broken open. He finds someone moving inside his house armed with a knife. He shoots him dead. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]
30. 'A' while walking back home at night hears a woman crying for help. He finds that a man is trying to rape her. He hits the man with a stick on his head resulting in his death. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]
31. A is at work with a hatchet the head flies off and kills a man who is standing-by. What offence has been committed by A? [R.J. S (J), 1986]
32. A, a surgeon, in good faith communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. What offence has been committed by A? [R.J. S (J), 1986]
33. A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob and he cannot fire without risk of harming young children who are mingled with the mob. By so firing, A harms a few children. What offence has been committed by A? [R.J. S (J), 1986]
34. A, a public servant, is authorized by a warrant from a Court of Justice to apprehend Z. B knowing that fact and also that C is not Z, willfully presents to A that C is Z and thereby intentionally causes A to apprehend C. What offence, if any, has been committed by B? [R.J. S (J), 1991]
35. When the right of private defence of body and of property commences and how long it continues? [R.J. S (J), 1991]

GENERAL PRINCIPLES

1. Write short note on mens rea. (Punjab Civil Services, 1995 II)
2. Explain fully the extra-territorial jurisdiction of the Indian courts. A, a resident of Multan (now in Pakistan), committed theft in November 1994 in a bank there which has

RESILIENCE LAW ACADEMY

its head-office in India and then migrated to Amritsar and became a citizen of India. Can he be tried for the offence committed by him as aforesaid by a court in Punjab (India)? (Punjab Civil Services, 1995 I)

3. Write short notes on:

(a) Criminal liability of the master for the acts of his servant

(b) Actus non facit reum, nisi mens sit rea (An act does not render one guilty, unless the mind is guilty).

(c) Importance of motive in criminal liability. (Punjab Civil Services, 1995 I)

4. "Protagonists of the 'an eye for an eye' philosophy 'demand for death'. The 'Humanists' on the other hand press for the other extreme viz., death in no case'." Discuss. (Civil Services, 1985)

5. "In some instances, an omission will create criminal responsibility without any positive act." Discuss. (Civil Services, 1985)

6. "On principle, ignorance of law should be as good a defence as ignorance of fact, for the one is as effective in negating mens rea as the other." Discuss. (Civil Services, 1985)

7. "The cherished principle or golden thread of proof beyond reasonable doubt, which runs through the web of our law not to be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. The excessive solicitude reflected in the attitude that a thousand guilty men may go out but one innocent martyr shall not suffer if a false dilemma. Only reasonable doubt belongs to the accused, otherwise any practical system will break down and lose credibility with the community.' Discuss. [Shivaji Sahab Rao Babde vs. State of Maharashtra 1973 Cri. L. J. 1785 SC] (Civil Services, 1986)

8. 'Where the subject matter of the statute is the regulation for public welfare (for example, sale of food and drink), it can be inferred that legislature intended that such activity should be carried out under strict liability. The presumption is that those in charge of such activity are made responsible for seeing that they are complied with. Where such presumption is to be inferred, it displaces the ordinary presumption of Mens Rea'. Discuss. [State of Gujarat vs. Acharya D. P. Pandey AIR 1971 SC 866] (Civil Services, 1986)

9. 'In a criminal prosecution, apart from the injured party and the offender, the community as a whole has an interest in the detection and punishment of the offender and the interest may be defeated if the mere expiry of time is allowed to operate as a bar to the prosecution'. Yet modern Indian Law allows certain offenders to go scotfree by virtue of lapse of time. Discuss. [42nd Report, Indian Law Commission, Page 342] (Civil Services, 1986)

10. 'While, in general, one applauds the sound individualisation of treatment and feasible programmes of crime prevention and rehabilitation, it should also be remembered that the rule of law, as regards crime and punishment, is the greatest achievement of western political experience.' Discuss. (Civil Services, 1987)

11. 'It has always been a principle of common law that mens rea is an essential element in the commission of any criminal offence against the common law..... In the case, there is a presumption that mens rea is an essential ingredient in a statutory

RESILIENCE LAW ACADEMY

offence, but this presumption is liable to be displaced either by the words of the statute creating the offence or by the subject matter with which it deals.' Discuss. (Civil Services, 1987)

12. Discuss the importance of mens rea in criminal law. Explain also the role of mens rea in statutory offences. Refer also to relevant case-law. (Civil Services, 1989)
13. "Intention and the act both must concur to constitute a crime." (Civil Services, 2000)
14. A corporation aggregate cannot be fastened with criminal liability. Critically examine. (Civil Services, 2002)
15. It is not at all in doubt that the proof of existence of guilty intent is an essential element in a crime under common law. Critically examine. (Civil Services, 2002)
16. Write Short Note on Mens rea [U. P. PCS (J)]
17. "Crime is a revolt against the whole society and an attack on the civilization of the day." Elucidate and discuss the essential elements of crime. [U. P. PCS (J)]
18. a) Distinguish between intention and motive. Indicate the importance of motive in Law of Crimes. [U. P. PCS (J)]
b) Write a brief note on the criminal liability of corporations. [U. P. PCS (J)]
19. Explain 'mens rea' as an element of criminal liability. Is mens rea relevant in crimes of strict liability? Discuss. [U. P. PCS (J)]
20. Discuss in brief the various modes of punishment provided under the Indian Penal Code. [U. P. PCS (J)]
21. a) Distinguish between 'intention', 'knowledge' and 'motive' giving appropriate illustrations.
b) X having illicit intimacy with Y, a widow residing in A's house enters into the latter's house after taking precaution to conceal his presence from A. A's servant informs him of the presence of X in Y's room. Can X be convicted of any offence? If so what? Give reasons. [R.J. S (J), 1971]
22. What are the different cases under the Indian Penal Code in which a person may be constructively liable for an offence, which he actually did not commit? Explain giving illustrations. [R.J. S (J), 1971]
23. Under what circumstances a person becomes vicariously liable for the act of others? [R.J. S (J), 1975]
24. Under what circumstances and to what extent the Doctrine of Vicarious liability is attracted to criminal cases? [R.J. S (J), 1974]
25. Distinguish between Motive and Intention. [R.J. S (J), 1974]
26. A has an inkpot with him. B wants to fill his pen from that inkpot. A does not allow, still B takes ink from it. Has B committed any offence? [R.J. S (J), 1976]
27. What are the various punishments under Indian Penal Code? [R.J. S (J), 1986]

CONSPIRACY

1. Define Criminal Conspiracy. (Punjab Civil Services, 1995 II)

RESILIENCE LAW ACADEMY

2. Where two persons were accused of Conspiracy and one of them was a public servant. The public servant was acquitted as he was prosecuted without obtaining sanction under Section 197. Indicate whether the conviction of the other accused will be sustainable in appeal despite the acquittal of the public servant. (Punjab Civil Services, 1995 II)
3. Distinguish between the ingredients of Section 34 of Indian Penal Code and Section 120 A of the Indian Penal Code. Cite case law. (Punjab Civil Services, 1995 II)
4. "The doctrine of combination in crime is that when two or more persons unite to accomplish a criminal object whether through physical volition of one or of all, proceeding severally or collectively, each individual whose will contributed to the wrong doing is in law responsible for the whole, in the same way as though performed by himself alone." Discuss. (Civil Services, 1987)
5. Examine how the Supreme Court has expanded the rights of accused and arrested persons by a dynamic interpretation of Article 21 of the Constitution of India. (Civil Services, 1989)
6. "Whereas in criminal conspiracy an agreement between two or more persons is needed, in abetment by conspiracy an engagement between them is enough." Examine. (Civil Services, 1996)
7. The appellant along with the other three named accused were charged under Section 120-B (criminal conspiracy) read with Section 471 and Section 420 IPC for conspiring to use forged documents and thereby induced the Controller of Imports to grant import licences. The magistrate acquitted all accused persons on all charges. The High Court on appeal reversed the acquittal of the appellant and convicted him for the substantive offence as well as conspiracy to commit such offence under Section 120-B of the Indian Penal Code. Do you advise the appellant to appeal to the Supreme Court? Give reasons. (Civil Services, 1998)
8. "The law of criminal conspiracy insists on an agreement between two or more persons whereas in abetment by conspiracy a mere engagement between them may be sufficient." Discuss. (Civil Services, 2001)
9. Write Short Note on Criminal Conspiracy. [U. P. PCS (J)]
10. a) What is abetment? What are the various methods by which abetment is possible? [U. P. PCS (J)]
b) A instigates B to burn C's house. B sets fire to the house and at the same time commits theft of property there. What offences have A and B committed. Discuss. [U. P. PCS (J)]
c) A instigates B to give false evidence, B does not give false evidence. Has A committed any offence? Discuss [U. P. PCS (J)]
11. On receiving consideration of Rs. 10,000/- 'A' agrees to supply 'B' with tools so that he could derail a Calcutta bound train. 'A' supplied the tools to 'B'. Has 'A' committed any offences? [U. P. PCS (J)]
12. Answer the following and state with reasons what offence, if say, has been committed –

RESILIENCE LAW ACADEMY

A instigates B to instigate C to murder D. In consequence, B writes a letter to C instigating him to murder D. C does not read the letter. [U. P. PCS (J)]

13. 'P', 'Q' and 'R' decide amongst themselves to persuade 'B' to steal jewellery from the house of 'M'. They accordingly do so. 'B' readily agrees and sets out towards M's house in order to steal jewellery. What offence or offences if any, have 'P', 'Q' and 'R' committed? Has 'B' also committed any offence? [U. P. PCS (J)]

14. Who is an 'abettor'? Explain in detail when does he become liable for the offence committed or even not committed. [U. P. PCS (J)]

15. Define Abetment and Criminal conspiracy. [U. P. PCS (J)]

16. State with reasons, what offence, if any, has been committed by "A" in the case: "A" instigates "B" to commit theft in the house of "C". "B" commits theft in C's house and afterwards sets fire to it. [U. P. PCS (J)]

17. "Rape is the most contemptuous act against society but penal provisions for this offence are not so stringent as ought to be. "Will you like to suggest death penalty for committing rape? If yes, why? Explain. [U. P. PCS (J)]

18. a) What is abetment? When does it amount to an offence?

b) Is A liable as an abettor in the following case?

i) A instigates B to murder C, B refuses to do so.

ii) A instigates B to kill C by poison. B kills C with a sword.

iii) A instigates a child to put poison into the food of B. The child by mistake puts poison into the food of C. C dies after taking the food. [R.J. S (J), 1970]

19. A asked B to help him in committing murder of C. B agrees but nothing is done in pursuance of such an agreement. Can A and B be charged with the offence of conspiracy? Answer with reasons. [R.J. S (J), 1977]

20. 'A' instigates 'B' to murder 'C'. 'B' refuses. What offence, if any, is committed by 'A'? [R.J. S (J), 1984]

21. When is a person said to 'abet' the doing of a thing? [R.J. S (J), 1984]

22. A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. A knew that the grievous hurt abetted was likely to cause death. What offence has been committed by A? [R.J. S (J), 1986]

23. Write a brief note on criminal conspiracy. [R.J. S (J), 1991]

ABDUCTION

1. Ritender, a class XII student came from a rich family and was very friendly with Smitha, a class X student in the same school. Ritender and Smitha had jointly participated in several school dramas and youth camps. As Smitha liked Ritender's company she often insisted that Ritender took her out to movies and restaurant during school hours. Ritender was conscious that Smitha was a minor, that is why he was very particular in reaching her home after every date. In the last incident Ritender had thrown a birthday party to which several of his classmates including Smitha were invited. After the party that lasted till the late hours of night, Smitha refused to return

RESILIENCE LAW ACADEMY

back home or leave Ritender's house. This time Ritender did not persuade Smitha to return home. Smith was 17 years and 10 months on the day she decided to stay on. Parents of Smitha are interested in prosecuting Ritender. Can Ritender be held liable for the offence of kidnapping from lawful guardianship? (Punjab Civil Services, 2001)

2. Y alleges that X, a Government servant, sought a bribe from him. Y writes to X's superior complaining against X. He follows it up by sending copies of the complaint to some Members of Parliament and representatives of the press. X denies the truth of the allegation. Can X sue Y for defamation? On what grounds? (Civil Services, 1992)

3. Study very carefully the following two situations:

Situation A: While playing on a cricket ground owned by the defendant a batsman hit the ball so hard that it went over the boundary wall and hit the plaintiff walking on an adjoining street. In the history of the eighty year old ground the ball had been so hit out five or six times.

Situation B: Trespassing children used to play football in an open area belonging to the defendant adjoining a busy road. In the absence of a high boundary wall the ball used to go on to the road frequently and children used to go there to fetch the ball back. One day the ball was shot out on the road where it hit a scooter driver causing him to fall and suffer injuries.

Compare the tortious liability of the defendants in above mentioned situations. Give reasons and cite case-law. (Civil Services, 1994)

4. X, a girl of 14, is ill-treated by her father and step mother A, the neighbour under the belief that X was 18, takes her away from her parent's house on her request but without the consent of the parents. Is he guilty of any offence? If yes, analyse the nature of the offence and cite relevant cases. (Civil Services, 2000)

JOINT AND CONSTRUCTIVE LIABILITY

1. Bring out the difference between common intention and common object giving an illustration. A purchased a Bungalow which had a power generator. His neighbours, B, C, D, E and F requested him not to use it at night but A did not desist and continued its use which offended them. R incited them and they stormed into A's Bungalow with lathis and seriously injured A's son. Other family members were also attacked. They also killed the pet dog. What is the criminal liability of R, B, C, D, E & F. (Punjab Civil Services, 1995 II)

2. Write short note on Constructive criminal liability. (Punjab Civil Services, 1995 II)

3. Baladin, Mata Prasad, Devendra, Banwari and Brinda had been in look-out for one who was out destroying their crop at night. On that fateful night they caught Jaikaran red-handed, with heavy chopper used for cutting down standing crop and a bag containing several kilos of unprocessed crop. The five of them tied Jaikaran to a mango tree in the village centre and began pounding him with kicks and blows. Since Jaikaran was not willing to own responsibility for the earlier incidents of destruction, Baladin brought a burning bamboo pole and torched him all over the body. In order to compel

RESILIENCE LAW ACADEMY

Jaikaran to confess Baladin thrust the burning bamboo pole into his mouth causing extensive injuries to Jaikaran. On the intervention of Sarpanch Jaikaran was untied, taken to hospital for treatment, where he died the next morning. The doctor testified that the injuries were cumulatively sufficient to cause death in ordinary course of nature. What offence has been committed by the five accused? Can Baladin alone be prosecuted for murder under Section 302? Can Baladin alone be prosecuted for murder under Section 302? What clause of Section 300 is applicable in this case? (Punjab Civil Services, 2001)

4. The common object of an unlawful assembly was to cause grievous hurt to X. one of the members of the assembly abuses death of X. For what offence, if any, would the other members of the assembly be liable? (Civil Services, 1985)

5. a) The Principle of joint action enunciated in Section 34 of IPC is very different from the principle of abetment of offender. Discuss.

b) A entered a closed dense forest area with unlicensed gun for 'Shikar' (gaming) and after going quite deep into it, fired a gun shot, feeling movement and voice as if of some animal behind the bushes. However, a man X who was collecting firewood got hit and killed. On murder charge against A, defence, takes the plea of accident. Decide.

c) A, a Pakistani standing on the Pakistan Soil shot down B, his neighbouring Indian cultivator working on his land in India. Sons of B rushed and dragged the Pakistani to Wagha Border Indian Police Station. Murder charge was brought against A. The District and Sessions Judge Amritsar convicted him for the murder. Discuss the legality of this conviction. (Civil Services, 1988)

6. What is an 'unlawful assembly' as defined in the Indian Penal Code? When is a member of an unlawful assembly constructively liable for the crimes committed by other members of the unlawful assembly? (Civil Services, 1989)

7. a) A, B and C agree to kill X. With the money given by A, B and C purchase two revolvers, go to the residence of X, and both shoot at him. X dies. It is not known whose shot actually killed X. For what offences may A, B and C be charged?

b) Under a deed containing complicated provisions, a person gifted his house to a charitable trust, but retained a right to live in that house for his lifetime. He invited a friend of his to live with him in the house. The person died, and the friend continued to live in the house. When the trust demanded the friend to vacate the house, he replied that the deceased had given to him a right to live in the house for the rest of his life. The trust instituted a criminal complaint against the friend of the deceased for house trespass. Will the trust succeed? (Civil Services, 1989)

8. A, B, C, D and E broke into a house during night. A and B carried instruments useful for housebreaking, breaking iron chests, C and D carried knives, and E a revolver. As C was snatching a gold chain forcibly from an inmate. Another inmate P pointed a gun at him. Before P could shoot, E shot him dead. All intruders escaped with the gold chain and other ornaments. Outside the house, a neighbour N attempted to catch hold of D, but D killed him by stabbing. What are the offences for which these five may be charged? Is it possible to plead the right of private defence with respect to killing of P? (Civil Services, 1990)

RESILIENCE LAW ACADEMY

9. Can less than five person be charged, tried and convicted for the offence of unlawful assembly? (Civil Services, 1993)
10. X group, consisting of seven persons, waylaid Y group of persons. In the fighting the ensued between the two groups A, a person belonging to the X group, was injured. Because of the injury A had to withdraw to one side and he took no further part in the fight that continued between the two groups. Sometime later a person belonging to the Y group was killed in the fighting. A along with other persons of the X group are prosecuted for the murder. Decide. (Civil Services, 1997)
11. a) Explain the law relating to constructive criminality and bring out the distinction between 'common object'. [UP PCS (J), 1983]
- b) P, Q and R had common intention to rob S. While P and Q entered into the house of S and beat and robbed him, R stood outside to warn P and Q of any danger. On being prosecuted along with P and Q. R pleaded that he did neither commit the robbery nor caused injuries to S and hence was not guilty of any offence. Decide. [UP PCS (J), 1983]
12. Write short note on Unlawful assembly? [UP PCS (J), 1985]
13. Explain 'Constructive Liability' in Penal law with Special reference to Section 34 (common intention) and Section 149 (common object) of the Indian Penal Code. [UP PCS (J), 1986]
14. Discuss liability founded on common intention and that founded on common object under the Indian Penal Code. [UP PCS (J), 1987]
15. a) Distinguish between 'common intention' and 'common object' in Sections 34 and 149 respectively of the I.P.C. [UP PCS (J), 1988]
- b) A, B, C, D and E set out for committing dacoity in the house of X. E being dead drunk could not accompany his companions and fell down under a tree. A, B, C and D entered the house of X and by show of force took away gold ornaments. Thereafter they came to the place where E was lying under the tree and gave him a part of the booty. What offence of offences, if any, has E committed. State with reasons. [UP PCS (J), 1988]
16. A and B successively and independently would C with murderous intent. C dies from the loss of blood caused by both wounds together, when he would not have died form either alone. Discuss the criminal liability. [UP PCS (J), 1992]
17. 'There is much difference in the scope and applicability of Sections 34 and 149 though they have some resemblance and are to some extent overlapping.' Comment. [UP PCS (J), 1992]
18. Giving reasons, state what offence, if any, has been committed by 'A' in any of the following cases:
- a) 'A' placed a bomb in a medical store and gave the people inside three minutes to get out before the bomb exploded. 'B', an arthritic patient, failed to escape and was killed. [UP PCS (J), 1992]
- b) 'A' and 'B' swimming in the sea after a shipwreck, got hold of a plank not large enough to support both. 'A' pushed off 'B' who got drowned. [UP PCS (J), 1992]
- c) 'A', a prostitute communicated venereal disease to a man who has sexual intercourse with her on the strength of her representation that she was free from any disease. [UP PCS (J), 1992]

RESILIENCE LAW ACADEMY

19. Distinguish between rape and adultery. [UP PCS (J), 1997]
20. 'A', 'C' and 'D' enter into an agreement for division of gains acquired or to be acquired by them by fraud. A acquired against by fraud and did not give any share to 'C' and 'D'. Can 'C' and 'D' file a suit against 'A' for division of the gains? Solve the problem. [UP PCS (J), 2000]
21. What are drunkenness and unsoundness of mind grounds for exemption from criminal liability? Discuss with the help of case law. [UP PCS (J), 1982]
22. A finding B attacked by C with knife shoots at C thereby intending to save B, the shot misses C and kills B. [UP PCS (J), 1984]
23. a) Explain right of private defence in respect of body stating the circumstances when it extends to causing of death of the aggressor. [UP PCS (J), 1987]
b) 'A' thief enters 'B's house and opens his safe. 'B' raises an alarm and the thief beats a retreat. While the thief is still in the house, 'B' fires at him and kill him. What offence has been committed by 'B'. [UP PCS (J), 1987]
24. 'A' mistake of fact is a good defence but a mistake of law is not'. Discuss. [UP PCS (J), 1991]
25. a) Explain the right of private defence of body. Under what circumstances does it extend to cause death? [UP PCS (J), 1991]
b) 'B' while bleeding profusely goes to 'A' a surgeon and there loses consciousness. There upon 'A' immediately performs an separation upon him thinking that in will bring him back to consciousness. But 'B' dies immediately offer the operation. Discuss the liability of 'A' in the case. [UP PCS (J), 1991]
26. Discuss the extent to which drunkenness can be pleaded as a defence to a criminal charge. [UP PCS (J), 1991, 1997]
27. Discuss unsoundness of mind as a defence to criminal liability. How is legal insanity different from medical insanity? Refer to decided cases. [UP PCS (J), 1992, 1997]
28. "The right of private defence is not available for retaliation but for averting an impending danger not of his creation." Discuss and also state under what circumstances, a man can go to the extent to killing in defence of his person? [UP PCS (J), 1999]
29. Define 'consent' in criminal law and state the cases in which the consent of the harmed or his guardian exempts the person inflicting the harm from criminal liabilities. [UP PCS (J), 1999]
30. Find out the test to distinguish the state of intoxication and state of unsoundness of mind within legal provisions. [UP PCS (J), 2000]

OFFENCES AGAINST PUBLIC TRANQUILITY

1. The offence of riot is not committed unless all the five elements are present. (Civil Services, 2002)
2. Write Short Note on "Cheating". [UP PCS (J), 1982]
3. Distinguish between "Rioting" and "Affray". [UP PCS (J), 1984]

RESILIENCE LAW ACADEMY

4. A falsely representing himself to be a CID police officer promises B to appoint him as constable and gives B an unintelligible order. What offence A has committed?
[R.J. S (J), 1988]
5. A is a public servant. B, who is wife of A, receives a present as a motive for soliciting A to give an office to a particular person. What offence, if any, has been committed by B?
[R.J. S (J), 1988]

ABETMENT

1. A, a surgeon, knowing that a particular operation is likely to cause death of Z, who suffers under a painful complaint, but not intending to cause Z's death and intending, in good faith, Z's benefit, performs that operation on Z with Z's consent. Z dies as a result of the operation. What offence if any, is committed by A? Give reasons.
(Punjab Civil Services, 1995 II)
2. Define an Abettor: and decide whether A in the following illustrations is an Abettor or not:
 - a) A intends to cause death of Z and instigates B, a child of 7 years of age to do an act which causes Z's death. B in consequence of the abetment did the act in the absence of A.
 - b) A instigates B to instigate C to murder Z. B accordingly instigates C who commits, the murder of Z. (Civil Services, 1995 II)
3. "An abetment of an offence being a complete offence by itself, an attempt of abetment of an offence is also an offence." Examine. (Civil Services, 1995)
4. "Whereas in criminal conspiracy an agreement between two or more persons is needed, in abetment by conspiracy an engagement between them is enough." Examine. (Civil Services, 1996)

OFFENCES AGAINST STATE

1. Explain the elements of the Offence of Sedition. (Civil Services, 1990)

DEFAMATION

1. Write Short Note on Defamation. [UP PCS (J), 1983]
2. What is defamation and its exceptions according to Section 499 of the Indian Penal Code? [UP PCS (J), 1986]
3. Giving illustrations, state the ingredients of the following offence - "Defamation".
? [UP PCS (J), 1988]
4. Define defamation and discuss its essential elements. [UP PCS (J), 1992]
5. a) Explain and illustrate the provisions of the Rights of Private Defence as embodied in the Indian Penal Code. [UP PCS (J), 1997]

RESILIENCE LAW ACADEMY

- b) When is a person said to defame another under the Indian Penal Code? What defences are available to a person charged with the offence of Defamation? Illustrate your answer. [UP PCS (J), 1997]
6. a) "The law of defamation under Indian Penal Code has been retained because criminal law alone can effectively deal with such law breakers As regards to the freedom of speech and expression, it is sufficiently safeguarded by the several explanations and exceptions added to the definition of defamation in our Code". Explain. [UP PCS (J), 2000]
- b) The accused published in his newspaper an account of an outrage on a woman alleged to have perpetrated by two constables within the jurisdiction of certain Thana in which four constables were stationed. The charge was not made against any particular and identifiable constables. Was the accused guilty of defamation? [UP PCS (J), 2000]
- c) 'A', a shopkeeper says to 'B' who is his manager, "sell nothing to 'Z' unless he pays you ready money for I have no opinion of his honesty." 'Z' prosecutes 'A' for defamation. Decide the case. [UP PCS (J), 2000]
7. Distinguish between Defamation and intentional insult and illustrate. [R.J. S (J), 1971]
8. a) Define defamation and discuss the exceptions which take the act of the purview of the offence of defamation.
- b) A sarcastically says, "Z is an honest man, he never stole B's watch." By these words A intended to cause it to be believed that it was Z who stole the watch of B. What offence if any, committed by A? [R.J. S (J), 1974]
9. A was a Minister and while he was sitting on the treasury benches, B, a member of the Assembly called him a 'thief' and accused him of taking bribe in a case. B further repeated his allegations outside the assembly chamber. A lodged a complaint for defamation against B for both the incidents. Please point out what defences, if any, are open to B. [R.J. S (J), 1974]
10. A knowing B to be illiterate addresses a letter to him containing defamatory matter regarding B. Has A committed offence of defaming B? Yes or No. [R.J. S (J), 1976]
11. A says of a book published by B, "I am not surprised that B's book is foolish and indecent for B is a man of impure mind and bad character." Do these remarks amount to defamation and why? [R.J. S (J), 1977]
12. Enumerate the exceptions when defamation is not punishable as a crime. [R.J. S (J), 1980-81]

DEFINITION

1. Write Short Note on "Public Servant" and "to Counterfeit". [UP PCS (J), 1985]
2. Write Short Note on "Wrongful gain" and "Wrongful loss". [UP PCS (J), 1986]
3. Explain the following with reference to Indian Penal Code – Government, Moveable property, Wrongful loss, Fraudulently, Special Law, Reason to believe, India, Animal, Dishonestly, Will, Local law. [R.J. S (J), 1976]

RESILIENCE LAW ACADEMY

4. Explain the following terms – dishonestly, Fraudulently, Reason to believe, Voluntarily, Criminal knowledge or intention with reference to the doctrine of 'mens rea'. [R.J. S (J), 1980-81]
5. Whether a member of Legislative Assembly is a public servant? [R.J. S (J), 1988]

GIVING FALSE EVIDENCE/FABRICATING FALSE EVIDENCE

1. a) When can a person be held guilty for giving false evidence?
b) Can a person be held guilty for giving false evidence if he deliberately spoke a lie before the investigating officer when he was examined under Section 161 Cr.P.C.? [R.J. S (J), 1975]
2. a) A, a robber scales the wall and enters the house of B. B awakened from sleep, seeing A, shoots him dead. Is this murder?
b) A Public servant was arrested on a charge of corruption with a ten rupee marked currency note in his pocket. When the Policeman were busy with drawing up a search memo he chewed and ate up the note. Is this an offence? [R.J. S (J), 1980-81]
3. In a criminal trial 'A' is proved to have given false evidence against 'B' intending thereby that 'B' may be convicted of dacoity, an offence for which the punishment may be rigorous imprisonment for life or for a term of ten years rigorous imprisonment and fine. What is the punishment that can be awarded to 'A' in such a case? [R.J. S (J), 1984]
4. A, being legally bound to produce a document before District Court, intentionally omits to produce the same. What offence has been committed by A? [R.J. S (J), 1986]
5. A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of justice. What offence has been committed by A? [R.J. S (J), 1986]
6. A, a police officer, tortures Z in order to induce Z to confess that he committed a crime. What offence does A commit? [R.J. S (J), 1986]
7. A puts jewels into a box belonging to Z with the intention that they may be found in that box and that this circumstances may cause Z to be convicted of theft. What offence, if any, has been committed by A? [R.J. S (J), 1991]
8. A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. What offence, if any, has been committed by A? [R.J. S (J), 1991]

1. 'Burden of Proof moves like pendulum of a watch'. Discuss with reference to provisions of Indian Evidence Act and state its relation with Presumption of Fact and of Law. (10 Marks)

2. 'No one can be compelled to be witness against himself.' Discuss (5 Marks)

3. 'Section 27 of Indian Evidence Act is exception to Sections 24, 25 and 26 of Indian Evidence Act.' Discuss with reference to case law. (10 Marks)

RESILIENCE LAW ACADEMY

4. "In all robbery there is either theft of extortion." Comment. (5 Marks)
5. "Nothing is an offence which is done by a person who is bound by law to do it." Discuss. (5 Marks)
6. What changes are incorporated in the law dealing with the offence of rape in the recent past? (15 Marks)
7. In the scheme of the Penal Code, "culpable homicide" is the genus and "murder" its species. All murder is "culpable homicide" but not vice-versa – Supreme Court in State of A.P. vs. Punneya – 1977 Cr. L. J. I. (S. C.). Discuss and illustrate. (10 Marks)
8. What are the objects of summary trials? What offences may be summarily tried and by whom? Give a brief account of general provisions of summary trial as contained in the Criminal Procedure Code. (10 Marks)
9. "Every offence shall ordinarily be enquired into and tried by court within the local limits of whose jurisdiction it was committed." Discuss fully this rule. Are there any exceptions to this rule? If so, state them. (10 Marks)
10. Give a critical account of the broad principles regarding grant of bail in criminal cases. Can a bail be demanded as a matter of right? Under what circumstances a bail can be cancelled? Illustrate your answer. (10 Marks)
11. Describe the law and procedure for maintenance of wife, children and parents in Cr.P.C. (10 Marks)

RESILIENCE LAW ACADEMY

INDIAN PENAL CODE

1. X, Y, Z go to kill A with a prior agreement. X gets too drunk on the way and sleeps under a tree just outside the house of A. Y and Z kill A, and thereafter wake up X and they all walk away. What is the liability of X? What would be his liability if he had got injured in the fight with A and then had got retired hurt?
(10 Marks)

2. A Hindu girl of 17 years old studying in XII standard under the care and protection of her parents was living with them. She was having criminal intimacy with a shopkeeper running a shop near her house. One day the girl left her house and went to the shopkeeper and asked him to take her away permanently. The shopkeeper took her away to several places. Later on, he was arrested under section 363 of the Indian Penal Code. State with reasons whether the shopkeeper be convicted. Answer with reasons.
(15 Marks)

3. The village Harijans who had been denied minimum wages for considerable period had marched in a procession to the house of the landlord to demand justice. Some members of the procession were shouting abusive slogans and brandishing lathis to display their anger. The house of the landlord was well protected by high boundary wall and iron gate. On seeing the procession the guards closed the iron gate to keep away the approaching crowd. The Harijan leaders were having heated arguments with the watchmen for having blocked their access to the landlord by closing the iron gate and some of them were using force against the gate. Just then Raghuvendra, the youngest son of the landlord, fired with his rifle two shots on the crowd and killed one person. Discuss:

- i. Whether Raghuvendra has a right of private defence under the situation?
- ii. Was Raghuvendra justified in going to the extent of causing death?

(15 Marks)

4. Baladin, Mata Prasad, Devendra, Banwari and Brinda had been in look-out for one who was out destroying their crop at night. On that fateful night they caught Jaikaran red-handed, with heavy chopper used for cutting down standing crop and a bag containing several kilos of unprocessed crop. The five of them tied Jaikaran to a mango tree in the village centre and began pounding him with kicks and blows. Since Jaikaran was not willing to own responsibility for the earlier incidents of destruction, Baladin brought a burning bamboo pole and torched him all over the body. In order to compel Jaikaran to confess Baladin thrust the burning bamboo pole into his mouth causing extensive injuries to Jaikaran. On the intervention of Sarpanch Jaikaran was untied, taken to hospital for treatment, where he died the next morning. The doctor testified that the injuries were cumulatively sufficient to cause death in ordinary course of nature. What offence has been committed by the five accused? Can Baladin alone be prosecuted for murder under Section 302?
(15 Marks)

RESILIENCE LAW ACADEMY

5. Someshwar, a domestic servant, was annoyed by the master's dilly-dallying in the payment of salary. To teach a lesson to the master he removed a jewel box from the almirah and placed it in the cow shed in the same house. The jewel box was located after searching for over a month. Discuss the offence for which Someshwar can be prosecuted? Would your answer be different if Someshwar had removed the jewel box with a view to ultimately stealing the jewels when the loss is forgotten?
(15 Marks)

6. A gave severe beating to B who fell down and became unconscious. Thinking that B had died 'A' took away B and placed him on railway line so that B's body be crushed under the train. This was done by A in order to give it a colour of suicide and conceal his involvement. The train came and B was crushed. The post-mortem report revealed that B died of injuries caused by train. What offence or offences if any have been committed?
(15 Marks)

7. Discuss the changes made in 'Rape Laws' by the Criminal (Amendment) Act, 2013.
(15 Marks)

RESILIENCE

RESILIENCE LAW ACADEMY

CRIMINAL LAW

SECTION-1

1. Compare the principles of joint liability for a criminal act committed by several persons not exceeding four with that for a criminal act committed by several persons not less than five bringing out clearly the points of distinction, if any.

2. (a) Describe in your own words the difference between Murder and Culpable Homicide not amounting to Murder.

(b) A has an enlarged spleen. B knows this and gives him a kick on the abdomen which ruptures the spleen. A week later A dies in consequence of the injury received. Discuss the guilt of B.

(c) A intending to kill B, shoots at him but the shot misses him and accidentally shoots C whom he never intended to injure. C dies on the spot. Discuss the guilt of A.

3. (a) Define 'Kidnapping' and 'abduction' and distinguish between them.

(b) A Hindu girl of 17 years old studying in XII standard under the care and protection of her parents was living with them. She was having criminal intimacy with a shopkeeper running a shop near her house. One day the girl left her house and went to the shopkeeper and asked him to take her away permanently. The shopkeeper took her away to several places. Later on, he was arrested under section 363 of the Indian Penal Code. State with reasons whether the shopkeeper is to be convicted. Answer with reasons.

(c) A 15 years old girl went to see a fete with her maternal uncle. Due to heavy crowd in fete, she became separated from her maternal uncle. She could not remember even address of her house. One person enticed her to go to his house and took her away to his house. There at his residence he made preparations for the marriage of this girl with his son. In the mean time this person was arrested by police. Will he be convicted for kidnapping? Answer with reasons.

4. A gave severe beating to B who fell down and became unconscious. Thinking that B had died 'A' took away B and placed him on railway line so that B's body be crushed under the train. This was done by A in order to give it a colour of suicide and conceal his involvement. The train came and B was crushed. The post-mortem report revealed that B died of injuries caused by train. What offence or offences if any have been committed.

SECTION-2

5. (a) Explain the scope of examination-in-chief, cross examination and re-examination under the Indian Evidence Act. State briefly their objects.

(b) Write Short notes on any four of the following:

RESILIENCE LAW ACADEMY

- (i) Hearsay evidence
- (ii) Hostile witness
- (iii) Leading question
- (iv) Set off
- (v) Confession made in police custody

6. How is the disputed handwriting of a person proved? Examine admissibility of the evidence of a hand-writing expert?

7. (a) Who is an accomplice? Under what circumstances a conviction can be based on the testimony of an accomplice?

(b) 'When the parties have led evidence and relevant facts are before the court and all that remains for decision is what inference is to be drawn from them, the question of burden of proof is not material.' Comment. What do you mean by burden of proof? On whom does the burden of proof lie in civil and criminal cases?

8. Explain 'Secondary evidence'. Discuss the circumstances in which it is admissible.

SECTION-3

9. F, a married lady, develops intimacy with M. On her representation that she had divorced her husband, in a customary ceremony, F and M start living together. After staying together for about seven months, they part ways. Within the next three months, F delivers a child C. An application is filed by F for herself and for the child C for maintenance from M under Section 125 Cr. P. C. M disputes that F is his wife and he also disputes the paternity of C. He admits having lived with F but contends that F had a subsisting marriage and could not be his wife. The evidence lacked her claim of having divorced her husband before she started living with M. Decide only the question of entitlement to maintenance of each of the two applicants under the Cr. P. C. Further, would it make any difference to the outcome of the application if F had been unmarried at the time she started living with M.

10. A police report is filed for the alleged commission of offence punishable under section 420 read with section 34 IPC (Cheating in furtherance of common intention) against ABCD, A and B abscond and the trial proceeds only against CD. On appraisal of evidence, the court acquits CD. Later, A and B are apprehended. On being produced in the court, AB make an application purporting to be under section 245 (2) Cr.P.C. and Section 300 Cr.P.C. for dropping of the proceedings on the ground that their co-accused CD have been acquitted and it would be an exercise in futility to proceed against them. It is contended that they are deemed to have faced trial in absentia and having been so tried in absentia they cannot be tried again for the same offence. Decide the application of AB.

11. Distinguish between any three of the following:-

RESILIENCE LAW ACADEMY

- (a) Acquittal and discharge.
- (b) Reference and revision
- (c) Compoundable and non-compoundable offences
- (d) Cognizable and non-cognizable offences
- (e) Inquiry and trial

12. What is a summon case? State the procedure laid down by the code of Criminal Procedure for trial of summon cases.

CRPC

1. a) A lodges an F.I.R alleging that B has committed the murder of his brother C. Can the police arrest him without an order from a magistrate and without a warrant? Give reasons. (5 Marks)

b) Can an 'anticipatory bail' be granted to a person against whom no F.I.R./complaint has been lodged/filed? (5 Marks)

c) A and B were married at Calcutta. They resided together at Delhi. A came on transfer to Jaipur leaving B with her brother at Delhi. He neglected and refused to maintain B. At what places application of maintenance under section 125 of the Code of Criminal Procedure can be filed? (10 Marks)

2. a) Who are the persons who can claim maintenance under Section 125 Cr.P.C. What are the factors which are to be kept in view while granting maintenance? Can the Court award interim maintenance? Discuss (10 Marks)

SEC 125

b) A files a complaint petition against B for voluntarily causing hurt to him. The concerned magistrate dismisses the complaint petition of A. After some days, A again files the complaint petition against B for the same offence on the same facts. This time magistrate takes the cognizance of the case. The accused challenges the cognizance under section 482 of Cr.P.C. in the High Court on the ground that he is entitled to the benefit of section 300 of Cr.P.C. and now he cannot be tried. Is his argument sustainable at law? (5 Marks)

(c) Is an offence created by a special law compoundable? (5 Marks)

3. (a) Is there any question of discretion in the matters of granting bail in case of bailable offences?

(10 Marks)

RESILIENCE LAW ACADEMY

(b) Can a Chief Judicial Magistrate try a case summarily in which punishment of imprisonment is one year? (5 Marks)

(c) A and B are being tried for the murder of C. During trial, it appears to the court from the evidence adduced that D was also in the conspiracy with A and B for the murder of C. Can D be made accused by the trial court? (5 Marks)

4. (a) A is accused of theft of a certain article at a certain time and place. Is it necessary to set out in the charge, the manner in which the theft was effected? (10 Marks)

(b) A citizen of India commits an Act in England, which is not a criminal offence there but is one under the Indian Penal Code. Which court or courts shall have jurisdiction to enquire into or try the offence? (10 Marks)

5. (a) A commits an offence in Agra but makes his confession before the Judicial Magistrate Jaipur, who has no power to try the case. Is the confession valid, if it is recorded by the magistrate after following the procedure, laid down in section 164, Cr.P.C.? (10 Marks)

(b) A, B, C, D and E alleged to have committed the dacoity in the house of X. X lodged an F.I.R. but does not mention occurrence in detail. Can the prosecution case be relied upon? (10 Marks)

1. 'A' and 'B' were assaulted by 'C' at an interview in 'C's house. 'A' and 'B' jointly sue 'C' for damages for assault. Is the suit bad for mis-joinder of plaintiffs? Give reasons for your answer. (10 MARKS)

2. What is meant by Decree? Distinguish between Preliminary Decree and Final Decree. (10 MARKS)

3. Is a judgment given by a Foreign Court conclusive as to matters decided therein and how can such a judgment be enforced in India. (10 MARKS)

4. In which Court and at what place should any suit be instituted? (5 MARKS)

5. Discuss whether the rule of res judicata laid down in Section 11 of the CPC is exhaustive and can be extended to execution proceedings also. Refer to decided cases. (15 MARKS)

6. Within what period suit under Section 6, Specific Relief Act can be filed against the Government? (5 Marks)

7. "The remedies for non-performance of duties are either compensatory or specific". Explain the statements briefly in the context of specific reliefs available under the Specific Relief Act. (10 MARKS)

RESILIENCE LAW ACADEMY

8. What are the essential elements that have to be established in order to succeed in a suit for specific performance of the contract of Sale? Can a suit for specific performance be decreed against a subsequent transferee of the property? Is so, under what circumstances? (15 MARKS)
9. "Limitation merely bars remedy but does not extinguish the title" – Discuss. (10 MARKS)
10. What period of time can be excluded while computing the period of limitation for any suit, appeal or application? (5 MARKS)
11. What is the period prescribed for perfecting title to property by adverse possession? (5 MARKS)

RESILIENCE

RESILIENCE LAW ACADEMY

FAMILY LAW

1. What remedies can a Muslim wife under the Dissolution of Muslim Marriage Act, 1939 claim against the husband on the grounds of cruelty and impotency?
2. Explain the concept of Hiba in Muslim law. What are its essential conditions?
3. A makes a gift to B of wheat that may be produced on his farm next year. Is the gift valid?
4. A muslim wife misbehaved with her husband. She addressed thrice and word 'Talak' pronounced by her husband. Thereupon she apologized for her misbehaviour. They continued cohabitation. A son was born to the woman from him. He was got admitted to school by the father as his own son and reared up as such. After the death of the man, his full brother laid exclusive claim to his estate. Discuss the suit. The defences raised are that the divorce was revoked and that paternity of the son was acknowledged?
5. Is it correct to say that marriage has not remained a sacramental marriage and has also not become contract under the Hindu Marriage Act?
6. What are the general rules of succession to property in the case of female Hindu dying intestate?
7. Ravi, a school teacher in a private school in Delhi drawing Rs. 10,000 per month, files a petition for restitution of conjugal rights against his wife, Radha, working as a teacher in a government school at Patiala and drawing Rs. 7,000 per month. Ravi contends that ignoring his advise for resigning her job and joining his company , she is continuing to live away from matrimonial home on her part. Radha pleads that there is no withdrawal from home on her part since the locus of matrimonial home is at her house in Patiala and she never denied to Ravi the opportunity to visit and stay with her at Patiala. Decide.
8. In 1992, W a female Hindu died leaving behind her husband H as her sole heir. Discuss the rights of H in the following properties of W (i) a house which W had inherited from her father in 1989, and (ii) some movable properties, which she got by way of gift from her father after her marriage. Will your answer be different if W had been survived by her husband H and a minor daughter D?
9. When are the children and aged parents entitled to get maintenance under the Hindu Adoption and Maintenance Act? Are the dependants of the deceased entitled to claim maintenance from the estate of deceased? How the amount of maintenance is determined?
10. Can a Hindu be disqualified to inherit the property of deceased? If so, what are the grounds?
11. Discuss the sources of Hindu law? Outline the main differences between Mitakshara and Dayabhaga schools.

RESILIENCE LAW ACADEMY

HINDU MUSLIM TORT

1. Give the main sources of Hindu Law. (15 Marks)
2. Discuss the conditions for a valid Hindu Marriage, under the H.M. Act. (5 Marks)
3. Who can give a minor child in adoption? (5 Marks)
4. State the grounds on which a Hindu wife can claim maintenance and separate residence from her husband. Whether a husband can refuse to provide maintenance to an unchaste wife residing with him? (10 Marks)
5. State definition, essentials and nature of Muslim marriage. (10 Marks)
6. What is Dower (Mahr) under Mohemmadan Law? (5 Marks)
7. What are the various modes of pronouncing Talak in Mohammadan Law? (15 Marks)
8. Explain the concept of Hiba in Muslim law. What are its essential conditions?(5 Marks)
9. Discuss the rules regarding Vicarious Liability. Examine also the liability of the State in India for the torts of its servants. (15 Marks)
10. What are 'unliquidated damages'? When are they awarded? (5 Marks)
11. Explain the nature, scope and extent of the liability of the polluter for environmental torts in the light of the "Polluter pays principle" as developed in recent Supreme Court decisions. (10 Marks)

RESILIENCE LAW ACADEMY

PARTNERSHIP

1. What do you mean by 'dissolution of partnership firm? When does the dissolution of a firm take place? (15 Marks)
2. What is the procedure of registration of a partnership firm under the Indian Partnership Act, 1932? What are the consequences of non-registration? (15 Marks)
3. Describe the provisions of Indian Partnership Act 1932 regarding the admission of minor in the partnership firm. State the rights and liabilities of such minor before and after he attains majority. (10 Marks)
4. 'The relation of partners is founded on mutual confidence and the law requires that a partner shall act towards the other members of the firm with utmost good faith.' Discuss. (10 Marks)
5. What are the essential elements of a 'partnership'? If two corporations agree that they shall invest equally and start a joint venture one year hence, can you say that there is a subsisting partnership? (10 Marks)
6. Are there any exceptions in the partnership law to the rule that contracts in restraint of trade are void? (5 Marks)
7. What forms the acid test for a partnership firm? Explain with illustrations. (5 Marks)
8. Can an outgoing partner claim a share in the profits of the firm? If yes, under what circumstances? (5 Marks)

RESILIENCE LAW ACADEMY

FAMILY LAW

26. What are the effects of TALAK under Muslim law? State the bars on Remarriage after divorce.
27. What is law of Maintenance in respect of Muslim wife? State the answer in light of case laws.
28. Distinguish between Hindu marriage and Muslim marriage
29. Distinguish between Shias and Sunnis in regard of their marriage laws. 30. What are provisions regarding 'judicial separation under Mohammedan Law?
31. Discuss various bars to Parsi marriage .Distinct between Absolute and relative bars among Parsi Personal law?
32. 'Restitution of Conjugal Rights is advent from Jewish law'. How it's placed under Christian Law?
33. State essential conditions of valid marriage under Christian law. What are prohibitive decrees of marriage under the Christian Law? What are maintenance provisions regarding wife while marriage is sustaining and when marriage is dissolved?
34. Discuss provisions of Judicial Separation under Parsi and Christian Law.

SECTION D

- 1.Examine the validity of following Hindu marriages under HMA 1955-
- (a) A marries a widow she is pregnant.
 - (b) A marries with brother's widow/ uncle's or mother's brother)
 - (c) Marriage of a maternal uncle and niece.
 - (d)A marries with mother's sister's daughter's daughter.
 - (e) A marries her father's father's father's brother's son's son's son.
 - (f) Ashok,a Hindu got married to his maternal aunt's daughter's daughter.
 - (g) A , a Hindu girl, married his paternal aunt's stepson's son.
 - (h) A marries his mother's sister's daughter/ mother's brother's (maternal uncle's) daughter.
 - (i)A marries his adopted sister.
 - (j)A marries his sistser's daughter.
 - (k) W marries her adopted brother's biological brother H.
2. Examine the validity of following Hindu marriages under Hindu Marriage Act, 1955.
- (a) Marriage of brother;s daughter with sister's son/ borther's son with brother's daughter.
 - (b) Marriage with the wife of pre-deceased brother.
 - (c) Marriage with wife's sister after her death.
 - (d) Marriage with a pre- deceased / divorced wife's mother.
 - (e) Marriage with brother's divorced wife.
- 2.Examine the validity of following Hindu marriages under Hindu Marriage Act, 1955
- (a) Bride given in marriage before she had attained the age of 15 years.
 - (b) Raman, aged 20 years wants to marry Reena, aged 16 years with her consent.
- Discuss the difference between status of Child Marriage under the Hindu Marriage Act, 1955, and under the Prohibition of Child Marriage Act, 2006.

RESILIENCE LAW ACADEMY

(c) A gives his daughter aged 16 years in marriage to B without her consent and against her wishes; A aged 27 years, marries a 17 years old girl at gunpoint.

(d) A girl of 20 years marries B, her girl friend aged 24 years for the sake of companionship.

(e) A, a boy marries B, a boy by birth who had undergone a sex change operation and become a female, Marriage with a Eunuch.

3. Discuss the following:

(a) Anil, a reformist married Anita by exchange of garlands in the presence of some invited guests. Is there a valid marriage under Hindu Law?

(b) A Jain boy married a Sikh girl in a temple by exchange of garlands. Is there a valid marriage under Hindu Law?

(c) Suresh, a resident of Chennai, marries Lakshmi by exchange of garlands in presence of her parents.

(d) In 1965, Ramesh aged 7 years got married to Vibha, a 2-year old girl in accordance with religious rites and ceremonies. In 1985, Ramesh got married to Sudha in a temple by exchange of garlands, and applying a tilak of his blood to Sudha's forehead in presence of the priest of the temple and the parents of the Sudha. Ramesh is prosecuted for committing bigamy. Plead the case for Ramesh.

(e) In 1990, Karan aged 18 years married Maneka aged 16 years in accordance with religious rites and ceremonies, In 1994, Karan married Urvashi in Gandharva form of marriage by exchange of garlands. On being prosecuted for bigamy. Karan contends that he was not liable for bigamy as his former marriage with Maneka was void ab initio. Decide.

(f) G, a Hindu girl, aged 14 years, marries B, a Hindu boy, by exchanging garlands in a temple. Later on, G finds B is impotent. G leaves the matrimonial home and marries A, Can G be punished for bigamy?

(g) B, a Hindu boy, aged 20 years, loves G, a Hindu girl aged 16 years. They go to a temple and take a vow that they are now husband and wife. B does not disclose this fact to his parents. Subsequently, B's marriage is duly solemnized with W, by his father. Can B be prosecuted for bigamy?

(h) Mohan and Roshini, both modern Hindus, exchanged garlands in a temple before their friends and declared themselves to be husband and wife. They loved so for the next three years. Then Mohan married Sujata following traditional ceremonies of a Hindu marriage including Saptapadi. Can Mohan be prosecuted for bigamy? Decide. (i)

Ritesh, a Brahmin Hindu boy aged 20 years married Rashmi aged 17 years belonging to his own community in accordance with their religious ceremonies. After a year, Ritesh married a Sikh girl Jassi in a Gurudwara according to Sikh rites. Subsequently a child, Rankesh is born to Jassi. On coming to know that Ritesh married second time Rashmi prosecuted him for bigamy. Ritesh contended that he was not guilty of bigamy as his marriage with Rashmi was void ab initio. Does Rankesh have any right in Ritesh's property?

(j) Gautam and Rashmi, both Brahmins, marry by exchange of rings and take a vow before the Lord Krishan in a temple to remain husband and wife. Later Gautam marries

RESILIENCE LAW ACADEMY

Gursharan Kaur, a Punjabi girl, in a Gurudwara according to Sikh rites. A year later Gautam deserts Gursharan Kaur and starts living with a Christian widow. Rashmi files a petition charging Gautam for bigamy. Gursharan Kaur also files a petition for divorce against Gautam on the ground of adultery. Will both or any of them succeed? Discuss and decide. 4.

IMRAN, a Sunni Muslim, married Salma in 1990. Being proud and arrogant she could not adjust with IMRAN. Being disgusted with Salma's behavior, IMRAN made three pronouncements in one sentence,

' I DIVORCE U THRICE'

.After a couple of days , Salma was brought ti IMRAN 's home by her parents ,where they apologized on her behalf. IMRAN accepted her back and later two kids were born to them. Are they legitimate? Is Salma and kids entitled to inherit Imran's property after her death? Give reasons 5.

Examine the validity of following Muslim Marriage according to Sunni & Shia law: A divorced his wife by triple talak (talak ul biddat) under influence of liquor and then remarried her after a week. 6.

Discuss validity of following Muslim Marriages: (a)

Zarina,a widow was pregnant at the time of her husband 's death. After the delivery of child but before 2 month of her husband's death, she is married to her deceased husband's brother. (b)

Heena a Muslim widow re marries within 30 days of the death of her husband. (c)

Usman married Hameeda, who is his wife's younger sister. On objection raised by his wife

Saira, he pronounced triple talak to Saira. (d)

Amran, aged 19 yrs and Nafisa, aged 15 yrs, children of two brothers get married without consent of their parents and without the presence of any witness. (e)

X marries a Christian woman (f)

X marries his mother's sister's daughter.

(g)

X marries with his foster mother's daughter

(h)

A marries his sister's daughter(i.e niece)

(i)

A, a Sunni boy marries B ,a Shia gir

RESILIENCE LAW ACADEMY

SUBJECTIVE QUESTIONS OF CIVIL PROCEDURE CODE

Q.1 A entered into a written contract with B at Delhi, on 1.4.98, for supply of cement at the rate of Rs.100 per bag weighing 50 kgs. A is having its office in Delhi as well as Rohtak and Gurgaon. B is having office only at Rohtak. On 20.4.98, A supplied cement worth Rs. 25,00,000 (Rupees Twenty Five Lakhs) to B at Rohtak. B made payments from time to time, sometimes by cheque and sometimes in cash at Rohtak. Last payment by cheque was made on 25.6.98 and last payment in case was made on 8.10.98. No receipt of cash payment was however obtained. An amount of Rs. 3 lakhs remained unpaid despite notice sent by A to B. A then filed a suit at Delhi for recovery of the principal sum of Rs. 3 lakhs, along with interest from 20.4.98, at the rate of 18% per annum. Interest was claimed on the basis of an oral agreement subsequent to the written contract dated 1.4.98. He also claimed pendente lite and future interest at the same rate, along with costs of the suit. Suit was filed on 1.10.2001.

B filed written statement contesting the suit. He took preliminary objections that (i) Delhi Court had no jurisdiction in the matter as it was doing business and goods were supplied at Rohtak; (ii) the suit was barred by limitation; and (iii) no evidence of an oral agreement for payment of interest was admissible in view of section 92 of the Evidence Act. B, however did not dispute the facts.

Frame issues on the pleadings of the parties and write a reasoned judgment.

OR

A let out first floor of house No. M-25, Greater Kailash, New Delhi to B, at the rent of Rs. 3500 per month, for a period 5 years, starting from 1.4.98. Since B was in arrears of rent, he filed a civil suit against him on 20.6.2002, for recovery of arrears of rent for the period from 1.7.99 to 31.12.2000. The suit is still pending. As rent for subsequent period was also not paid, he filed another suit on 30.11.2004 for recovery for arrears of rent for the period from 1.1.2001 to 31.3.2004. He pleaded that his entire claim was within limitation as B had issued a cheque of Rs. 10,000 to him toward part payment of rent for the period from 1.1.2001 to 30.11.2001, which when presented to the bank was dishonoured. He also claimed interest at the rate of 12% per annum, without pleading any basis for claiming interest.

B filed written statement contesting the suit. He took preliminary objections that (i) rent for the period from 1.1.2001 to 31.5.2002 was not claimed in the previous suit and cannot be claimed in the present suit; (ii) rent for the period from 1.1.2001 to 31.10.2001 was barred by limitation; (iii) there was no agreement for payment of interest and therefore no interest is payable. He contended that a dishonoured cheque cannot extend the period of limitation. Facts however were not disputed by him.

Frame appropriate issue arising from the pleadings of parties and write a reasoned judgment.

Q.2 Answer any two. Both questions carry equal marks.

- (a) (i) An order rejecting a plaint under Order VII, Rule 11 of CPC is not an adjudication of the matter in dispute. Is it a decree?
- (ii) What is meant by 'mesne profits'?

RESILIENCE LAW ACADEMY

(b) (i) A supplied goods at Mumbai to a company having its principal office at Mumbai and branch offices throughout the country, including Delhi. Since B failed to pay the price of the goods, A filed a suit in Delhi, for recovery of price of goods, on the ground that B was also carrying on business at Delhi and, therefore, Delhi Court also had jurisdiction to try the suit. Decide.

(ii) A filed suit against B for recovery of arrears of rent. B claimed that there was no relationship of landlord and tenant between the parties. The trial court decided against A. He filed an appeal against the judgment, but during appeal, he withdrew the suit with liberty to file fresh suit on the same cause of action. He then filed a fresh suit on the same cause of action. The defendant contested the suit and claimed that finding of trial court in the previous suit operates as res judicata. Decide.

(c) What are the conditions for applicability of doctrine of res judicata between co-defendants?

Q.3 Answer any two. Both carry equal marks.

(a) (i) After recording of evidence of both the parties, defendant applies for additional evidence on the ground that one material witness, who was out of country had since returned to India. Decide.

(ii) Defendant in a suit failed to produce evidence on a date fixed by the court for this purpose. Cost of Rs. 2000 was imposed on him and the case was adjourned. On next date of hearing, defendant did not pay the cost and the plaintiff also did not insist on cost. The case was again adjourned. On next date, plaintiff pressed for striking out the defence, as the cost had not been paid. Decide.

(b) (i) Can the executing court go behind the decree?

(ii) Defendant in a suit did not appear on the date fixed for recording of evidence. He was proceeded ex parte and judgment was reserved. Next day, he filed an application under Order IX, Rule 13 of CPC for setting aside the decree, on the ground that he had met with an accident while coming to the court and therefore could not appear on the date of hearing. He also produced documentary proof of his accident and medical treatment. Decide.

(c) What are the principles governing grant of leave to defend, in a suit filed under order XXXVII of Code of Civil Procedure?

Q.4 Answer any two. Both carry equal marks.

(a) (i) The plaintiff in a suit at Delhi applies to the court to issue summons to (i) A, the defendant, residing at Jalpaiguri, and (ii) B, witness, residing at Ahmedabad, both of which are more than 500 km from Delhi. Can his request be granted?

(ii) Can the following be attached in execution of a decree for money and why:-

(1) Residential house fully occupied by the Judgment Debtor

(2) Salary of guarantor

(3) Tenancy Rights

(4) Pay of a Brigadier in Army

(5) Pension

(b) Is a trespasser entitled to injunction from civil court against rightful owner of a house? If so, when?

RESILIENCE LAW ACADEMY

(c) (i) A files a suit for possession and mesne profits against B. In his witness statement, B claims that value of property subject matter of the suit exceeds the limit of pecuniary jurisdiction of the court. He files an application to treat the issue of valuation as a preliminary issue. Decide.

(ii) B, defendant in a suit did not appear despite service of summons and was proceeded ex parte. He died during pendency of the suit. Instead of seeking impleadment of his legal representatives, plaintiff files an application seeking exemption from substituting the legal representatives of B. Decide.

Q.5 (a) A resides at Shimla. B at Kolkata and C at Delhi. A, B and C being together at Varanasi, B and C make a joint promissory note payable on demand and deliver it to A. A filed a suit for recovery at Varanasi. B and C object to the jurisdiction of court at Varanasi to try the suit asserting that defendants B and C do not reside at Varanasi. How would you decide the objection?

(b) A filed a civil suit for ejection and arrears of rent against B, C and D alleging that his tenant B was in arrears of rent and C and D were his sub-tenants. Only C and D contested it. Trial Court decreed the suit for arrears of rent against B. It was held that C and D were not sub-tenants. Only B filed appeal which was dismissed but the appellate court while observing that any evidence led by C and D could not be read against B further observed that it appeared that C and D being closely related to B were in possession on his behalf. A filed second civil suit for ejection and arrears of rent now pleading, inter-alia, that C and D were licensees of B and that the judgment of the appellate court in earlier case will operate as res judicata. Is the plea of A about res judicata correct? Give reasons for your view?

Q.6 Write short notes on the following:

- i. Summary suit under Order 37 CPC
- ii. Primary evidence and secondary evidence
- iii. Stay of suits under section 10 CPC
- iv. Effect of non-registration of documents requiring compulsory registration under Registration Act, 1908

Q.7 (a) Discuss fully the condition which are required to constitute a matter res judicata and comment upon the following statements –

“A verdict against a man suing in one capacity will not stop him when he sues in another distinct capacity.”

(b) A files a suit for declaration that he is entitled to certain lands as heir to B. The suit is dismissed. Can he claim in latter suit title to the same properties on the basis of adverse possession?

(c) A Munsif decided in a maintenance suit that the husband has abandoned his wife and, therefore, the later was entitled to maintenance. Does the subsequent petition filed by the husband for judicial separation under section 10 of the Hindu Marriage Act, 1955 operate as res judicata? Give reasons for your answer.

Q.8 (a) Who is entitled to file a pauper suit? State the procedures for filing for such suits. Can a defendant be allowed to defend in forma pauperis? Give reasons.

RESILIENCE LAW ACADEMY

(b) When the court shall reject an application for permission to sue as pauper? Discuss fully.

(c) Answer the following:

- i. A presented an application for leave to sue in forma pauperis but A dies pending the hearing of the application. Can the application be continued by B who is a legal representative of A? Give reasons.
- ii. A disposed his property worth Rs. 1000/- in August 1980 to enable himself to sue as pauper and applies for leave in September, 1980. Will the application of A be accepted or rejected by the court? Give reasons.

Q.9 (a) Define Summons? What are the objects or service of Summons? What are modes of affecting service summons on defendant? Discuss fully.

(b) A the plaintiff, knew the whereabouts of B, the defendant and in spite of that fact, A obtained by false representation an order for substituted service by giving to court to understand that B had been deliberately avoiding service. Discuss whether B had been properly served.

Q.10 (a) What do you understand by inherent jurisdiction of civil court? Do you agree with the view that 'the inherent power has not been conferred on the court, it is a power inherent in the court by virtue of its duty to do justice between the parties before it?' Discuss fully.

(b) Discuss whether in the following cases the court has inherent power:

- i. to order joint trial of suits,
- ii. to correct its own mistakes,
- iii. to set aside an ex-parte decree.

(c) What is the procedure prescribed for suit by or against a firm.

Q.11 (a) What do you understand by a representative suit? By whom and under what circumstances can such suit be brought?

(b) A, who was a treasurer of an association, misappropriates the funds of the association. By a resolution of the association B, a member, was authorised to recover the amount misappropriated. Can B successfully sue A? Give reasons for your answer.

(c) A, B and C, three persons were chosen by a community to represent them in a suit against K, but X, Y and Z other members of the same community supported the defendant K. Does affect the representative character of the suit? Give reasons for your answer.

Q.12 (a) Explain the illustrate the rules relating to joinder of plaintiffs and defendants in a civil suit.

(b) A publishes a series of books under the title 'The Oxford and Cambridge Publications' so as to induce the belief that the books are publications of the Oxford and the Cambridge University or either of them. The two Universities join as plaintiffs in one suit to restrain A from using the title. Discuss with reasons whether both the Universities can jointly sue A or not.

RESILIENCE LAW ACADEMY

(c) A and B were assaulted by C at an interview in C's house. A and B jointly sue C for damages for assault. Is the suit bad for mis-joinder of plaintiff? Give reasons for your answer.

Q.13 (a) What is the principle of Res judicata and in what circumstances can this principle be applied?

(b) Distinguish between Res Judicata and Estoppel.

Q.14 (a) When can temporary injunction be granted by a civil?

(b) What is an interpleader suit? When and by whom can it be instituted?

(c) In what circumstances can the property of defendant be attached before judgment?

Q.15 Discuss the principles governing the appointment of Receivers. What are their powers and duties? Can a Collector be appointed as a Receiver?

Q.16 (a) What facts are essential in a notice under Section 80 Civil Procedure Code? What will be the effect upon the suits against the Central Government, the State Government or their officers, if the said notice is not given?

(b) When can auction sale of immovable property in execution of a decree be set aside? Who can get it set aside.

(c) What is representative suit? By whom and under what circumstances can such a suit be filed?

Q.17 (a) Discuss the provisions of Civil Procedure Code regarding the issue of Commission. Illustrate your answer.

(b) What is a foreign judgment? Under what circumstances is it conclusive?

Q.18 (a) What is an interpleader suit? When and by whom can it be filed?

(b) What are the modes of effecting service of summons on the defendants?

(c) What errors in a judgment, decree or order can be corrected by the court after signing and pronouncing the same with or without there being an application made for review?

Q.19 (a) Discuss the statement that an executing court cannot go behind the decree. What are the questions that may be determined by the court executing the decree?

(b) What do you understand by the pecuniary jurisdiction of a court? Will a court be competent to bear a suit exceeding its limits if the parties to the suit have given their consent?

(c) Can revision be filed against an order of a court disallowing an important question put to a witness?

RESILIENCE LAW ACADEMY

Q.20 (a) 'Unless a right of appeal is clearly given, by statute it does not exist'. Comment can an appellate court reverse a decree on the ground of misjoinder of parties?

(b) Explain the expression 'suit of civil nature'.

(c) 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 matter in issue? If so, what? Discuss.

Q.21 (a) Explain constructive res judicata.

(b) Who is an indigent person? What is the mode of instituting suit by such persons?

(c) What are the inherent powers of a court? Illustrate.

Q.22 (a) Discuss the provisions of CPC with regard to:

(i) Suits against the Government and its officials.

(ii) Suits relating to public nuisance.

(b) What is meant by the decree? Distinguish between preliminary decree and final decree.

Q.23 (a) State the provisions which govern the determination of the place of suing.

(b) In the following cases determine the place of the case:

(i) A, B and C jointly take a loan from D at Varanasi on a promissory note. D lives in Lucknow. A, B and C reside in Faizabad, Varanasi and Kanpur respectively.

(ii) A residing in Delhi, publishes a defamatory statement about B in Calcutta. B is resident of Patna.

Q.24 (a) What do you understand by inherent jurisdiction of Civil Court?

(b) Discuss fully whether in the following cases the court has inherent powers:

(i) To order joint trial of suits

(ii) To correct its own mistake

(iii) To set aside an ex parte decree

Q.25 (a) When a witness is cross-examined what other questions can be asked in addition to the questions relating to the incident.

(b) How would the court decide that a particular question is proper or improper.

(c) A woman prosecutes a man for picking her pocket. Can this question that she had given birth to an illegitimate child ten years before be asked.

Q.26 (a) When does a confession become irrelevant?

(b) A and B are jointly tried for the murder of C. It is proved that A said "B and I murdered C". Can the court consider the effect of this confession as against B.

(c) A prosecute B for Adultery with C. A's wife. B denies that C is A's wife but the court convicts B of adultery. Afterwards, C is prosecuted for bigamy in marrying B

RESILIENCE LAW ACADEMY

during A's life time. C says that she never was A's wife. is the judgment against B irrelevant as against C.

Q.27 (a) What facts need not be proved?

(b) Explain the law relating to leading question.

(c) Who is competent witness to testify.

Q.28 (a) Distinguish between decree and order.

(b) Plaintiff could not reach the court on the date fixed, so his suit was dismissed for default. Advise the plaintiff as to the steps he should take.

(c) B filed a suit for declaration of partnership and accounts against A. In order to deprive, B of the benefits. A began to shift the goods and assets of the business establishment in hurry. Advise B as to what should he do in the circumstances.

Q.29 (a) State the circumstances in which a party to a suit be refused to amend his pleading.

(b) There was a suit between A and B regarding house. A won the suit and also obtained possession of the house. However, B won in appeal A however did not return possession of the house of B. Advise B suggesting remedy how to get back the house.

Q.30 (a) What do you understand by a 'Foreign Judgment'? In what manner may decree of a Foreign Court be executed in India?

(b) Determine the place of suing in the following cases:

(i) A, a resident of Delhi. B resident of Bangalore and C of Calcutta met at Kumbh Mela in Allahabad. There B and C borrowed Rs.10,000 from A and jointly executed a promote and handed it over to A. All of them went back to their respective places but the money was not returned. A wants to file a suit for recovery of his money.

(ii) Father of A and B had a bungalow at Nainital, one house at Lucknow and Delhi each and two big mango-groves in the district of Sitapur. After the death of the father, A took over the management of the entire property and began appropriating the income. B want to sue for partition of the property.

Q.31 (a) Define and distinguish between preliminary decree and final decree.

(b) (i) What will be the effect on the final decree passed during the pendency of the appeal against the preliminary decree, in case the appeal is allowed?

(ii) Can the validity of the preliminary decree be challenged through an appeal which is brought against a final decree?

Q.32 (a) Under what circumstances can a defendant be arrested before judgment and when can such order be given? Explain also the procedure for such arrest.

(b) Under what circumstances can a defendant's property be attached before judgment? What will be the procedure for such attachment.

RESILIENCE LAW ACADEMY

Q.33 (a) Explain the doctrine of 'Res Judicata' provided in section 11 of the CPC, 1908. How is the doctrine of Res judicata different from the rule contained in Section 10 of the said Code?

(b) A is tradesman in Calcutta. B carries on business in Delhi B, by his agent in Calcutta, buys goods of A and request A to deliver them to a transport company, A delivers the goods accordingly in Calcutta. A want to sue B for the price of the goods. Decide with reasons, the place of suing.

(c) The court issues a summon against A under section 30 of the CPC, 1908 but he does not appear before the court. What steps can be taken by the court to compel his attendance?

Q.34 (a) What properties are not liable to attachment and sale in the execution of decree?

(b) Explain the Rule of 'Notice' prescribed in Section 80 of the CPC, 1908.

(c) Explain with illustration, the basic characteristics of an "interpleader suit".

Q.35 (a) Analyse the grounds, procedure and powers of the High Court in relation to 'Reference' and 'Reversion'.

(b) What do you understand by 'set-off' and 'counter-claim'? What are the differences between them?

(c) Give brief description of rules contained in Order 33 of the CPC, 1908.

Q.36 (a) How and to what extent a decree can be executed against legal representative of a deceased judgment-debtor?

(b) Discuss those provisions of CPC which are applied in determination of forum for filing a suit relating to immovable property.

Q.37 (a) Discuss the doctrine of restitution.

(b) Write a short note on inherent power of civil courts.

Q.38 (a) Who can file a pauper-suit?

(b) Can a person be a defendant in a suit as pauper?

(c) A filed an application plaint a pauper. A died before the disposal of his application. Can his legal representative continue with that application?

(d) A after filing an application plaint as pauper sold his property worth Rs. 15000. Will A's application be accepted?

Q.39 Discuss the concept of 'Substantial Question of Law' on which the second appeal is filed before the High Court under Section 100 of CPC. Whether the second appeal can lie in the following cases? Give exact answer with reasons:

(a) Ex parte decree

(b) Decision being contrary to law

(c) Legal inferences drawn from finding of fact

RESILIENCE LAW ACADEMY

(d) Usages having force of law

Q.40 (a) How will you decide that a suit is of a civil nature? Are the following suits of civil nature:

- (i) Right to take out religious procession.
- (ii) Right of a Pardanasheen lady to observe Purda
- (iii) Right to franchise

(b) State the circumstances in which a party to suit the refused permission to amend his pleading.

Q.41 (a) Explain and illustrate the rule relating to joinder of plaintiffs and defendants in a civil suit.

(b) A publishes a series of books under the title. The Oxford and Cambridge publications so as to induce that belief that the books are publications of the Oxford and the Cambridge Universities or either of them. Both Universities join as plaintiffs in one suit of restrain A from using the title. Discuss with reasons whether both the Universities can jointly sue A or not.

(c) A, B and C three persons were chosen by a community to represent them in a suit against K but X, Y and Z other members of the same community supported the defendant K. Does it affect the representative character of the suit? Give reasons for your answer.

Q.42 (a) Explain the principle of res judicata between co-defendants. How res judicata differs from res sub judice and estoppel?

(b) What are the fundamental rules of pleadings? What are the circumstances in which court can order amendment of pleadings?

Q.43 (a) Who is entitled to file a pauper suit? State the procedure for filing such suits? Can a defendant be allowed to defend in form a pauperis? Give reasons.

(b) (i) When a Court shall reject and application for permission to sue as pauper? Discuss fully.

(ii) A presented an application for leave to sue in form a pauperis but A dies pending the hearing of the application. Can the application be continued by B who is a legal representative of A? Give reasons.

Q.44 (a) When can a temporary injunction be granted by a civil court?

(b) What is an interpleader suit? When and by whom can it be instituted?

(c) In what circumstances can the property of defendant be attached before judgment?

(d) What do you understand by the inherent powers of the civil court?

Q.45 (a) What is Res Judicata? In what circumstances the principle of Res Judicata may be made applicable?

RESILIENCE LAW ACADEMY

(b) What are provisions of the Civil Procedure Code, 1908 relating to suits by or against the Government or Public offices in their official capacity?

Q.46 (a) Explain the provisions of the Civil Procedure Code, 1908 regarding Reference, Review and Revision.

(b) Explain the meaning of the following terms: (i) decree, (ii) mesne profits and (iii) Public officer.

Q.47 (a) Write notes on any THREE of the following:

- (i) Attachment
- (ii) Ex-parte proceedings
- (iii) Interpleader suit
- (iv) Second appeal

(b) Explain and illustrate the rule that costs shall follow the event. Are there any exceptions to this rule? Discuss.

Q.48 (a) The plaintiff had advanced a loan of Rs. 3 lacs to the defendant by issuing a cheque on 27.8.1999. Interest was agreed to be paid @ 18% p.a. Interest as agreed was paid up to 27.2.2000. The defendant issued a cheque for Rs. 27,000/- drawn on 16.4.2002 on account of interest for the period 28.2.2000 to 28.3.2001. The cheque when presented by the plaintiff to the bank was dishonoured for want of funds. The suit was filed on 4.4.2005. The defendant raised objection that the suit is barred by time. Decide this plea giving reasons for your discussion.

(b) A, B and C were partners of a firm which was not registered. Firm brought a suit for the recovery of debt due from X to the firm. A, B and C had sent an application to the Registrar of Firms in the prescribed form and all formalities were completed but the firm was not yet registered. Firm brought a suit against X. Can suit proceed? Discuss.

Q.49 (a) A resides at Shimla, B at Kolkata and C at Delhi. A, B and C being together at Varanasi, B & C make a joint promissory note payable on demand and deliver it to A. A filed a suit for recovery at Varanasi. B and C object to the jurisdiction of court at Varanasi to try the suit asserting that defendants B and C do not reside at Varanasi? How would you decide the objection?

(b) A filed a civil suit for ejection and arrears of rent against B, C and D alleging that his tenant B was in arrears of rent and C and D were his sub-tenants. Only C and D contested it. Trial Court decreed the suit for arrears of rent against B. It was held that C and D were not sub-tenants. Only B filed appeal which was dismissed but the appellate court while observing that any evidence led by C and D could not be read against B further observed that it appeared that C and D being closely related to B were in possession on this behalf. A filed second civil suit for ejection and arrears of rent now pleading, inter alia, that C and D were licensees of B and that the judgment of the appellate court in earlier case will operate as res-judicata. Is the plea of A about res-judicata correct? Give reasons for your view?

Q.50 Write short notes on the following:

RESILIENCE LAW ACADEMY

- (a) Summary suit under Order 37 CPC
- (b) Primary evidence and secondary evidence
- (c) Stay of suits under Section 10 CPC
- (d) Effect of non-registration of documents requiring compulsory registration under Registration Act, 1908

Q.51 (a) Write short notes on the following:

- (i) Precept
- (ii) Interpleader suit
- (iii) Garnishee order
- (iv) Applicability of Res Judicata to consent decrees.

(b) A litigant filed a complaint before the Bar Council of Delhi against his advocate alleging negligence. This complaint was dismissed. Aggrieved against dismissal order of State Bar Council. A filed revision before Bar Council of India. This revision was also dismissed on merits by speaking order. Subsequently, A filed a civil suit for damages based on negligence of B. Is decision of Bar Council of India will operate as res judicata in this suit? Discuss the law and decide with reasons.

Q.52 What is the distinction between an illegal decree and a void decree? Can a void decree be challenged in collateral proceedings?

Q.53 'M', which is a foreign bank, filed suit for recovery against 'N', an Indian resident. This suit was filed in a court of England under summary procedure. 'N' filed an application for leave stating the various grounds on which he wanted to contest the suit. However, he did not appear in the court at the time of hearing and sent a letter to the court stating that he was not in a position to go to England and engage a lawyer. Suit for recovery was decree under summary procedure and without trial. On the basis of that decree, the bank filed execution under Order XXI of the CPC. 'N' filed objections to the said decree on the ground that such decree was not binding as it was obtained without recording evidence in a suit under summary procedure and such a judgment cannot be said to be "on the merits of the case". The bank took the plea that the English court had passed the decree after detailed discussion and by a reasoned judgment wherein the case of the Respondent, i.e. 'N', was also considered, but his version was not found tenable. What would be the fate of objections filed by 'N'?

Q.54 What is the difference between res judicata and constructive res judicata? Which provisions of CPC contain the principle of constructive res judicata?

Q.55 'B' and 'S' were defendants in a suit filed on the original side of the High Court for recovery of possession of the suit property. The suit was dismissed by the Single Judge and the Plaintiff carried an appeal to a Division Bench. In the appeal, both 'B' and 'S' were respondents. The Division Bench allowed the appeal. As respondents before the Division Bench, both 'B' and 'S' were aggrieved by the decree against them. 'B', the

RESILIENCE LAW ACADEMY

present Appellant, filed an SLP and thereafter 'S' also filed an SLP. Both in the master of filing the SLP and granting of leave, 'B's appeal was prior. The appeal filed by 'S' was dismissed for default for non-removal of office objections. It was contended by the Respondent-plaintiffs before the Supreme Court that inasmuch as the appeal filed by 'S' was dismissed by the Supreme Court for non-prosecution, the judgment of the Division Bench of the High Court would operate as res judicata. It was urged that the judgment and decree had become final against 'B' and all other defendants in the original suit.

It was further contended that even otherwise the appeal should be dismissed as it may result in conflicting decrees. That is, if the present appeal were allowed, resulting in setting aside the decree or making any modification thereof, it would result in the anomalous situation of there being conflicting decrees between the same parties, arising out of the same cause of action.

Whether the plea of the Respondent-plaintiffs that principles of res judicata will apply to bar the appeal as not tenable?

Q.56 What are the principles laid down by the Supreme Court in M/s. Mechalec Engineers & Manufacturers vs. M/s. Basic Equipment Corporation, AIR 1977 SC 577, while dealing with the application for leave to defend in a suit filed by the Plaintiff under Order XXXVII of the CPC?

Q.57 Mohan filed a suit for recovery of money against Sohan. Summons in the said suit were served upon Sohan on 6.4.2004 for appearance in the Court on 8.7.2004. Sohan did not file the written statement within 30 days and on 8.7.2004 he appeared before the Court and moved an application for extension of time in filing the written statement on the ground that along with the suit, documents filed by the Plaintiff were not served upon him. The Plaintiff contested the application raising the contention that this was an afterthought plea as along with the process fee, plaint and documents were filed by the Plaintiff for service of summons upon the Respondent. He also contended that the respondent did not raise non-receipt of the documents any time between 6.4.2004 and 8.7.2004 and, therefore, no further time be given to him and decree be passed under Order VIII Rule 10 CPC. What would be your decision on the application filed by Sohan for extension of time?

Q.58 S, an owner of a premises, situated in Mohali, where rent Act does not apply, files a suit for ejectment for possession of his premises against A and B. S alleges that A, his tenant, had sublet the premises to B illegally. In the protracted trial, all the defenses of B, who claimed to be the owner himself on the basis of an agreement to sell dated 23-6-90 allegedly having been executed by S in favour of his deceased father M were found to be false. The alleged agreement to sell had been declared to be forged and fabricated document. The suit succeeds in favour of S and a decree for ejectment is passed against A and B jointly and severally. B's appeal, second appeal and even the SLP against the order are dismissed right up to the apex court. In the light of the above, answer the following:

RESILIENCE LAW ACADEMY

(a) The trial of the suit had been transferred to Chandigarh from Mohali by the High Court at B's behest. The execution proceedings have been filed at Chandigarh and objections of B were dismissed by the executing court. Now should S continue proceedings at Chandigarh or not? Also what should be the remedy of S for expeditious conclusion of the execution proceedings without unwarranted obstruction or resistance of B.

(b) P, the mother of B, meanwhile files an independent suit against S, all of a sudden, claiming in the plaint that her husband M had in fact entered into an agreement to sell with S on 23-6-90. The decree obtained by S against B should be declared null and void. She claimed to be in possession of the premises in question along with her son B. Therefore, her possession should not be disturbed by S with the help of the aforesaid fraudulent decree in which S failed to implead her. Discuss the maintainability of P's case in the light of section 11 of CPC. Also advise S as to whether any extraordinary remedies are available to him for getting P's suit dismissed or stayed or finished without a protracted trial.

Q.59 A and B get married at Panchkulla. Thereafter, they got work permit and shifted to Atlanta in the USA. A daughter C was born to them in Atlanta within one year of their stay there. Shortly thereafter, A finds his wife to be having illicit relations with their countryman Z, who holds green card in the USA. B gets pregnant through Z. When A finds out all this, she aborts the child. By now A has ample evidence of B's misdemeanour. Thereafter, A comes back to India with C who is three year old now. A files a suit for being appointed the guardian of C before the Guardian Judge, Panchkulla. Meanwhile, having learnt that A has fled with her daughter to India, B files a criminal case against A in the USA and obtains arrest warrants against him. B also files a custody petition in the USA wherein the court grants an ex-parte decree in her favour. B comes to Panchkulla and applies for the execution of the ex-parte custody decree in the court of Civil Judge, Senior Division, Panchkulla. B also raises the said decree in defense to guardian proceedings initiated by A. In the light of this fact situation, answer the following:

(a) Discuss the objections that A can take to the execution petition of B. In how many ways can A challenge the said decree?

(b) Discuss the defense of B in guardian proceedings. Can her USA-court-decree entitle her to defeat the guardian court proceedings in the light of her conduct?

Q.60 (a) (i) Under what circumstances can a Court attach the property or part thereof of the defendant under the relevant provisions of CPC?

(ii) Identify the tests to be applied for granting temporary injunction to preserve status quo under the relevant provisions of CPC.

(b) What is meant by 'concluded contract'? Can the rule of 'promisory estoppel' apply to a concluded contract? Bank P launched a scheme to grant house loan upto Rs. 4 lacs. R applied for the loan in accordance with the scheme but finally settled for the loan of Rs. 3 lacs. R completed all the formalities and executed contract with the Bank. Later

RESILIENCE LAW ACADEMY

on R demanded Rs. One lac more in accordance with the scheme of the Bank. Bank declined R's request. On refusal to pay the original loan, the Bank filed recovery suit. R pleaded that he is not bound by the contract as the Bank had failed to fulfil its commitments as per the scheme. Will R succeed?

Q.61 (a) (a) Explain in detail the different modes of execution of a decree under C.P.C.

(b) 'A' obtains a decree against 'B' for Rs. 10,000. Subsequently, 'A' agrees to accept Rs. 7,000 in full satisfaction of the decree and 'B' pays Rs. 7,000 out of court, but neither the payment nor the adjustment is certified by the court. 'A' applies for execution of the full amount of the decree notwithstanding receipt by him of Rs. 7000. 'B' objects to the execution on the ground that the decree has been adjusted and the payment has been made. Discuss.

Q.62 X, a resident of Delhi, entered into a contract with Y, a resident of Shimla. All disputes arising of the contract were agreed to the jurisdiction of the Shimla Courts. X filed a suit against Y in Delhi on cause of action arose at Delhi. Thereafter Y filed a suit at Shimla on the same subject matter against X. X claims stay of the suit in Shimla Court under Section 10 of the Code of Civil Procedures. Y objected on the grounds that the previous suit at Delhi Court is in violation of the agreement. Decide.

Q.63 X and Y are married in the year, 1993. In 2003 Y gave birth to a male child. However, the relationship between the two was not very cordial. In 2005 Y filed a petition for divorce on the ground of cruelty. X, in written statement, had leveled very serious allegations of adultery against Y. Subsequently X withdrew the allegations of adultery by amending the written statement. The trial court held that allegations leveled by Y are instances of ordinary wear and tear of life. But the trial court further held that the wild allegations of adultery made by X in his written statement are sufficient to establish cruelty. The marriage was dissolved by decree of divorce on that basis. The trial court, however, did not take notice of withdrawal of allegations of adultery and feeling of repentance expressed by X in his withdrawal. X filed an appeal against the order of trial court. Decide the appeal giving reasons.

Q.64 (a) In a suit, A, the plaintiff alleges that B, the defendant is tenant of his house, at a monthly rent of Rs. 1,000/-. The defendant has not paid the rent for the last eleven months. A terminated B's tenancy through a legal notice and also gave notice to B to pay the arrears of rent and also to vacate the house within 30 days of the receipt of the notice. Notice was alleged to have been received by B on 2nd January, 2007. B did not answer the notice and suit claiming arrears of rent and ejection was filed against B on 2nd February, 2007. Damages have also been claimed for occupation of the house after receipt of the notice. B, in his written statement denied any arrears of rent. He further alleged that whatever is being claimed as arrears of rent, was actually spent in repairs of the house, with due intimation to the plaintiff.

(b) On the above facts, frame issues in the suit.

RESILIENCE LAW ACADEMY

(c) Write judgment in the above suit.

Q.65 (a) Define Res-judicata and Sub-judice?

(b) X filed suit for possession of certain land alleged to have fallen to his share on partition of joint family property with Y. Defendant raised plea that family property has not been divided. The suit was dismissed giving finding that partition has not been effected. Later X sued Y for partition of joint family property. Plea of res-judicata was raised. Decide.

(c) H husband filed suit against wife W restraining her from interfering with possession of house. Plea of ownership to suit house substantially involved but not raised by H husband. Suit was dismissed in view of settlement which had already arrived before Village Panchayat where H had relinquished his right in suit house in favour of W wife and her children. Finding was not challenged and attained finality. H then sold house to T who filed suit for declaration of title and possession against W. Is suit by T barred by principle of res-judicata? Decide.

(d) M brought a suit against Y to recover possession of 'Math' property claiming himself to be heir of deceased Mahant. Suit was dismissed as M failed to prove his heirship. Later M brought another suit for possession against Y claiming himself to be Manager of Math property on behalf of 'Math'. Plea of res-judicata is raised. Decide.

Q.66 (a) What is set off? Distinguish between set off and counter claim?

(b) Define 'Judgment', 'Decree' and 'Order'?

(c) A filed a suit against B. B raised plea of limitation and suit being barred by principle of res-judicata, Court framed an issue and decided against defendant. Is said decision a decree or order? Discuss.

(d) A filed a suit against her husband B to recover property worth Rs. 10,000/-. Suit was decreed. By inadvertence A omitted to include another property worth Rs. 1,000/- and filed another suit to recover the same. Is suit maintainable? Decide.

Q.67 (a) State provisions which govern the determination of place of suing?

(b) Suit for specific performance of agreement to sell relating to immovable property situated at Gurgaon filed at Delhi. Defendants had their head office at Delhi. Agreement was also executed at Delhi. Payment was to be made at Delhi. Agreement to sell contained a clause vesting jurisdiction upon Delhi High Court. Decide if Court at Delhi has jurisdiction?

(c) Discuss principles governing grant of ad-interim injunction. Whether a temporary mandatory injunction can be granted in the form of mandatory injunction?

(d) Discuss provisions relating to suit by or against Government and requirement of issuance of notice under Section 80 CPC. What are consequences of non-issuance of notice?

RESILIENCE LAW ACADEMY

Q.68 (a) What is provision relating to settlement of dispute in connection with execution, satisfaction and discharge of a decree before Executing Court? Is separate suit for settlement of such dispute maintainable?

(b) A sues B for recovery of Rs. 5,000/- with interest. Suit is decreed, however, judgment is silent about interest claimed. The decree is drawn accordingly. A filed application under Sections 151 and 152 CPC for correction of decree for adding interest. Decide.

(c) What is interpleader suit? Who can file it and when?

(d) Describe mode of execution of decree for restitution of conjugal rights and delivery of possession of immovable property.

Q.69 (a) Distinguish among legal set-off, equitable set-off and encounter claim. Discuss also how they are claimed and what are their effects.

(b) (i) 'A' sues 'B' on a bill of exchange. 'B' alleges that 'A' had wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set-off. Answer with reasons.

(ii) 'A' dies intestate and in debt to 'B'. 'C' takes out administration to 'A's effects and 'B' buys part of the effects from 'C'. In a suit for purchase money by 'C' against 'B', the latter wants to set-off the debt. Answer with reasons.

Q.70 (a) "The Legislature and Judiciary have taken several steps to reduce multiplicity of suits and harassment of defendants again and again under Civil Procedure Code, 1908." Discuss the above statement with reference to sections 10, 11, 12 and O.2 R.2 of the Civil Procedure Code, 1908.

(b) (i) On the basis of a contract, A institutes a suit against B and obtains a decree. B now wants to institute a suit against A on basis of an agreement between the parties for which A did not represent them fully.

(ii) A is an inspector in Police Service. He is dismissed from service by the DIG Police for indisciplinary activities. A files a writ in the High Court on the basis that no reasonable opportunities were given to him for hearing and dismissal action was malafide. This petition was dismissed. After this, he instituted a suit challenging Article 311 (2) of the Constitution that he could be dismissed only by the IG Police who was his appointing authority. Will he be successful in his suit?

Q.71 (a) Distinguish among Appeal, Revision and Review and explain the following:

- (i) Can the Court review suo motu or on its own motion its own decision?
- (ii) Can a superior Court direct an inferior court to review its previous decision?

(b) What do you understand by civil nature of a suit? Explain. Answer with reasons whether the following suits are of civil nature or not:

- (i) Contribution of fund for holding festival.
- (ii) The right of priest to worship in the temple.
- (iii) Right of a Pardanasheen lady to observe Parda.
- (iv) Expulsion of a member from his caste.

RESILIENCE LAW ACADEMY

Q.72 (a) Ram and Shyam sell wheat for Rs. 10,000 to Sohan and Mohan. Sohan sells cloth worth Rs. 12,000 to Shyam. Sohan files a suit against Shyam for recovery of price of cloth. Shyam claims set off of the cost of wheat in this suit. Will he succeed?

(b) In a suit between 'A' and 'B', a decree is passed that house 'Y' belongs to 'A'. 'C' files a suit against 'A' for getting house 'Y' on the ground that he is the owner of this house. 'A' takes the defence that there is already a declaratory decree that house 'Y' belongs to him. What decision will be given by the court?

(c) The court issues a summons against 'A' under Section 30 of the Code of Civil Procedure, 1908 but he does not appear before the court. What steps can be taken by the court to compel his attendance?

Q.73 (a) 'A' filed a suit against 'B' to recover possession of certain immovable property on the basis of heirship. This suit was dismissed. Can 'A' file another suit on the basis of a will in his favour? Give reasons and legal provisions for your answer.

(b) 'A' resides in Shimla, 'B' at Calcutta and 'C' at Delhi. 'A', 'B' & 'C' being together at Banaras, 'B' and 'C' make joint promissory note payable on demand and deliver it to 'A'. 'A' wants to bring a suit against 'B' and 'C' for recovery of money paid against the promissory note. Where is proper place of suing in this case? Write legal provisions in support of your answer.

(c) Certain immovable properties of 'A' fall within the jurisdiction of Dehradun court as well as that of Haridwar. 'A' files a suit regarding them in Haridwar court, which dismisses it on the ground that the larger portion of the said properties is situated within the jurisdiction of Dehradun court and only a very small portion of the same falls within Haridwar court's jurisdiction, hence 'A' ought to have filed the said suit in the Dehradun court.

Q.74 (a) What errors in a judgment, decree or order can be corrected by the court after signing and pronouncing the same without there being an application made for review?

(b) What is a foreign judgment? Under what circumstances is it conclusive?

(c) In what circumstances can the property of defendant be attached before judgment?

(d) When can temporary injunction be granted by a Civil Court?

Q.75 (a) Who is entitled to file a pauper suit? State the procedure for filing such suits. Can a defendant be allowed to defend in forma pauperis? Give reasons.

(b) When the court shall reject an application for permission to sue as pauper? Discuss fully.

(c) Answer the following:

(i) 'A' presented an application for leave to sue in forma pauperis but 'A' dies pending the hearing of the application. Can the application be continued by 'B', who is a legal representative of 'A'? Give reasons.

RESILIENCE LAW ACADEMY

(ii) 'A' disposed of his property worth Rs. 1000 in October, 2006 to enable himself to sue as pauper and applies for leave in Nov., 2006. Will the application of 'A' be accepted or rejected by court? Give reasons.

Q.76 (a) Mohan was dismissed from the service. He filed a writ petition in the High Court for quashing the order of dismissal on the ground that he was not given reasonable opportunity to refute the allegations made against him and that the action taken against him was mala fide. The petition was dismissed on merits. Thereafter, he instituted a suit in the Court of Civil Judge in which he challenged the order of dismissal on the grounds inter-alia that he had been appointed by the Inspector General of Police and that the Deputy Inspector General of Police is not competent to dismiss him by virtue of Article 311 (1) of the Constitution of India. Decide giving reasons.

(b) A judge of the Family Court decided in a maintenance suit that the husband had deserted his wife and, therefore, the wife was entitled to maintenance. Does the subsequent petition filed by the husband for judicial separation under Section 10 of the Hindu Marriage Act, 1955 operate as res judicata? Give reasons for your answer.

(c) A sues B for a sum of money on a contract for the supply of boats and on failing therein sues 'B' again for the same amount as compensation for services rendered for supplying boats. Is the suit barred? Give reasons.

Q.77 (a) Explain Decree. Distinguish between preliminary and final decree. Illustrate your answer.

(b) What is proper place for filing suit in the following cases?

- (i) A suit by guardian for custody of his ward.
- (ii) A suit for mesne profit.
- (iii) A suit for restitution of conjugal rights.

(c) 'A' sues 'B' for recovery of possession of certain land and for mesne profits and a decree is passed in A's favour. Examine whether this decree is preliminary or final.

Q.78 (a) Draft a plaint, giving details, in a suit for libel by innuendo.

(b) Draft a plaint, giving details, in a suit for libel by innuendo.

(c) Frame issues on the pleadings in question No. (a) and (b) above.

Q.79 (a) Draft a plaint, giving details, in a suit for false imprisonment by a police officer.

(b) Draft a written statement in the suit mentioned in question No. 1 (a) above.

(c) Frame issues on the pleadings in question No. 1 (a) and (b) above.

Q.80 (a) Draft a plaint, giving details, in a suit for the recovery of damages for Malicious Prosecution.

(b) Draft a written statement in the suit mentioned in question No. 1 (a) above.

(c) Frame issues on the pleadings in question No. 1 (a) and (b) above.

RESILIENCE LAW ACADEMY

Q.81 (a) Draft a plaint, giving details, in a suit for recovery of damages for injuries caused by negligent driving of car.

(b) Draft a written statement in the suit mentioned in question No. 1 (a) above.

(c) Frame issues on the pleadings a fore mentioned.

Q.82 (a) Draft a plaint for recovery of arrears of rent and ejectment of a tenant of ground of default.

(b) Draft a written statement in the suit mentioned in question No. 1 (a) above.

(c) Frame issues on the pleadings a fore mentioned.

Q.83 (a) Draft a plaint either claiming damages for malicious prosecution or for specific performance of contract.

(b) Draft a written statement in the suit mentioned in question No. 1 (a) above.

(c) Frame issues on the pleadings a fore mentioned.

Q.84 (a) Draft a plaint in a suit in which a demand has been made by the landlord against a tenant for arrears of rent in respect of residential house and for the tenant's ejectment therefore on the ground that the tenancy which was from month to month has been terminated by a notice for ejectment given by the landlord.

(b) Draft a written statement in reply to the suit mentioned in question No. 1 (a) above.

(c) Frame issues on the pleadings a fore mentioned.

Q.85 (a) B agreed with A to sell his house for Rs. 40000. In pursuance of agreement, which was registered also. A gave Rs. 35000 to B towards price and promised to pay the balance of Rs. 5000 at the time of registration sale-deed. B gave possession of the house to A and assured him that he would execute the sale deed on one pretext or the other. On the above facts, draft a plaint on behalf of A claiming specific performance of contract. Draft a written statement on behalf of B in reply to the plaint in question no. 1 (a) and 1 (b) above.

(b) On the pleadings in question no. 1 (a) and (b) above frame issues.

Q.86 (a) Plaintiff A is owner of a house. In one of its portions, defendant B resides. The defendant has not paid rent for last 10 months. On this very ground, the plaintiff wants to get his house vacated and also to recover arrears of rent due. On the above facts draft a plaint on behalf of A for eviction and recovery of the arrears of the rent.

(b) Draft a written statement on behalf of B in reply to the above plaint.

OR

A young man of considerable means, A, developed friendship with a young girl B of ordinary family living in his neighbourhood. The girl's mother had died and daughter usually had to go to his fields for working during the whole day. The girl gave birth to an

RESILIENCE LAW ACADEMY

illegitimate son from above mentioned young man. Before the illegitimate son was born, there was a proposal of marriage by the girl's father. The young man declined the offer of marriage and also refused to maintain them. On the basis of the above facts write a judgment in the case.

Q.87 (a) On 5th January, 1994, Mohan Lal Kashyap instituted a criminal complaint against Ghanshyam Das Sharma, who was a shopkeeper. Consequently, Ghanshyam Das Sharma had to remain in prison and his shop was also closed. After trial the Criminal Court acquitted Ghanshyam Das Sharma on 5th July, 1994 on the ground that the criminal complaint of Mohan Lal Kashyap was false and baseless. Now, Ghanshyam Das Sharma wants to file suit against Mohan Lal Kashyap for malicious prosecution. In the light of the above mentioned facts draft a plaintiff Ghanshyam Das Sharma.

(b) Draft a written statement on behalf of the defendant Mohan Lal Kashyap in reply to the plaint in question No. 1 (a) above.

Q.88 B obtains a house from A to rent and continues to pay monthly rent to A. S on the ground that the said house has been sold to him by A on 1.1.96 want rent given to him from 1.1.96. Prepare a plaint on behalf of S and write a short judgment.

Q.89 A and B were neighbours. On 5th January 1998, B instituted a criminal complaint against A, who was an employee in the Bank. Consequently, A has to remain in prison. After trial the criminal court acquitted A on 11 February 1999 on the ground that the criminal complaint of B was false and baseless. Now A wants to file suit against B for malicious prosecution. Draft a plaint on A and write a short judgment.

Q.90 (a) Plaintiff A is owner of a house. In one of its portions, defendant B resides. The defendant has not paid rent for last 10 months. On this very ground, the plaintiff wants to get his house vacated and also to recover arrears of rent due. On the above facts, draft a plaint on behalf of A for eviction and recovery of arrears of rent.

(b) Draft a written statement on behalf of B in reply to the above plaint.

OR

A young man of considerable means, A developed friendship with a young girl B of ordinary family living in his neighbourhood. The girl's mother had died and father usually had to go to his fields for working during the whole day. The girl gave birth to an illegitimate son from the above mentioned young man declined the offer of marriage and also refused to maintain them. On the basis of the above facts, write a judgment in the case

Chapter 2

Decree

1. Define Decree. [200 Words, RJS-1969]
2. Short Notes: Preliminary Decree [200 Words, RJS-1975, BJE-1979 & 1980]

RESILIENCE LAW ACADEMY

3. Short Notes: Decree [200 Words, RJS-1976 & 1979]
4. What is a Decree? [15 Words, RJS-1986]
5. What is a Preliminary Decree? [15 Words, RJS-1988]
6. What is meant by Decree? Distinguish between Preliminary Decree and Final Decree. [300 Words, UPPCS (J)-1987]
7. Distinguish between Decree and Order. [200 Words, UPPCS (J)-1991]
8. a) Define and distinguish between Preliminary Decree and Final Decree.
b) i) What will be the effect on the final decree passed during the pendency of the appeal against the preliminary decree, in case the appeal is allowed?
ii) Can the validity of the preliminary decree be challenged through an appeal which is brought against a final decree? [500 Words, UPPCS (J)-1992]
9. Write Notes on Decree and Judgment. [50 Words, HJS-1998]
10. Difference between a Decree and an Order. [200 Words, BJE-1987]
11. Distinguish between a Preliminary and Final decree. Examine whether the decree is preliminary or final in the following cases: [500 Words, BJE-1986]
a) A, Sues B for recovery of possession of certain land for mesne profit and a decree is passed in A's favour.
b) X, the mortgagor of house bring a suit against Y, the mortgagor, for foreclosure of mortgage and the decree is passed in favour of X.
12. Short Notes: Cross-Decree. [200 Words, BJE-1979]
13. Define Decree and Order and bring out the essential distinction between the two. Are the following orders decrees? Give reasons: [600 Words, BJE-1977]
a) An order dismissing a suit in default,
b) An order imposing cost,
c) An order rejecting the plaint.

Chapter 3

Orders

1. Define Order. [200 Words, RJS-1969]
2. Which Orders are not included in the definition of Decree? [20 Words, RJS-1994]
3. Short Notes: Interlocutory Orders [150 Words, HJS-2001]

Chapter 4

foreign judgment

1. Is a judgment given by a Foreign Court conclusive as to matters decided therein and how can such a judgment be enforced in India. [200 Words, RJS-1974]
2. Under what circumstances a Foreign Judgment is not conclusive? [50 Words, RJS-1988]
3. What is a Foreign Judgment? Under what circumstances is it conclusive? [300 Words, UPPCS (J)-1985]
4. What do you understand by a foreign Judgment? In what manner may a decree of a Foreign Court be executed in India? [300 Words, UPPCS (J)-1991]
5. Short Notes: Foreign Judgment [150 Words, BJE-1977]

Chapter 5

legal representative

RESILIENCE LAW ACADEMY

1. Short Notes: Legal Representative [50 Words, RJS-1975]
2. Short Notes: Recognized Agents and Pleaders [50 Words, RJS-1975]
3. Define a Legal Representative. [20 Words, RJS-1992]
4. Who is a Legal Representative? Give examples of Legal Representative. [300 Words, UPPCS (J)-1988]

Chapter 6

Mesne Profits

1. Short Notes: Mesne Profits [50 Words, RJS-1971, 150 Words, BJE-1975]
2. Define "Mesne Profits". [20 Words, RJS-1986]
3. What do you mean by Mesne Profits? [20 Words, RJS-1992]
4. What do you understand by the expression "Mesne Profits"? What are the principles to guide a Court in determining the amount of mesne profits? Can Mesne profits be awarded for wrongful dispossession of movable property? Give Reasons. [300 Words, HJS-2001]
5. Write short note on Mens Profits. [150 Words, HJS-2003]

Chapter 7

JURISDICTION of civil courts

1. In which Court and at what place should any suit be instituted? [50 Words, RJS-1989]
2. What is a Pecuniary Jurisdiction of Munsif? [15 Words, RJS-1991]
3. What is the limit of Pecuniary Jurisdiction of the following in Rajasthan? [15 Words, RJS-1986]
 - a) Munsif
 - b) District Judge
4. What are the rules regarding the institution of suits in Civil Courts? How the territorial Jurisdiction in defined? [200 Words, RJS-1994]
5. What do you understand by the Pecuniary Jurisdiction of a Court? Will a Court be competent to hear a suit exceeding its limits if the parties to the suit have given their consent? [200 Words, UP-1986]
6. If the Courts have no jurisdiction, consent of the parties or their inaction, cannot confer jurisdiction; nor by consent jurisdiction can be ousted. Elaborate. [150 Words, HJS-2003]
7. Explain the basic rules governing jurisdiction of Civil Courts. [300 Words, BJE-2000]

Chapter 8

Suit of civil nature

1. What matters can be adjudicated upon by Civil Court? [200 Words, RJS-1974]
2. Short Notes: A Suit of a Civil Nature [200 Words, RJS-1979, BJE-1978]
3. What is a Suit of Civil Nature? [20 Words, RJS-1992]
4. Whether the following can form the subject matter of a Civil Nature: [150 Words, HJS-2003]
 - a) A question of exclusion of a member of a caste from caste ceremonies.
 - b) Right to religious honour unconnected with any office.

RESILIENCE LAW ACADEMY

- c) Suit by a Hindu Wife for perpetual injunction restraining her husband from contracting second marriage.
5. Explain the expression 'Suit of a Civil Nature'. [200 Words, UPPCS (J)-1986]
6. Discuss "Suit of Civil Nature". [300 Words, UPPCS (J)-1988]
7. What is meant by Jurisdiction of a Civil Court? [15 Words, RJS-1992]
8. How will you decide that a Suit is of a Civil Nature? Are the following suits of Civil Nature: [300 Words, UP-2000]
 - a) Right to take out religious procession
 - b) Right of a Purdanashee lady to observe Purda
 - c) Right to franchise
9. Explain a Suit of Civil Nature. [300 Words, BJE-2000]
10. What do you understand by a "Suit of a Civil Nature"? [300 Words, BJE-1991]

Chapter 9

Res Sub Judice

1. Distinguish, with illustrations, between res sub-judice and res-judicata. [200 Words, RJS-1971]
2. 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 matter in issue? If so, what? Discuss. [200 Words, UP-1986]

Chapter 10

Res judicata

1. Discuss whether the rule of res judicata laid down in Section 11 of the CPC is exhaustive and can be extended to execution proceedings also. Refer to decided cases. [500 Words, RJS-1970]
2. A sues B for a declaration of title to land and obtains a decree. A then sues C for possession. C's contention is that B is the real owner and C is in possession as a tenant of B. Discuss the validity or otherwise of the defence. [300 Words, RJS-1971]
3. The Principle of conclusiveness of judgment is a rule of estoppel. Discuss. [500 Words, RJS-1974]

State briefly in any four of the following as to whether the principle of 'RES JUDICATA' would be applicable --

- a) if the previous suit was dismissed for default;
 - b) if the previous case was decided by a Court of exclusive jurisdiction;
 - c) to proceedings in execution of a decree;
 - d) if the previous suit was compromised;
 - e) if the previous decision was given by a Court having no jurisdiction;
 - f) if the previous decision was erroneous in law.
4. What is a res judicata? Discuss. [300 Words, RJS-1976]
 5. Is the defendant barred by the principle of res judicata where an issue in a previously instituted suit has been decided against the defendant but the suit itself was dismissed? [150 Words, RJS-1976]
 6. What are the requisite conditions of the Principle of Res judicata? [300 Words, RJS-1979]

RESILIENCE LAW ACADEMY

7. Short Notes: Constructive res judicata? [100 Words, RJS-1979]
8. What is "res judicata"? [50 Words, RJS-1984]
9. Whether the principle of res judicata applies between two stages in the same litigation? [15 Words, RJS-1986]
10. What is the difference between res judicata and estoppel? [50 Words, RJS-1986]
11. A suit is brought for partition on the ground of legitimate son of the deceased. Can a second suit lie on the ground of illegitimate son of the deceased? [50 Words, RJS-1986]
12. Does the principle of res judicata apply between co-defendants? [15 Words, RJS-1988]
13. As given in the Code of Civil Procedure, 1908 write the headings of the following: [15 Words, RJS-1989]
 - a) Section 11 or Section 80
 - b) Order XXI or Order XXXIV
14. What is an estoppel? How does it differ from 'Res judicata'? [200 Words, RJS-1992]
15. Explain the distinction of res judicata with res sub judice and Estoppel. [200 Words, UPPCS (J)-1988]
16.
 - a) Discuss fully the condition which are required to constitute a matter res judicata and comment upon the following statements –
"A verdict against a man suing in one capacity will not stop him when he sues in another distinct capacity".
 - b) 'A' files a suit for declaration that he is entitled to certain lands as heir to 'B'. The suit is dismissed. Can he claim in latter suit title to the same properties on the basis of adverse possession?
 - c) A Munsif decided in a maintenance suit that the husband had abandoned his wife and, therefore, the latter was entitled to maintenance. Does the subsequent petition filed by the husband for judicial separation under Section 10 of The Hindu Marriage Act, 1955 operate as res judicata?
Give reasons for your answer. [600 Words, UP-1982]
17.
 - a) What is the principle of res judicata and in what circumstances can this principle be applied?
 - b) Distinguish between res judicata and estoppel. [600 Words, UP-1984]
18. Explain constructive res judicata. [200 Words, UP-1986]
19. Explain the doctrine of "Res judicata" provided in Section 11 of the Code of Civil Procedure, 1908. How is the doctrine of Res judicata different from the rule contained in Section 10 of the said Code? [200 Words, UP-1997]
20. Distinguish between res judicata and res sub judice. [150 Words, HJS-2003]
21. In which of the following cases the rule/principle of 'res judicata' will operate? [200 Words, HJS-1998]
 - a) A suit was dismissed on the plea of limitation without adjudicating merits. A subsequent suit is filed in which the same pleas are raised.

RESILIENCE LAW ACADEMY

- b) A suit was dismissed for default of appearance or for want of jurisdiction and a fresh suit is filed on the same cause of action.
- c) A suit was dismissed by trial Court. A subsequent suit is filed on the ground of alternative plea which is inconsistent with the main plea of the dismissed suit.
22. A suit is dismissed on technical ground of misjoinder of parties. Thereafter, the defect is removed and the suit is filed against. Will it be affected by the principle of 'res judicata'? [150 Words, HJS-1998]
23. Short Notes: Constructive Res judicata. [150 Words, HJS-1998]
24. A Munsif decided in a maintenance suit that the husband had abandoned his wife and therefore, the latter was entitled to maintenance. Does the subsequent petition filed by the husband for judicial separation under Section 10 of the Hindu Marriage Act, 1995 operate res judicata. [150 Words, HJS-2000]
25. a) Discuss fully the conditions which are required to constitute a matter res judicata and comment upon the following statement.
"A verdict against a man suing in one capacity will not stop them when he sues in another distinct capacity."
- b) 'A' files a suit for declaration that he is entitled to certain lands as heir to 'B'. The suit is dismissed. Can he claim in later suit title to the same properties on the basis of adverse possession?
- c) A Munsif decided in a maintenance suit that the husband had abandoned his wife and therefore, the latter was entitled to maintenance. Does the subsequent petition filed by the husband for judicial separation under Section 10 of the Hindu Marriage Act, 1995 operate res judicata. Give reasons for your answer. [600 Words, HJS-2000]
26. a) Discuss the principle of res judicata in the following proceedings:
i) Application for Amendment of Decree
ii) Application for review
iii) Order of Maintenance
- b) Distinguish between 'res judicata and res sub judice'. [600 Words, HJS-2001]
27. Explain the concept of constructive res judicata with the help of illustrations. [250 Words, BJE-1991]
28. Difference between 'sub judice and res judicata'. [200 Words, BJE-1987]
29. a) Discuss fully the conditions which are required to constitute a matter res judicata.
- b) 'A' files a suit for declaration that he is entitled to certain lands as heir to 'B'. The suit is dismissed. Can he claim in later suit the same properties on the basis of adverse possession?
- c) 'A' claiming to be entitled to a house as tenant of X, sues B for possession, B is joined as proforma defendant. The suit is dismissed on finding that B is the owner of the house. X then sues B for possession and B pleads that the finding in the previous suit on the issue of ownership operates as Res judicata. Is the plea valid? Give reasons. [500 Words, BJE-1986]

RESILIENCE LAW ACADEMY

30. It is not every matter decided in a former suit that can be pleaded Res judicata in a subsequent suit. Examine the condition which must be fulfilled to constitute a matter as res judicata. [250 Words, BJE-1980]

31. a) Define Res judicata. What are its objects?

b) A Hindu H dies leaving two daughters D' and D-2 and nephew N.D. I sues D-2 and N to recover certain property under an oral will of H. D-2 claims the property under a will in writing executed by H. N claims the property as undivided nephew of H. The Court finds that H and N were divided that the will in writing in favour of D-2 is the valid will of H and dismisses the suit of D-1. Subsequently D-2 sues N to recover the property under the writing will. N contends that he and H were joint and he became entitled to the property by survivorship. D-2 pleads the previous judgment as res judicata. Will succeed? Give reasons.

[500 Words, BJE-1977]

32. A became a tenant of seven lots of coconut grove under B, Annual rental agreed was Rs. 3,600/- to be paid in three installments. A filed a suit for declaration and injunction alleging that B with the help of C is trying to cast clouds on his tenancy rights and to dispossess him. The Court found that A had already been dispossessed. The suit was therefore dismissed on the ground that suit for mere declaration does not lie in view of the prohibition contained in the Specific Relief Act, without seeking the consequential relief of possession.

A then filed another suit for possession of the land under his tenancy. The suit was resisted on the ground, inter alia that it is barred by principles of res judicata and also under Order 2, Rule 2, CPC. Decide giving reasons for your decision, whether the defendant's plea is sustainable. [300 Words, DJS-1996]

Chapter 11 place of suing

1. What are the general principles governing territorial jurisdiction of Courts for the purpose of filing of suits? [500 Words, RJS-1974]

State, in two of the following cases, in which Court a suit should be filed --

- i) For redemption of mortgage of immovable property.
- ii) For recovery of compensation in respect of breach of contract relating to goods sent by rail from the place A, when the consignor having booked the goods as 'self', sent the railway Receipt to a Bank at the place of destination 'B' with directions to deliver the same to the other party against cash payment.
- iii) For compensation for wrong done to movable property at A, where the plaintiff resides at B and the defendant resides at C.
- iv) For recovery of rent of immovable property situated at A and the owner resides at B.

2. a) Where would the following suits lie?

- i) A suit for recovery of immovable property situated outside the State.
- ii) A suit for partition of immovable property by a member of a joint Hindu family against outer members of the family when a small portion of the immovable property is situated in Rajasthan, but the larger part of it is situated in Calcutta.

RESILIENCE LAW ACADEMY

- b) Under what circumstance can an objection as to place of suing be allowed by an appellate Court? [500 Words, RJS-1979]
3. 'A' is a tradesman in Calcutta. 'B' carries on business in Delhi. 'B' by his agent in Calcutta, buys goods of 'A' and requests 'A' to deliver them to the Railway. 'A' delivers the goods accordingly in Calcutta. At what place 'A' can sue 'B' for the price of the goods? [15 Words, RJS-1986]
4. a) State the provisions which govern the determination of the place of suing.
b) In the following cases determine the place of the case:
- i) A, B and C jointly take a loan from D at Varanasi on a promissory note. D lives in Lucknow A, B and C reside in Faizabad, Varanasi and Kanpur respectively.
- ii) A residing in Delhi, publishes a defamatory statement about B in Calcutta. B is resident of Patna. [600 Words, UPPCS (J)-1987]
5. Determine the place of suing in the following cases:
- i) A, a resident of Delhi. 'B' a resident of Bangalore and 'C' of Calcutta meet at Kumbh Mela in Allahabad. There 'B' and 'C' borrowed Rs. 10,000/- from 'A' and jointly executed a pronote and handed it over to 'A'. All of them went back to their respective places but the money was not returned. 'A' wants to file a suit for recover of his money.
- ii) Father of 'A' and 'B' had a bungalow at Nainital, one house at Lucknow and Delhi each and two big mango-groves in the district of Sitapur. After the death of the father, 'A' took over the management of the entire property and began appropriating the income. 'B' wants to sue for partition of the property. [300 Words, UPPCS (J)-1991]
6. A is tradesman in Calcutta. B carries on business in Delhi B, by his agent in Calcutta, buys goods of A and requests A to deliver them to a transport company. A delivers the goods accordingly in Calcutta. A wants to sue B for the price of the goods. Decide with reasons, the place of suing. ? [200 Words, UPPCS (J)-1991]
7. Discuss those provisions of Civil Procedure Code which are applied in determination of forum for filing a suit relating to immovable property. [300 Words, UPPCS (J)-1999]
8. 'X', 'Y' and 'Z' own a house at Delhi, a shop at Bombay, and a farm at Ganga Nagar in Rajasthan. They made a partition of this property by an agreement at Jaipur. 'X', being aggrieved by this partition, files a suit for challenging this partition in a Court at Delhi. 'Y' and 'Z' raise an objection that the suit should have been filed in a Court at Jaipur. How will the Court decide this issue? [150 Words, HJS-1998]
9. 'A', a resident of Delhi, 'B', a resident of Simla and 'C' a resident of Calcutta, meet at Kumbha Mela in Allahabad. There A and B borrowed Rs. 10,000/- from C and jointly executed a pronote and handed it over to C. All of them went back to their respective places, but money was not returned. C wants to file a suit for recovery of his money. Advise him about the place of suing. [150 Words, HJS-2000]
10. State the provisions which govern the determination of the place so suing. [150 Words, HJS-2000]
11. The head office of a transport company was situated at Chandigarh and the branch officers at Lucknow, Jaipur and Patna. A dispute arises between X and the company in respect of a transaction made through Lucknow office. X files a suit in

RESILIENCE LAW ACADEMY

respect of this dispute against the company in a Court at Jaipur. How the Court will decide? [200 Words, HJS-2001]

12. Respondent has its regd. and head office in Delhi. Agreement was executed between it and the petitioner for execution of certain work at Rihand (U.P.). Certain disputes having arisen between the parties, the same were referred to Arbitrator. Award was filed in the Court at Delhi. One of the objections raised by the respondent was that the Court had no jurisdiction as worksite was at Rihand, work was allocated and executed at Rihand, agreement was executed at Rihand and breach if any was also committed at Rihand. It was contended that as no part of the cause of action has arisen within territorial jurisdiction of the Court, it will have no territorial jurisdiction to entertain the award made. Contention of the petitioner is that since principal/corporate office of the respondent is situated at Delhi, this Court will have territorial jurisdiction. The question to be decided is whether the Court within whose Jurisdiction principal/regd. office of company is situate, will have jurisdiction to try the suit even if no part of cause of action has arisen within its jurisdiction and the cause of action has accrued at a place where the company has its subordinate office. Decide the point. [200 Words, DJS-1999]

13. Determine the place of suing the following cases: [200 Words, BJE-1991]

a) A is a tradesman in Calcutta, B carries on business in Delhi, B though has agent in Calcutta buys goods from A and requests A to deliver them to the Eastern Railways in Calcutta. A delivers goods accordingly in Calcutta. At which place A may sue B for the price of goods?

b) A residing in Delhi, publishes a defamatory statement about B in Calcutta. B is a resident of Patna.

14. Determine the forum for institution of suit in the following cases: [200 Words, BJE-1986]

a) A, who resides in Patna sells a plot of land situated in Rachi to B who resides at Gaya for Rs. 50,000/-. B has paid half the price to A. A now wishes to file a suit for recovery of the remainder of the amount from the B.

b) X, brings a suit in Patna in respect of two houses, one situated in Patna and the other at Muzaffarpur. Subsequently the claim regarding the Patna house is withdrawn by X. Can the Patna Court now adjudicate in respect of X,s claim regarding the Muzaffarpur house?

15. Decide the place of suing when a decree is sought to be set-aside on the ground of fraud? [150 Words, BJE-1980]

16. What is the forum for the following suits: [300 Words, BJE-1979]

a) A suit for restitution of conjugal rights.

b) A suit for accounts against Agent.

c) A suit for damages for breach of contract.

17. Where can the suit lie in the following cases? [600 Words, BJE-1978]

a) A resides in Gaya, B in Patna and C in Bhagalpur, A, B and C being together in Patna pass a joint promissory note in favour of D payable in Patna. A breach made.

RESILIENCE LAW ACADEMY

b) Defendant, a resident of Jamshedpur publishes a libel in Darbhanga against the plaintiff causing him damage's.

c) A claims for the sale of B's two mortgaged houses situated at Chapra and Muzaffarpur.

18. X residing in Shimla, beats Y in Delhi. At what place Y may sue X? Advise. [200 Words, HJS-2003]

19. X residing in Lucknow publishes in Faizabad statements of defamatory of Y. At what place Y may sue X? Advise. [200 Words, HJS-2003]

Chapter 12

Parties to suit

1. What remedies are available to the plaintiff when there are numerous persons having the same interest in the subject matter of the suit? [100 Words, RJS-1974]

2. Short Notes: Necessary and Proper Parties [100 Words, BJE-1984]

3. A owned some land which B was cultivating as a tenant. A had four sons C, D, E and F. A's death, the land was sold by C, D, E and G son of the pre-deceased son F, to H vide registered sale deed dated 12-2-68. H filed a suit for recovery of possession against B. B contested the suit on the ground inter alia that there are other co-owners of the property and since all the co-owners have not joined in filling the suit, the suit is bad for non-joinder of necessary parties. In the written statement, he also gave the pedigree table of A but did not lead any evidence in this regard. The revenues record also did not show that there was any other legal heir of A except C, D, E, and G at the time of sale. So H contended that he is the sole owner and suit is not bad for non-joinder of other co-owner. Decide the question of non-joinder of parties by a reasoned order. [250 Words, DJS-1996]

Chapter 13

Representative suit

1. a) What do you understand by representative suit? By whom and under what circumstances can such suit be brought?

b) 'A', who was treasurer of an association, misappropriates the funds of the association. By a resolution of the association 'B', a member, was authorised to recover the amount misappropriated. Can 'B' successfully sue 'A'? Give reasons for your answer.

c) 'A', 'B' and 'C', three persons were chosen by a community to represent them in a suit against 'K', but 'X', 'Y' and 'Z' other members of the same community supported the defendant 'K'. Does it affect the representative character of the suit? Give reasons of your answer. [600 Words, UPPCS (J)-1983]

2. What is a representative suit? By whom and under what circumstances can such a suit be filed? [200 Words, UPPCS (J)-1985, HJS-2000]

Chapter 14

Cause of action AND MULTIFARIOUSNESS

1. What do you understand by multifariousness? [200 Words, RJS-1969]

2. Short Notes: Misjoinder of causes of action? [150 Words, RJS-1969]

3. A plaintiff brings a suit on the basis of several course of action against the defendant. What should the Court do in such a cases? [150 Words, RJS-1969]

RESILIENCE LAW ACADEMY

4. Short Notes: Cause of action? [150 Words, RJS-1971]
5. In what cases a plaintiff is precluded from filing a fresh suit in respect of the same case of action? [150 Words, RJS-1974]
6. Discuss why every suit shall as far as possible, be framed so as to afford ground for final decision upon the subjects in dispute. What is the penalty for non-compliance of the above rule? What is the effect if the plaintiff omits to sue in respect of, or intentionally relinquishes, any proportion of the claim? [500 Words, RJS-1977]
7. What is case of action? [20 Words, RJS-1992]
8. What so you understand by cause of action? [250 Words, BJE-1979, 1986]

Chapter 15

Pleading

1. What are the circumstances and the stages in which amendment of pleadings of the parties can be allowed? Is it permissible to allow the plaintiff to introduce by way of amendment as new cases or a new cause of action, when a suit on such new case or cause of action is barred by limitation? [600 Words, RJS-1977]
2. a) What are the basic principles governing the amendment of pleadings?
b) Plaintiff sues the defendant for rendition of accounts. Subsequently, the plaintiff moves an application for amendment claiming specific amount as commission on contracts. Is the amendment permissible? Give reason for your answer. [500 Words, RJS-1979]
3. What constitute pleadings? [15 Words, RJS-1984]
4. What are 'inconsistent' and 'alternative' pleadings? [50 Words, RJS-1988]
5. State the circumstances in which a party to a suit be refused to amend his pleading. [250 Words, UPPCS (J)-1991]
6. What are the circumstances in which Court can order amendment of pleadings? What will be the result, if he does not make the desired amendment after the order of the Court? [250 Words, UP-1992]
7. State the circumstances in which a party to a suit be refused permission to amend his pleading? [250 Words, UP-2000]
8. Short Notes: Verification [200 Words, BJE-1979]
9. Discuss the circumstances under which the amendment of the pleading is allowed by Court. [250 Words, BJE-1975]
10. A entered into agreement with B for carrying out certain work from 4.4.73 till 4.4.75. Agreement contained a clause for arbitration in case of dispute. On 3.4.78, A filed civil suit against B for recovery of same dues etc. On 4.4.78 B filed application under Section 20 of the Arbitration Act. B moved an application for stay in civil suit filed by A but the application for stay was dismissed and his appeal against dismissal was also dismissed on 1.8.85. On 13.3.1986, B filed an application under Order VI, Rule 17, CPC for amendment of his pending application under Section 20 of the Arbitration Act for converting it into suit for recovery of amount from A. Application for amendment is opposed on the ground that it proposes to change nature and character of the suit and that claim of B was barred by Limitation. B contends that his pending application under Section 20 of the Arbitration Act contains all the particulars which should contain in

RESILIENCE LAW ACADEMY

regular suit, difference is only in regard to reliefs prayed for, no prejudice will be caused to the opposite party, claim is not time-barred and prayer can be granted even by resorting to inherent powers under Section 151, CPC. Deal with the respective contentions of the parties and pass an order on that application under Order VI, Rule 17 of Code of Civil Procedure. [250 Words, DJS-1999]

11. "Essentials of a Suit". Write short notes. [150 Words, HJS-2003]

Chapter 16

Plaint

1. Draft a plaint claiming damages for malicious prosecution. [200 Words, RJS-1969]

2. Setting out your own facts draw up a plaint in an inter pleader suit. [200 Words, RJS-1970]

3. Imagining your own facts draw up a plaint and a written statement and also write a short judgment in a suit either for malicious prosecution or for a breach of warranty. [600 Words, RJS-1971]

4. Imagine your own facts and draft a plaint for the recovery of damages for malicious prosecution and prepare a written statement as well. Also write a short judgment. [600 Words, RJS-1975]

5. Short Notes: Rejection of Plaint [200 Words, RJS-1974]

6. Short Notes: Verification of Pleadings [150 Words, RJS-1974]

7. Draft a plaint in a suit for pre-emption on the ground of being a co-sharer in a house, portion of which has been sold. What defences are available in such a case? Also write a short judgement? [600 Words, RJS-1974]

8. Draw up a plaint and a written statement in a suit for specific performance of a contract of sale of immovable property and also write a short judgment. [600 Words, RJS-1974]

9. A has a right of way from his house over the land of B to the public highway. B obstructs A and his servants passing along the way. A wants to bring a suit. Please draft a suitable plaint for him. Also attempt a written statement. Frame issues and write a short judgment. [600 Words, RJS-1976]

10. B makes a false representation to A that C is solvent and in good credit. A is induced to sell goods to C on credit. C fails to pay. Can A bring a suit against C and B both and if so, please draft a plaint and also the written statement, frame issues and write a short judgment. [600 Words, RJS-1976]

11. Draw up a plaint setting out your own facts for a suit brought by the sons for setting aside alienation of joint family property by the father as the Karta and also draft a suitable written statement. Also write a short judgment. [600 Words, RJS-1977]

12. a) Draft a plaint and written statement in suit for specific performance of a contract to sell immovable property. Also write a short judgment.

b) Is it necessary for the plaintiff in such a suit to ask specifically for the relief of possession in the plaint? [600 Words, RJS-1977]

RESILIENCE LAW ACADEMY

13. A filed a suit against B alleging that B had mortgaged his house on September 1, 1978 for a sum of Rs. 5000/- stipulating to pay interest at the rate of 9 percent per annum on the mortgage loan, B denied the fact of having taken loan and the execution of the mortgage deed. A examined two witnesses in his evidence who deposed that B had put his signature on the mortgage deed in their presence. No attesting witness of the mortgage deed was examined although they were alive. Draft a plaint on behalf of A, prepare a written statement on behalf of B and frame the issues. Also write a judgment in the above matter. [600 Words, RJS-1979]

14. A leased out his house on a monthly rent of Rs. 60/- on March 1, 1976. A sued B for eviction. A issued a notice on March 10, 1978 to B calling upon him to vacate the premises by March 27, 1978. B pleaded the tenancy was not validly terminated, so the suit is liable to be dismissed. Draft a plaint for the eviction of B. Also prepare written statement, frame issues and write judgment in the above matter. [600 Words, RJS-1979]

15. Draft a plaint on behalf of a Government servant for arrears of his pay for six months which the State Government has failed to pay in spite of his representation to the Government. Also prepare a written statement on behalf of the Government, frame issues and write out a short judgment. [600 Words, RJS-1979]

16. Draw a plaint for the cancellation of a sale deed on ground of fraud or misrepresentation. Also prepare a written statement on behalf of the defendant, frame issues and write out a short judgment. [600 Words, RJS-1979]

17. Prepare a plaint and a written statement and frame issues on the following facts --

A died leaving behind a will bequeathing his properties in favour of his friend B to the exclusion of A's widow and children. The will included recitals that X and Y had secured possession of the properties belonging to A in pursuance of an alleged deed of sale, that its true nature was not sale and that it was actually a transaction of mortgage, B claimed title to the properties in suit on the strength of the will in his favour and instituted a suit challenging the previous sale of properties by A in favour of X and Y and seeking possession of the properties. A's widow and children do not contest the suit. X and Y contest the suit. [400 Words, RJS-1980]

18. Short Notes: Rejection of Plaint [200 Words, RJS-1986]

19. Imagine your own facts and draft a petition for judicial separation by a wife against her husband under the Hindu Marriage Act? [200 Words, RJS-1988]

20. Draft a plaint for the recovery of Mahr by a Muslim wife who has been recently divorced by her husband. [200 Words, RJS-1988]

21. What are the valid grounds for rejection of a plaint? [50 Words, RJS-1989]

22. On 1st July 1980, A let out a shop to B monthly rent of Rs. 150/- situated at Jaipur belonging to his joint family. B is not paying rent since 1st July, 1986. A served notice of demand and ejection upon B on June 16, 1989. On June 30, 1989, A died leaving behind his widow C, major son D, minor son B and married daughter F. After the death of A, B has started denying their title. A suit is to be filed against B for the recovery of arrears of rent and ejection on the grounds of default in payment of rent and denial of title. Draft plaint and written statement. [200 Words, RJS-1989]

RESILIENCE LAW ACADEMY

23. A borrowed Rs. 3000/- from B against a promote. He acknowledged the debt within three years. He refused to pay his debt. B wants to sue A. Draft a plaint and written statement taking all possible defences. [400 Words, RJS-1991]
24. Assuming necessary facts draft: [400 Words, RJS-1992]
- a) a plaint and
- b) a written statement taking all possible defences in a suit for malicious prosecution.
25. Assuming necessary facts draft: [400 Words, RJS-1994]
- a) a plaint and
- b) a written statement taking all defences in a suit for specific performance of a contract.
26. Draft a plaint, giving details in a suit for libel by innuendo. [200 Words, UPPCS (J)-1982]
27. Draft a plaint, giving details in a suit for false imprisonment by a police officer. [200 Words, UPPCS (J)-1983]
28. Draft a plaint, giving details in a suit for the recovery of damages for Malicious Prosecution. [200 Words, UPPCS (J)-1984]
29. Draft a plaint, giving details in a suit for the recovery of damages for injuries caused by negligent driving of car. [200 Words, UPPCS (J)-1985]
30. Draft a plaint for the recovery of arrears of rent and ejection of a tenant on ground of default. [200 Words, UPPCS (J)-1986]
31. Draft a plaint either claiming damages for malicious prosecution or for specific performance of contract. [200 Words, UPPCS (J)-1987]
32. Draft a plaint in a suit in which a demand has been made by the landlord against a tenant for arrears of rent in respect of residential house and for the tenant's ejection therefrom on the ground that the tenancy which was from month to month as been terminated by a notice for ejection given by the landlord. [200 Words, UPPCS (J)-1988]
33. 'B' agreed with 'A' to sell his house for Rs. 40,000/- in pursuance of the agreement, which was registered also. 'A' gave Rs. 35,000/- to 'B' towards the price and promised to pay the balance of 5,000/- at the time of registration of sale-deed. B' gave possession of the house to 'A' and assured him that he would execute the sale-deed as early as possible. However, B' avoided to execute sale-deed on the pretext or the other. On the above facts, draft a plaint on behalf of 'A' claiming specific performance of contract. [200 Words, UPPCS (J)-1991]
34. Plaintiff 'A' is owner of a house. In one of its portions, defendant 'B' resides. The defendant has not paid rent for last 10 months. On this very ground, the plaintiff wants to get his house vacated and also to recover arrears of rent due. [200 Words, UPPCS (J)-1992]
35. On 5th January, 1994, Mohan Lal Kashyap instituted a criminal complaint against Ghanshyam Das Sharma, who was a shopkeeper. Consequently, Ghanshyam Das Sharma had to remain in prison and his shop was also closed. After trial the Criminal Court

RESILIENCE LAW ACADEMY

acquitted Ghanshyam Das Sharma on 5th July, 1994 on the ground that the criminal complaint of Mohan Lal Kashyap was false and baseless.

Now, Ghanshyam Das Sharma wants to file a suit against Mohan Lal Kashyap for malicious prosecution. In the light of the above mentioned facts draft a plaint for the plaintiff Ghanshyam Das Sharma. [200 Words, UPPCS (J)-1997]

36. 'B' obtains a house from 'A' on rent and continues to pay monthly rent to 'A'. 'S' on the ground that the said house has been sold to him by 'A' on 1.1.96 wants to file a suit for rent since 1.1.96. Prepare a plaint on behalf of 'S' and write a short judgment. [600 Words, UPPCS (J)-1999]

37. 'A' and 'B' were neighbours. On 5th Jan. 1998 'B' instituted a criminal complaint against 'A', who was an employee in the Bank. Consequently 'A' has to remain in prison. After trial the criminal Court acquitted 'A' on 11th Feb, 1999 on the ground that the criminal complaint of 'B' false and baseless. Now 'A' wants to file suit against 'B' for malicious prosecution. Draft a plaint on behalf of 'A' and write a short judgement. [600 Words, UPPCS (J)-2000]

Chapter 17

Written STATEMENT

1. Draft a plaint claiming damages for malicious prosecution. Prepare a written statement denying the claim. Frame issues and write a judgment in Plaintiff's favour. [600 Words, RJS-1969]
2. Setting out your own facts draw up a plaint and a written statement in an interpleader suit and write a short judgment. [600 Words, RJS-1970]
3. Imagining your own facts draw up a plaint and a written statement and also write a short judgment in a suit either for malicious prosecution or for a breach of warranty. [600 Words, RJS-1971]
4. Imagine your own facts and draft a plaint for the recovery of damages for malicious prosecution and prepare a written statement as well. Also write a short judgment. [600 Words, RJS-1975]
5. Draw up a plaint and a written statement in a suit for specific performance of a contract of sale of immovable property and also write a short judgment. [600 Words, RJS-1974]
6. A has a right of way from his house over the land of B to the public highway. B obstructs A and his servants passing along the way. A wants to bring a suit. Please draft a suitable plaint for him. Also attempt a written statement. Frame issues and write a short judgment. [600 Words, RJS-1976]
7. B makes a false representation to A that C is solvent and in good credit. A is induced to sell goods to C on credit. C fails to pay. Can A bring a suit against C and B both and if so, please draft a plaint and also the written statement, frame issues and write a short judgment. [600 Words, RJS-1976]
8. Draw up a plaint setting out your own facts for a suit brought by the sons for setting aside alienation of joint family property by the father as the Karta and also draft a suitable written statement. Also write a short judgment. [600 Words, RJS-1977]

RESILIENCE LAW ACADEMY

9. a) Draft a plaint and written statement in suit for specific performance of a contract to sell immovable property. Also write a short judgment.
- b) Is it necessary for the plaintiff in such a suit to ask specifically for the relief of possession in the plaint? [600 Words, RJS-1977]
10. A filed a suit against B alleging that B had mortgaged his house on September 1, 1978 for a sum of Rs. 5000/- stipulating to pay interest at the rate of 9 percent per annum on the mortgage loan, B denied the fact of having taken loan and the execution of the mortgage deed. A examined two witnesses in his evidence who deposed that B had put his signature on the mortgage deed in their presence. No attesting witness of the mortgage deed was examined although they were alive. Draft a plaint on behalf of A, prepare a written statement on behalf of B and frame the issues. Also write a judgment in the above matter. [600 Words, RJS-1979]
11. A leased out his house on a monthly rent of Rs. 60/- on March 1, 1976. A sued B for eviction. A issued a notice on March 10, 1978 to B calling upon him to vacate the premises by March 27, 1978. B pleaded the tenancy was not validly terminated, so the suit is liable to be dismissed. Draft a plaint for the eviction of B. Also prepare written statement, frame issues and write judgment in the above matter. [600 Words, RJS-1979]
12. Draft a plaint on behalf of a Government servant for arrears of his pay for six months which the State Government has failed to pay in spite of his representation to the Government. Also prepare a written statement on behalf of the Government, frame issues and write out a short judgment. [600 Words, RJS-1979]
13. Draw a plaint for the cancellation of a sale deed on ground of fraud or misrepresentation. Also prepare a written statement on behalf of the defendant, frame issues and write out a short judgment. [600 Words, RJS-1979]
14. Prepare a plaint and a written statement and frame issues on the following facts --
- A died leaving behind a will bequeathing his properties in favour of his friend B to the exclusion of A's widow and children. The will included recitals that X and Y had secured possession of the properties belonging to A in pursuance of an alleged deed of sale, that its true nature was not sale and that it was actually a transaction of mortgage, B claimed title to the properties in suit on the strength of the will in his favour and instituted a suit challenging the previous sale of properties by A in favour of X and Y and seeking possession of the properties. A's widow and children do not contest the suit. X and Y contest the suit. [400 Words, RJS-1980]
15. On 1st July 1980, A let out a shop to B monthly rent of Rs. 150/- situated at Jaipur belonging to his joint family. B is not paying rent since 1st July, 1986. A Served notice of demand and ejection upon B on June 16, 1989. On June 30, 1989, A died leaving behind his widow C, major son D, minor son B and married daughter F. After the death of A, B has started denying their title. A suit is to be filed against B for the recovery of arrears of rent and ejection on the grounds of default in payment of rent and denial of title. Draft plaint and written statement. [200 Words, RJS-1989]

RESILIENCE LAW ACADEMY

16. A borrowed Rs. 3000/- from B against a pronote. He acknowledged the debt within three years. He refused to pay his debt. B wants to sue A. Draft a plaint and written statement taking all possible defences. [400 Words, RJS-1991]
17. Assuming necessary facts draft: [400 Words, RJS-1992]
- a) a plaint and
- b) a written statement taking all possible defences in a suit for malicious prosecution.
18. Assuming necessary facts draft: [400 Words, RJS-1994]
- a) a plaint and
- b) a written statement taking all defences in a suit for specific performance of a contract.
19. Draft a plaint, giving details in a suit for libel by innuendo. Draft a written statement in a suit. [400 Words, UPPCS (J)-1982]
20. Draft a plaint, giving details in a suit for false imprisonment by a police officer. Draft a written statement in a suit. [200 Words, UPPCS (J)-1983]
21. Draft a plaint and a written statement giving details in a suit for the recovery of damages for Malicious Prosecution. [400 Words, UPPCS (J)-1984]
22. Draft a plaint and a written statement giving details in a suit for the recovery of damages for injuries caused by negligent driving of car. [400 Words, UPPCS (J)-1985]
23. Draft a plaint and written statement for the recovery of arrears of rent and ejection of a tenant on ground of default. [400 Words, UPPCS (J)-1986]
24. Draft a plaint either claiming damages for malicious prosecution or for specific performance of contract. Draft a written statement in a suit. [400 Words, UPPCS (J)-1987]
25. Draft a plaint and written statement in a suit in which a demand has been made by the landlord against a tenant for arrears of rent in respect of residential house and for the tenant's ejection therefrom on the ground that the tenancy which was from month to month as been terminated by a notice for ejection given by the landlord. [400 Words, UPPCS (J)-1988]
26. 'B' agreed with 'A' to sell his house for Rs. 40,000/- in pursuance of the agreement, which was registered also. 'A' gave Rs. 35,000/- to 'B' towards the price and promised to pay the balance of 5,000/- at the time of registration of sale-deed. 'B' gave possession of the house to 'A' and assured him that he would execute the sale-deed as early as possible. However, 'B' avoided to execute sale-deed on the pretext or the other. On the above facts, draft a plaint and written statement on behalf of 'A' claiming specific performance of contract. [400 Words, UPPCS (J)-1991]
27. Plaintiff 'A' is owner of a house. In one of its portions, defendant 'B' resides. The defendant has not paid rent for last 10 months. On this very ground, the plaintiff wants to get his house vacated and also to recover arrears of rent due. Write a plaint and written statement. [400 Words, UPPCS (J)-1992]
28. On 5th January, 1994, Mohan Lal Kashyap instituted a criminal complaint against Ghanshyam Das Sharma, who was a shopkeeper. Consequently, Ghanshyam Das Sharma had to remain in prison and his shop was also closed. After trial the Criminal Court

RESILIENCE LAW ACADEMY

acquitted Ghanshyam Das Sharma on 5th July, 1994 on the ground that the criminal complaint of Mohan Lal Kashyap was false and baseless.

Now, Ghanshyam Das Sharma wants to file a suit against Mohan Lal Kashyap for malicious prosecution. In the light of the above mentioned facts draft a plaint and a written statement for the plaintiff Ghanshyam Das Sharma. [400 Words, UPPCS (J)-1997]

29. 'A' and 'B' were living in Chennai as on 18.11.1989. 'A' lent Rs. 28,000/- to 'B'. This amount was paid through a cheque issued at Chennai. 'B' executed a promissory note on the same date favouring 'A' and promising to repay the amount with interest @ 18% p.a. In 1994 'A' shifted to Delhi even though 'B' continued to live in Chennai. Because 'A' had not either repaid the principle loan or interest or any part thereof, 'A' filed a suit in 1997 in a Civil Court at Delhi for injunction against 'B' with a prayer to the Court to pass decree of injunction against 'B' to pay entire loan amount with interest to 'A'.

'B' has engaged you as his Counsel. Draft a written statement on his behalf limited to raising of all legal pleas against the suit. Each legal plea must be raised in a separate paragraph. [400 Words, Jharkhand Judicial Exam-2000]

Chapter 18

set-off

1. Explanatory Notes: Set-off. [200 Words, RJS-1970]
2. Short Notes: Set-off [150 Words, RJS-1975, 1979, BJE-1978]
3. What remedies are available to the defendant in a suit for the recovery of money when the defendant also has a claim legally recoverable from the plaintiff? [200 Words, RJS-1974]
4. Explain Set-off, counter-claim and equitable set off under the Civil Procedure Code, 1908. [150 Words, HJS-1998]
5. a) What is set-off? Discuss the provisions regarding set off as provided under the Civil Procedure Code and distinguish between legal and equitable set-off.
b) A sues B, on a Bill of Exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set off. Can the amount be set-off? Discuss. [600 Words, RJS-2001]
6. Short Notes: Equitable Set-off [200 Words, BJE-1975, 1977]

Chapter 19

counter-claim

1. What is a counter-claim? [15 Words, RJS-1989]
2. What do you understand by "set-off" and "counter-claim"? What are the differences between them? [200 Words, UPPCS (J)-1997]

Chapter 20

non-appearance of party

1. Where an application under Order 9 Rule 7 CPC is dismissed and ex parte decision follows, what remedies are open to the defendant? [15 Words, RJS-1986]
2. What are the consequences of non-appearance of parties in general in a suit? What are the remedies? [200 Words, RJS-1994]

RESILIENCE LAW ACADEMY

Chapter 21

ex-parte decree

1. What remedies are available for setting aside an ex-prate decree? [250 Words, BJE-2000]
2. Short Notes: Ex-prate proceeding [150 Words, BJE-1987]
3. Discuss the provisions of the Civil Procedure Code relating to ex-parte proceedings. What remedies are available to a party whose suit is dismissed under Order IX, Rule 8 for default of appearance on the date of hearing? [250 Words, BJE-1984]
4. "An ex-parte decree is passed against A". What remedies are available to A? Give Reasons. [200 Words, RJS-1971]

Chapter 22

issues

1. Draft a plaint claiming damages for malicious prosecution. Prepare a written statement denying the claim. Frame issues and write a judgment in Plaintiff's favour. [600 Words, RJS-1969]
2. What is an Issue? [15 Words, RJS-1988]
3. a) Draft a plaint, giving details in a suit for libel by innuendo.
b) Draft a written statement in the suit mentioned in question no. 1 (a) above.
c) Frame issues on pleadings in question No 1 (a) and (b) above.[600 Words, UPPCS (J)-1982]
4. a) Draft a plaint, giving details, in a suit for false imprisonment by a police officer.
b) Draft a written statement in the suit mentioned in question No. 1 (a) above.
c) Frame issues on pleadings in question No. 1(a) and (b) above.[600 Words, UPPCS (J)-1983]
5. a) Draft a plaint, giving details, in suit for the recovery of damages for Malicious Prosecution.
b) Draft a written statement in the suit mentioned in question No. 1 (a) above.
c) Frame issues on pleadings in question No. 1(a) and (b) above. [600 Words, UPPCS (J)-1984]
6. a) Draft a plaint, giving details, in suit for recovery of damages for injuries caused by negligent driving of car.
b) Draft a written statement in the suit mentioned above.
c) Frame issues on the pleadings aforementioned. [600 Words, UPPCS (J)-1985]
7. a) Draft a plaint for recovery of arrears of rent and ejection of a tenant on ground of default.
b) Draft a written statement in the suit mentioned above.
c) Frame issues on the pleadings aforementioned. [600 Words, UPPCS (J)-1986]
8. a) Draft a plaint either claiming damages for malicious prosecution or for specific performance of contract.
b) Draft a written statement in the suit mentioned above.
c) Frame issues on the pleadings aforementioned. [600 Words, UPPCS (J)-1987]

RESILIENCE LAW ACADEMY

9. a) Draft a plaint in a suit in which a demand has been made by the landlord against a tenant for arrears of rent in respect of residential house and for the tenant's ejection therefrom on the ground that the tenancy which was from month to month has been terminated by a notice for ejection given by the landlord.
- b) Draft a written statement in the suit mentioned in question No. 1 (a) above.
- c) Frame issues on pleadings in question No. 1(a) and (b) above.[600 Words, UPPCS (J)-1988]
10. a) 'B' agreed with 'A' to sell his house for Rs. 40,000/- in pursuance of the agreement, which was registered also. 'A' gave Rs. 35,000/- to 'B' towards the price and promised to pay the balance of 5,000/- at the time of registration of sale-deed. B' gave possession of the house to 'A' and assured him that he would execute the sale-deed as early as possible. However, B' avoided to execute sale-deed on the pretext or the other. On the above facts, draft a plaint on behalf of 'A' claiming specific performance of contract.
- b) Draft a written statement in the suit mentioned in question No. 1 (a) above.
- c) Frame issues on the pleading in question No. 1(a) and (b) above.[600 Words, UPPCS (J)-1991]
11. What is a Preliminary Issue? [15 Words, RJS-1986]

Chapter 23

Discovery and Inspection

1. Explanatory Notes: Discoveries [150 Words, RJS-1970]
2. Short Notes: Discovery? [150 Words, RJS-1971]
3. Short Notes: Interrogatories [150 Words, RJS-1975]
4. Describe in short the procedure for obtaining the discovery and inspection of documents? [200 Words, RJS-1975]
5. Short Notes: Discovery of documents [200 Words, RJS-1979, BJE-1978]

Chapter 24

commissions

1. In what manner and under which circumstances Commissions can be issued by Courts in Rajasthan? [250 Words, RJS-1974]
2. Discuss the provisions of the Civil Procedure Code regarding the issue of commission. Illustrate your answer. [250 Words, UPPCS(J)-1985]
3. Describe the principal features of commissions to examine witnesses. [50 Words, RJS-1980-81]

Chapter 25

Arrest before judgment

1. Under what circumstances can a defendant be arrested before judgement and when can such order be given? Explain also the procedure for such arrest. [250 Words, UPPCS(J)-1992]

Chapter 26

Arrest before judgment

1. Short Notes: Attachment Before Judgment [150 Words, RJS-1974, BJE-1977, 1984]

RESILIENCE LAW ACADEMY

2. Describe the principal features of Attachment Before Judgment [150 Words, RJS-1980-81]
3. Under what circumstances may a Court order attachment before judgment? [150 Words, RJS-1988]
4. Explain attachment before Judgment. [150 Words, RJS-1992]
5. In what circumstances can the property of defendant be attached before Judgment? [200 Words, UPPCS(J)-1984]
6. Under what circumstances can a defendant's property be attached before judgment? What will be the procedure for such attachment? [200 Words, UPPCS(J)-1992]
7. In what circumstances can the property of defendant be attached before Judgement? [300 Words, HJS-2000]

Chapter 27

Temporary INJUNCTION

1. Discuss the circumstances in which and grounds on which a temporary injunction can be granted? What are the consequences if such injunction is not complied with? [250 Words, RJS-1976]
2. What are the conditions upon the fulfillment of which the Court may grant a temporary injunction under Order 39, Rule 1 and Rule 2 of the Code of Civil Procedure? Has the Court any inherent jurisdiction to injunction in circumstances which are not covered by Order 39 of Code? What is the remedy for obedience of an order of injunction? [500 Words, RJS-1977]
3. As given in the Code of Civil Procedure, write the headings of order XXXIX. [15 Words, RJS-1989]
4. What is the criterion to grant temporary injunction by a Civil Court? [50 Words, RJS-1992]
5. On what basis temporary injunction is issued in a suit? Can an injunction be issued without giving notice of application to the opposite party? [50 Words, RJS-1994]
6. When can a temporary injunction be granted by a Civil Court? [200 Words, UPPCS(J)-1984]
7. 'B' filed a suit for declaration of partnership and accounts against 'A'. in order to deprive 'B' of the benefits, 'A' began to shift the goods and assets of the business establishment in hurry. [200 Words, UPPCS(J)-1991]
8. Can an injunction be granted for the following purposes: [200 Words, HJS-1998]
 - a) to stay the proceedings for the recovery of any dues recoverable as land revenue;
 - b) to restrain any election;
 - c) to affect the internal management or affairs of a minority education institution;
 - d) to restrain a private limited company to hold its annual General Meeting
9. When a temporary injunction may be granted and when it may be refused? Is notice necessary before granting it? [200 Words, HJS-2000]
10. When can a temporary injunction be granted by a Civil Court? [150 Words, HrJS-2000]

RESILIENCE LAW ACADEMY

11. Explain the rules governing the grant of temporary injunction. [250 Words, BJE-2000]

Chapter 28

Introductory Orders

1. Short Notes: Introductory Orders? [150 Words, HJS-2001]

Chapter 29

Receiver

1. What are the circumstances under which the Court can appoint a receiver under Order 40, Rule 1 of the Code? Can a receiver be appointed in suit for –

a) partition of joint family property

b) dissolution of partnership & rendition of accounts? If not, give reasons. [500 Words, RJS-1977]

2. Discuss the principles governing the appointment of Receivers. What are their powers and duties? Can a Collector be appointed as a Receiver? [500 Words, UPPCS(J)-1984]

3. When is a Court entitled to appoint a Receiver? [250 Words, BJE-1975]

Chapter 30

Withdrawal of suit

1. State the law as laid down in the Code of Civil Procedure relating to the withdrawal of a suit. Can the plaintiff after withdrawal bring another suit on the same cause of action? If so, under what circumstances? [150 Words, RJS-1988]

2. Plaintiff filed suit against S (widow of his brother) for declaration of title in the suit property, to put him in possession and for arrears of rent with further mesne profits. Suit was decreed on 5.9.83. Three days thereafter, the plaintiff sold the suit properties to B. That widow filed appeal. During pendency of the appeal B was impleaded as respondent under Order 22 Rule 10, CPC since the property in suit had been assigned to him. The plaintiff filed an application for dismissing the suit as not pressed as he had compromised the dispute with S and wanted the compromise to be recorded. It is opposed by B contending that he being transferee-pendente-lite was virtually interested in decree remaining intact. Plaintiff contended that under order 23 Rule 1, CPC he has right to compromise suit with S against whom he had filed suit and he cannot be forced by any of the parties to continue to prosecute the suit. Decide the application of the plaintiff. [150 Words, DJS-1999]

Chapter 31

Compromise of suit

1. A party to a suit states in a Court that the suit has been compromised. Discuss the procedure for securing an order recording the compromise and getting decree in accordance thereof. [500 Words, RJS-1971]

Chapter 32

death of party

1. Describe the procedure for bringing on record the legal representatives in case of the death of a plaintiff or defendant. What result would ensue if the legal representatives are not brought on record within limitation? Would it make any

RESILIENCE LAW ACADEMY

difference if there are more than one defendants and one of them dies? [500 Words, RJS-1974]

2. How and to what extent a decree can be executed against legal representative of a deceased judgment-debtor? [250 Words, UPPCS(J)-1999]

Chapter 33

Service of summons

1. What remedies are available to the plaintiff where the defendant either refuses to sign the acknowledgement regarding the services of summons or cannot be found and has no agent empowered to accept services on his behalf? [150 Words, RJS-1974]

2. In what circumstances and in what manners "substituted services" are made? [50 Words, RJS-1989, MPCJ (Main) - 1996/2002]

3. a) Define Summons? What are the objects of service of summons? What are modes of effecting service of summons on defendant? Discuss fully.

b) 'A' the plaintiff, knew the whereabouts of 'B', the defendant and in spite of that fact, A obtained by false representation an order for substituted service by giving to Court to understand that 'B' has been deliberately avoiding service. Discuss whether 'B' had been properly served. [500 Words, UPPCS(J)-1982]

4. What are the modes of effecting service of summons on the defendants? [150 Words, UPPCS(J)-1985]

5. The Court issues a summons against A under Section 30 of the Code of Civil Procedure, 1908 but he does not appear before the Court. What steps can be taken by the Court to compel his attendance? [150 Words, UPPCS(J)-1997]

6. A suit was duly instituted on March 1, 2000 and summons were issued to the defendant to appear and answer the claim. The summons were to be served in the prescribed manner on May 4, 2000. Discuss the validity for service of summons in the light of proposed amendment in the code of Civil Procedure. [150 Words, HJS-2000]

7. 'A' the plaintiff, knew the whereabouts of 'B', the defendant and in spite of that fact, 'A' obtained, by false representation, an order for substituted service, by giving to the Court to understand that 'B' had deliberately been avoiding service. Discuss whether 'B' had been properly served? [150 Words, HJS-2000]

8. Explanatory Notes: Substituted Service of summons [150 Words, HJS-2001]

9. Short Notes: Substituted Service [150 Words, BJE-1984]

Chapter 34

Judgment

1. Draft a plaint claiming damages for malicious prosecution. Prepare a written statement denying the claim. Frame issues and write judgment in a plaintiff's favour? [600 Words, RJS-1969]

2. Setting out your own facts draw up a plaint and a written statement in an inter-pleader suit and write a short judgment? [600 Words, RJS-1970]

RESILIENCE LAW ACADEMY

3. Imagine your own facts draw up a plaint and a written statement and also write a short judgment in a suit either for malicious prosecution or for a breach of warranty. [600 Words, RJS-1971]
4. Imagine your own facts and draft a plaint for the recovery of damages for malicious prosecution and prepare a written statement as well. Also write a short judgment. [600 Words, RJS-1975]
5. Draft a plaint in a suit for pre-emption on the ground of being a co-sharer in a house, portion of which has been sold. What defences are available in such a case? Also write a short judgement? [600 Words, RJS-1974]
6. Draw up a plaint and a written statement in a suit for specific performance of a contract of sale of immovable property and also write a short judgment. [600 Words, RJS-1974]
7. A has a right of way from his house over the land of B to the public highway. B obstructs A and his servants passing along the way. A wants to bring a suit. Please draft a suitable plaint for him. Also attempt a written statement. Frame issues and write a short judgment. [600 Words, RJS-1976]
8. B makes a false representation to A that C is solvent and in good credit. A is induced to sell goods to C on credit. C fails to pay. Can A bring a suit against C and B both and if so, please draft a plaint and also the written statement, frame issues and write a short judgment. [600 Words, RJS-1976]
9. Draw up a plaint setting out your own facts for a suit brought by the sons for setting aside alienation of joint family property by the father as the Karta and also draft a suitable written statement. Also write a short judgment. [600 Words, RJS-1977]
10. a) Draft a plaint and written statement in suit for specific performance of a contract to sell immovable property. Also write a short judgment.
b) Is it necessary for the plaintiff in such a suit to ask specifically for the relief of possession in the plaint? [600 Words, RJS-1977]
11. A filed a suit against B alleging that B had mortgaged his house on September 1, 1978 for a sum of Rs. 5000/- stipulating to pay interest at the rate of 9 percent per annum on the mortgage loan, B denied the fact of having taken loan and the execution of the mortgage deed. A examined two witnesses in his evidence who deposed that B had put his signature on the mortgage deed in their presence. No attesting witness of the mortgage deed was examined although they were alive. Draft a plaint on behalf of A, prepare a written statement on behalf of B and frame the issues. Also write a judgment in the above matter. [600 Words, RJS-1979]
12. A leased out his house on a monthly rent of Rs. 60/- on March 1, 1976. A sued B for eviction. A issued a notice on March 10, 1978 to B calling upon him to vacate the premises by March 27, 1978 B pleaded the tenancy was not validly terminated, so the suit is liable to be dismissed. Draft a plaint for the eviction of B. Also prepare written statement, frame issues and write judgment in the above matter. [600 Words, RJS-1979]
13. Draft a plaint on behalf of a Government servant for arrears of his pay for six months which the State Government has failed to pay in spite of his representation to

RESILIENCE LAW ACADEMY

the Government. Also prepare a written statement on behalf of the Government, frame issues and write out a short judgment. [600 Words, RJS-1979]

14. Draw a plaint for the cancellation of a sale deed on the ground of fraud or misrepresentation. Also prepare a written statement on behalf of the defendant, frame issues and write out a short judgment. [600 Words, RJS-1979]

15. State the ingredients of a judgment, by reference to the provisions of law. In what circumstances is the Court competent to amend the judgment after his pronouncement? [300 Words, RJS-1980-81]

16. On 1st July 1980, A let out a shop to B monthly rent of Rs. 150/- situated at Jaipur belonging to his joint family. B is not paying rent since 1st July, 1986. A Served notice of demand and ejection upon B on June 16, 1989. On June 30, 1989, A died leaving behind his widow C, major son D, minor son B and married daughter F. After the death of A, B has started denying their title. A suit is to be filed against B for the recovery of arrears of rent and ejection on the grounds of default in payment of rent and denial of title. Draft plaint and written statement. On the basis of the plaint and written statement, write a judgment. [200 Words, RJS-1989]

17. A borrowed Rs. 3000/- from B against a pronote. He acknowledged the debt within three years. He refused to pay his debt. B wants to sue A. Draft a plaint and written statement taking all possible defences. Write a judgment on the facts of the above case. [200 Words, RJS-1991]

18. Assuming necessary facts draft: [200 Words, RJS-1992]

- a) a plaint and
- b) a written statement taking all possible defences in a suit for malicious prosecution.

Write a Judgment on the facts of the above-mentioned plaint and written statement.

19. Assuming necessary facts draft: [200 Words, RJS-1994]

- a) a plaint and
- b) a written statement taking all defences in a suit for specific performance of a contract.

Write a Judgment on the facts of the above-mentioned plaint and written statement.

20. Define Judgment. [150 Words, RJS-1974]

21. Discuss: "Ordinarily the judgement binds only the parties to it" [200 Words, RJS-1984]

22. 'B' obtains a house from 'A' on rent and continues to pay monthly rent to 'A'. 'S' on the ground that the said house has been sold to him by 'A' on 1.1.96 wants to file a suit for rent since 1.1.96. Prepare a plaint on behalf of 'S' and write a short judgment. [500 Words, UPPCS(J)-1999]

23. 'a' and 'B' were neighbours. On 5th January 1998 'B' instituted a criminal complaint against 'A', who was an employee in the Bank. Consequently 'A' has to remain in prison. After trial the criminal Court acquitted 'A' on 11 February 1999 on the ground that the criminal complaint of 'B' was false and baseless. Now 'A' wants to file suit against 'B' for malicious prosecution. Draft a plaint on behalf of 'A' and write a short judgment. [500 Words, UPPCS(J)-2000]

RESILIENCE LAW ACADEMY

24. What is the difference between a judgment rendered in a suit governed by the CPC and as award of an arbitrator? [50 Words, RJS-1980]

Chapter 35

Costs

1. Short Notes: Costs ordinarily follow the event [150 Words, RJS-1971]
2. What are the circumstances in which the plaintiff can be ordered to give security for payment of defendant's cost of the suit? Explain. [250 Words, RJS-1979]
3. How costs are imposed for causing delay? [20 Words, RJS-1994]
4. Explain and illustrate the rule that costs shall follow the event. Are there any exceptions to this rule? Discuss. [250 Words, BJE-1975]
5. Short Notes: Compensatory Costs [150 Words, BJE-1974]
6. Explain and illustrate the rule that costs shall follow the event. Are there any exceptions to this rule? Discuss. [250 Words, BJE-1980]
7. What are the circumstances in which the plaintiff can be ordered to give security for the payment of the defendant's cost of the suit? [250 Words, BJE-1978]
8. How interest is awarded in a Money Decree? [15 Words, RJS-1994]

Chapter 36

SUIT against Government

1. Discuss the provisions of the Civil Procedure Code with regard to suit against Government and its officials. [150 Words, UPPCS(J)-1987]
2. Explanatory Notes: Suit by or Against Government [150 Words, HJS-2003]

Chapter 37

suit by or against partnership Firms

1. What is the procedure prescribed for suit by or against a firm? [150 Words, UPPCS(J)-1983, HJS-2000]

Chapter 38

Suits by or AGAINST minors and lunatics

1. What safeguards have been provided by the Code of Civil Procedure for the protection of the rights and interests of parties in a Civil Suit who are either minors or persons of unsound mind?

In a suit filed by a person against a number of defendants, some of whom are minors, a compromise was effected between the plaintiff and the major defendants and a decree was obtained on the basis of such compromise, adversely affecting the right and the property of the minors. Would such a decree be enforceable against (a) the minor defendants, (b) the other defendants? What difference would be caused if the guardian of minor defendants also was a party to the compromise. [500 Words, RJS-1975]

2. What is meant by guardian-ad-litem? [20 Words, RJS-1992]
3. Where the plaintiff is a minor, then on the retirement, removal or death of his next friend, will the proceedings be stayed, until the appointment of a next friend in his place. [250 Words, BJE-1987]

Chapter 39

inter-pleader suit

RESILIENCE LAW ACADEMY

1. Setting out your own facts draw up a plaint and a written statement in an inter-pleader suit and write a short judgment? [600 Words, RJS-1970]
2. What is an inter-pleader suit? [50 Words, RJS-1992]
3. What is an inter-pleader suit? When and by whom can it be instituted? [150 Words, UPPCS(J)-1984, 1985]
4. Explain with illustration, the basic characteristics of an 'inter-pleader suit'. [150 Words, UPPCS(J)-1997]
5. a) What are the essentials of an Inter-pleader Suit? Discuss.
b) i) Z lets out certain lands to Y. A alleges that the lands never belonged to X and claims rent from Y. Y institutes an inter-pleader Suit against A and X. Will it lie?
ii) X deposits ornaments with Y as his agent. He then writes to A for making ornaments as security for a debt due from himself, to A. X afterwards alleges that A's debt is satisfied but. A refuses it. Both claim ornaments from Y. Does an inter-pleader suit lie on behalf of Y.
[500 Words, BJE-1984]
6. Short Notes: Inter-pleader Suit [200 Words, BJE-1975, 1977, 1980, 1987, RJS-1974 & 1986]

Chapter 40

Suit by indigent persons

1. Explanatory Notes: Pauper Suit? [150 Words, RJS-1970]
2. How can a pauper institute a suit? Can a person who is once allowed to sue in form of a pauper is dispaupered and how? [250 Words, RJS-1974]
3. Short Notes: Indigent Person, Pauper Suit [150 Words, RJS-1979]
4. Describe the procedure for instituting a suit in forma pauperis? [50 Words, RJS-1980-81]
5. Describe the procedure prescribed for institution of a pauper suit? [50 Words, RJS-1989]
6. How an indigent person has been defined under Civil Procedure code? [20 Words, RJS-1994]
7. a) Who is entitled to file a pauper suit? State the procedure for filing for such suits. Can a defendant be allowed to defend in forma pauperis? Give reasons.
b) When the Court shall reject an application for permission to sue as pauper? Discuss fully.
c) Answer the following:
i) 'A' presented an application for leave to sue in forma pauperis but 'A' dies pending the hearing of the application. Can the application be continued by 'B' who is a legal representative of 'A'? Give reasons.
ii) 'A' disposed his property worth Rs. 1000/- in August 1980 to enable himself to sue as pauper and applies for leave in September 1980. Will the application of 'A' be accepted or rejected by the Court? Give Reasons. [500 Words, UPPCS(J)-1982]
8. Who is an indigent person? What is the mode of instituting suit by such persons? [150 Words, UPPCS(J)-1986, (250 Words, 1988)]

RESILIENCE LAW ACADEMY

9. Give brief description of rules contained in Order 33 of the Code of Civil Procedure, 1908. [150 Words, UPPCS(J)-1997]
10. a) Who can file a pauper-suit?
b) Can a person be defendant in a suit as pauper?
c) 'A' filed an application plaint as pauper. 'A' died before the disposal of his application. Can his legal representative continue with that application?
d) 'A' after filing an application plaint as pauper sold his property worth Rs. Fifteen thousand. Will A's application be accepted? [500 Words, UPPCS(J)-1999]
11. A presented an application for leave to sue in forma pauperis. A dies pending the hearing of the application. Can the application be continued by B, who is legal representative of A? [150 Words, HJS-2000]
12. Short Notes: Forma Pauperis [150 Words, BJE-1979]
13. Short Notes: Pauper Suit [150 Words, BJE-1975]

Chapter 41

Summary suits

1. What is the procedure in a summary trial? Which cases are subjected to summary trial? [150 Words, RJS-1980-81]
2. What is the procedure prescribed for the institution and disposal of Summary Suits? [50 Words, RJS-1994]

Chapter 42

Suits relating to public nuisance

1. Discuss the provisions of CPC with regard to suits relating to public nuisance. [150 Words, UPPCS(J)-1987]
2. Short Notes: Remedies for Public Nuisance [150 Words, BJE-1980]

Chapter 43

Powers of appellate court

1. Comment upon the powers of the appellate Court where:
a) The trial Court has failed to frame proper issues; and
b) The appellant desires to adduce additional evidence. [250 Words, RJS-1979]
2. What are the powers of Appellate Court? [50 Words, RJS-1986]
3. 'Unless a right of appeal is clearly given by statute, it does not exist'. Comment can an appellate Court reverse a decree on the ground of misjoinder of parties? [150 Words, UPPCS(J)-1986, 250 Words, HJS-2001]
4. Short Notes: Remand [150 Words, BJE-1979]

Chapter 44

First appeal

1. 'Unless a right of appeal is clearly given by statute, it does not exist'. Comment can an appellate Court reverse a decree on the ground of misjoinder of parties? [250 Words, HJS-2001]
2. Discuss the provisions of the Civil Procedure Code relating to First Appeal and Second Appeal. Whether a new plea can be raised in an Appeal. [250 Words, BJE-1987]

RESILIENCE LAW ACADEMY

3. Under which sections of CPC are civil first appeals, civil second appeals and miscellaneous appeals filed? [20 Words, Jharkhand JE-2001]

Chapter 45

Second appeal

1. On what grounds and in which Court second appeal shall lie. [15 Words, RJS-1986]

2. Discuss the concept of "Substantial Question of Law" on which the second appeal is filed before the High Court under Section 100 of Civil Procedure Code. Whether the second appeal can lie in the following cases? Give exact answer with reasons:

- Ex-parte decree
- Decision being contrary to law
- Legal inferences drawn from finding of fact
- Usages having the force of law

[250 Words,

UPPCS(J)-2000]

3. What is the bar created by Section 100-A CPC? [20 Words, Jharkhand JE-2001]

Chapter 46

Reference

1. Analyse the grounds, procedure and powers of the High Court in relation to "Reference" and "Revision". [150 Words, UPPCS(J)-1997]

Chapter 47

review

1. Short Notes: Review of Judgment [150 Words, RJS-1974, 1975]

2. State the grounds on which a Civil Court may review a judgement. [200 Words, RJS-1992]

3. Short Notes: Review [200 Words, BJE-1977]

4. In what circumstances will an application for review be in civil cases? Is an application for review of a reviewed judgment possible? [150 Words, HJS-1998]

5. What errors in a judgment, decree or order can be corrected by the Court after signing and pronouncing the same without there being an application made for review? [150 Words, UPPCS(J)-1985]

Chapter 48

Revision

1. What is the difference between a revision and review? Which Courts exercise the respective jurisdictions? Indicate the provisions of law. [50 Words, RJS-1980-81]

2. On what grounds and in which Court a revision shall lie? [50 Words, RJS-1988]

3. Which Court has jurisdiction to hear revision of civil cases? [15 Words, RJS-1991]

4. Can revision be filed against an order of a Court disallowing an important question put to a witness? [150 Words, UPPCS(J)-1986]

5. Explain the distinction between Review and Revision, Second Appeal and Revision. [250 Words, UPPCS(J)-1988]

6. Difference between revision and appeal. [150 Words, BJE-1984]

Chapter 49

Execution in general

RESILIENCE LAW ACADEMY

1. Which is the Court competent to deal with question relating to execution, discharge and satisfaction of a decree? [200 Words, RJS-1977]
2. a) It is generally said that the trouble of a suitor really begins in our country after he obtains a decree. Discuss, giving your own reasons as to whether the above statement is correct or not in your opinion.
b) What obstacles are likely to arise in the execution of a decree for the sale of immovable property and how can they be overcome? Describe the procedure for the execution of such decree. [500 Words, RJS-1975]
3. How can a decree be enforced in the following:
a) A decree for specific performance of contract.
b) A decree for restitution of conjugal rights. [250 Words, RJS-1976]
4. Discuss why every suit shall as far as possible, be framed so as to afford ground for final decision upon the subjects in dispute. What is the penalty for non-compliance of the above rule? What is the effect if the plaintiff omits to sue in respect or, or intentionally relinquishes, any portion of the claim? [300 Words, RJS-1977]
5. A judgment debtor is detained in civil prison in execution of a decree. Whether after release, his liability to pay the debt is discharged? [15 Words, RJS-1986]
6. As given in CPC, write the Order XXI. [15 Words, RJS-1989]
7. How a decree for injunction can be executed? [50 Words, RJS-1991]
8. Short Notes: Execution of a decree [150 Words, HJS-1998]
9. Explain fully the difference between execution of a decree and restitution. [250 Words, BJE-1975]

Chapter 50

Question to be determined by executing court

1. Which is the Court competent to deal with question relating to execution, discharge and satisfaction of a decree? Can a Court executing a decree, go behind the decree? If so, under what circumstances?
What should the executing Court do when a decree imposes reciprocal obligations on both sides? [500 Words, RJS-1977]
2. What do you mean by an Executing Court? [15 Words, RJS-1994]
3. Discuss the statement that an executing Court cannot go behind the decree. What are the questions that may be determined by the Court executing the decree? [200 Words, UPPCS(J)-1986]
4. What are the questions that may be determined by the Court executing a decree? [250 Words, BJE-1991]
5. What question may be determined by the Court executing a Decree? [250 Words, BJE-1984]
6. Can the following objection of a judgment debtor be decided in an execution proceeding or by means of a separate suit?
a) The decree holder had obtained the decree by fraud.
b) The decree is a nullity

RESILIENCE LAW ACADEMY

c) Before the decree was passed, the decree holder had agreed not to execute the decree

d) The decree holder had shown the judgement debtor to be major in the suit, though in fact he was minor then.

e) The judgment debtor has paid the amount of the decree to decree-holder.

[500 Words, BJE-1979]

7. A resides in Gaya, B in Patna and C in Bhagalpur, A, B, C, being together in Patna pass a joint promissory note in favour of D payable in Patna. A breach so made. [250 Words, BJE-1978]

8. A is survived by his widow, daughter, sister and four brothers. On a partition suit filed by B, on of the brother of deceased A, the disputed property fell to the share of C, the daughter of A. During the pendency of partition suit filed by B, B was appointed receiver of the entire estate of A. In this capacity B induced D as a tenant and took some advance from D but the possession of whole of leased premises was not given to D. So D files a suit against B for recovery of the amount of advance. This suit was decreed against B and his estate. In execution of this decree D purchased the suit land belonging to C in auction and then transferred it to some other persons without any notice to C. C then filed a suit for recovery of possession of her land. The suit was resisted by D and his transferees on the ground, inter alia that the same is barred by Section 47, CPC. Decide whether the bar created by Section 47, CPC will apply to the suit filed by C. [250 Words, DJS-1996]

9. X, a clerk Grade I, was transferred from Gandhi Nagar to Jabalpur. His request for transfer to his hometown near Mandsores on account of illness of his father was not acceded to. This led him to submit resignation. He was not informed if the resignation has been accepted. There was some correspondence in late sixties but he did not join duties and period of more than five years elapsed. This led Deptt. to assume that he had voluntarily resigned. In 1979, X filed a suit against State for declaration that he continued to be in service. The suit was decreed with costs on 1.10.82. Appeal against the decree was dismissed on 26.4.86. X filed execution for all consequential benefits, salary, dearness allowance, promotion etc. of the service, on the ground that once the Court gave a declaration about his legal status that he was still in continuance of service and his services were never terminated, the necessary consequence would be that he should be granted arrears of salary and other consequential benefits. State opposed the execution application on the ground that the Court did not pass any decree of reinstatement of X on the post or for payment of any salary to him and that X had not prayed for reinstatement and for arrears of salary and since he remained absent from his duty, he was not entitled to any salary on principles of 'no work on salary'. It was however mentioned that respecting the decree, Government had reinstated the decree-holder. The objections were dismissed by the executing Court. State has come up in appeal. Decide the appeal. [250 Words, DJS-1999]

Chapter 51

Attachment of PROPERTY

RESILIENCE LAW ACADEMY

1. What properties are not liable to attachment and sale in the execution of decree? [150 Words, UPPCS(J)-1997]

2. What properties of a judgment debtor cannot be attached and sold in execution of a decree? [250 Words, BJE-2000]

3. Short Notes: Attachment [150 Words, BJE-1980, 1987]

Chapter 52

Precept

1. Short Notes: Precept [150 Words, RJS-1976, 1979]

2. What are precepts? [15 Words, RJS-1992]

Chapter 54

Sale of immovable property

1. What obstacles are likely to arise in the execution of a decree for the sale of immovable property and how can they be overcome? Describe the procedure for the execution of such decree. [250 Words, RJS-1975]

2. Short Notes: Decree is a suit for redemption or sale of immovable property. [50 Words, RJS-1974]

3. In what circumstances does the Court confirm the sale in execution proceedings? [50 Words, RJS-1984]

4. When can auction sale of immovable property in execution of a decree be set aside? Who can get it set aside? [150 Words, UPPCS(J)-1985, 150 Words, HJS-2000]

5. A obtained a decree for possession of immovable property against B. That decree became final. Thereafter A files execution application dt. 24-5-79 under Order 21, Rule 35 (3), CPC. The execution was resisted by C whereupon A filed an application on 25-5-79 complaining of resistance by C and seeking police aid for execution of decree. C does not claim through B, so the Court directed A to file an application under Order 21, Rule 97, CPC. A filed the application under Order 21, Rule 97, CPC on 18-7-79, but the said application was dismissed as being barred by Limitation under Article 129 of the schedule of Limitation Act. A then filed another application under Order 21, Rule 97, CPC which too was dismissed as being barred by res judicata. A filed appeal contending that the very first application dt. 25-5-79 under Order 21, Rule 35 (3) could be treated as the one under Order 21, Rule 97, CPC so the application was within time. How will you decide the appeal? [250 Words, DJS-1996]

Chapter 55

Rateable distribution of assets

1. a) Discuss the law relating to rateable distribution on the assets of a judgment debtor which are in the custody of the Court?

b) Decree holders A, B and C had applied for the execution of their several decrees against the judgment debtor Y. P another person sues Y in the same Court for money due and applies for the arrest of Y before judgment. Y pays the required amount in the Court to avoid arrest. Is this amount liable for rateable distribution among decree-holders? Discuss. [500 Words, RJS-1970]

2. a) What do you understand by the Principle of Rateable distribution?

RESILIENCE LAW ACADEMY

b) A and B both have money decrees against C. A puts his decree into execution and attaches the property of C and gets the house of C sold in Court auction. B also puts the decree into execution before the sale proceeds of the auction sale are deposited in the Court. Is B entitled to rateable distribution? Give reasons for your answer.

[500 Words, RJS-1979]

3. B's property is attached in executions of a money decree obtained by A. While the attachment is pending, B sells the property to C who pays of a mortgage prior to A's suit. The property is then sold in execution and is purchased by D, what are the rights of B, C and D? [250 Words, BJE-1980]

Chapter 56

Transfer of cases

1. State, Giving reasons the remedies available to A. A has obtained a money decree against B who does not reside or own property within the local limits of the jurisdiction of the Courts which passed the decree. [150 Words, RJS-1971]

2. What remedies are available to the decree holder in whose favour a decree for sale or delivery of immovable property has been passed but such property is situated outside the jurisdiction of the Court which passed the decree. [150 Words, RJS-1974]

3. What are the general powers conferred on the high Court or the District Court as regards the transfer and withdrawal of suits, appeals or other proceedings? [250 Words, UPPCS(J)-1992]

4. Under which Sec. of CPC can a suit be transferred from one Court in a district to another Court in some other district and which is competent Court to order such transfer? [20 W, Jharkhand,2001]

Chapter 57

Restitution

1. There was a suit between A and B regarding a house. 'A' won the suit and also obtained possession of the house. However, 'B' won in appeal 'A' however did not return possession of the house of 'B'. Advise 'B' suggesting remedy how to get back the house. [250 Words, UPPCS(J)-1991]

2. Discuss the doctrine of restitution. [250 Words, UPPCS(J)-1999]

3. Short Notes: Restitution [100 Words 1979, 150 Words, RJS-1986]

4. a) Explain and illustrate the principle of restitution. Is an order granting restitution appealable?

b) Who may apply for restitution? Against whom restitution can be granted.

[500 Words, HJS-2001]

5. A bought a suit against X for possession of a house and his suit was decreed by the trial Court and thereafter. A obtained possession of the house is suit against X by putting hi decree in execution. Thereafter X went in appeal and his appeal was allowed and A suit was dismissed. What step or action should X take to get back the possession of the house in dispute. [250 Words, BJE-1975]

Chapter 58

Caveat

RESILIENCE LAW ACADEMY

1. When can a person lodge a caveat in the Court? What is the purpose of lodging a caveat? [250 Words, RJS-1999]

Chapter 59

Notice

1. As given in CPC, write the heading of Section 80. [15 Words, RJS-1989]
2. What facts are essential in a notice under Section 80 CPC? What will be the effect upon the suits against the Central Government, the State Government or their officers, if the said notice is not given? [150 Words, UPPCS(J)-1985]
3. Explain the rule of "Notice" prescribed in Section 80 of the Code of Civil Procedure, 1908. [150 Words, UPPCS(J)-1997]
4. What facts are essential in a notice under Section 80 of Civil Procedure Code? What will be the effect upon suit against the central Government, the State Governments or their officer if the said notice is not given? [150 Words, HJS-2000]
5. Is there any exception to the general rule of serving the mandatory and statutory notice under Section 80 CPC? Write a brief note. [20 Words, Jharkhand JS-2001]

Chapter 60

Inherent powers of courts

1. Explanatory Notes: Inherent jurisdiction of the Civil Court [150 Words, RJS-1970, 1971, 1979, 50 Words, RJS-1988]
2. State the provisions of law providing for the inherent power of Court. [15 Words, RJS-1980-81]
3. a) What do you understand by inherent jurisdiction of civil court? Do you agree with the view that the inherent power has not been conferred on the Court, it is a power inherent in the Court by virtue of its duty to do justice between the parties before it?
b) Discuss whether in the following cases the Court has inherent power;
 - i) to order joint trial of suits,
 - ii) to correct its own mistakes,
 - iii) to set aside an ex-prate decree.[300 Words, UPPCS(J)-1983, 500 Words, UPPCS(J)-1987]
4. What are the inherent powers of a Court? Illustrate. [150 Words, UPPCS(J)-1986]
5. Write a short note on inherent power of Civil Court. [250 W, UPPCS(J)-1999, 150 W, BJE-1978]
6. a) What do you understand by inherent powers of a Civil Court?
b) Does a Civil Court have the inherent powers in the following cases?
 - i) To set aside an ex-prate decree,
 - ii) To order joint trial of suits,
 - iii) To correct its own mistakes. [500 Words, BJE-1991]

Chapter 61

Abatement and dismissal of suit

1. Short Notes: Abatement of Suit [150 Words, RJS-1979, 200 Words, BJE-1978]
2. What is meant by abatement of a suit? [20 Words, RJS-1992]

RESILIENCE LAW ACADEMY

3. What remedies are available to a plaintiff whose suit is dismissed for default? Discuss each remedy.

What orders a Court should pass if the plaintiff absents himself?

- a) On the first date of hearing of the suit.
- b) On an adjourned date of hearing and
 - i) there is no evidence on record, or
 - ii) There is some material on record.
- c) On the date fixed for delivery of judgment.

[500

Words, RJS-1974]

4. Plaintiff could not reach the Court on the date fixed, so his suit was dismissed for default. Advise the plaintiff as to the steps he should take. [150 Words, UPPCS(J)-1991] Chapter 62

Suit by advocate general

1.
 - a) In what case an Advocate-General of a State can bring a suit and what relief or reliefs can be claimed in such a suit?
 - b) Can any other person bring a suit to obtain those reliefs and in what manner? [300, RJS-1975]
2. Discuss the provisions of the Civil Procedure Code with regard to: Suits relating to public nuisance. [150 Words, UPPCS(J)-1987]
Short Note: Remedies for Public Nuisance [150 Words, BJE-1980]

QUESTIONS

1. "The adversary system of justice presumes that the best way to get the truth is to have a contest between two sides, in contrast, in an inquisitorial system the accused is presumed guilty and is supposed to prove his innocence".

Keeping the above statement in mind discuss the criminal justice system which is operating in India and the changes if any, which have been suggested by the National Committee on Reforms of Criminal Justice System 2003.

2. "Public trial in open court acts as a check against judicial caprice and serves as a powerful instrument for creating confidence of public in fairness, objectively and impartiality of administration of Justice" Comment. 8

3. "Speedy trial is an essential ingredient of reasonable, fair and just procedure guaranteed by Act.

21 and it is the constitutional obligation of the state devise such procedures as would ensure speedy trial to the accused." Do you agree that state the courts both in India have failed to fulfill this obligations? Explain.

4. "The discretion to a Court of Law in granting bail in non-bail able offences means a discretion governed by rule not by humour, it is not arbitrary, vague and fanciful but legal and regular".

In the light of above statement discuss the rules courts have adopted in India in granting bail in non-bail able offences.

5. Judicial Interpretation in Indian has made section 27, of the Indian Evidence Act. As an exception to section 25 and 26. Discuss.

RESILIENCE LAW ACADEMY

6. What is dying declaration and what is its significance in evidence. How is Indian Law different than the English one.

7. Write notes on any two of the following:

(a) Racial Discrimination in American is a negation of human rights.

(b) Public Interest Litigation in India.

(c) Due process model of criminal justice system.

8. Discuss the role of NHRC and courts in India as watch dogs of human rights of indigenous people.

1. Justice Malimath Committee on 'Reforms of Criminal Justice System in India' has made various recommendations for overhauling criminal justice system in India which include incorporation of certain aspects of inquisitorial model in the Criminal Procedure Code, 1973. You are required to briefly give account of such recommendations and also refer to some other important recommendations which in your opinion are significant for overhauling the Criminal Justice System in India.

2. Critically give a comparative account of the legal position with respect to the principle of 'Double Jeopardy' in Criminal trial in India and England.

3. Discuss the law relating to confession made to police officer under the Indian and English law.

Give your own view as to whether the relevant provisions in the Indian Evidence Act, 1872 require amendments in the existing legal position on the subject.

4. Discuss the rights of arrested persons under the Indian law bringing out clearly the contribution made by the Supreme Court in making rights of arrested persons more meaningful and relevant for administering criminal justice.

5. Discuss the law relating to dying declaration in India and England bringing out clearly the distinctions, if any, that exist in the two legal systems on the subject. Discuss with reference to the latest judicial decisions the evidentiary value of dying declaration in India.

6. Critically examine the provisions relating to powers of higher judiciary in the matter of grant of 'anticipatory bail' and 'regular bail' in non-bailable offences in Indian bringing out clearly the guiding principles laid down by the supreme Court in the matter of grant of bail in such offences.

Also discuss the restrictions that have been imposed on the powers of magistrates by the statutory provisions and also the judicial decisions in granting bail in case of offences punishable with death or life imprisonment.

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL 2011 CIVIL LAW PAPER-I

Q- 1 (a) What is the difference between res sub judice in Section 10 and res judicata in Section 11 of the Code of Civil Procedure, 1908? (10)

(b) What causes of action can be joined without the leave of the court, to a suit for recovery of immovable property? (10)

(c) 'A' agrees to sell and deliver to 'B' 500 Kgs. of sugar at the rate of Rs. 50 per kg. on date 'X'. On the same day he agrees to sell and deliver to 'C' a like quantity of sugar at the same rate on the same date. Can 'B' & 'C' join together as plaintiffs in one suit against 'A' and if not, then why not? (10)

(d) What are the powers given by Section 94 to a civil court for preventing the ends of justice from being defeated? (10)

Q-2 (a) What are the alternative methods of dispute resolution in the Civil Procedure Code, 1908? (10)

(b) 'A' is a tradesman in Calcutta. 'B' carries on business in Delhi. 'B', buys goods of 'A' through his agent in Calcutta and requests 'A' to deliver them to the Indian Railways. 'A' deliver the goods accordingly in Calcutta. Where can 'A' sue 'B' for the price of the goods delivered by him to 'B'? (10)

(c) When can a civil court impose costs by way of compensation and costs for causing delay?

(d) How has the Code of Civil Procedure 1908 defined the following:-

(i) summary procedure, (ii) mesne profits, (iii) judgment and order, (iv) Legal representative.

Q-3 (a) Yamuna Developers Pvt. Ltd. (YDPL) contracted with Jaipur Tiles Ltd. (JTL) for supplying various kinds of tiles to its Green Valley Project with actual cost of Rs.

50,00,000. JTL fulfilled its own part but YDPL had paid only Rs. 20,00,000. After one year, JTL agreed to accept Rs. 20,00,000 in satisfaction of its claim of Rs. 30,00,000.

Later on JTL filed a suit for the enforcement of contractual obligation. Decide the case on the basis of relevant legal provisions and case law. (10)

(b) Contract for the sale of a horse is entered into on the condition that the buyer should have it for eight days for trial and be at liberty to return it at the expiration of that period if he did not find it suitable. The horse dies without any fault on the part of either party, three days after it was delivered to the buyer for trial. Whether contract can be enforced? (10)

(c) Discuss the law relating to Privity of contract in English and Indian Law with its qualified exceptions. Discuss relevant case laws.

(d) Write the short notes on following:-

(i) Unjust enrichment (ii) Holding Out (10)

Q-4 (a) (i) Mr. and Mrs. Kaur are running a Legal Aid Clinic. Whether is it a kind of partnership? Discuss.

(ii) What is implied authority of partner? In what circumstances implied authority cannot be used by partner? (10)

RESILIENCE LAW ACADEMY

(b) What are the rights of surety against creditors? Discuss with the relevant provisions of Indian Contract Act. (10)

(c) What are the rights of unpaid seller against goods? How the rights of unpaid seller will vary in case of part delivery of goods? (10)

(d) Explain the circumstances alongwith relevant provisions of the Statute as to when the Civil Court may order a licensed petition-writer to re-write any petition written by him? (10)

Q-5 (a) Digvijay proceeds against Srijayan in a civil court claiming compensation for the injury caused to him. He adduces the following evidence in addition to other documentary and oral evidence. Decide whether following facts are relevant and admissible?

(i) The judgment of the Criminal Court convicting Srijayan for causing grievous hurt by rash and negligent driving.

(ii) The advice note given in confidence by the public prosecutor who had instructed Digvijay to make certain statements during his deposition.

(b) Rajesh, a student got marks-sheet from Haryana Education Board, showing that he had passed in biology, physics and chemistry with good marks. Rajesh, as a matter of fact had never opted or appeared for biology. However, he remained silent and sought admission in 1st year of MBBS course at Guru Nanak Dev Medical College. When he had to appear in his 1st professional course of MBBS, Haryana Board realizing the error, served a notice on him for wrong marks-sheet. Subsequently, the Medical College cancelled his admission. Rajesh consults you for using estoppels against Haryana Board. Give your opinion with reasons. (10)

(c) Enumerate the situations when leading questions can be asked during Examination-in-chief and Re-examination. Also point out when it is not allowed during cross-examination. (10)

(d) Can a Judge base his judgment on answer to irrelevant matters? What are the restrictions on the power of the Court to compel a witness to produce any document? (10)

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL-2011 CIVIL LAW PAPER-II

Q-1: (a) Two Hindus got married in a temple. Several years and after the birth of three children, they get the marriage registered under the Special marriage Act. A year later husband claims that certain ceremonies were not performed and hence the marriage was void. Decide after giving arguments for both the sides. (20)

(b) What are the de-merits of testamentary disposition of property? While answering, keep in mind particularly the rights of vulnerable persons in the family. (10)

(c) A wife becomes pregnant through artificial insemination using the husband's sperm without his permission. Husband and wife have not met in two years. The child is born with severe disabilities. Husband denies the child to be his. Decide. (10)

Q-2 (a) Calculate the shares of X's heirs assuming he had only HUF property when he died on 1.1.2000 leaving a widow, a mother, a step mother, two sons, two married daughters (one married in 1980 and the other in 1989), one unmarried daughter, ten grandchildren of whom four are children of a predeceased son and a predeceased daughter married in 1990 (each having a son and daughter).

Give reasons for inclusions, exclusions and quantum of shares. What is the nature of property in the hands of each heir?

X has left behind considerable debts also. Who should pay the same and to what extent?

These are his debts:-

To workers -----Rs. 30,000/-

To temple priests for ceremonies -----Rs. 10,000/-

To local shopkeeper for groceries -----Rs. 3,000/-

To local liquor shop -----Rs. 5,000/-

In the light of this, how far does Mitakshra law play a role in Hindu Law? (10)

(b) What is the status of Rita in the following cases:

(i) Nita and Rita are twins. Rita was born 15 minutes later than Nita. They were both adopted by a childless Hindu couple through an adoption agency. Forty years later after the death of their parents Nita asserts that (ii) Rita was adopted by Childless Hindu woman. After the adoption, the woman converted to Christianity. (10)

(c) Two Hindus marry and have a son. The husband converts to Islam and marries a Muslim girl. They have a daughter. All this happens prior to the decision in Sarla Mudgal's case. In 2001 the husband dies. The son denies the claims of the daughter and her mother. Is the marriage valid and the child legitimate? (10)

Q-3: (a) A Muslim man has two muslim wives. The entire family converts to Christianity. Discuss the status of the wives and children. Can he divorce his wives by triple talaq post conversion? (10)

(b) Write short notes on followings: (20)

a) Dastane v. Dastane

b) Law relating to Custody in India (10)

RESILIENCE LAW ACADEMY

(c) The waiting period of six months contemplated under Section 13-B of the Hindu marriage Act, 1955 is as mandatory as the other conditions prescribed for obtaining divorce by mutual consent. Explain the statement with support of case law. (10)

Q-4: (a) What is the impact of the Property Laws (Amendment) Act, 2001, which amended the Registration Act as well on Section 53-A of the Transfer of Property Act? (10)

(b) What documents may be registered? What are the effects of non-registration? (10)

(c) Discuss the circumstances in which registration of document can be refused by the Registering Authority. Is there any remedy against an unjustified refusal? Briefly discuss. (10)

(d) What is the effect of 'acknowledgement' as envisaged under the Limitation Act? (10)

Q-5: (a) 'X' was allotted a residential plot in the Municipal Area of Karnal, being the highest bidder in a public auction held by the Rehabilitation Department, Government of Haryana, 31.10.1980. The site plan shown to 'X' at the time of auction depicted two 'Public Parks' on the east and west side of the plot. 'X' constructed his house in April, 1985 after getting the building plans sanctioned from Municipal Council, Karnal and kept windows on both sides of the house. In the year 2004, 'A' started digging foundations in the open space abutting the 'west' side of the 'X's house, claiming to be its owner on the plea that it was allotted to him by the Rehabilitation Department in lieu of the properties left by his deceased father in West Pakistan. 'X' institutes a civil suit on 3.10.2006, claiming easement rights by prescription. Soon thereafter, Rehabilitation Department also issued a public notice for the auction of a residential plot, which as per the description given, was abutting the house of 'X' on east side. 'X' institutes another civil suit on 1.1.2007 against the Explain with the support of case law:-

(i) Whether 'X' has acquired absolute and indefeasible right to easement against 'A'?

(ii) Whether 'X' has acquired absolute and indefeasible right to easement against the Rehabilitation Department, Haryana?

(iii) What are the essential conditions to claim such like easementary rights under the Limitation Act, 1963? (20)

(b) 'Justice has emanated from nature. Therefore, certain matters have passed into custom by reason of their utility. Finally the fear of law, even religion, gives sanction to those rules which have both emanated from nature and have been approved by custom. 'What is the relevance of this statement of Cicero in Indian Legal System? (10)

(c) How does a custom originate? Write briefly the role of the Supreme Court in preserving and developing the customs of the people? (10)

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL-2011 CRIMINAL LAW

Q-1: (a) Mohan was an Engineer by profession. He was a bachelor and had lost his parents in an accident, when he was a small child. In 1995, Mohan met with a terrible accident where he was involved in a car crash, in which his legs were stuck in the debris. He had lost his consciousness also. After a great deal of effort, doctors managed to extricate him from the debris. But, he remained in a coma. There was no improvement in his condition till March 2005. The doctors treating him were in a fix as to whether they should turn off his life support system.

On April 10, 2005, a young girl was admitted to the hospital in which Mohan was being treated. She had multiple organ failure and required an urgent kidney and liver transplant. Mohan was known to be an activist who, before his accident, fought for the cause of organ transplantation. He had even received awards for his work in encouraging people to donate their kidneys and eyes. The doctors (a team of eight) took a decision to remove one of Mohan's kidneys and a part of his liver and transplant it into the young girl. After the surgery was completed, Mohan miraculously regained consciousness. He sought to prosecute the doctors who operated on him and contended that the doctors were, inter alia, guilty of various offences under India Penal Code.

Address the following issues:

(i) Mohan seeks to prosecute the doctors under Section 379 of IPC. He also seeks to prosecute them under Section 392 and 395 of IPC. Will he succeed? Give reasons.

(ii) Can the doctors take up necessity as a defence? Give cogent reasons.

(b) Samaresh was a student of National Institute of Epidemiology. One day, after completing his term examination, he decided to go to a local pub and have a drink. By the time he returned from the pub, he was highly intoxicated and in that state of intoxication, he entered the room of his neighbor in the hostel and set his mattress on fire. He was charged for offences under sections 436 and 447 of the Indian Penal Code. He wants to plead intoxication as defence. Advise him on the present law along with contemporary judicial reasoning. (10)

(c) Explain the offence of criminal conspiracy. How is it punishable? Distinguish between abetment and conspiracy. (10)

Q-2: (a) Discuss the Constitutional validity of section 497 of IPC in the light of case law. (10)

(b) Discuss the Fifth Exception to Section 499 IPC and the law relating to Contempt of Court in the light of case law. (10)

(c) Can an offence committed outside India, be tried in India under Indian Criminal Law (IPC & Cr. P.C.)? Explain in the light of case law. (10)

(d) Write a brief note on the nature of burden of proof on an accused who takes plea of insanity under the Indian Penal Code. Do you think that fairness demands that burden on prosecution should not be heavier? Refer to post Malimath development. (10)

Q-3: (a) A Hindu girl aged 17 years studying in B.A. was living under the care and protection of her parents. She was in intimacy with a shopkeeper named Mahesh running a shop near her house. One day the girl left her house and went to Mahesh and

RESILIENCE LAW ACADEMY

asked him to take her away permanently, who took her away to several places. He handed her over to one of his friend, Mr. Rupal who took her to Kolkata where he was arrested. Discuss the liability of Rupal and Mahesh. Can they be prosecuted under section 363 of the Indian Penal Code? Give reasons with relevant authorities. (10)

(b) Jagat Singh gave orders to a press to print 100 forms similar to those formerly used by a Coal Company. He had corrected the first proof and also suggested further corrections in the second proof in order to make it appear exactly like the form used by the Coal Company. At this stage Jagat Singh was arrested and charged with the offence of having attempted to make a false document. Decide and give reasons. (10)

(c) Amar Singh was arrested by custom officers while in possession of a suitcase which he believed to contain prohibited drugs whereas on analysis the drugs in the suitcase were found to be only snuff or harmless vegetable matter. Amar Singh had admitted to the custom officers after his arrest that he was dealing in the prohibited drugs. He was charged under section 511 of the Indian Penal Code, with attempting to commit the offence of being knowingly concerned in dealing with and harboring prohibited drugs. Decide and give reasons. (10)

(d) How the trial of warrant cases instituted on police report is different from cases instituted otherwise than on police report? Elaborate the procedural differences between the two. (10)

Q.4: (a) "Every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried separately". Identify the aforesaid provision of Cr.P.C. and discuss seven exceptions to this rule. (10)

(b) Outline the cardinal provisions of Code of Criminal Procedure at the time of commencement of proceedings before magistrates that uphold the virtue of fair trial. (10)

(c) Discuss provision of bail available to an under trial under sections 436 and 437 of Cr.P.C. vis-à-vis section 436A inserted by the Code of Criminal Procedure (Amendment) Act, 2005. Evaluate the significance of insertion of section 436A in Cr. P.C. (10)

(d) Write short notes on the following:-

(i) Difference between "Discharge" and "Acquittal".

(ii) Effect of "Error in Framing Charge". (10)

Q-5: (a) List the situation when evidence of bad character can also be given. Do you think that Indian law of evidence is based on law and not on logic? (10)

(b) State the provisions of law and give reasons as to relevancy of the following facts:

(i) In a case of homicide against 'X', prosecution produces a statement of 'Y'. "I heard the cries and saw the dead body".

(ii) In case of an identity of carcass recovered from a pond, 'the production of super imposed photograph of deceased over the skeleton' by the prosecution. (10)

(c) What is the evidentiary value of FIR and in what cases FIR may become substantive evidence? (10)

RESILIENCE LAW ACADEMY

(d) (i) Arun, on his trial before the Court of Sessions, says that a deposition was improperly taken by Bir Singh, the Magistrate. Can Bir Singh be called as a witness and compelled to answer the questions as to the deposition which is alleged to be improperly taken? (5)

(ii) If Arun is an accused before the Court of Sessions of attempting to murder while on his trial before Ram Singh, a Session Judge. Can Ram Singh be examined as to what happened before him? (5)

RESILIENCE

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL -2011 ENGLISH

Q-1: Write an essay on any one of the following topics in 1000-1100 words.

- (i) Multi-National Companies (MNCs)- Saviours or Saboteurs
- (ii) Nuclear Winter and its Repercussions
- (iii) Right to Information-Boon or Bane
- (iv) Misinterpretation and Misuse of Freedom in India
- (v) When Money Speaks, Truth is Silent? (100)

Q-2: Make sentences using the following words:-

- (i) Reticent (ii) Desolate
- (iii) Circumspect (iv) Volition
- (v) Gratuitous (vi) Exodus
- (vii) Inculcate (viii) Investiture
- (ix) Omnibus (x) Maverick (25)

Q-3: Write a Precis of the following passage, of about one-third of the original length-

Proportional representation has been a subject of heated controversy for more than a hundred years. Since the mid-nineteenth century some democratic theorists have argued that the simple majority system makes genuinely democratic representation impossible and have proposed that such system should be replaced with some kind of proportional representation. The system of proportional representation is well suited to remedy the main defects of the simple majority system . Proportional representation secures representation to the various parties and groups in the State according to their relative strength, and prevents an election from degenerating into a gamble. And, legislature becomes truly a mirror of the State, as it must be in a democracy which professes equality as its very root and foundation. Secondly, it offers an easy and excellent solution of the troublesome question of minority representation as we have to face in our country. Thirdly, every voter and group is represented in the legislature by a real representative and not by one elected by others. Fourthly, by a process of choice and elimination, it ensures intellectual qualities in the representatives and therefore elevates the character and usefulness of the legislature. Fifthly, it is a better instrument of political education, particularly the exercise of a single transferable vote brings with it good political education, because voter cannot assign his preferences without a serious reflection on the important political issues of the day, and on the merits and shortcomings of the various candidates. Sixthly, this system prevents the capture by one party of overwhelming majority of seats in the legislature and thereby prevents any sudden and radical changes in the constitution which such a majority party in the legislature might successfully introduce. Lastly, there is little wastage of votes in this system. In other words, it may eliminate wastage of votes. Thus, on principle, there is much to commend it.

There is no doubt that proportional representation has certain disadvantages too. First of all, the system is highly complicated and difficult for the voters, particularly the

RESILIENCE LAW ACADEMY

illiterate ones to follow. The process of counting of votes is also highly difficult and complicated. Secondly, it leads to political fragmentation and Governmental instability. It tends to multiply parties on the basis of caste, religion, languages or other interests. Every minor party or small group is encouraged to retain its own individuality instead of amalgamating or merging itself with allied groups to form a single party. The natural consequences of the presence of large number of parties or groups in the legislature is fragile coalition Governments which fall whenever any one section withdraws its support. This system thus leads to unstable Governments. However, proliferation of political parties is a feature of Indian politics and that the existing electoral system, i.e. the simple majority system has not been able to reduce the number of political parties in the country. It is, therefore, obvious that any electoral system can result into coalition Governments. The difference which proportional representation makes is that the coalitions are of parties and not of individual defectors, who have brought bad name to the coalition experience. It is easier for parties to coalesce than amorphous individuals or unattached members of legislatures. Some coalition Governments remained unstable in the Indian States, not because of inter-party competition, but because of inter-party factionalism and unprincipled support of independent legislators. Thirdly, it encourages 'minority thinking' and 'class legislation' harmful to national integration. By insisting on minority representation it encourages minority to think only of their interests. They consider every question from the point of view of their own interests, and neglect the common interests of all classes of people. It is obvious that a legislature elected on this basis represents a number of isolated interests, it hardly helps to form the general will of the nation. (25)

Q-4: Read the following para and answer the questions given below in context thereof:-
Historians have long recognized the Japanese sword as one of the finest cutting weapons ever created. But to consider the sword that is synonymous with the Samurai as merely a weapon is to ignore what makes it so special. The Japanese sword has always been considered a splendid weapon and even a spiritual entity. The traditional Japanese saying "The sword is the soul of the samurai" not only reflects the sword's importance to its wielder but also is indicative of its importance to its creator, the master smith.

Master smiths may not have been considered artists in the classical sense, but every one of them took great care in how he created a sword, and no sword was created in exactly the same way. The forging process of the blade itself took hundreds of hours as two types of steel were heated, hammered and folded together many a times. This created a blade consisting of thousands of very thin layers that had an extremely sharp and durable cutting edge; at the same time, the blade was flexible and therefore less likely to break. It was common, though optional, for a master smith to place a physical signature on a blade; in addition, every master smith had a "structural signature" due to his own secret forging process. Each master smith brought a high level of devotion, skill, and attention to detail to the sword-making process, and the sword itself was a reflection of his personal honour and ability. This effort made each blade as unique as the samurai

RESILIENCE LAW ACADEMY

who wielded it; today the Japanese sword is recognized as much for its artistic merit as for its historical significance.

Q. The Questions are:-

- (1) Does the passage consider Japanese sword as merely a weapon?
- (2) What can be inferred about the term “structural signature” in the passage?
- (3) What does the traditional Japanese saying reflect?
- (4) Whether the master smiths have been considered artists?
- (5) Describe briefly the forging process of the blade? (25)

Q-5:- Fill in the blanks and complete the sentence by using the correct alternative out of (a), (b), (c) and (d):-

1. They still think that women are inferior _____men.
a. To b. Than c. From d. With
2. The river overflowed its _____ and flooded the area.
a. edges b. fronts c. limits d. banks.
3. His father-in-law _____him up in business.
a. put b. made c. set d. built
4. The robbers were arrested and _____prison yesterday.
a. Brought into b. brought to c. taken into d. taken to
5. We had a _____of warm weather in February.
a. time b. spell c. length d. phase
6. He lives near a lovely _____of countryside.
a. Length b. piece c. Section d. Stretch
7. I _____ a car to be absolutely necessary these days.
a. consider b. regard c. think d. agree
8. Once you suspect a person of double dealing, you ought to keep him at an arm’s _____
a. distance b. length c. aim d. width
9. To reach the agreement, each side had to _____ by giving up some of its demands.
a. Compliment b. Compensate c. Compromise d. comply
10. Relationship between those two has never been very _____ and became very bad in the last few days.
a. Warm b. Close c. Clear d. Agitated e. Cordial (25)

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL – 2010 CIVIL LAW PAPER-I

Q.-1: (a) Explain constructive res judicata with aid of suitable illustrations? (10)
(b) In a previous suit 'A' claiming to be a tenant of certain land from a municipality obtained an ex parte decree against the municipality only. 'B' who had obtained lease of the same land from the municipality prior to the institution of such suit was not, however, made a party to that suit. 'B' brought a subsequent suit against 'A' and the municipality disputing A's right to remain on the land and interfere with the construction works. Will the decree passed in favour of 'A' operate as res judicata against 'B' in the subsequent suit? (10)
(c) What do you understand by set-off?
Explain equitable set-off and distinguish between legal and equitable set-off. (10)
(d) What is the proper place of suing in the following cases?
(i) a suit by a guardian for the custody of his ward;
(ii) a suit for damages for infringement of a trade mark;
(iii) a suit against a corporation;
(iv) a suit for mesne profits;
(v) a suit for specified performance of a contract of sale of immovable property;
(vi) a suit for a tort (10)

Q.-2: (a) What is the procedure to be adopted in case of execution of decree against the Government or a public officer? (10)
(b) For how much period a person can be detained in the civil prison in execution of a money decree and when he is to be released from such detention? Can he be released from such detention before the expiration of the said period? (10)
(c) Can a Member of either House of Parliament, or a Member of Legislative Assembly or a Member of any Parliamentary Committee be arrested and detained under the civil process. If no, under which contingencies? (10)
(d) On what ground can the sale of immovable property in execution of a decree be set aside? At whose instance such sale can be set aside. (10)

Q:3: (a) An agreement is unlawful if the Court regards it as opposed to public policy. In the light of this statement discuss (i) meaning of public policy and (ii) When an agreement is said to be against public policy? Whether Courts have evolved any new head of public policy for giving relief to weaker section of society in standard form contract? (10)
(b) Mr. 'A' who lives in Ambala gives his motor-cycle to his friend 'B' for going to Kurukshetra. 'B' instead of going to Kurukshetra drives the motor-cycle for going to Chandigarh. He drives the motor-cycle with reasonable care. While coming back from Chandigarh to Ambala he met with an accident and motor-cycle is totally damaged. Can 'A' claim damages from 'B'. Give reasons. (10)
(c) In a document executed between 'A', 'B', 'C' and 'D', it was provided that 'D' would be incharge of the firm and get Rs.200/- per month and devote his whole time to it, he

RESILIENCE LAW ACADEMY

would also get 10 per cent of the net profits of the firm, but would get no share in the surplus profits of the firm, which were to be equally divided between 'A', B and C only. Is 'D' a partner of the firm? (10)

(d) How and when may a partner retire? What are the liabilities of a retiring partner and what is the effect of such a retirement on the rights of the parties? (10)

Q.4: (a) Explain what is preventive relief. What are the provisions governing the grant of perpetual 'injunction'? (10)

(b) Examine whether or not perpetual injunction shall be granted in following cases:-

(i) Where plaintiff prays that his standing crop is likely to be harvested very soon by defendant?

(ii) Where injunction prayed for, is for enforcement of an obligation arising from breach of contract, which cannot be specifically enforced?

(iii) Where alternative efficacious remedy is available?

(iv) Where plaintiff's conduct is unconscionable? (10)

(c) Carefully distinguish between a 'condition' and a 'warranty' and enumerate the circumstances in which 'condition' can be treated as 'warranty'. (10)

(d) 'A' contracts to sell a heap of bones to 'B', weighs and delivers them at 100 rupees per ton. 'B' agrees to take and pay for them on a certain day. Part of the bones is weighed and delivered to 'B'. On whose risk does the residue lie? (10)

Q.5: (a) What do you understand by 'Privileged Communication'? Answer with the aid of suitable illustrations. (10)

(b) A witness is compelled to state a matter, which will expose him to a criminal charge. If he speaks the truth, can he be prosecuted on the basis of his own statement in the Court? If he makes a false statement, can he be prosecuted for giving false evidence? (10)

(c) "The rules of Evidence are in general the same in Civil and Criminal Proceedings". Comment and state if there are any exceptions to this rule. (10)

(d)(i) Can the functions of receiving and registering cases and appeals be assigned to Additional District Judge and if so, by whom? (10)

(ii) Who may define the local limits of Civil Judges (Sr. Divn) and Civil Judges (Jr.Divn.)? Give your answers with the aid of illustrations.(5).

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL – 2010 CIVIL LAW PAPER-II

Q.-1: (a) Define and explain the following terms as referred to in the Hindu Marriage Act:

(i) “full blood” and “half blood”

(ii) “uterine blood”,

(iii) “Sapinda relationship” (10)

(b) Critically examine the special grounds of divorce available to a Hindu wife under the Hindu Marriage Act, 1955: (10)

(c) How would the separate property of the deceased be distributed under Mitakshara law in the following cases? Explain by giving reasons.

(i) A Hindu dies, leaving behind a widow, an adopted son and an after born natural son.

(ii) A Hindu dies, leaving behind a widow and a son of a predeceased son.

(iii) A Hindu dies, leaving behind a mother's sister's and a father's half-sister's son.

(10)

(d) Explain what is deemed partition under the Hindu Succession Act, 1956.

(10)

Q.-2: (a)(i) In what cases may an adopted son impeach alienations made by the widow of his adoptive father prior to his adoption?

(ii) 'G' an unmarried girl of 20 years adopts a boy of 7 years. Is the adoption valid?

(iii) 'A' with the consent of his wife validly adopts 'B'. Later on 'B' started misbehaving and beating 'A' and his wife. 'A' wants to cancel the adoption of 'B'. Comment. (10)

(b) What is the law regarding the maintenance of a widowed daughter-in-law?

(10)

(c) Discuss the law relating to the custody of a child by the mother, under the Hindu Minority and Guardianship Act, 1956, in the light of the latest development in law. (10)

(d) 'X' is acting as defacto guardian of a Hindu child aged 12 years. 'X' intends to dispose of the property of such child. Can he do so? Refer to the provisions of the Hindu Minority and Guardianship Act. (10)

Q.-3: (a) Define wakf. What are the legal incidents of a valid wakf. (10)

(b) 'B' a muslim wife seeks dissolution of her marriage with 'A' on the grounds that 'A' neglected to maintain her for a period of 2 years. In fact, 'B' had voluntarily left 'a', when 'A', when 'A', brought a second wife. Decide the claim of 'B'. (10)

(c) Marriage amongst muslims is 'not a sacrament but a civil contract'. Elucidate.

(10)

(d) What do you understand by Punjab Customary Law. How much is this relevant with regard to marriage and divorce after the codification of Hindu Law? (10)

Q.-4: (a) Discuss the law relating to the computation of the period of limitation prescribed for any suit, appeal or application and exclusion of time bona fide spent in pursuing proceedings in a Court having no jurisdiction. (10)

RESILIENCE LAW ACADEMY

(b) 'A' advanced Rs.10,000/- to 'B' on simple mortgage of his property on 1.1.1977. The period of repayment was one year from the date of the mortgage. In December 1980, 'a' died leaving 'C', a minor son aged one year. In 1998 'C' filed a suit for sale of the mortgaged property. Is the suit within time? If so, explain. (10)

(c) 'A' borrowed a sum of money from 'B'. The last date for filing the suit fell on Sunday. On next day i.e. Monday 'A' gave a written acknowledgment to 'B'. Should 'B' file the suit immediately on Monday or he can file it after some time? Advice. (10)

(d) Enumerate the nature and category of documents whose registration is optional. (10)

Q.-5: (a) State with reasons whether registration of following documents is compulsory:

(i) Sale certificate given by court

(ii) General Power of Attorney (10)

(b) How do you distinguish between divorce and judicial separation? (10)

(c) How does the Hindu Marriage Act provide for the legitimacy of children of voidable marriage? (10)

(d) 'X' a Hindu male aged 18 years married 'Y' a female aged 14 years. The marriage was consummated when 'Y' was 17 years. Will she be entitled to get decree of divorce under the Hindu marriage Act? (10)

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL – 2010 CRIMINAL LAW

Q.-1: (a) Examine as to whether a person who causes the death of a pregnant woman is guilty of committing one homicide or two. (10)

(b) "Whereas in criminal conspiracy an agreement between two or more persons is needed, in abetment by conspiracy an engagement between them is enough." (10)

(c) In order to pick the pocket of 'B', 'A' inserted his hand into the pocket of 'B', which touched the trigger of the loaded pistol kept in 'B's pocket. The pistol went off, killing B. Discuss criminal liability of 'A'. (10)

(d) 'A', a police officer, made a false entry in the special diary relating to a case which was being investigated by him, but the document in which the alleged false entry was made was not the one which was admissible in evidence. Can he, in the circumstances, be convicted for fabricating false evidence? (10)

Q.-2: (a) "In all robbery, there is either theft or extortion". Explain. (10)

(b) What offences have been committed in the following cases and by whom?

(i) 'A', with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as 'A'. The act is not committed. (5)

(ii) 'A' knows 'Z' to be behind a bush. 'B' does not know it. 'A' intending to cause or knowing it to be likely to cause 'Z's death induces 'B' to fire at the bush. 'B' fires and kills 'Z'. (5)

(iii) 'A' instigates 'B' to set fire to a dwelling house. 'B', in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of 'A's instigation. (5)

(iv) 'A', intending to cause a theft to be committed, instigates 'B' to believe that the property belongs to 'A'. 'B' takes the property out of 'Z's possession in good faith, believing it to be 'A's property. (5)

(v) 'A' offers a bribe to 'B', a public servant, as a reward for showing 'A' some favour in the exercise of 'B's official function. 'B' accepts the bribe. (5)

(vi) 'A' instigates 'B' to give false evidence. 'B', in consequence of the instigation, gives false evidence. (5)

Q.-3: (a) The Right to Private Defence is said to be a limited right. Explain the limitations of the Right to private defence.

'A' was under attack from 'B'. 'A' had ample opportunity to save himself by fleeing away but instead 'A' defended himself and thereby caused harm to 'B'. Is it a valid exercise of the right of private defence? (10)

(b) Is homo-sexual relation between two consenting adults is an offence? Discuss. (10)

(c) Explain the distinction between Acquittal and discharge. (10)

(d) Explain with illustration the followings: (10)

RESILIENCE LAW ACADEMY

- (i) When can the Court alter or amend charge? What is the consequence of a defect in the framing of charge?
- (ii) What charge is to be framed if it is doubtful as to what offence has been made out?

Q.-4: (a) In what circumstances a person can be arrested without warrant? What measures and precautions are required to be taken while arresting a person, as directed by the supreme court?

(10)

(b) Can a person on being examined by a police officer investigating a case, refuse to answer a question relating to such case asked to him by such police officer? (10)

(c) Determine the place of trial in the following cases:- (10)

(i) Where an offence is continuing one and continues to be committed in more local areas than one.

(ii) 'A' boarded the train at Patna. Scuffle between 'A' and 'B' ensued in the compartment somewhere between Lucknow and Moradabad, where 'B' got down. On reaching Delhi, 'A' broke his journey and lodged F.I.R. against 'B'.

(d) Can a bail granted under Section 167(2) of Cr. P.C. be cancelled by the Magistrate suo motu on presentation on challan report under Section 173, Cr.P.C. against the accused? (10)

Q.-5: (a) What are the essential conditions of a valid dying declaration. When a dying declaration is considered as not admissible. Give illustration. (10)

(b) What is expert opinion? Explain the evidentiary value of expert opinion. (10)

(c) A witness is asked in cross-examination whether he was dismissed from service for dishonesty. He denies. Evidence is offered to show that he was dismissed for dishonesty. Is the evidence admissible? (10)

(d) Can the following statements be used for corroborating a witness:

(i) A statement in F.I.R. lodged by the witness about the commission of an offence, based on personal observation.

(ii) A former statement of the witness before a Magistrate made during police investigation.

(iii) a statement recorded as dying declaration in a case where the deponent survives and is called as witness in Court.

(iv) A previous statement of an accomplice before a Magistrate after he has been granted pardon.

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL – 2010 ENGLISH

Q.-1: Write an essay on any one of the following topics in 1000- 1100 words. (100 marks)

- (i) Commonwealth Games in India
- (ii) Global warming – an empty threat or a reality
- (iii) Violence in Campus Elections
- (iv) Women Empowerment

Q.-2: Make sentences using the following words:-

- (i) Comprehensive (ii) Weary
- (iii) Mankind (iv) Disgraceful
- (v) Abrasive (vi) Preposterous
- (vii) Courage (viii) Guardian
- (ix) Twilight (x) Contemporary (25 marks)

Q.-3: Write a Precis of the following passage, of about one-third of the original length-
A great part of Arabia is a desert. Here there is nothing but sand and rock. The sand is so hot that you cannot walk over it with you bare feet in the daytime. Here and there in the desert are springs of water that come from deep down under the ground – so deep that the sun cannot dry them up. These springs are few and far apart, but wherever there is one, green grass very soon covers the ground all around it. Soon fig trees and palm trees grow tall and graceful, making a cool, green, shady place around the spring. Such a place is called an oasis.

The Arabs who are not in the cities live in the desert all the year round. They live in tents that can be put up and taken down very easily and quickly, so that they can move from one oasis to another, seeking grass and water for their sheep, goats, camels and horses. These desert Arabs eat ripe, sweet figs, and also the dates and grow upon the palm trees; they dry them, too, and use them as food all the year round.

The Arabs have the finest horses in the world. An Arab is very proud of his riding a horse, and loves him almost as much as he loves his wife and children. He never puts heavy loads upon his horse, and often lets him stay in the tent with his family.

The camel is much more useful to the Arab than his beautiful horse, for he is much larger and stronger. One camel can carry as much as, or more than two horses. The Arab loads the camel with goods, and rides him, too, for miles and miles across the desert – just as if he were really the “Ship of the Desert,” which he is often called. (25 Marks)

Q.-4: Read the following para and answer the questions given below in context thereof:-
“Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance.

RESILIENCE LAW ACADEMY

It is fitting that at this solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity. At the dawn of history, India started on her unending quest, and trackless centuries are filled with her striving and the grandeur of her success and her failures. Though, good and ill fortune alike she has never lost sight of that quest or forgotten the ideals which gave her strength. We end today a period of ill fortune, and India discovers herself again. The achievement we celebrate today is but a step, an opening of opportunity, to the greater triumphs and achievements that await us. Are we brave enough and wise enough to grasp this opportunity and accept the challenge of the future? Freedom and Power bring responsibility. The responsibility rests upon this Assembly, a sovereign body representing the sovereign people of India. Before the birth of freedom we have endured all the pains of labour and our hearts are heavy with the memory of this sorrow. Some of those pains continue even now. Nevertheless, the past is over and it is the future that beckons to us now. That future is not one of ease or resting but of incessant striving so that we may fulfil the pledges we have so often taken and the one we shall take today. The service of India means the service of the millions who suffer. It mean the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us, but as long as there are tears and suffering, so long our work will not be over. "Pt Jawahar Lal Nehru

- (i) What is the 'pledge' that is referred to in the speech.
- (ii) What is meant by "stepping out from the old to the new".
- (iii) What does the speaker mean when he says "before the birth of freedom we have endured all the pains of labour".
- (iv) What sort of responsibility of the future, does the speaker talk about.
- (v) What does the speaker mean by saying "wiping every tear from every eye". (25 marks)

Q.5: Correct the following sentences by using the right word, conjunction, adverb, adjective etc.

1. He spoke _____ me _____ Urdu.
2. They live _____ the same roof.
3. I have not seen him _____ Wednesday last.
4. I have known him _____ a long time.
5. The moon does not shine _____ its own light.
6. You will not succeed _____ you work harder.
7. We arrived _____ you had gone.
8. I waited _____ the train arrived.
9. I cannot give you any money, _____ I have none.
10. We got into the port _____ the storm came on. (25 marks)

RESILIENCE LAW ACADEMY

HARYANA JUDICIAL 2006 CIVIL LAW - PAPER I

PART "A"

Q. 1.(a) Explain if the rule of conclusiveness of foreign judgment is different in its operation from the rule of res judicata.

(b) Can a court in India consider whether conclusions reached in a foreign judgment are supported by the evidence or are otherwise correct ?

(c) When and how a decree of any foreign court can be executed in India ?

Q. 2.(a) Explain if and when ; (i) interest prior to the date of the suit, (ii) interest pendent lite and (iii) future interest can be totally declined or granted at 6% p.a. or at the contractual rate by the Court.

(b) Can the court award interest :

(i) on the aggregate amount which includes the principal sum and the amount of interest;

(ii) at a rate higher than what was contracted between the parties;

(iii) in a suit which is not simpliciter for money;

(iv) by way of damages;

(v) while executing a decree;

(iv) in an appeal.

Q. 3.(a) Explain the rules governing denials by the defendant in his written statement.

(b) What are the conditions that must exist for making an application for the execution of cross-decree?

(c) What is the procedure for attaching agricultural produce in the execution of a decree ?

PART "B"

Q. 4.(a) Mention the circumstances in which a contract by a minor is : (i) void, (ii) voidable or (iii) valid.

(b) a promissory note was signed by a minor in consideration of money received by him. On attaining majority, he ratifies that promissory note. Can the creditor enforce it ?

Q. 5(a) Explain, with illustration, the difference between illegal and void contracts.

(b) When is consideration or object of an agreement said to be opposed to public policy ? Mention case law.

Q. 6.(a) When is a carrier presumed to be the buyer's agent to take delivery of goods from the seller ?

(b) The defendant contracted to purchase 300 liters of apple juice from the plaintiff who crushed the apples and kept the juice ready for delivery. The defendant did not take the delivery in time and delayed taking delivery. The juice went putrid and had to be thrown away by the plaintiff, though he was in a position to sell the goods elsewhere. But the plaintiff had not done so. Was the defendant liable to pay the price /

(c) Under a contract of sale of 100 barrels of rum made from molasses, 50 barrels were delivered. The buyer pressed for delivery of the remainder but the seller delayed. In the meantime, distillation of spirits from molasses was prohibited by an Act of parliament

RESILIENCE LAW ACADEMY

and all contracts for the sale of such spirits stood annulled. Is the seller liable in damages as having failed to deliver the remaining 50 barrels of rum ?

PART "C"

Q. 7.(a) When can a person, who being not the owner is dispossessed of immovable property recover possession thereof ?

(b) Can a person recover possession of immovable property if he was dispossessed :-

(i) being a tenant holding over after the expiry of the term;

(ii) being a trespasser;

(iii) by a person having good title;

(iv) only partially;

(v) by the Government.

Q. 8.(a) Discuss the principles and the restrictions regarding the grant of : (i) temporary injunction, (ii) perpetual injunction and (iii) mandatory injunction.

(b) Can a mandatory injunction be granted on an interlocutory application in a suit ?

(c) Can the court grant temporary injunction in exercise of its inherent powers in a case?

PART "D"

Q. 9. (a) Explain the difference between primary and secondary evidence.

(b) Two wills in identical language were prepared by the process of typing in which the second copy was obtained by carbon impression. Both were executed and attested. The testator inserted a remark "true cop" on one of them. Can both the wills be treated to be original and as primary evidence ?

(c) A sale-deed is duly registered and an entry made by the Registrar in the register book. Can the registered sale-deed and the aforesaid entry be treated as public documents ?

Q. 10.(a) Explain the difference between :-

(i) a private limited company and partnership;

(ii) co-ownership and partnership;

(iii) joint Hindu family business and partnership.

(b) Explain the following statement :-

"The law of partnership is but an extension of the law of principal and agent".

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2006

Civil Law Paper – II

Time : 3 Hours Maximum Marks 200

Note : All eight questions are to be attempted. All questions carry equal marks. Answers should be precise and to the point.

Q. 1.(a) Critically examine the concept of irretrievable breakdown of marriage. Can the courts invoke this concept for granting divorce under the provisions of the Hindu Marriage Act, 1955 ?

(b) Although cruelty is clearly a ground for divorce under Section 13 of the Hindu Marriage Act, 1955, and yet the legislature in its wisdom has not defined it in the Act. In the application of this statutory ground, however, the apex court has developed a functional concept of cruelty. Bring out the salient features of that concept in the light of case law.

Q. 2.(a) A marriage of a Hindu girl, aged 11 years, was solemnized with a Hindu boy of 25 years of age. She sought to repudiate the marriage after attaining the age of 13 years through her brother (although her father being alive). Decide if she could succeed in repudiating the marriage under the relevant provisions of the Act of 1955.

(b) Critically examine the concept of matrimonial bars and bring out their relevance in deciding the matrimonial disputes.

Q. 3.(a) Discuss customary appointment of an heir. Is it different from adoption under Hindu Law ?

(b) What is the doctrine of Acknowledgment of Legitimacy under Muslim Law ? How is it different from "Legitimation" ?

(c) Marriage amongst Muslims is a contract, but it is also a 'sacred covenant' – Fyzee. Comment.

(d) Applicability of Section 125 of Cr. P.C. to Muslim after the enactment of Muslim Women (Protection of Rights on Divorce) Act, 1986.

(c) A mother gives her only son in adoption though father of the boy is alive at the time of adoption. Discuss if the adoption is valid under any circumstances in the light of the relevant provisions of the Hindu Adoptions and Maintenance Act, 1956.

Q. 4.(a) The consideration governing the custody of children is the 'welfare of the children' and not the rights of the parents. But the expression 'welfare of the children' admits 'no straightjacket yardstick'. How do the custody courts resolve this predicament ? Illustrate your answer through some judicially decided cases.

(b) A young woman after the death of her husband was forced to leave her four-year old child with her in-laws at Ambala. Thereafter she started living with her parents at Hoshiarpur. She filed a petition for custody of the child at Hoshiarpur. Decide if the civil court at Hoshiarpur has territorial jurisdiction to decide the case under the relevant provisions of the Guardian and Wards Act, 1890, read with the relevant provisions of Hindu Minority and Guardianship Act of 1956.

RESILIENCE LAW ACADEMY

Q. 5.(a) Comment upon the statement : 'He who alleges custom must plead and prove.' Also bring out the relevance of custom with legislation becoming the major source of law.

(b) Critically examine the doctrine of Antecedent Debt under Hindu law. Is this doctrine affected in any way by the Hindu Succession (Amendment) Act, 2005?

Q. 6. What is the concept of Mitakshara Coparcenary ? Critically examine if the surviving coparcener obtains the share of the deceased coparcener as his legal representative.

(b) How, in what manner, and to what extent the concept of Mitakshara Coparcenary has been affected/modified by the Hindu Succession (Amendment) Act, 2005 ?

Q. 7.(a) What is 'bequeathable property'? How is it different from 'heritable property'?

(b) A Muslim, who died leaving behind his widow, made a will of his entire property in favour of his friend 'F'. What is the maximum share to which 'F' is entitled to under Muslim law ?

(b) A Muslim, who died leaving behind his widow, made a will of his entire property in favour of his friend 'F'. What is the maximum share to which 'F' is entitled to under Muslim law ?

(c) A Muslim made a will of his properties in favour of his two friends 'Y' and 'Z', by stipulating that the former would get 1/2 and the latter 1/4 of his property. His heirs did not approve of the will. determine the respective shares to which each would be entitled under the Sunni law and Shia law.

(d) A maternal grand father made a gift in favour of his newly born grand child. The mother of the child accepted the gift on behalf of the minor. is this gift valid under Muslim law ?

(e) A Muslim died leaving behind 5 grand children, three children G1 , G2, G3 of his predeceased son Fazal, and two children G4 and G5 of his predeceased son Abdul. What is the quantum of share of each under the Sunni law and Shia law ?

Q. 8.(a) Comment upon the following statements :

(i) Law of limitation simply bars judicial remedy; it neither effects extra judicial remedies nor the substantive right itself.

(ii) Statute of Limitation is "a statute of repose, peace and justice."

8.(b) 'L', a landlord succeeded in getting an eviction decree against his tenant T, it which was confirmed by granting time till 31.12.2002 to vacate the premises. On 1/1/2003, a fresh lease deed was executed for a period of one year with effect from 1/1/2003.

Thereafter, on 1/3/2003 'T' came up with an application raising the pleas that eviction decree had become non-executable in view of the fresh lease deed, dated 1/1/2003.

Decide if the said application would amount to adjustment or satisfaction of the eviction decree in view of the relevant provisions of the Limitation Act 1963.

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2006

Criminal Law - Paper III

Time : 3 Hours Maximum Marks : 200

Note : (i) Answer any Eight questions. (ii) Figures to the right indicate marks (iii) Answers should be precise. (iv) Reference of Sections and important decisions wherever relevant should be given.

Q. 1(a) "The distinction between 'Murder' and 'Culpable homicide' not amounting to murder is very fine but real". Discuss.

(b) A terminally ill patient who is eighty years old, requests his doctor to give him lethal injection, so that he may die peacefully. The doctor administers the injection which results in death of the patient. Is doctor guilty of some offence under the Indian Penal Code?

Q. 2.(a) Distinguish "common intention" from "common object" as the expressions have been used in the Indian Penal Code.

(b) Mitha Mal dispossessed Ram Lal from his land thirty years back and is in settled possession since then. He gets the information that Ram Lal is coming to that place with armed men to get back possession of the land and would reach the site within half an hour. On getting this information Mitha Mal gathers seven of his friends immediately who are armed and prepared to resist Ram Lal forcibly. Does this assembly of Mitha mal's friends amount to unlawful Assembly? Decide.

Q. 3.(a) Reeta believed herself to be pregnant and asks 'X' to help her to undergo abortion. 'X' administers her some obnoxious substance sufficient to cause miscarriage but later on it was found that Reeta was not pregnant at that time. Reeta and 'X' are charged for attempt to cause miscarriage. Discuss the liability of the accused.

(b) 'X' enters house of 'Y' to commit theft. He is caught by 'Y' who starts beating him mercilessly. 'X' apprehending death or grievous hurt at the hands of 'Y' pulls out a knife and stabs 'Y' who is injured seriously. Can 'X' put up plea of right of private defence for causing injuries to 'Y'? Explain with reasons.

Q. 4. Discuss points of distinction between the following :

(a) 'Outraging the modesty of a woman' and 'insulting the modesty of a woman.'

(b) 'Rioting' and 'Affray'

(c) 'Theft' and 'Extortion'

(d) 'Criminal force' and 'Assault'

(e) 'Kidnapping' and 'Abduction.'

Q. 5.(a) What are the ingredients of an F.I.R. ? Is it necessary that F.I.R. should contain all details of manner of occurrence ?

(b) What is the effect of delay in filing F.I.R. ?

(c) Can a person being examined by a police officer investigating a case refuse to answer questions relating to such case put to him by such officer ?

Q. 6.(a) Explain the circumstances in which a wife is entitled to claim maintenance from her husband under the Code of Criminal procedure.

(b) Can a daughter be asked to maintain her father ? If so, under what circumstances ?

RESILIENCE LAW ACADEMY

(c) Can an illegitimate son be asked to maintain his father ?

Q. 7.(a) Discuss 'joinder of charges' under the Code of Criminal Procedure.

(b) Can a person be convicted of an offence not specified in the charge ?

(c) Is it mandatory for court to direct a new trial or adjourn the trial for some period in case of alteration of charge ?

Q. 8 (a). Examine the circumstances in which a person accused of the commission of any non-bailable offence can be released on bail.

(b) Discuss the situations in which Anticipatory bail can be granted ?

Q. 9. (a) What conditions must be satisfied by a person before he can raise the plea of 'Estoppel'?

(b) Explain as to how the credit of a witness be impeached by the adverse party ?

(c) Can improper admission or rejection of evidence be a basis for a new trial or reversal of any decision in any case ?

(d) Explain- "What is in writing shall only be proved by the writing".

(e) Are "Professional communications" protected from disclosure ?

Q. 10. (a) Distinguish between the following :

(i) 'Admission' and 'confession'.

(ii) 'Patent ambiguity' and 'Latent ambiguity'.

(iii) 'Facts in issue' and 'Relevant facts'.

(b) What presumption is drawn by the courts as to -

(i) Power-of-attorney.

(ii) Electronic messages.

(c) "Oral evidence as to content of a document is not relevant". Comment.

Q. 11.(a) What norms of 'burden of proof' in a criminal case are applicable when the accused defends himself on the ground of any general or special exceptions in the India Penal Code ?

(b) Can a Judge compel any witness to answer any question or produce any document or dispense with primary evidence of any document ?

(c) An accused, while in police custody, gives information to the Investigating Officer that he purchased the murder weapon from a particular dealer, and then takes the Investigating Officer and the Panches to the place of the dealer and points him out. Whether the information given by the accused, and the evidence of the Investigating Officer and the Panches are admissible ?

(d) "The rules of evidence are in general the same in civil and criminal proceedings". Give the exceptions, if any.

(e) Can a witness be excused from answering a question on ground that the answer will incriminate ?

Q. 12.(a) Discuss the evidentiary value of :

(i) 'Dying Declaration'.

(ii) Retracted Extra-judicial confession.

(iii) Testimony of an 'Accomplice'.

(iv) Opinion of an 'Handwriting Expert'.

RESILIENCE LAW ACADEMY

(b)(i) Is it necessary to call an attesting witness in proof of the execution of a document required by law to be attested ?

(ii) "Witness not excused from answering on ground that answer will incriminate." Do you agree ?

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2006 English Composition

Time : 3 Hours Maximum Marks : 200

(1) Write an essay on any one of the following topics :

(1) Resurgence of the Indian National through Spirituality.

(2) Towards a Greener World

(3) Re-thining the Institution of Marriage.

(4) Rights, Privileges, ad Duties

(5) Status of Women in India.

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2003

Civil Law Paper - I

Time : 3 Hours Maximum Marks : 200

Note : All question are compulsory. Answer all of them.

Q. 1.(a) Define Counter Claim. Distinguish between counter claim and setoff.

(b) The plaintiff delivered one thousand bags of potatoes to the defendant, the cold storage proprietor on certain conditions for preservation. The defendant did not fulfil all those conditions and thereby committed breach of contract. The plaintiff filed a suit for damages. The defendant filed counter claim.

Discuss the effect of the counter claim in the light of statutory provision and decided cases.

Q. 2.(a) What should a court do when plaintiff is present and the defendant is absent ?

What remedies are available to defendant in such case ? When can an ex parte decree be passed and when it be set aside?

(b) What are the consequences of plaintiff's failure to appear when the defendant is present ? What remedy is available to plaintiff ?

Q. 3.(a) Explain in detail the different modes of execution of a decree under Civil procedure Code.

(b) 'A' obtains a decree against 'B' for Rs. 10,000. Subsequently, 'A' agrees to accept Rs. 7,000 in full satisfaction of the decree and 'B' pays Rs. 7,000 out of court, but neither the payment nor the adjustment is certified by the court. 'A' applies for execution of the full amount of the decree notwithstanding receipt by him of Rs. 7,000. 'B' objects to the execution on the ground that the decree has been adjusted and the payment has been made. Discuss.

Q. 4.(a) Admissions cannot be proved by the persons making them. What are the exceptions to this general rule ?

(b) A is accused of receiving stolen goods knowing them to be stolen. He offers to prove that he refused to sell them below their market price. Is this evidence admissible ? Give reasons for your answer.

Q. 5. Section 133 of the Indian Evidence Act says that 'An accomplice shall be a competent witness against an accused person and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of the accomplice whereas Section 114 Illustration (b) says : 'The court may presume that an accomplice is unworthy of credit, unless he is corroborated in material particulars.'

Q. 6. (a) How far is it true that an agreement without consideration is void?

(b) The plaintiff, a minor, mortgaged his house in favour of the defendant, a money-lender, to secure a loan of Rs. 80,000. A sum of Rs. 20,000 was actually advanced to him. While considering the proposed advance the legal adviser, who was acting for the money-lender, received information that the plaintiff was still a minor. Subsequently, the minor commenced this action stating that he was under age when he executed the mortgage and the same should, therefore, be cancelled. Decide and refer to decided

RESILIENCE LAW ACADEMY

cases. What would be your answer if the plaintiff was a major and mortgaged his house in favour of the defendant, a minor, to secure loan and a part of the amount was actually paid in advance ?

Q. 7.(a) Discuss the principles on which the court would award damages for breach of contract.

(b) 'P' carried on an extensive business as millers. His mill was stopped by a breakage of the Crankshaft by which the mill was worked. 'D' was engaged to carry the shaft to the manufacturers. P's servant told 'D' that the mill was stopped and that the shaft must be sent immediately. But 'D' delayed delivery resulting into heavy loss to P. The action was brought for the loss of profits which would have been made during the period of delay. Decide and refer to relevant judicial pronouncements.

Q. 8.(a) Distinguish between sellers' right of lien and stoppage of goods in transit.

(b) 'X', left his motor car with a mercantile agent and authorized him only to receive offers and not to sell. The agent obtained the possession of the registration book without X's consent and quickly sold the car to the defendant, 'Z', can 'Z' acquire a good title to it ? Discuss.

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2003

Civil Law Paper - II

Time : 3 Hours Maximum Marks : 200

Note : All questions are compulsory. Answer all of them.

Q. 1.(a) Discuss the concept and characteristics of Joint Hindu Family and Coparcenary.
(b) Hari, his brothers Shyam and Kailash were joint in business and property. Hari has, wife, two sons, their wife and four grandsons (two from each) and married daughter. Shyam has wives and one son. Kailash has wife and two daughters. Kailash demanded partition and his share both in business and property. Make complete partition.

Q. 2.(A) A Hindu male died intestate leaving behind an adopted son, an illegitimate son, a married daughter, mother and father. How and to whom his property will devolve ?

(b) A Hindu male bequeathed his property to his wife for life in lieu of maintenance. He died in 1954. His widow gifted the property to her brother's daughter in 1961 and died in 1965. After her death, husband's nephew challenged the transfer on the ground that the property was given only to enjoy for lifetime and after her death it would revert back to her husband's heir. Decide. Refer to latest cases of the Supreme Court in his respect.

Q. 3(a) In certain castes in Punjab, 'Anandkaraj' is a customary ceremony for a valid marriage. Kehar Singh married to Anand Kaur by simply garlanding each other and not performed 'Anandkaraj'. What are the consequences of such marriage and position of legitimacy of children of this marriage.

(b) 'Chadarandaji' is the valid customary ceremony in case of marriage of a widow. The whereabouts of Lakha Singh was not known for a period of 8 years and therefore family members decided that Phool Singh, his younger brother should marry with Lakha Singh's wife, Preetam Kaur. They performed 'Chadarandaji'. After 5 years Phool Singh deserted Preetam Kaur and solemnized marriage with another woman Labh Kaur. Decide the validity of marriage of Phool Singh with Preetam Kaur and with Labh Kaur. Refer to decided cases.

Q. 4. Discuss the general rule of succession under Islamic law.

In the following cases to whom property will devolve and how much share each heir will get ?

(a) A Muslim male died leaving widow, son, daughter and son and daughter of other predeceased son.

(b) A Muslim female died leaving husband, mother, father and two daughters.

(c) A Muslim male died leaving widow and mother.

Q. 5.(a) Discuss different kinds of Talaq under the Islamic Law.

(b) State the nature and kinds of Mahr. Whether a Muslim widow can retain her husband's property in lieu of Mahr ? Whether right to receive Mahr and enjoyment of the property is transferable or heritable. Discuss with the help of Maina Bibi's Case ?

Q. 6(a) What are the different documents of which registration is compulsory. Mohd. Yashin gifted his dwelling house to his wife orally. Both were residing in the house. After one year, he executed a deed stating the fact of gift of the house to his wife. The deed was not registered. Whether gift was valid?

RESILIENCE LAW ACADEMY

(b) What are the effects of non-registration ?

Q. 7(a) "The law of limitation extinguishes remedy but does not extinguish rights. "Elucidate. When can plea of limitation be raised ?

(b) Examine the effect of fraud or mistake on the period of limitation.

Q. 8.(a) What are legal disabilities ? How do they affect the question of limitation prescribed for the institution of suit ?

(b) Customary law of Pre-emption in Punjab imposes unreasonable restrictions on the right to dispose off one's own property. Whether a neighbour is entitled to claim right of Pre-emption ? Refer to decided cases of the Supreme Court.

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2003

Criminal Law Paper – III

Time : 3 Hours Maximum Marks : 200

Note : All questions are compulsory. Answer all of them.

Q. 1.(a) What do you mean by Harbour ? In what cases is harbouring made an offence under the Indian Penal Code ?

(b) A having shot at a rabbit near P's land, followed it to P's land, with the intention of taking away the killed rabbit. A was asked not to enter P's premises. A entered P's premises to take the rabbit and did take it away. He did nothing else on P's land. P then charged A with criminal trespass. Has A committed the offence of 'Criminal trespass' by entering P's premises ?

Q. 2.(a) What are the different cases under the Indian Penal Code in which a person may be held constructively liable for an offence, which he actually did not commit ? Explain giving illustrations.

(b) A was a minister and while he was sitting on the treasury benches, B a member of the Assembly called him a 'thief' and accused him of taking bribe in a case. B further repeated his allegations outside the Assembly Chamber. A lodged a complaint for defamation against B for both the incidents. Point out what defences, if any, are open to B.

Q. 3.(a) What is Force ? Distinguish between Criminal Force and Assault.

(b) A and B exchange secret letters as to how best they can kidnap a minor girl and later give up the idea as impossible. Have they committed an offence ? If either of them wrote a note to the girl persuading her to meet them at a specified place, what offences, if any, will both or either of them have committed ?

Q. 4.(a) Every homicide is not murder. How does the Indian Penal Code give effect to this statement in its treatment of offences affecting human body ?

(b) A produces ornaments worn by a murdered woman five days after the murder and gives no explanation as to how he came into possession of the same. State giving reasons, what offence, if any, is committed by A.

Q. 5.(a) Hearsay evidence is not admissible. Has this rule any exceptions ?

(b) What is the relevance and credibility of an evidence of an accomplice ? Whether its corroboration is necessary ?

Q. 6.(a) "It is settled law that it is not safe to convict an accused person on the evidence furnished by a dying declaration without further corroboration."

Critically examine the above statement. Whether statements made by signs is equally admissible ?

(b) In a criminal trial the burden of proof is always on the prosecution. Has this rule any exceptions ?

Q. 7.(a) For every distinct offence of which any person is accused, there shall be separate charge and every such charge shall be tried separately. Explain it by giving suitable illustrations.

(b) State the importance of F.I.R.

RESILIENCE LAW ACADEMY

Q. 8.(a) Under what circumstances has the wife got a right to get maintenance from right her husband ? Can this right be exercised by parents or illegitimate children also ?
(b) Discuss in brief the provisions of the Cr. P.C. relating to Sessions trial.

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2003 English Composition

Time : 3 Hours Maximum Marks : 200

Note ; Write an essay on any one of the following :

- Q. 1. "Justice delayed is justice denied." Do you think the steps taken so far by the Govt. of India are adequate enough to the redressal of grievances in a speedy manner ?
- Q. 2. Is euthanasia a necessary evil ? Make a moral judgment on the concept.
- Q. 3. Is public protest against judicial verdicts tantamount to contempt of court?

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2001 Civil Law Paper - I

Time : 3 Hours M.M. 200

Note : All questions are compulsory. Answer all of them.

Q. 1(a) What is set off? Discuss the provisions regarding set off as provided under the Civil Procedure Code and distinguish between legal and equitable set off.

(b) A sues B, on a Bill of Exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set off. Can the amount be set off? Discuss.

Q. 2(a) Explain and illustrate the principle of restitution. Is an order granting restitution appealable?

(b) Who may apply for restitution? Against whom restitution can be granted?

Q. 3(a) Discuss the principle of 'Res-judicata' in the following proceedings:

(i) application for Amendment of Decree

(ii) Application for Review

(iii) order of maintenance

(b) Distinguished between 'Res-judicata' and 'Res-subjudice'.

Q. 4(a) Unless a right of appeal is clearly given by statute, it does not exist? comment.

Can an appellate court reverse a decree on the ground of misjoinder of parties?

(b) The head office of a transport company was situated at Chandigarh and the branch offices at Lucknow, Jaipur and Patna. A dispute arises between X and the company in respect of a transaction made through Lucknow office. X files a suit in respect of this dispute against the company in a Court at Jaipur. How will the court decide?

Q. 5(a) What do you understand by 'Substantive' and 'Adjective' Law? In which category will you place the law of evidence? Explain.

(b) Explain and illustrate 'Fact in issue' and 'Relevant fact'.

Q. 6(a) State whether a confession before a police officer/Magistrate is admissible? If so, explain its rationality.

(b) X, lodged an FIR before a police officer in the nature of confession stating that he murdered his wife Y, as she was a woman of bad character. Is the above statement admissible? If so, to what extent and under what circumstances? Discuss.

Q. 7(a) Write short notes on the following:

(i) Examination-in-Chief

(ii) Cross-examination

(iii) Re-examination

(b) State and illustrate the rule of estoppels as enacted in Indian Evidence Act.

Q. 8(a) 'Restitution stops, where repayment begins'. Discuss the above statement in the light of decided cases.

RESILIENCE LAW ACADEMY

(b) X agrees to sing at Y's theatre for one week and also agrees not to sing at any other theatre during that period. Later on X contract with Z to sing during that week at Z's theatre. Can Y sue for an injunction to restrain X ?

(c) A agrees to give the use of his hall to B for holding a concert on a prescribed date. However, the hall was destroyed by fire prior to prescribed date. B sued A for damages for breach of contract. Will B succeed ?

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2001

Civil Law Paper – II

Time : 3 Hours M.M. 200

Note ; All question are compulsory. Answer all of them.

Q. 1(a) Discuss the nature of marriage under the Hindu law and the Muslim Law with the help of decided cases. A Hindu boy of 21 years of age married to a Muslim girl 19 years. Under which Law the marriage would be valid? If not, what would be the status and position of children out of this wedlock ? Whether they would be legitimate ?

(b) Discuss with the help of decided cases the remedy of Restitution of Conjugal Rights and wife's defence of job at different place under the Hindu Marriage Act, 1955. Do you subscribe the view that this remedy is barbaric and unconstitutional ?

Q. 2(a) Explain the powers and position of 'Karta' in a Joint Hindu Family. Whether a female Hindu can be 'Karta'? Under which circumstances the 'Karta' can alienate Joint Hindu family property ? Refer to decided cases.

(b) What do you mean by doctrine of 'Pious Obligation' and the defence of 'Avyavaharik (immoral) debt'?

Q 3(a) A Hindu male died intestate leaving behind widow, father, a son who has converted to islam, a married daughter and other son's widow who is residing with her parents. How and to whom his property will devolve?

(b) "The Hindu Succession Act, 1956 has made serious inroads in the Mitakshra principle of survivorship". Discuss in the light of section 6 of the Act.

Q. 4(a) Who can claim Haq-Shufa (pre-emption) and what are the formalities to claim right to pre-emption ? State the legal devices for evading right of pre-emption.

(b) Explain the essential conditions of a valid acknowledgement. Refer to decided cases.

Q. 5(a) What do you mean by doctrines of 'Aul and Radd'.

(b)(i) A Muslim woman died leaving her husband and two sisters. How her property will devolve ?

(ii) A Muslim male died leaving his mother, widow and daughter. How much share they will get ?

Q. 6(a) "The Punjab customary practices sometimes have precedence over enacted law like the Hindu Succession At, 1956". Discuss. A Hindu having only agricultural holding died and left behind two sons and one married daughter. The married daughter demanded her 1/3 share in the agricultural holding. Sons claimed that she is not entitled to the share according to Punjab Customary Law. Decide.

(b) What are the special duties and controlling powers of the Registrar under the Indian Registration Act, 1908.

Q. 7(a) "The Law of Limitation is retrospective in its effect". comment. What are the rules of Limitation in the case of trust ?

(b) Once period of limitation starts to run no subsequent disability can stop it". Explain.

Q. 8(a) Explain the principles regarding the exclusion of the time while computing the period of Limitation for suits and appeals.

RESILIENCE LAW ACADEMY

(b) When does the payment of interest or a part payment of principal amount by the debtor extend the period of Limitation.

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2001

Criminal Law paper - III

Time : 3 Hours M.M. 200

Note : All questions are compulsory. Answer all of them.

Q. 1(a) Under what circumstances may an offence outside India be tried as an offence committed in India ?

(b) If two persons commit the same act, can they be guilty of different offences in respect of that act?

(c) What is the law in the Indian Penal Code as to illegal omissions ?

Q. 2(a) He who preserveth his own life at the expense of another man's life is excusable through unavoidable necessity. Examine the correctness of this statement explaining how far it is true at the present time.

(b) A instigates B to murder C but B refuses to do so. Has A committed any offence ? If so, what ?

(c) To what extent, if at all, and subject to what limitations, if any, will a mistake of fact afford a valid defence ?

Q. 3(a) A, in support of a just claim which B has against Z for one hundred Rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. What offence, if any, is committed by A?

(b) A knows Z to be behind a bush. B does not know it. A intending to cause Z's death, induces B to fire at the bush. B fires and kill Z. What offence, if any, is committed by A?

(c) A makes a hole through the wall of Z's house and puts his hand through the aperture. What offence, if any, is committed by A ?

Q. 4(a) A says of a book published by Z - "Z's book is foolish. Z must be a weak man. Z's book is indecent. Z must be a man of impure mind". What offence is committed by A, if any ?

(b) Explain criminal misappropriation. Is a dishonest misappropriation for a time only a misappropriation ?

(c) What facts are essential to constitute theft ?

Q. 5(a) Evidence must be confined to the matter in issue. Explain and state briefly the exceptions to this rule.

(b) The rules of evidence are in general, the same in civil and criminal proceedings. Mention any three exceptions to this statement.

(c) What are admissions ? Who can make them and when they can be used by or on behalf of persons making them ?

Q. 6(a) A intentionally and falsely leads B to believe that certain land belongs to A and thereby induces B to buy and pay for it. The land afterwards becomes the property of A and A seeks to set aside the sale on the ground that at the time of sale, he had no title. Can A be allowed to prove his want of title?

(b) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father. On whom lies the burden of proof - A or B?

RESILIENCE LAW ACADEMY

(c) What are the general provisions regulating the burden of Proof? Illustrate your answer by examples.

Q. 7(a) A, a client says to B, an attorney – “I wish to obtain possession of property by the use of forged deed on which I request you to sue”? Is this communication protected from disclosure?

(b) Can a wife be compelled to give evidence against her husband in a civil or criminal case? Answer with reasons.

(c) What constitutes incompetency to give evidence? Can a lunatic or dumb person be a competent witness?

Q. 8(a) In what cases a police officer may arrest any person without an order from a magistrate and without a warrant?

(b) What are the provisions in the Criminal Procedure Code regarding the search of the arrested person? Does the search become illegal where no grounds of arrest are given to the accused?

(c) Briefly state the processes to compel appearance of the accused or of witnesses before a court.

RESILIENCE

RESILIENCE LAW ACADEMY

Haryana Civil Service (Judicial) Examination 2001

English Composition

Time : 3 Hours M.M. 200

Note : Write an essay on any one of the following :

1. How far has the "Judicial Activism" been able to bring the stream of justice to the door steps of the people at the grass root level ?
2. Men of Letters mould, inspire, and lead the world. Comment on this statement with reference to the Indian context in general and the period of freedom struggle in particular.
3. The Three Cs – Cash, Corruption and Criminality – and the conspicuous features of Indian Democracy, observes a famous personality. In spite of its confounding contradictions, we are still the biggest democracy in the world. Elucidate

RESILIENCE LAW ACADEMY

DELHI JUDICIAL MAINS 2005

CIVIL 1

Q. 1 (a) Landlord filed an eviction petition under section 14(1)(a) of the Delhi Rent Control Act, 1958 against tenant on the ground that tenant neither paid nor tendered rent w.e.f. 5.9.1996 till filing of the petition despite service of demand notice dated 28.1.1999. The Rent Controller passed an order on 5.11.1999 under section 15(1) of the Act directing the tenant to pay or deposit arrears of rent within one month and continue to pay or deposit future rent month by month by 15th of each succeeding month. The tenant in pursuance of said order deposited rent in the court. But rent was not deposited in strict compliance of the order under section 15(1). Report of Nazir also revealed that tenant did not deposit rent month by month in strict compliance of order under section 15(1) and there were several defaults on part of the tenant. Landlord did not file an application under section 15(7) of the Act; and withdrew the rent deposited by the tenant.

Landlord at the time of final hearing argued that tenant is not entitled for benefit under section 14(2) of the Act due to non-compliance of order under section 15(1). Tenant argued that he could not be denied benefit of section 14(2) unless his defence was first struck out within the meaning of section 15(7) of the Act; and landlord by withdrawing/accepting rent deposited in the Court despite certain delays deemed to have waived his right to evict him. Decide whether tenant is entitled for benefit under section 14(2) of the Act.

(b) Landlords/owner filed an eviction petition under section 14(1)(e) read with section 25B of the Delhi Rent Control Act, 1958 against the tenant in respect of tenanted premises. No written agreement was executed between the parties at the time of creation of tenancy. The landlord/owner stated that the purpose of letting was residential. The tenant contested the eviction petition by filing an application for leave to defend eviction petition alleging that the purpose of letting was commercial. He stated that since the inception of tenancy, he is running a Chinese Medical Clinic and also produced sufficient documentary evidence in support of his claim.

The landlord/owner placed on record the sale deed of the property in question to show that property was a residential plot and structure has been constructed on the same consisting of a residential living unit. Even the house tax is being paid on the basis of residential user. However, landlord/owner admitted that since the inception of tenancy, tenant is running a Chinese Medical Clinic in the tenanted premises and he never objected to it.

The crux of dispute between the parties appeared to be the purpose of letting. Decide.

(c) Discuss the provisions of the Delhi Rent Control Act, 1958 regarding landlord's duty not to cut off or withhold any essential supply or service enjoyed by tenant in respect of the premises let out to him. Under what circumstances a landlord can cut off or withhold any essential supply or service in the tenanted premises.

Q. 2 (a) (i) Rajiv and Savita were married in 1973, Savita filed a petition for divorce on the grounds of cruelty. Rajiv, in written statement, had leveled very serious allegations

RESILIENCE LAW ACADEMY

of adultery. Subsequently, Rajiv withdrew allegations of adultery by amending written statement. The trial court held that allegations revealed by Savita were instances of ordinary wear and tear of life. But the trial court further held that wild allegations of adultery made by Rajiv in his written statement are sufficient to establish cruelty. The marriage was dissolved by a decree of divorce. The trial court, however, did not take notice of withdrawal of allegations of adultery by Rajiv against Savita. Do you support decision of the trial court? Answer with reasons.

(ii) Surender, aged about 28 years, and Rekha, aged about 26 years, fell in love with each other. They got married as per Hindu customs and rites. However, since the first day of marriage matrimonial disputes arose between them. The marriage could not be consummated. Both of them were software engineers. They got high profile jobs in multinational companies in different countries. They mutually decided to dissolve their marriage by a decree of divorce. They filed a petition for dissolution of marriage by a decree of mutual consent. There was no misrepresentation of facts before the court. The petition was filed within two months from date of marriage. The trial court refused to entertain the petition by observing that case did not fall within ambit of 'exceptional hardship'. Do you support decision of trial court? Answer with reasons.

(b) A and his wife B had three daughters. A made a registered will on 19.3.1929 bequeathing his properties to B for life for maintenance and after her properties to be given in three equal shares to daughters including the plaintiff. On 20.7.1972, B gave shares to two daughters excluding the plaintiff. B retained the share of plaintiff, and later gave the same to another daughter. B died on 9.10.1977. The plaintiff filed a civil suit for claiming her share on the basis of will executed by A on 19.3.1929. Decide.

OR

Write a note on powers and liabilities of a Karta in a Hindu joint family.

(c) A postnuptial does not automatically dissolve a marriage already solemnized under the Hindu Marriage Act, 1955. Discuss with relevant case law.

OR

Write a note on 'Option of Puberty'. Whether repudiation of marriage on attaining age of puberty should be confirmed by a civil court?

(d) "Dower" is an invaluable right of a Muslim wife. Comment. What are different types of "dower"?

OR

Define death-illness (marz-ul-maut). What are necessary conditions to constitute death-illness? Discuss power of donor to make a gift during his death-illness.

Q. 3 (a) A was inducted as a tenant in respect of premises in question by B for a period of three years at a monthly rent of Rs. 2000. A did not vacate the tenanted premises even after expiry of lease period. B made several requests to A to vacate premises in question and also served legal notice calling upon A to vacate premises in question. A did not pay heed to requests of B. On 12.2.1990, A was forcibly dispossessed by B. A filed a suit for possession in civil court on 12.7.1990. B defended the suit on plea that he is real owner of the premises in question; and A did not have any right to regain possession of premises in question after expiry of lease period. Decide.

RESILIENCE LAW ACADEMY

OR

The plaintiff was owner of land measuring 50 sq. yards whereon he constructed temporary shop and started to run a dhaba/hotel. Subsequently, plaintiff permitted the defendant to run said dhaba/hotel on theka for a period of one year vide agreement dated 17.1.1987. the defendant started to pay Rs. 40 per day as licence fee. Sometimes son of the plaintiff issued rent receipts to the defendant. Plaintiff himself admitted defendant as a tenant in a notice sent through his advocate. The defendant never disputed agreement dated 17.1.1987.

The plaintiff filed a suit for Mandatory Injunction seeking direction to defendant to handover the possession of premises in question. Whether suit for Mandatory Injunction is maintainable?

(b) Discuss relevant principle that govern grant of temporary injunction. Whether a temporary injunction can be granted in the form of mandatory injunction?

OR

Whether following contracts can be specifically enforced:

- i. a contract with B to sing for the latter for one year at B's theatre;
- ii. a contract of transfer to immovable property;
- iii. a contract to sell a picture by a well known dead painter;
- iv. a contract to charter an aero plane;
- v. a contract to refer a dispute to arbitration.

(c) Distinguish an "offer" from an "invitation to offer". A published an advertisement for selling his house at a price of Rs. 15 lakhs. A declined to sell his house to B who was ready to pay Rs. 125 lakhs as price of house of A. A sold his house to C who agreed to pay price of Rs. 20 lakhs. Whether B can sue A for purchase of house?

OR

Discuss law relating to "contingent contracts". Ram agreed to pay a sum of Rs. 5000 to Shyam if Shyam marries Rekha. However, Rekha married Sohan. Sohan died in an accident. Thereafter, Shyam married Rekha. Shyam filed a suit for recovery of Rs. 5000 against Ram. Decide.

(d) Tony borrowed a sum of Rs. 5000 from John in order to bet with Mahesh as to result of a cricket match, the betting on a cricket match is not authorized by law. Tony lost bet to Mahesh. Tony neither paid a sum of Rs. 5000 to Mahesh nor returned Rs. 5000 to John. Mahesh and John initiated legal remedies against Tony separately for recovery of Rs. 5000. Decide.

OR

Naresh engages Mr. Vinay, a well known painter to paint a picture depicting particular designs for him. Naresh agreed to pay a sum of Rs. 10,000 as professional charges to Mr. Vinay. After completion of work, it was revealed that an assistant of Mr. Vinay painted the picture but under guidance and supervision of Mr. Vinay. Naresh refused to pay professional charges as per agreement. Mr. Vinay filed a suit for recovery of Rs. 10,000 in civil court. Decide.

Q. 4 (a) What are the exceptions available to the rule of caveat emptor?

RESILIENCE LAW ACADEMY

What are the effects of delivery of goods in wrong quantity or of different description?

The seller agreed to supply 100 bags of wheat but only 90 bags of the wheat were supplied to the buyer. Whether buyer can refuse to take delivery of 90 bags of the wheat. Decide.

(b) What are the legal remedies available to the buyer against the seller for breach of contract under the Sale of Goods Act, 1930? Discuss.

OR

Write short notes on following:-

(i) *injuria sine damno*

(ii) *volenti non fit injuria*

(c) Discuss under the circumstances a person who is not a partner in the firm can be held to be a partner for the purpose of liability towards a third party. Rahim and Abdul were carrying on business of supplying sugar in partnership under the name and style of 'Sunrise'. The partnership was dissolved but Rahim continued to carry on business under the same name. Rahim used an old letterhead of the firm bearing names of both partners and placed an order for the purchase of sugar to company 'Delta'. Rahim did not pay the price of sugar to Delta. Delta initiated legal proceedings against Abdul for recovery of price of sugar. Decide.

OR

Discuss rule of 'strict liability'. What are exceptions to the said rule?

(d) Discuss essentials of a partnership under the Indian Partnership Act, 1932.

OR

Discuss various modes of dissolution of partnership under the Indian Partnership Act, 1932.

RESILIENCE LAW ACADEMY

CIVIL 2

Q. 1 A entered into a written contract with B at Delhi, on 1.4.98, for supply of cement at the rate of Rs. 100 per bag weighing 50 kgs. A is having its office in Delhi as well as Rohtak and Gurgaon. B is having office only at Rohtak. On 20.4.1998, A supplied cement worth Rs. 25,00,000 (Rupees Twenty five lakhs) to B at Rohtak. B made payments from time to time, sometimes by cheque and sometimes in cash at Rohtak. B made payments from time to time, sometimes by cheque and sometimes in cash at Rohtak. Last payment by cheque was made on 25.6.1998 and last payment in case was made on 8.10.1998. No receipt of cash payment was however obtained. An amount of Rs. 3 lakhs remained unpaid despite notice sent by A to B. A then filed a suit at Delhi for recovery of the principal sum of Rs. 3 lakhs (Rupees Three Lakhs), along with interest from 20.4.1998, at the rate of 18% per annum. Interest was claimed on the basis of an oral agreement subsequent to the written contract dated 1.4.1998. He also claimed pendent lite and future interest at the same rate, along with costs of the suit. Suit was filed on 1.10.2001.

B filed written statement contesting the suit. He took preliminary objections that (i) Delhi Court had no jurisdiction in the matter as it was doing business and goods were supplied at Rohtak; (ii) the suit was barred by limitation; and (iii) no evidence of an oral agreement for payment of interest was admissible in view of section 92 of the Evidence Act. B, however did not dispute the facts.

Frame issues on the pleadings of the parties and write a reasoned judgement.

OR

A let out first floor of house No. M-25, Greater Kailash, New Delhi to B, at the rent of Rs. 3,500 per month, for a period 5 years, starting from 1.4.1998. Since B was in arrears of rent, he filed a civil suit against him on 20.6.2002, for recovery of arrears of rent for the period from 1.7.1999 to 31.12.2000. The suit is still pending. As rent for subsequent period was also not paid, he filed another suit on 30.11.2004 for recovery for arrears of rent for the period from 1.1.2001 to 31.3.2004. He pleaded that his entire claim was within limitation as B had issued a cheque of Rs. 10,000 to him towards part payment of rent for the period from 1.1.2001 to 30.11.2001, which when presented to the bank was dishonoured. He also claimed interest at the rate of 12% per annum, without pleading any basis for claiming interest.

B filed written statement contesting that suit. He took preliminary objections that (i) rent for the period from 1.1.2001 to 31.5.2002 was not claimed in the previous suit and cannot be claimed in the present suit; (ii) rent for the period from 1.1.2001 to 31.10.2001 was barred by limitation; (iii) there was no agreement for payment of interest and therefore no interest is payable. He contended that a dishonoured cheque cannot extend the period of limitation. Facts however were not disputed by him.

Frame appropriate issue arising from the pleadings of parties and write a reasoned judgment.

Q. 2 Answer any two. Both questions carry equal marks.

RESILIENCE LAW ACADEMY

- (a) (i) An order rejecting a plaint under Order VII, Rule 11 of C.P.C. is not an adjudication of the matter in dispute. Is it a decree?
- (ii) What is meant by 'mesne profits'?
- (b) (i) A supplied goods at Mumbai to a company having its principal office at Mumbai and branch offices throughout the country, including Delhi. Since B failed to pay the price of the goods, A filed a suit in Delhi, for recovery of price of goods, on the ground that B was also carrying on business at Delhi and therefore, Delhi Court also had jurisdiction to try the suit. Decide.
- (ii) A filed suit against B for recovery of arrears of rent. B claimed that there was no relationship of landlord and tenant between the parties. The trial court decided against A. He filed an appeal against the judgement, but during appeal, he withdrew the suit with liberty to file fresh suit on the same cause of action. He then filed a fresh suit on the same cause of action. The defendant contested the suit and claimed that finding of trial court in the previous suit operates as res judicata. Decide.
- (c) What are the conditions for applicability of doctrine of res judicata between co-defendants?

Q. 3 Answer any two. Both carry equal marks.

- (a) (i) A executes a gift deed, gifting a house to B. Gift deed is duly registered. There is a recital in the gift deed that possession of the house has been handed over to B. In a subsequent litigation between the parties A seeks to prove from circumstances that in fact he had not given possession to B. However, B claims that admission made by A in the gift deed is conclusive and he can't lead evidence to prove otherwise. Decide.
- (ii) How can 'Books of Account' kept in regular course of business be proved?
- (b) (i) How can the certified copy of a public document be proved?
- (ii) Bank of Baroda filed a civil suit against B for recovery of money. The suit was filed through 'A' who claimed to be attorney of the bank. The plaintiff filed a power of attorney, duly authenticated by a Notary Public. However, neither executants of the power of attorney was produced in the witness box nor any resolution from Board of Directors of the Bank was filed to prove that he was competent to execute power of attorney on behalf of the bank. Is the suit filed by a competent person?
- (c) Which of the following documents are compulsorily required to be registered and why?
- (i) Document containing recital of a previous gift.
- (ii) Assignment of share of partner in assets of a firm owning immovable properties.
- (iii) Relinquishment deed.
- (iv) Rent-note.
- (v) Document appointing a person as guardian of immovable properties of a minor.

Q. No. 4 Answer any two. Both carry equal marks.

- (a) (i) After recording of evidence of both the parties, defendant applies for additional evidence on the ground that one material witness, who was out of country had since returned to India. Decide.
- (ii) Defendant in a suit failed to produce evidence on a date fixed by the court for this purpose. Cost of Rs. 2,000 was imposed on him and the case was adjourned. On next

RESILIENCE LAW ACADEMY

date of hearing, defendant did not pay the cost and the plaintiff also did not insist on cost. The case was again adjourned. On next date, plaintiff pressed for striking out the defence, as the cost had not been paid. Decide.

(b) (i) can the executing court go behind the decree?

(ii) defendant in a suit did not appear on the date fixed for recording of evidence. He was proceeded ex parte and judgement was reserved. Next day, he filed an application under Order IX, Rule 13 of C.P.C. for setting aside the decree, on the ground that he had met with an accident while coming to the court and therefore could not appear on the date of hearing. He also produced documentary proof of his accident and medical treatment. Decide.

(c) What are the principles governing grant of leave to defend, in a suit filed under order XXXVII of Code of Civil Procedure.

Q. No. 5 Answer any two. Both carry equal marks.

(a) (i) The plaintiff in a suit at Delhi applies to the court to issue summons to (i) A, the defendant, residing at Jalpaiguri, and (ii) B, witness, residing at Ahmedabad, both of which are more than 500 km. from Delhi. Can his request be granted?

(ii) Can the following be attached in execution of a decree for money and why:-

1. residential house fully occupied by the judgement Debtor
2. salary of guarantor
3. tenancy Rights
4. pay of a Brigadier in Army
5. pension

(b) Is a trespasser entitled to injunction from civil court against rightful owner of a house? If so, when?

(c) (i) A files a suit for possession and mesne profits against B. In his witness statement, B claims that value of property subject matter of the suit exceeds the limit of pecuniary jurisdiction of the court. He files an application to treat the issue of valuation as a preliminary issue. Decide.

(ii) B, defendant in a suit did not appear despite service of summons and was proceeded exparte. He died during pendency of the suit. Instead of seeking impleadment of his legal representatives, plaintiff files an application seeking exemption from substituting the legal representatives of B. Decide.

RESILIENCE LAW ACADEMY

CRIMINAL LAW 2005

Q. No. 1. A is charged for the murder of his wife. During the trial the following facts are established:

- (a) deceased suffered burn injuries on her body;
- (b) the last seen evidence points out that A was the only person present in the house at the relevant time;
- (c) before dying the deceased made a dying declaration that her sari caught fire due to an explosion in the stove when she was cooking food;
- (d) as per the post mortem report she had suffered 90% burns and traces of kerosene were found on her head;
- (e) No pieces of the stove were found at the scene of occurrence.

Decide the case and write a reasoned judgement.

Q. No. 2 (a) A, B, C and D plan to rob a bank. They visit the bank on the decided date and collect cash from the cashier at gun point. In the process of trying to escape with the loot they are resisted by the guard and B caused him grievous injury with his revolver. On coming out of the bank C notices his enemy E standing at the bus stop and shoots at him causing his death. What offences, if any, are made out against the respective accused? Give reasons in support of your answer.

(b) Write a note on 'Right of Private Defence of Body and Property'. Explain under what circumstances the said right extends to causing death.

Q. No. 3. (a) The police arrest a pickpocket X on 15th March, 2005. He is produced before you on 16th March 2005 with a request for Police Custody Remand on the ground that he has made a disclosure statement about an earlier theft committed by him and has stated that he could get the stolen property recovered from the place where he has hidden it. On the other hand, there are visible fresh injury marks on his person. What would you do?

(b) Who is an abettor? Explain the extent of liability of an abettor.

Q. No. 4 (a) An accused in a case of dacoity is produced before you by the investigating officer, in a muffled face with a request for holding test identification parade to fix his identity as a culprit. How will you deal with the application.

(b) Write a note on the procedure to be followed for recording the confession of an accused under section 164 of Cr. PC.

Q. No. 5 Write short notes on any four of the following:-

- a. Accomplice evidence
- b. Expert evidence
- c. Hostile witness,
- d. Admissibility and appraisal of electronic evidence,
- e. Admissibility of statements made to a police officer.

Q. 6 (a) A, B, C and D entered the room of the deceased armed with lathis. A exhorts the others to attack X. E, the servant of X, tries to save his master and sustains injuries in the process. E, in his evidence did not attribute any positive act on the part of D in the

RESILIENCE LAW ACADEMY

incident. A, B, C and D are charged for offence under section 302 read with section 34 of the I.P.C. (b) Explain the distinction between section 34, I.P.C. and section 149, I.P.C.

RESILIENCE

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 2006

Q. 1 (a) 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?

(b) A had agreed to sell his house to B for Rs. 15 lacs. Rs 5 lacs were paid as advance. After one month, further Rs. 5 lacs was paid and A put B in possession of the house and balance amount of Rs. 5 lacs was to be paid on completion of paper work and registration of sale deed. A fails to keep his commitment. B filed suit for specific performance of contract which is decreed. Court allows B a period of 2 months to make the balance payment. However, B fails to make the payment of Rs. 5 lacs within the time allowed by the court decree. A then applies for rescission of decree and contract. Will he succeed?

(c) A agrees to sell to B 100 bags of flour which are in his store room. Before the date of delivery, the store room of A got flooded with water. Consequently the 100 bags of flour get destroyed. Does B has any right against A? Discuss section 8 of the Sale of Goods Act?

Q. 2 (a) A landlord lets out a premises for a purpose which is contrary to the terms of perpetual lease granted to landlord by DDA. DDA threatens to cancel this lease on the ground of misuse. Can landlord seek eviction of tenant under section 14(1)(k) of Delhi Rent Control Act? What defence is open to a tenant in such a case? Discuss.

(b) X, an electric supply company, is responsible for the generation and distribution of electricity in Delhi. A, while passing through a street in Chandni Chowk, on a rainy and windy day gets electrocuted and dies, after coming in contact with alive electric wire, which was snapped from an electric pole and fell on the road. Whether his heirs would be entitled to compensation and from whom and to what amount? Decide.

Q. 3 (a) Muslim minor girl aged 13 years is given in marriage by her father. When she attained the age of 17 ½ years, she repudiated the marriage and brought a suit for dissolution of her marriage. What facts she is required to prove to succeed? Can the husband successfully resist the suit on any ground?

(b) At the time of marriage between two Hindus, which took place on July 11, 1999, the husband H and the wife W were employed in Delhi. After the marriage certain misunderstandings arose between them, whereupon H got himself transferred to Jaipur and W remained in Delhi. In 2005, H files a petition against W for restitution of conjugal rights. The defence of W is:

(i) the H himself got transferred and even now he can come to Delhi, and

(ii) that in view of the ill treatment on her by H and his bad habits, she does not want to leave her job.

Discuss whether restitution be granted.

Q. 4 (a) The plaintiff had advanced a loan of Rs. 3 lacs to the defendant by issuing a cheque on 27-8-1999. Interest was agreed to be paid @18% p.a. Interest as agreed was

RESILIENCE LAW ACADEMY

paid up to 27-2-2000. The defendant issued a cheque for Rs. 27,000 drawn on 16-4-2002 on account of interest for the period 28-2-2000 to 28-3-2001. The cheque when presented by the plaintiff to the bank was dishonoured for want of funds. The suit was filed on 4-4-2005. The defendant raised objection that the suit is barred by time.

Decide this plea giving reasons for your discussion.

(b) A, B and C were partners of a firm which was not registered. Firm brought a suit for the recovery of debt due from X to the firm. A, B and C had sent an application to the Registrar of Firms in the prescribed form and all formalities were completed but the firm was not yet registered. Firm brought a suit against X. Can suit proceed? Discuss.

Q. 5 (a) A resides at Shimla. B at Kolkata and C at Delhi. A, B and C being together at Varanasi, B & c make a joint promissory note payable on demand and deliver it to A. A filed a suit for recovery at Varanasi. B & C object to the jurisdiction of the court at Varanasi to try the suit asserting that defendants B & C do not reside at Varanasi. How would you decide the objection?

(b) A filed a civil suit for ejection and arrears of rent against B, C and D alleging that his tenant B was in arrears of rent and C and D were his sub-tenants. Only C and D contested it. Trial Court decreed the suit for arrears of rent against B. It was held that C and D were not sub-tenants. Only B filed appeal which was dismissed but the appellate court while observing that any evidence led by C and D could not be read against B further observed that it appeared that C and D being closely related to B were in possession on his behalf. A filed second civil suit for ejection and arrears of rent now pleading, inter-alia, that C and D were licensees of B and that the judgement of the appellate court in earlier case will operate as res-judicata. Is the plea of A about res-judicata correct? Give reasons for your view?

Q. 6 (a) Write short notes on the following:

- i. Summary suit under Order 37 CPC
- ii. Primary evidence and secondary evidence
- iii. Stay of suits under section 10 CPC
- iv. Effect of non-registration of documents requiring compulsory registration under Registration Act, 1908

RESILIENCE LAW ACADEMY

Delhi Mains Criminal Law 2006

Q. 1 One A, a widower living alone had employed a full time male domestic servant B and he had been staying in A's house for quite sometime. A used to go everyday in the morning to a temple for about two hours and his servant used to be there in his house. A started suspecting that his servant was misappropriating household things in his absence and so one day he terminated his job and B left the house conveying his unhappiness to A. Next day as usual A went to the temple and when after two hours he came back he found the lock of the entrance door of his house broken and when he entered inside he found that his imported TVB and some cash was missing. He immediately went to his next-door neighbour C and informed his about the theft. His neighbour C told him that sometime back he had seen his servant B and one more person taking away TV on a three-wheeler scooter. Immediately thereafter both A and C go to the nearest police station and an FIR is lodged against B. Statement of C is also recorded wherein C claimed that he had seen B and one more person whom he would be able to identify on seeing him again taking away the TV. Next day of the incident B is arrested and he makes a disclosure statement and gets one TV and some currency notes recovered. At his instance his associate D is also arrested but nothing is recovered from him.

During the trial of B and D, A deposes that he had been told by C on the day of incident that he had seen his servant B and one more person taking away one TV. He also identifies the recovered currency notes. C in his chief-examination supports A's version and he also identifies both the accused correctly to be the culprits. His cross examination is deferred for the next day when he turns hostile and states that he had not seen B and D taking away the TV nor had he told so to A. C maintains that statement even when he is cross-examined by the public prosecutor. Investigating officer, in his evidence, deposed or about making of disclosure statement by B while in police custody and his getting recovered one TV and some currency notes and arrest of D.

Defence counsel argues that evidence of A that C had told him that he had seen his servant B and one more person taking away the TV had become hearsay evidence because C himself had turned hostile and had denied having said so to A and so entire evidence of C gets washed off the record and that evidence of alleged recovery of TV and currency notes at the instance of B and identification of D by B in court is of no value as there was no prior Test Identification Parade (TIP) got conducted by the police and so both the accused should be acquitted.

Write a judgment dealing with each of these contentions of the defence counsel.

Q. 2 (a) H divorces his wife W in the month of December 2004. W gets married to A in the month of January 2005 and delivers a child in the month of May 2005. A disowns the child. Can it be claimed that C is legitimate son of A?

(b) Explain briefly the law relating to attempt to commit an offence and examine whether A who intends to kill B is guilty of attempt to murder in the following cases:

(I) A fires a gun at B but misses his aim.

RESILIENCE LAW ACADEMY

(II) A shoots at B believing him to be sleeping but in fact, B had died of heart failure before A shot at him.

Q. 3 (a) A & B master and servant, respectively are being jointly tried for the murder of X and also thereafter for having done away with the dead body to hide the crime. (section 302 and 201 IPC).

A confession is made by B the servant to the effect that, without any previous knowledge of the crime, B was taken to the house of X by A and was suddenly asked to throw light from a torch as a serpent had come out; at that time X came out of the house at the call of A, and A killed him without any complicity of B. The two together then disposed of the body. Is this confession relevant against A? Give reasons for or against.

(b) A while driving his car in a rash and negligent manner causes death of B, C, D and E at different points of the same road on the same night. Prosecution alleged that it is a case of commission of offences under section 304 IPC. It is argued on behalf of the accused that the case falls under the ambit of section 304A IPC. Which fact would be relevant to determine negligence, intention or knowledge of the accused for commission of aforesaid offences? Discuss.

Q. 4 (a) Theft of a scooter takes place in the area of Sarojini Nagar, Delhi on 19-6-2005 and in the complaint made to the police, none has been named by the complainant. On 25-6-2005 A is arrested by police of police station Srinivaspur, Delhi in some theft case of that police station. During investigation of that case, he makes disclosure statement to have committed theft of the scooter from the area of Sarojini Nagar and having delivered the same to B for driving purpose and then offers to get the same recovered from B. In pursuance of the disclosure statement, A gets the scooter recovered from B on 25-6-2005 itself. Frame charge in this case. Also discuss about applicability of section 34 IPC so far as possession of the stolen scooter is concerned.

(b) Does a statement made to SDM by a bride relating to the cause of her death, becomes a 'dying declaration' under section 32 of the Indian Evidence Act though the bride firmly believed that she would recover, but dies after three days of making it?

Q. 5 (a) A and B have been arrested for the offence of murder of one punishable under section 302 read with section 34 IPC and were remanded to custody from time to time for a total period of 90 days, out of which 3 days were in police custody and 87 days in judicial custody. As the investigation could not be completed within the stipulated period of 90 days, on the 91st day a plea for the release of A and B on bail is made. The court issues notice to the State through Public Prosecutor and fixes the matter for consideration and hearing for the next day. On the next day police files report under section 173 Cr. P.C. with a foot-note that the reports of Chemical Examiner and Serologist in regard to certain material exhibits are awaited and shall be filed soon after their receipt. Public Prosecutor opposes the plea of A and B for statutory bail under section 167 Cr. P.C.

Decide the plea of A and B. Would it make any difference if there was no foot-note in the report?

(b) A is accused of commission of murder of his father who was inclined to dispose of his immovable property for certain reasons. After committing murder, A himself went

RESILIENCE LAW ACADEMY

to the police station and lodged FIR narrating the manner in which he did commit murder. There is no eye-witness to the commission of the offence. Dead body and blood stained Kulhari is recovered from the house of the accused. Decide.

Q. 6 Write short notes on any four;

- (i) Child witness
- (ii) Test Identification parade
- (iii) Cognizable and Non-cognizable offences
- (iv) Bail in non-bailable offences
- (v) Evidentiary value of defence evidence in a criminal trial

RESILIENCE

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 2006

Q. 1 (a) A dealer in handicrafts was entrusted an exclusively carved antique statue of Ganesha by B for the purpose of getting good offers (price) for it. It was further stipulated that in case any offer being approved by B, A should sell it to the person offering the best price. A on finding a good buyer C, sold the Ganesha Statue to him who in turn bought it in good faith. A disappeared with the money and B sued C for the recovery of the Ganesha Statue. Can B recover the Ganesha Statue from C? Give reasons for your answer.

(b) An industrialist fell into bad times and could not pay municipal tax of Rs. 2 lakhs due on his cotton mill. He leased the cotton mill to B without paying over due municipal taxes. B paid the taxes to save the property from being sold. Can B recover the tax amount from A? Decide with reasons.

(c) "A & Co." is engaged in the business of manufacture and sale of railway products like wagons, bogies etc. 'B India Ltd.' a government owned undertaking allotted to "A & Co.", a contract for the supply of bogies in January 2004. In compliance with the terms of the contract between the parties, "A & Co." furnished a performance guarantee being a bank guarantee for Rs. 10 lakhs issued on 'Bank C'. The guarantee is unconditional and obliges the 'bank C' to pay to B India Ltd. the amount guaranteed upon it on making a written demand declaring "A & Co." to be in default under the contract. By December, 2004, "A & Co." had to supply 200 out of 400 wagons which it failed to do. 'B India Ltd.' extends the time for performance to July 2005 but again "A & Co." defaulted. 'B India Ltd.' terminated the contract by an order dated August 1, 2005. 'B India Ltd.' simultaneously called upon 'bank C' to remit to its account a sum of Rs. 10 lakhs towards the performance guarantee furnished. "A & Co." moved the court for injunction against invocation of bank guarantee. Can injunction be granted? Decide.

(d) Z contracted to sell X half kilo of gold, to be delivered and paid on 01.07.06. The gold was tendered on this date but X declined to take delivery or pay for it, as there was a death in his family and buying anything was considered inauspicious. On 01.07.06 the price of half kg of gold was Rs. 10,000 less than the contract price. Z wanting a better price waited for the price to rise and sold it after one month for Rs. 50,000 less than the contract price. Z sued X for damages. Decide.

Q. 2 (a) Do the following documents require compulsory registration:

- (i) Will;
- (ii) Lease Deed;
- (iii) Adoption Deed;

What is the effect of non-registration of document which requires compulsory registration?

(b) Salma, a girl of 5 years was married to Rahim a boy of 8 years in 1994. Their marriage was consummated in 2003. Salma is now 17 years old and she does not want to continue her marriage with Rahim. Is her marriage as a minor valid? What remedy is available to Salma under the Muslim Law? Would the case be different if the marriage

RESILIENCE LAW ACADEMY

was consummated in 2002. Or if both parties were Hindus. Decide with the help of case law.

(c) A and B enter into a contract to become partners in a shoe business. The contract does not specify the duration of the proposed partnership. A changes his mind and backs out of the idea and so is no longer willing to perform the contract. B files a suit for specific performance of contract. Can such a contract be specifically enforced? Decide with reasons.

(d) A agreed to purchase from B under two contracts 400 tons of wheat to be delivered on 01.01.06 and 23.02.06. A having failed to take delivery on 01.01.06. B claimed to rescind both the contracts. A sues for damages. Is A's suit maintainable? What are the situations in which Court can refuse rescission of a contract? Decide.

Q. 3 (a) A the owner of two adjoining houses lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let out to C which will prevent the comfortable enjoyment of the house let to B. What remedy does B have?

(b) A Hindu male got married to B in 1989 in his village. A after 2 years of marriage developed illicit relations with C because of which his marital relations with B were strained. B left A's house and started living with her parents. A pleaded with the local panchayat that he may be granted divorce, both A and B were heard by the Panches and deed of divorce was drawn up by the Panches and published according to customs applicable to the parties in 1995. Thereafter A got married to C a reconvert-lingayat according to his customs. B is against their marriage and claims to be the legally wedded wife of A alleging that their marriage was not dissolved by a Court decree. Can A be prosecuted for bigamy? Is his second marriage valid? Decide with reasons.

(c) A a colonel in the army let out his house in Panchsheel, New Delhi to B a businessman in 1980 for Rs. 3500 per month. A is due to retire in 2007. He wants to settle in Delhi and only owns the tenanted premises. B has been a troublesome tenant and has made alterations in the flat without A's consent. One such alteration has caused dangerous cracks to develop in the roof. B has also sublet one room of the house to C without A's consent. A wants to evict B. Discuss legal remedy available to him.

Q. 4 (a) Radha, a school teacher gets married to Raman an engineer. They both were living in Delhi. In 2004, Raman got a job in Bangalore and so he went to Bangalore. Radha, refused to join him since she did not want to leave her permanent job in the government school. Raman insisted her to join him in Bangalore and when she refused, he filed a suit for restitution of conjugal rights against Radha. Will Raman succeed? What do you understand by the term Matrimonial home? Who has a right to decide the suit of matrimonial home?

(b) A and B were married in 2000. They were living happily and had a son C in 2002. A the husband started suspecting that B the wife was having an extra marital affair with D and the child C is not his son. He filed a petition for divorce against B in 2004 on the ground of adultery and cruelty and got a decree of divorce. When B filed for maintenance for C, A declined that C is his son and asked for a DNA test to be done on C to determine his paternity. The test was done and the result showed that C was not the son of A. Is A liable to pay the maintenance of C? Decide with reasons.

RESILIENCE LAW ACADEMY

(c) A was riding on a scooter (two wheeler) at 9 km per hour on a summer evening when suddenly he was thrown off the scooter when he drove over a manhole which was 6 feet below the regular level of the road. There was no caution or sign board put at the site. The manhole was right in the middle of the road. The liability of maintaining manholes in proper conditions is that of Delhi Jal board. As a result of fall, A broke his spine and was rendered paralysed. What civil remedy does A have? Discuss.

(d) Discuss "The Burden of Proof" with the help of judgments?

Q. 5 (a) A and B are former partners of a partnership firm namely X running a restaurant. C is an outgoing partner of the partnership firm wants to start restaurant business in the same area. A and B bring a suit against C to enforce an agreement restraining him from carrying on in same area any business similar to that of the firm X an unregistered firm. Is the suit maintainable? Decide with the help of case law.

(b) X & Co. a registered partnership firm borrowed from Y a sum of Rs. 1 lakh on 01.01.1998. On 28.07.2000, A recently retired partner of X & Co. wrote a letter to Y asking him to send a copy of the accounts showing what amount was due by the firm to Y. No public notice of the retirement of A on the reconstituted firm has been given. Y brings a suit for recovery against X & Co. on 20.07.03. Is the suit maintainable? Discuss.

(c) A is a manufacturer and supplier of stones having its registered office at Ajmer (Rajasthan), while B is registered partnership firm doing business in stones at Ambala. A entered into an agreement with B on 06.07.2006 wherein A was to supply 200 pieces of costly stones to B with stipulations, inter alia, as follows "any dispute arising out of this sale shall be subject to Court jurisdiction either at Ambala or Delhi". Subsequently, disputes were arising out of the contract, then B being permanent resident of Delhi filed a suit at Delhi for recovery of some damages and claiming money to be refunded as it was advance money. Now, decide about the issue of jurisdiction along with the validity of the contract with case law.

Q. 6 (a) Write short notes on the following:

(i) Precept

(ii) Inter-pleader suit

(iii) Garnishee order

(iv) Applicability of Res judicata to consent decrees.

(b) A litigant filed a complaint before the Bar Council of Delhi against his advocate alleging negligence. This complaint was dismissed. Aggrieved by dismissal order of State Bar Council, A filed revision before Bar Council of India. This revision was also dismissed on merits by speaking order. Subsequently, A filed a civil suit for damages based on negligence of B. Is decision of Bar Council of India will operate as res judicata in this suit? Discuss the law and decide with reasons.

RESILIENCE LAW ACADEMY

Delhi Mains Criminal Law 2006

CRIMINAL LAW

Q. 1 Write short notes on any two of the following:

- (a) The Presiding Judge of a criminal trial should not be a spectator and a mere recording machine.
- (b) Difference between the judgment per incuriam and judgment sub-silentio.
- (c) Evidentiary value of a dying declaration made in Tamil, translated in Hindi by a Tamil knowing doctor and recorded in Hindi by Magistrate who does not understand Tamil.
- (d) Test identification does not constitute substantive evidence.
- (e) The plea of issue estoppel is not the same as the plea of autrefois acquit.

Q. 2 A has a grudge against B, suspecting him to be a police informer and responsible for a raid at the business premises of A. One evening, A confronts B and says that he needs to be taught a lesson for being a chum of the police. A fires from his pistol aiming at B. B ducks. The single fire enters his chest and exits from his back and in the process damages his vital organs. B dies. The Medical opinion of the nature of injury sustained by B is as being dangerous to life. In cross-examination, the doctor states that had B not ducked, the fire might have hit on the right thigh but, nevertheless, the same would also have been dangerous to life. Analyze the factual matrix and write as to whether, in the given circumstances, the culpability of A should be that of Murder or that of Culpable Homicide Not amounting to Murder.

Q. 3 A is charged under section 304 part 2 IPC for causing death of P. The evidence matrix is as follows. A is driving a car. The speed of the car can be described as moderate. The music is on. A has a friend as a companion. They are talking and A has a habit of looking at his companion while driving. He gets a call on his cell phone. He attends the call. During the course of his attending the call, he makes some gestures towards his companion and, somehow, loses control of the car. The car steers to the left and hits P, a pedestrian, who is injured and, unfortunately, dies on way to the hospital. The prosecution contends that the evidence proves its case of culpable homicide. The defence arguments is that the nature of the act attributable to A could, at best, be said to be causing death by rash or negligent act punishable under section 304A IPC. Write a judgment.

Q. 4 (a) G, a Hindu girl of 13 years, elopes with her neighbour N, also a Hindu. On a complaint from her father, a FIR is registered under section 366 of IPC. After about 7 months of the incident, the police is able to trace G and N. N is arrested and subsequently released on bail. G refuses to go with her parents. She claims to have married N and being pregnant. She is sent to a childcare center till she attains majority or till further order of the court. N also accepts the marriage and that G was pregnant. The father of G makes an application to the court for being given the custody of G. N also makes an application for being given the custody of G, his wife, notwithstanding his status as an accused in the cases registered by the father of G. G also makes an

RESILIENCE LAW ACADEMY

application for being set at liberty and being allowed to go with her husband. Write a composite order deciding all the three applications.

(b) F, a married lady, develops intimacy with M. On her representation that she had divorced her husband, in a customary ceremony, F and M start living together. After staying together for about seven months, they part ways. Within the next three months, F delivers a child C. An application is filed by F for herself and for the child C for maintenance from M under section 125 Cr. P.C. M disputes that F is his wife and he also disputes the paternity of C. He admits having lived with F but contends that F had a subsisting marriage and could not be his wife. The evidence lacked her claim of having divorced her husband before she started living with M. Decide only the question of entitlement to maintenance of each of the two applicants under the Cr. P.C. Further, would it make any difference to the outcome of the application if F had been unmarried at the time she started living with M?

Q. 5 (a) A police report is filed for the alleged commission of offence punishable under section 420 read with section 34 of IPC (cheating in furtherance of common intention) against A,B,C,D. A and B abscond and the trial proceeds only against C, D. On appraisal of evidence, the Court acquits C and D. Later, A and B are apprehended. On being produced in the court, A and B make an application purporting to be under section 245(2) Cr. P.C. and section 300 Cr. P.C. for dropping the proceedings on the ground that their co-accused C and D have been acquitted and it would be an exercise in futility to proceed against them. It is contended that they are deemed to have faced trial in absentia and having been so tried in absentia they cannot be tried again for the same offence. Decide the application of A and B.

(b) FIR is registered against unidentified person under section 420/34 of IPC (cheating in furtherance of common intention). After the completion read with section of investigation, the police files its report of investigation naming two persons A and B of having allegedly committed the offence. The magistrate, on consideration of the evidence collected during the investigation and presented along with the report, finds that apart from A and B sent for trial by the police. C and D are also liable to the summoned and he accordingly summons A, B, C, D to appear in the Court to face trial. At the stage of hearing of arguments on charge, Public Prosecutor for the State contends that from the evidence already before the Court, two more persons E and F appear to have also committed the same offence for which A, B, C, D are facing trial. The Court appears to be convinced with the submission of the prosecution. There is no serious opposition from the side of A, B, C, D. Write an appropriate order highlighting the power of the court to proceed against other persons appearing to be guilty of offence being tried by the court.

Q. 6 (a) Upon a complaint, the Magistrate summons A and B by issuing a process under section 204 Cr. P.C. for the offences punishable under sections 420 and 468 IPC (Cheating and Forgery etc.). The accused persons appear and make an application purported to be under section 203 read with section 245(2) Cr. P.C. for recall of the summons of dropping of the proceedings against them on the ground that even if the evidence of the complaint is taken at its face value none of the two offences for which

RESILIENCE LAW ACADEMY

they have been summoned are made out. The complainant objects to the maintainability of the application and questions the jurisdiction of the court to go into the question as prayed for by the accused. Decide the maintainability of the application and the jurisdiction of the Magistrate in this regard. Further, would it make any difference if the accused had been summoned for an offence triable as a Summons case?

(b) A is arrested by the police in connection with a FIR registered against him by name at the instance of X, the victim of the alleged rape by A. A is arrested and in due course sent to Judicial Custody. While in judicial custody, the police make an application to the court stating that A has been uncooperative during the time he was in their custody and for the purpose of an effective investigation, the police want to have a DNA profile of A for a scientific investigation of some specimens collected during the investigation from the spot and the evidence furnished by the victim. A, on the advice of his counsel, declines to give the sample of his blood or semen, as called upon by the Police. He contends that in terms of the constitutional protection envisaged in Article 20(3) of the Constitution of India, which says that no person accused of any offence shall be compelled to be a witness against himself, he cannot be called upon to give any specimen as asked for by the police and he also claims of his right to privacy being a part of Article 21 of the Constitution. The police contends that there is no bar for the court to compel the accused to comply with the requirement of the police and the court can use necessary means to secure the taking of the required evidence which is relevant under the Evidence Act. Decide the application.

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 1 2007

CIVIL LAW -I

Q. 1 "The registration of firms in India is entirely based upon the discretion of the firms or the partners concerned". Comment on this statement.

What consequences would follow in case of an unregistered firm?

Q. 2 One of the partners of a partnership firm had retired from the firm on 10-4-2006. The firm continued carrying on business and took loan from a bank on 11-9-2006. As the firm failed to repay the loan, bank filed recovery proceedings wherein the partner who had retired on 10-4-2006 was also impleaded as one of the defendants. Plea taken was that his retirement was not disclosed to the bank and impression was given that he continues to be a partner. The defence of the retired partner was that since he had retired, he could not be made liable and there was no basis for the bank to presume that he continued to be a partner as he had not signed any documents when the firm took the loan, whereas such documents were signed by other partners.

Whether the said partner would be liable/ Decide in the light of provisions of the Indian partnership Act, 1932.

Q. 3 'A' rented out a premises to 'B' for a monthly rent of Rs. 1,500. He filed an eviction petition against 'B' under section 14(1)(b) of the Delhi Rent Control Act, 1958 alleging that 'B' had sublet the premises to 'C' for a monthly rent of Rs. 5,000. In reply to this eviction petition, 'B' challenged the maintainability of the said petition on the ground that the Rent Controller had no jurisdiction to try the case and a civil suit for possession, recovery and mesne profits only could lie.

Is the objection of 'B' legally correct? Elaborate with the help of case law while giving your views.

Q. 4 What do you understand by a 'limited period tenancy' under the Delhi Rent Control Act, 1958? What considerations are required to be fulfilled for the creation of tenancy for a limited period? Discuss in the light of law laid down in the case of S. B. Noronah v. Prem Kumai Khanna, 1980 (1) SCC 52.

PART B

Q. 5 "The law may refuse to give effect to a contract on the ground of illegality; this is a limitation upon freedom of contract." Comment.

Q. 6 As against the civil law countries, specific performance in India (which is a common law country) is a discretionary remedy. What are its parameters? Do you think that this discretion of the court be extended to movable goods, in the present day commercial set-up, where, in pursuance of a contract, one party has acted and manufactured goods only for the specific contract in question?

Q. 7 'A', a Doctor, employed another Doctor 'B' as assistant for a period of 3 years on a salary of Rs. 3,000 per mensem. There was an agreement between 'A' & 'B' which provided that after the termination of his employment, 'B' shall not practice as a Doctor within a radius of 3 kms. Of 'A's dispensary for a period of three years and if 'B' did so, 'B' should pay Rs. 50,000 as liquidated damages. Immediately after the termination of

RESILIENCE LAW ACADEMY

his employment, 'B' started his practice as a Doctor next to 'A' s dispensary. 'A', thereupon, sued 'B' for the recovery of Rs. 50,000.

Q. 8 A wife filed a complaint against her husband and in-laws under sections 498A and 406 IPC. In those proceedings, a compromise was arrived at as per which the husband agreed to pay a sum of Rs. 25 lacs to his wife in full and final payment in settlement of her claims towards stridhan, dowry etc. parties also agreed to take divorce by mutual consent. Wife also agreed in the said compromise that she will not claim any maintenance from her husband. Decree of divorce by mutual consent was obtained by the parties. Husband also made a payment of Rs. 25 lacs. Thereafter, wife filed a petition for maintenance under section 18 of the Hindu Adoptions and Maintenance Act, 1956. The husband took the plea that wife was precluded from filing such a petition in view of the settlement between the parties. The contention of the wife was that there was a statutory right given to her to claim maintenance and agreement in question was against the public policy.

How will you decide the issue?

PART C

Q. 9 'A', a Hindu is going to get married with 'B', another Hindu, on 1-10-2007. 'P', a Christian lady, filed a suit for permanent injunction to restrain 'A' and 'B' from getting married on the plea that 'A' had married with 'P' on 1-12-2006 in a temple according to the Hindu rites and as she was his legally wedded wife, he had no right to marry again. Whether 'P' would be entitled to injunction, as prayed?

Q. 10 'H' filed a petition for divorce on the ground of desertion against his wife 'W-1'. He obtained ex-parte decree of divorce in the said petition on 7-6-1999. Thereafter, he married 'W-2' on 12-1-2000. At the time of marriage, he disclosed to 'W-2' that he was a divorcee and also showed her the decree of divorce. 'H' and 'W-2' lived together for two years. However, their relations became strained and 'W-2' had to leave the matrimonial house. 'H' filed divorce petition against 'W-2' in July, 2002. 'W-2' filed petition for maintenance under section 18 of the Hindu Adoptions and Maintenance Act, 1956 against 'H' in September 2002. In December 2002, 'W-1' filed an application for setting aside the ex-parte decree of divorce, which 'H' had obtained against her on 7-6-1999, on the ground that she was not served with any summons and was wrongly proceeded ex-parte. This application was allowed and decree of divorce was set aside in May, 2003. 'H' took up the defence in the maintenance petition filed by 'W-2' against him under section 18 of the Hindu Adoptions & Maintenance Act, 1956 to the effect that his marriage with 'W-2' was nullity and since 'W-2' was not his legally wedded wife, was not entitled to any maintenance.

Whether this plea of 'H' is sustainable in law?

Q. 11 What are the significant amendments made in the Hindu Succession Act, 1956 in the year 2005 so far as rights of females are concerned?

Q. 12 'M' (husband) married 'W' (wife) on 30-3-1997 according to Muslim rites. Both are Muslims. On 28-7-1998, both of them were separated. Within 5 months of the separation, 'M' got re-married. 'W' filed a suit against 'M' seeking dissolution of marriage under section 2 of the Dissolution of Muslim Marriage Act (8 of 1939) on the

RESILIENCE LAW ACADEMY

ground of cruelty on the part of 'M'. She has complained to incorporate the additional act of cruelty, namely, second marriage of 'M' which, according to 'W', caused a mental cruelty towards her.

In reply filed by 'M', he took up the plea that he was willing to co-habit with 'W' as well while continuing the second marriage and as a Muslim husband he could have more than one wife.

Whether in such circumstances, 'W' shall be entitled to a decree of divorce? Decide explaining the legal position.

PART D

Q. 13 The plaintiff, a food grain merchant enjoying good reputation, had incurred ill-will of a food inspector who falsely implicated him in case under section 7 of the Essential Commodities Act, 1955. The plaintiff was arrested and detained for seven days before being put on trial in the Court of the Chief Judicial Magistrate, who acquitted him. In the plaintiff's suit for damages, the State of Punjab as well as the food inspector pleaded that since the prosecution was not mala fide and as the State was not liable for the act of the food inspector, the suit must fail.

Whether the State would be vicariously liable for the acts of the food inspector?

Q. 14 The plaintiff company had sought interim relief by way of an injunction against defendant from making defamatory statements containing highly derogatory expressions like conscience, conspiracy, loot of public money, siphoning off funds and unleashing senseless terror etc. The trial Court rejected the application of plaintiff on the basis of plea of justification raised by defendant. In appeal before High Court, plea taken by the plaintiff was that unlike the courts in England, the courts in India had a wider power to scrutinize the material rendered by defendant so as to test its veracity and to find out whether the said statement were bona fide or whether they were in public interest. It was thus pleaded that the trial Court did not look into this aspect and wrongly refused the injunction.

Whether such plea of plaintiff would be sustainable or the defence of defendant that it had freedom of speech and expression should be accepted.

Q. 15 'W', a married woman and mother of four children, did not want any more children. She, therefore, approached a government hospital and tubectomy operation performed. However, two years after the said operation, she apprehended conception as she had missed two successive menstrual periods. She went to a private doctor and was told that she was pregnant. The said doctor also advised her against abortion as she was too weak and it could endanger her life. She gave birth to a female child and filed a suit claiming Rs. 3 lacs as compensation against the government hospital as well as the doctor who had performed the sterilization operation.

What facts need to be proved by her to show negligence of the doctor and the government hospital? Answer with reference to case law.

Q. 16 On 20-3-1998, 'N', who is aged 3 years, visited National Zoological Park with his father and other family members. when all members of the family were keenly watching the white tigress, 'N' reached near the iron bars in which the said animal was kept. The latter, all of a sudden, grabbed his hand through the railing and pulled it in.

RESILIENCE LAW ACADEMY

The tigress had bit the right arm of 'N'. In severe pain and agony, he was taken to the hospital situated in the zoo wherein the doctor expressed their inability to provide medical treatment. Thereafter, he was rushed to the All India Institute of medical Science (AIIMS) where 'N' was rendered disabled to the extent of 100% as his right arm was amputated upto 2 ½ inches from the shoulder to avoid loss of any of the limbs of his life. A suit for damages was filed by the father of 'N'.

Decide whether it was the negligence of the three year old 'N' in reaching unto the railing and exposing himself to the risk of being attacked by the tigress or it was the negligence of the Zoo authorities in not taking proper care to ensure that such incidents do not take place.

RESILIENCE

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 2 2007

Q. 1 'A' let out his residential house in Delhi to 'B' vide registered lease deed dated 15-3-1992. This lease was for a period of three years commencing from 1-3-1992 and ending on 28-2-1995. Monthly rent fixed was Rs. 20,000. After the expiry of lease period, no new lease was executed. It was orally agreed between the parties that there would be extension of tenancy by a further period of three years on enhancement of rent by 15%. 'B' started paying the rent at an enhanced rate w.e.f. 1-3-1995, which 'A' accepted till November, 1995. Thereafter, vide legal notice dated 4-12-1995 was served upon 'B' under section 106 of the Transfer of Property Act, 1882. 'A' terminated the tenancy w.e.f. 31-1-1996 and called upon 'B' to handover possession in the District Court. Decree for possession was passed by the trial Court vide judgment and decree dated 12-12-2002 holding that after the termination of tenancy by legal notice, the tenant was in unlawful possession. After this decree, 'A' filed another suit claiming mesne profits on 19-1-2003 w.e.f. 20-1-2000 and also for future period, till the possession is handed over. 'B' took the plea that suit was barred under Order II, rule 2 of the Code of Civil Procedure, 1908.

Whether this plea of 'B' is sustainable in law?

Q. 2 'G', aged about 35 years, went for pilgrimage to the holy cave of Amarnath situated in the State of Jammu and Kashmir in August 1995 and as per his prefixed itinerary, he was to return back to Delhi on 20-8-1995. However, he did not return to Delhi on 20-8-1995. Since then, he was not seen nor heard by any of his relations or friends. His family, consisting of his wife 'K' and two minor children, made frantic inquiries to know about his whereabouts. Proclamation was published in the newspaper and award was also announced for giving his correct whereabouts. Missing persons report was also lodged with the Police Station, Pitampura, and Delhi on 4-9-1995. Extensive efforts to trace out 'G' were made through Jammu and Kashmir Police. However, all these efforts turned futile and the J&K police closed the inquiry in May/June 1997.

'G' had four LIC policies for a total sum of Rs. 1,25,000 and had made his wife 'K' for nominee of the said policies. 'K' continued to pay the insurance premium even after 'G' went missing. However, some time in 1997, she stopped paying the premium when she received the information that J&K police had closed the inquiry. Thereafter, she wrote a letter to LIC and claimed the amount under the policies stating that 'G' should be presumed to have died on or about 17-8-1995. However, the LIC refused to entertain the claim mentioning that she should produce a decree from a Court of Law to the effect that 'G' is presumed to have died.

Decide as to whether there lies any presumption that 'G', died between 17-8-1995 and 20-8-1995 or in any case before June, 1997 when the closure report was given by the J&K Police. Also decide as to whether in view of section 108 of the Evidence Act, such a presumption can be raised only after a lapse of seven years and in the meantime, policies should have been kept alive by paying the premium regularly.

Q. 3 Explain the legislative policy behind sections 123 and 162 of the Indian Evidence Act, 1872?

RESILIENCE LAW ACADEMY

Q. 4 What is the distinction between an illegal decree and a void decree/ Can a void decree be challenged in collateral proceedings?

Q. 5 'M', which is a foreign bank, filed suit for recovery against 'N' an Indian resident. This suit was filed in a Court of England under summary procedure. 'N' filed an application for leave stating the various grounds on which he wanted to contest the suit. However, he did not appear in the Court at the time of hearing and sent a letter to the Court stating that he was not in a position to go to England and engage a lawyer. Suit for recovery was decreed under summary procedure and without trial. On the basis of that decree, the bank filed execution under Order XXI of the CPC. 'N' filed objections to the said decree on the ground that such decree was not binding as it was obtained without recording evidence in a suit under summary procedure and such a judgment cannot be said to be "on the merits of the case". The bank took the plea that the English Court had passed the decree after detailed discussion and by a reasoned judgment wherein the case of the respondent, i.e. 'N' was also considered, but his version was not found tenable.

What would be the fate of objections filed by 'N'?

Q. 6 What is the difference between res judicata and constructive res judicata? Which provision of CPC contains the principle of constructive res judicata?

Q. 7 'B' and 'S' were defendants in a suit filed on the original side of the High Court for recovery of possession of the suit property. The suit was dismissed by the Single Judge and the plaintiff carried an appeal to a Division Bench. In the appeal, both 'B' and 'S' were respondents. The Division Bench allowed the appeal. As respondents before the Division Bench, both 'B' and 'S' were aggrieved by the decree against them. 'B', the present appellant, filed an SLP and thereafter 'S' also filed an SLP. Both in the matter of filing the SLP and granting of leave, 'B's appeal was prior. The appeal filed by 'S' was dismissed for default for non-removal of office objections. It was contended by the respondent-plaintiffs before the Supreme Court that inasmuch as the appeal filed by 'S' was dismissed by the Supreme Court for non-prosecution, the judgment of the Division Bench of the High Court would operate as res judicata. It was urged that the judgment and decree had become final against 'B' and all other defendants in the original suit. It was further contended that even otherwise the appeal should be dismissed as it may result in conflicting decrees. That is, if the present appeal were allowed, resulting in setting aside the decree or making any modification thereof, it would result in the anomalous situation of there being conflicting decrees between the same parties, arising out of the same cause of action.

Whether on the plea of the respondent-plaintiffs those principles of res judicata will apply to bar the appeal as not tenable?

Q. 8 What are the principles laid down by the Supreme Court in *M/s. Mechalec Engineers & Manufacturers v. M/s. Basic Equipment Corporation*, AIR 1977 SC 577, while dealing with the application for leave to defend in a suit filed by the plaintiff under Order XXXVII of the Code of Civil Procedure, 1908?

Q. 9 The plaintiff was given employment by the respondent in the year 1985. On 4-2-1986 vide memo dated 1-2-1986, he was promoted as Vice President. Vide letter dated

RESILIENCE LAW ACADEMY

12-4-1991, his services were terminated by giving one month's notice. The plaintiff filed a suit for declaration that the termination was invalid and also claimed damages. The suit was filed on 6-6-1994. The respondent took the objection that the suit was barred by limitation inasmuch as services were terminated vide letter dated 12-4-1991 and three years period expired on 11-4-1994.

Whether the respondent is correct in computing the period of three years from the date of notice and the suit would be barred by limitation?

Q. 10 In 1975, a suit was filed for partition of movable and immovable properties.

Parties were near relations, who claimed succession through common ancestor. During trial in 1993, the parties filed application under order XXIII, Rule 3 of the Code of Civil Procedure, 1908 seeking to pass decree in terms of family settlement Ex. C-1 and compromise Ex.C-2 and Ex.C-3. By this compromise, they had mutually settled and adjusted their rights and claims in the suit properties, had mutually relinquished rights in favour of each other and these contained mutual covenants transferring some of the properties inter se. Court accepted it and passed a compromise decree, on 25-8-1993. In 1995, three of the defendants filed application for setting aside that compromise-decree as it affects several immovable properties; it required compulsory registration under section 17 of the Registration Act, 1908 and the decree not having been registered is void and unenforceable. This is disputed by the other parties.

Deal with this objection and given your decision.

Q. 11 'A' entered into an agreement with 'B' for carrying out certain work from 4-4-1973 till 4-4-1975. Agreement contained a clause for arbitration in case of dispute. On 3-4-1978, 'A' filed civil suit against 'B' for recovery of some dues etc. On 4-4-1978, 'B' filed application under section 20 of the Arbitration Act. 'B' moved an application for stay in civil suit filed by 'A' but the application for stay was dismissed and his appeal against dismissal was also dismissed on 1-8-1985. On 13-3-1986, 'B' filed an application under Order VI, Rule 17 of the Code of Civil Procedure, 1908 for amendment of his pending application under section 20 of the Arbitration and Conciliation Act, 1996 for converting it into suit for recovery of amount from 'A'. Application for amendment is opposed on the ground that it proposes to change the nature and character of the suit and that claim of 'B' was barred by limitation. 'B' contends that his pending application under section 20 of the Arbitration and Conciliation Act, 1996 contains all the particulars which should contain in a regular suit, difference is only in regard to reliefs prayed for, no prejudice will be caused to the opposite party, claim is not timebarred and prayer can be granted even by resorting to inherent powers under section 151 of the Code of Civil Procedure, 1908.

Deal with the respective contentions of the parties and pass an order on that application under order VI, Rule 17 of the Code of Civil Procedure, 1908.

Q. 12 Examine whether the following documents require compulsory registration, giving reasons in support of your answers:

(a) An 'adoption deed'.

(b) A 'will' relating to ten shops and two flats in Defence Colony, New Delhi.

(c) An 'agreement to sell' a house in Friends Colony, New Delhi for Rs. 90 lacs.

RESILIENCE LAW ACADEMY

Q. 13 Vide agreement to sell, 'A' agreed to sell her house to 'B' for Rs. 20 lacs and received a sum of Rs. 10,000 as earnest money. 'B' filed suit against 'A' for specific performance on the ground that 'A' had avoided to perform her part of agreement. In trial 'A' contended that receipt/agreement could not have been exhibited nor relied upon because it was not a registered document, as by this document parties created right, title and interest and passed on consideration regarding an immovable property, value of which was more than Rs. 100.

Determine the contention by giving your decision.

Q. 14 Mohan filed a suit for recovery of money against Sohan. Summons in the said suit were served upon Sohan on 6-4-2004 for appearance in the Court on 8-7-2004. Sohan did not file the written statement within 30 days and on 8-7-2004 he appeared before the Court and moved an application for extension of time in filing the written statement on the ground that along with the suit, documents filed by the plaintiff were not served upon him. The plaintiff contested the application raising the contention that this was an afterthought plea as along with the process fee, plaint and documents were filed by the plaintiff for service of summons upon the respondent. He also contended that the respondent did not raise non-receipt of the documents any time between 6-4-2004 and 8-7-2004 and, therefore, no further time be given to him and decree be passed under Order VIII, Rule 10 of the Code of Civil procedure, 1908.

What would be your decision on the application filed by Sohan for extension of time?

RESILIENCE LAW ACADEMY

Delhi Mains Criminal Law 2007

Q. 1 Distinguish between cognizable and non-cognizable offence, bailable and non-bailable offence, compoundable and non-compoundable offence; summary trial, summons trial and warrant trial.

Q. 2 Enumerate the coercive steps a Metropolitan Magistrate can take to ensure the presence of a witness or accused during the criminal trial. How should he proceed if despite coercive steps, accused does not appear to face the trial.

Q. 3 What is plea bargaining?

In what cases plea bargaining is not available?

Q. 4 What is charge?

What should be the contents of the charge?

Under what circumstances a charge can be framed?

What is the effect of altering charge on the trial?

Q. 5 Ramesh, an Engineer earning Rs. 35,000 per month has deserted his non-working wife and two school going children who live with his wife's parents. She makes an application under section 125 of the Code of Criminal Procedure, 1973 for maintenance of herself and two children. Ramesh has to maintain his old parents and invalid sister. Decide her application.

Q. 6 (a) Anita, aged 16 years, a domestic servant is caught red handed stealing Rs. 25,000 from drawer of house owner. Her father moves a bail application before you. Decide her bail application.

(b) Raju and Sonu, aged around 20 years caught while they were fleeing after snatching gold chain of Mrs. Asha at knife point. Chain and knife are recovered from them. Decide their bail application.

Q. 7 (a) Rahul, a boy aged 19 years allured Geeta 15 years old on promising of marrying her. She elopes with him. He had sexual intercourse with her consent on 2nd day of elopement.

What offence he has committed?

What would be the offence if he refuses to marry Geeta?

What would be the offence if he had sexual intercourse against her consent?

What would be the offence if Geeta's age is 20 years and she gave consent for sexual intercourse on promise of marrying, but Rahul later refused to marry her?

(b) Sangeeta aged 15 years is sought to be married by her parents against her wishes. She runs away from her house and goes to Akshya, 20 years, whom she loves. Akshay takes her to Bangalore. On reaching Bangalore he is arrested on a complaint of Sangeeta's father that she has been kidnapped. Akshay is charged with kidnapping. Write brief arguments either in favour or against Akshay's conviction on charge of kidnapping.

Q. 8 Rajiv and Rajesh, two brothers live with their families in a jointly owned house. The families used to quarrel, so they decided to partition the house and joint assets. On 3rd September, 2007 both decided to meet for partition. Both called their brother-in-laws at the time of negotiations. Dispute arose between them over partition of house

RESILIENCE LAW ACADEMY

and assets. Heated arguments ensued. Rajiv got very angry and went inside the house and brought a Gandasa. He attacked Rajesh and his brother-in-law. Rajesh and his brother-in-law tried to save themselves and received injuries in the scuffle. Rajesh snatched Gandasa from Rajiv and gave a Gandasa blow to him which struck abdomen of Rajiv, resulting into his death.

In the light of above facts,

What charge can be framed against Rajesh?

Write a judgment.

RESILIENCE

RESILIENCE LAW ACADEMY

Delhi Judicial Service – 2008

CIVIL LAW - I

Q1. "The maxim is no more than a rule of evidence. It is based on common sense and its purpose is to be enable justice to be done when the facts bearing on causation and on the care exercised by the defendant are at the outset unknown to the plaintiff and are or ought to be within the knowledge of the defendant."

- (a) Which maxim is being referred to in the above quotation?
- (b) Explain the scope and conditions for applicability of the maxim?
- (c) Since it is a rule of evidence, does it constitute proof or does it merely set up a presumption?
- (d) Would the maxim apply where a child is found dead in the sewer, having fallen through an open manhole?

Q. 2. (a) Neha, a software programmer, takes up employment with macroware Ltd., a large software development company. Her contract of employment includes the following two clauses:

- (i) During the course of her employment with Macroware ltd., Neha shall not take up any other employment or indulge in software development for third parties.
- (ii) In the event of the termination of the contract of employment, for whatever reason, neha shall not, or a period of three (3) years thereafter, compete directly or indirectly with Macroware Ltd or take up employment as a software programmer with any competitor of Macroware Ltd.

- (a) Would these clauses be enforceable in a court of law? Discuss.
- (b) Let us assume that Neha, instead of taking up employment Macroware ltd., entered into a partnership with two other programmers Amit and Salma and set up the firm NASware. Assume further that after two years, Neha retires from the partnership which continues with Amit and Salma as its partners. While retiring from the firm, Neha is paid whatever is due to her from the partnership and, additionally, she is also paid an amount of Rs. 25 lakhs for agreeing to give up any claim to the name NASware and the bundle of benefits associated with it. Despite this, Neha starts a sole proprietorship concern using the same name NASware.

Is Neha legally entitled to do so? Discuss.

Q. 3 (a) 'All contracts are agreements but all agreements are not contracts'. Discuss.

- (b) X sends a letter to Y proposing to sell his house to Y for certain price. When is the communication of the proposal completed?
- (c) Y accepts X's proposal through a letter sent by post. When is the communication of the acceptance complete (i) as against X and (ii) as against Y?
- (d) X revokes his proposal to sell his house by a telegram. When is the revocation complete (i) as against X and (ii) as against Y?
- (e) Y revokes his acceptance by telegram. When is the revocation of acceptance complete (i) as against Y (ii) as against X?
- (f) is the normal rule as to postal communications applicable to instantaneous communications such as telex/fax message?

RESILIENCE LAW ACADEMY

(g) A has filed a criminal complaint against B for robbery. A and B enter into an agreement whereby A agrees to drop the prosecution in return for B's promise to restore the value of the articles taken. Is this agreement enforceable? Why?

(h) A enters into a agreement with B promising him to secure a government job for a consideration of Rs. 1 lakh. Is this agreement enforceable? Why?

Q. 4 (a) "In some contracts, it would be impossible for the court to assess the compensation arising from breach and if the compensation contemplated is not by way of penalty or unreasonable, the court can award the same if it is a genuineas measure of reasonable compensation". Do you agree? Give reasons.

(b) A delivers to B, a common carrier, a machine, to be conveyed, without delay to A's mill informing B that his mill is stopped for want of machine. B unreasonably delays the delivery of the machine, and A, in consequence, loses a profitable contract with the Government. What compensation is A entitled to receive from B? Why?

Q. 5 (a) Ajay and Vibha are husband and wife, having married under Hindu rites. Unhappily, they do not seem to get along. Ajay is rude and abrasive. He taunts her and her family members on, almost a daily basis. Though he has never used physical force, he has threatened to kill her in her sleep. After suffering the torment for a considerable length of time, she files for divorce on the ground of cruelty.

You are to decide the case in the backdrop of the statutory provisions and the case law.

(b) 'A law of divorce based mainly on fault is inadequate to deal with a broken marriage'. Discuss in the context of the prevailing provisions of the Hindu Marriage Act, 1955 and development of case law on this aspect.

Q. 6. (a) In the context of Hindu Succession Act, 1956 as it stands today, do you think that males and females have equal rights? Discuss with reference to specific provisions.

(b) Can the Hindu Marriage Act, 1955 or the Hindu Succession Act, 1956 apply to an Indian who is not a Hindu, Buddhist, Jain or Sikh and is an atheist? Why?

(c) X belongs to a Hindu family governed by the custom of male lineal primogeniture. X has two sons A and B and a daughter C. X died in 1960. A claims the entire estate left by X as he is the oldest male heir. B and C have filed a suit for partition claiming their shares under the Hindu Succession Act, 1956. Decide the case?

Q. 7 (a) What is Mahār or dower?

(b) What is meant by Khīyār al-bulūgh or "option of puberty"?

(c) Distinguish between ahsan talaq, hasan talaq and talaq-e-tafwid.

(d) Explain the concepts of Khula and mubaraat.

(e) What are the grounds of dissolution of marriage available to a Muslim wife under the Dissolution of Muslim marriage Act, 1939?

Q. 8. (a) Does a firm require compulsory registration? What is the effect of non-registration of a firm with the Registrar of Firms?

(b) What do you understand by the term- 'partnership'?

(c) A agrees with B, a goldsmith, to buy and furnish gold to B, to be worked up by him and sold, and that they shall share in the resulting profit or loss. Are A and B partners? Give reasons.

RESILIENCE LAW ACADEMY

(d) A and B agree to work together as carpenters. However, A is to receive all profits and is to pay wages to B. Is the relationship between A and B a partnership? Give reasons.

(e) A and B buy 100 bales of cotton, agreeing to share it between them. Are A and B partners? Give reason.

(f) What is a 'Partnership at Will'?

(g) What are the mutual rights and liabilities of partners?

Q. 9. (a) What are the guiding principles for the grant of temporary injunctions?

(b) What role does equity play, if any, in the grant of an injunction ?

(c) What do you understand by the term – 'mandatory injunction'?

(d) Which contracts cannot be specifically enforced?

(e) What is necessarily to be averred and proved by the person seeking specific performance of a contract?

Q. 10 (a) Discuss the interplay between sections 14(6) and 14D of the Delhi rent Control Act, 1958 using the following example:-

W a widow purchases a tenanted property in 1989. Shortly thereafter she files an eviction petition under section 14D seeking immediate possession on the plea that she is a widow and requires the property for her residence. T, who is the tenant, takes the stand that section 14D is not applicable.

(b) What are the essential constituents of negligence under torts?

(c) Explain the concepts of vicarious liability.

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 2 2008

Q. 1. A had let out his premises to B. As a term of the said letting B had deposited three months rent with A by way of security deposit. Nothing was agreed or provided as to when the same would be refundable by A to B. B vacated the premises on 1st January 2000. However A did not refund the security deposit. B on 3rd March, 2004 for the first time demanded security deposit from A and upon failure of A to pay the same, on 1st August 2004 instituted a suit for recovery of the amount of security deposit from A. A set up a plea that the claim in suit was barred by time and on which plea a preliminary issue was framed. B contended that the security deposit was refundable on demand. Decide the said preliminary issue.

Q. 2 A entered into an agreement to sell his house to B. It was a term of the said agreement that upon failure of A to perform his part of the agreement, he shall be liable to pay to B double the amount of earnest money paid by B to A at the time of agreement to sell. The sale was to be completed on or before 15th January, 2008. A failed to perform his part of the agreement. B instituted a suit in or about first week of February, 2008 for permanent injunction against A for restraining A from selling the property to any other person. Interim injunction was not granted to B. B thereafter did not pursue the said suit and withdrew the said suit in or about March, 2008. B thereafter wrote to A that since A was in breach of agreement, A should pay double the amount of earnest money to B. A did not reply to the said letter. B thereafter in or about 1st week of August, 2008 instituted a suit for specific performance of agreement to sell against A and filed an application under Order 39, rules 1 and 2, CPC for restraining A during the pendency of the suit for selling the property. Decide the said application.

Q. 3 A has instituted a suit for recovery of price of goods sold to B. B is contesting the said suit denying any sale of goods by A. Issue have been framed in the suit. However, before the trial begins, A moves an application under section 65 of the Indian Evidence Act for permission to lead secondary evidence qua the invoice and delivery challans vide which goods are stated to have been sold and delivered to B. it is the contention of A that at the time of institution of the suit, photocopies thereof were made and filed in the court but the originals thereof have been taken away by his employee earlier working with him and who has since left his employment. B files a reply to this application denying that the originals existed or that the photocopies filed are the true photocopies or that the originals have been taken away by any ex employee of A. the application is taken up for hearing before he recording of evidence begins. Decide the said application.

Q. 4 A has let out his shop to B at a rent of Rs. 100 per month in 2004. At the time of letting a documents on requisite stamp per is executed by B only recording the terms and conditions of letting. One of the terms is that B shall not change the shutter and the show window of the shop. In another clause it is mentioned that B has taken the shop on rent for a period of 11 months only. A, finding that B has made preparation for changing the shutter and show widow of the shop institutes a suit for permanent

RESILIENCE LAW ACADEMY

injunction to restrain B from doing so. A in this regard relief upon the aforesaid document. B takes a plea that the aforesaid document being unregistered cannot be looked into by the court.

Decide the said objection of B. Also comment as to whether the position would be different if the said document had been signed by both A and B.

Q. 5 In a suit by A against B several issues are framed, onus of which is on B, the defendant. A after examining his witnesses closes his evidence. Thereafter B leads evidence. After the conclusion of the evidence of B, A applies for leading evidence in rebuttal and which is objected to by B.

Whether A should be allowed to lead rebuttal evidence.

Q. 6 A television channel on 26th January, 2005 makes adverse comments against certain officials while telecasting the gallantry awards. It is broadcasted that gallantry awards have been conferred on the said officials in spite of their having been found and reported to have been indulging in corrupt and anti social activities. The said person on 30th January, 2005 issued a notice to the television channel calling upon the said television channel to at prominent slot tender an apology to them within one month of the said notice failing which they will institute a suit for recovery of Rs. 50 lacs from the television channel. The television channel fails to respond to the said legal notice. The affected persons sent three successive legal notices to the television channel to the same effect on 21st May 2005, 15th December, 2005 and 30th January, 2006 and getting no response from the television channel, in or about first week of August 2006 institute a suit for recovery for the damages in the sum of Rs. 50 lacs for defamation from the television channel.

Whether the said claim is within limitation? Give reasons in short.

Q. 7. The local authority of a city has developed a tourist spot in the city where artisans from different parts of the country are allowed to from time to time, for six months at a time exhibit and sell their wares. The artisans are allotted shops of different sizes and are permitted to either remain in the said shops during nights also or to lock the same for security of their artifacts stored in the said shop. At the time of allotment the artisans are made to sign a standard form agreement in which the artisans are described as the licensee and the local authority as the licensor. The artisans have to pay the monthly charges besides common electricity and water charges for use of the said shops for the period of their license and the said charges are described as the license fee. It is also a term of the said standard form agreement that nothing shall construe the said artisans as the tenants of the authority in the shops allotted to them and that the control and possession of the said shops shall be deemed to remain with the local authority. One set of artisans who are allotted shops at the said spot, nearing the completion of six months of their allotment, together institute a suit against the authority contending that they are in exclusive possession of their respective shops and were made to sign for the reason of having no negotiating power and having no other venue to exhibit or sell their wares and that otherwise by virtue of payment of monthly charges, electricity and water charges, they have become a tenant of the authority in their respective shops and for restraining the authority from forcibly dispossessing

RESILIENCE LAW ACADEMY

them from their respective shops and from allotting the said shops to any other person. They also apply under order 39, rules 1 and 2, CPC for the same relief.

Decide the said application of the plaintiffs.

Q. 8 A and B being two brothers are the owners having equal share of a commercial premises from where they are carrying their business. A died in 1980 leaving a Will wherein he bequeaths all that he owns to his wife "W". B continues to carry on business from the said shop. B in or about 1990 applies for mutation of the share of A in the said shop to his name on the basis of a registered relinquishment deed executed by A in favour of B prior to his death and notice of which application is given by the Municipal Authority to W as the legal heir of A, asking her no objection. W neither gives her no objection nor writes back to the municipal authority. W dies in 1994. Her only child, a son S receives notice in 1995 of another application by B for mutation of the share of A in the aforesaid premises to his name on the basis of the relinquishment deed aforesaid. S institutes a suit in 1995 for declaration that the relinquishment deed on the basis whereof B is claiming mutation is forged and fabricated. B sets up a plea of the claim in suit being barred by time.

Decide the said plea of B.

Q. 9. B is tenant of A in a premises governed by Rent Control Act where under notwithstanding a contract to the contrary B can be evicted from the premises only on a ground provided under the Rent Act. A in or about January, 2008 institutes a petition for eviction against B on the ground of misuse of the tenancy premises by A. A thereafter in or about August, 2008, while the earlier petition for eviction is still pending, institutes another petition for eviction against B on the ground of B having sub-let a portion of the tenancy premises in 2006 to C. B in defence to the second petition states that the same is barred by Order 2, rule 2 and/or the proceedings therein are liable to be stayed under section 10 of the CPC.

Decide the said plea of B.

Q. 10. A institutes a suit against B for permanent injunction restraining B from demolishing the boundary wall separating the open areas in front of adjoining houses of A and B. Vide interim order in the said suit, B is so restrained. While B is traveling abroad, her husband C demolishes the said wall in violation of order of interim injunction. A files an application under Order 39, rule 2A CPC against C.

Whether C is liable under Order 39, rule 2A of the CPC.

Q. 11. A applies for execution of a decree for possession against B. during the pendency of the said execution. B dies on 10th March, 2008. A applies on 10th September, 2008 for substitution of legal representatives of B in the execution.

Is the said application within time? Give reasons also.

Q. 12 A in or about 2004 enters into an agreement to purchase B's house which at the time of agreement to sell is lying vacant. A at the time of agreement to sell pays 90% of the agreed sale consideration to B and B puts A into vacant possession of the house. However, no registered document is executed between the parties. The balance sale consideration was agreed to be paid within one month against execution and registration of sale document by B in favour of A. B writes several times to A to pay the

RESILIENCE LAW ACADEMY

balance sale consideration but A having been put into possession of the house and taking advantage of the same does not pay the balance sale consideration to B. More than 5 years passed. B thereafter sues A for possession of the said house on the ground that he is the owner thereof and there is no registered document in favour of A.

Decide the said suit with particular reference to the provisions of section 53A of the Transfer of Property Act read with section 49 of the Registration Act.

Q. 13. On 8th August, 2005, a final decree of partition was passed and decree sheet was ordered to be drawn up. The court thereafter called upon the parties to file the valuation report from Government approved valuers so that stamp duty for drawing up the decree could be calculated. The court being not satisfied with the valuation report filed by the parties issued notice to the Chief Controlling Authority of the city for furnishing the valuation of the property. The valuation report was received in January, 2008 which was accepted by the court and the parties were asked to deposit the stamp papers the decree was drawn up in March, 2008. However, in accordance with the Order 20, rule 7 of the CPC, the decree though drawn up in March, 2008 bore the date of the judgment i.e., 8th August, 2005. One of the parties applied for release of the original decree for enabling its registration. The decree was finally delivered to that party on 3rd May, 2008 and the parties presented the decree for registration on 20th June, 2008. The Registrar refused to register the same since the decree bore the date of 8th August, 2005 and the presentation was beyond four months of the said date. The party thereafter applied to the court for directions to be issued to the sub-Registrar to register the decree.

Decide the said application.

Q. 14. B is a tenant under A in a house. B carries out certain unauthorized additions and alternations, contrary to terms of letting and in violation of municipal bye laws in the tenancy premises in the year 2000. A immediately in the year 2000 itself gives notice to B to restore the premises to original condition. B refuses to restore the premises and the unauthorized additions/alternations remain. A in 2005 instituted a suit for mandatory injunction for directing B to remove the unauthorized additions alternations and restore the premises to original condition. Preliminary issue is framed whether the suit is within time. A contends that as long as the additions/ alternations remain, he has continuing cause of action.

Decide the said preliminary issue.

Q. 15 A is in adverse possession of property since 1990. A in the year 2004 for consideration assigns his rights in the property to B and puts B into possession of the property. C, the registered owner of the property in the year 2008 institutes a suit for possession of the property against B. B sets up a plea of suit being barred by time for the reason of A having been in adverse possession to C, of the property since 1990. C contends that B having come into possession of the property in 2004 only and suit for possession having been instituted within 12 years thereof, is within time.

Decide the controversy.

Q. 16. A in the year 2000 institutes a suit for recovery of Rs. 15 lacs on the basis of three dishonored cheques of Rs. 5 lacs each, together with future interest against B.

RESILIENCE LAW ACADEMY

while amendment of plaint to make the suit for recovery of Rs 20 lacs. A contends that the fourth cheque of Rs. 5 lacs also given by B and dishonored remained stuck to one of the other three cheques filed in the court and escaped his attention and came to his knowledge only while cross examining B. B opposed the application for amendment on the ground of - (i) same being barred under Order VI, rule 17 as amended by CPC Amendment Act 2002 (ii) the claim sought to be added by amendment being on the date of application, barred by time (iii) considering the claim in plaint as originally filed of Rs. 15 lacs with interest, on the date of application the monies if found due being more than Rs. 20 lacs and the amendment if allowed will take the claim in suit beyond maximum jurisdiction of that court of Rs. 20 lacs.

Decide the said application.

RESILIENCE

RESILIENCE LAW ACADEMY

Delhi Mains Criminal Law 2008

Q 1. (A) H, Husband is facing trial for the offence under sections 304B and 201, IPC for having committed the murder of his wife, W by burning her. There are no witnesses to the incident. However, the prosecution has established and relies upon the following circumstance in order to prove the charges against H.

(a) H was married on 20th February, 2006, H would frequently complain parents of W did not give sufficient dowry on marriage.

(b) H had on number of family functions praised R cousin of W, as more beautiful because of which there were strained relations between H and W.

(c) W had a feeling that there were illicit relations between H and R.

(d) On the date of incident she raised shrieks which attracted the attention of her sister-in-law living on the ground floor in the same property and she found W extensively in burnt condition which doctors opined to be case of 98% burns.

(e) There was no kerosene stove in the kitchen, a can of kerosene with its lid open was recovered from the room.

(f) H received 6% burn injuries on his hands, while saving W which doctor opined as superficial burns.

(g) H took two hours to take W to the nearby government hospital. W died on the next day after expiry of 24 hours but before her death she made a statement to the IO that action be taken against H and R.

(B) A student of 1st year of Graduation along with three friends B, C and D were coming back to the home, in the early hours of 1st January, 2005 after attending a New Year party. All of them were in an inebriated condition. A was on the wheels; B was on side seat while as C and D were sitting at the back seat. Loud music was on in the car. Suddenly they found a police party having parked their Gypsy jeep in the middle of the road and a policeman waving them to stop the vehicle and they instead of stopping the vehicle accelerated the car to a high speed of 100 KM, as consequence which two of the policemen were knocked down and killed. One policeman was dragged for almost ten meters before B, C and D got down and removed his body away from the car. The car sped away. The blood stains on the car were washed by all the four persons, thereafter, the car was also got dented and painted. All the boys were arrested and sent for trial for an offence under section 299/201/34 IPC. The defence took the plea that in a case of 304A, IPC at best against A and 201 IPC against B to D.

Q. 2 Attempt any Five. Discuss the difference between.

(i) Breach of trust and criminal mis-appropriation.

(ii) Kidnapping and abduction.

(iii) Robbery and Dacoity.

(iv) Mistake of Fact and Mistake of law.

(v) Common intention and common object.

(vi) Abetment and criminal conspiracy.

Q. 3. (a) Bail in matters of non-bailable offences is a matter of discretion and if the discretion is to be exercised in favour of the accused, what are the conditions to be borne

RESILIENCE LAW ACADEMY

in mind by the courts? Discuss with reference to provisions in Code Criminal Procedure?

(b) Power of anticipatory bail under section 438 Cr. P.C. is a concurrent power granted to the Court of Sessions and the High Court. If you were to file an application for anticipatory bail which Court would you choose and why. What are the guidelines to be observed by the Courts while exercising this power. Discuss with reference to case law, if any?

Q. 4. Write a short note on any five.

- (i) Statements recorded under sections 161 and 164 Cr. P.C.
- (ii) Investigation, inquiry and trial.
- (iii) Search warrant and production warrant.
- (iv) Police remand and judicial remand.
- (v) Coercive steps to be adopted by courts to procure attendance of an accused.
- (vi) Complaint case and police case.

Q 5. Who are the persons who can claim maintenance under section 125 Cr. P.C. What are the factors which are to be kept in view while granting maintenance? Can the Court award interim maintenance? How are the orders of maintenance passed under section 125 Cr. P.C. can be enforced? Discuss.

Q 6. Write a short note on any five.

- (i) Competence of witness to testify.
- (ii) Relevancy, admissibility and credibility of evidence.
- (iii) Evidence of accomplice as against the confession of co-accused.
- (iv) Privileged communications.
- (v) Presumption of fact and presumption of law.
- (vi) Burden of proof and onus of proof.
- (vii) Relevancy of evidence as to the good character in civil and criminal cases.

Q. 7. (a) What is a dying declaration? Can it be the sole basis of conviction? Discuss with reference to case law?

(b) What is a confession? What are the types of confession which are inadmissible under Indian Evidence Act, 1872? Is there any exception to this. Discuss with reference to provisions of the Act?

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 1 2010

CIVIL LAW - I

PART A

Q.1. FACTS:

"A" along with his father ("F") and mother ("M") were joint owners of an immovable property which comprised of a land and a dwelling house consisting of a ground floor, garage and first floor. F and M had another son B. A deed of declaration was drawn up; whereby it was declared that A held an undivided half share in aforementioned property as joint tenant. The deed, however, provided a right to either party, to sever joint tenancy at any time. By another agreement A and F decided to hold the property as tenants in common each having an undivided equal share in the property. F some years later transferred his undivided equal share in the property as tenants in common each having an undivided equal share in the property. F some years later transferred his undivided equal share in the property to his other son B comprising of the garage and ground floor. B died. The widow (X) and his two minor sons Y and Z acquired B's undivided half share in the property. X, Y and Z sold their share to a stranger S. S took possession of the ground floor and garage.

STAND TAKEN:

A filed a suit for perpetual injunction on the ground that the superstructure built on the immovable property was a dwelling house, even though he and his brother's family lived separately there had been no division by metes and bounds, and that the two families were living separately only by way of convenience. S who is stranger to the family had no right of joint possession. In support of his submission second paragraph of section 44 of the Transfer of Property Act was relied upon. Ad-interim injunction was sought on the ground that irreparable harm would be caused to him which could not be compensated by money.

In defence, X, Y and Z submitted that though late B was owning the land and superstructure thereon in equal moiety with A. B in point of fact was holding the ground floor and garage in his individual capacity, which position obtained even after the death of B. X, Y and Z had separate water and electricity meters; X, Y and Z paid property taxes separately for portion of the property in their possession. In these circumstances even though they were tenants in common, there was already a partition of property by virtue of user.

POSER:

In the background of the aforesaid facts, circumstances and stands taken by the opposite parties, is A entitled to mandatory injunction against S in a form which would result in 'S' being evicted from the property? Give detailed reasons in support of your conclusion.

Q. 2. S, a ten year old son of T, fractured his leg while playing on the beach near a sea resort. T who was trained as a para-medic gave first-aid treatment to S by strapping the leg with wooden splints. Looking to the gravity of the injury, S was removed to a city hospital which was almost 200 miles away from the sea resort. It was a long journey by car, there being no other mode of transport available. The journey by car took nearly 12

RESILIENCE LAW ACADEMY

hours. At the city hospital S was attended by A. A took x-rays of the fractured leg and thereafter reduced the fracture with the help of three assistants at the hospital. Within four hours the condition of S worsened. S died the following morning.

T sued A for damages on the ground that he had acted negligently. The gravamen of the suit was that A had reduced the fracture without subjecting S to general anesthesia. At the trial, evidence emerged that: S died of shock; A had manually reduced the fracture, a process which lasted nearly an hour; fractures were reduced by subjecting patients to general anesthesia; and lastly, S was fatigued when he reached the city hospital and was suffering from high temperature on arrival at the city hospital.

In his defence, A had submitted that he acted to the best of his ability; at a given point of time doctor is required to take a call as to the best procedure to be adopted, and lastly, in every medical intervention there is an inherent risk of failure attached.

POSER

Q. 3. FACTS:

In January, 1991, T a public limited company announced issuance of fresh share capital. Interested applicants applied for shares of T. The share issue was oversubscribed. In the meanwhile, T had employed B, a scheduled bank, to deal with the refund order. For the said purpose, T had remitted to B funds to the tune of Rs. 10 crores. The refund orders were valid only for 3 months. B, however, honored refund orders beyond 3 months. From time to time, B dispatched details of the refunds made in the form of a statement of account. T as a matter of fact gave additional funds to B even after the validity of the refund orders had expired. The last refund was made by B on 31st December, 1992. Four years after the share issue, i.e., in 1995, T instituted a suit seeking rendition of accounts and thereupon recovery of money of the amount found due.

STAND TAKEN:

B defended the suit. In its defence it was contended that the suit was barred by limitation; it had submitted accounts to T from time to time; it had no surplus funds available with it; and lastly the money of which recovery was sought did not belong to T and that T had not shown that any applicant had come forth asking for refund. B had proved in support of its stand the statement of account by filing a certified copy by relying upon the Bankers Books Evidence Act, 1891. In the cross-examination the counsel for T had not confronted the witness of B who sought to prove the statement of account on this aspect. The counsel for T, however, contended that if the statement of account filed by B is accepted in its totality even then it would not add up to more than Rs. 9 crores. In support of its stand that there were unclaimed refund orders normally to the extent of 10% of the total value of refund, it relied upon the testimony of several share transfer agents.

POSER:

Is T entitled to a judgment and decree for rendition of accounts and recovery of amount as prayed?

PART B

SHORT QUESTIONS:

RESILIENCE LAW ACADEMY

Q. 4. X, a partner in an unregistered partnership firm M/s. X & Co., which was in the business of exporting ready made garments, entered into contract with Y for purchase of 1000 meters of raw fabric to enable him to execute an export order with Z Ltd. Z Ltd. had a back to back arrangement with retail outlets in Europe and USA. The delivery of raw fabric had to be made within 8 weeks. Y reneged on his obligation to supply the fabric. X & Co. resultantly suffered a huge loss. T, who was the other partner of X & Co, blamed X in failing to carry out adequate market survey before identifying Y as the supplier for the export order concluded with Z Ltd. T wanted to opt out the partnership firm by suing for dissolution. X, on the other hand, wanted to sue Y for breach of contract and damage. Similarly, Z Ltd. was inclined to sue X & Co for failure to fulfill their obligations under the contract with it and resultant loss suffered thereof.

Q. 5. X Ltd., which is in the business of manufacture and sale of air conditions, appointed Y as their sole and exclusive dealer for the NCT of Delhi. The dealership agreement, which was for 5 years, provided that on every sale Y would be paid a 5% commission in addition to transportation and installation charges at the rate of Rs. 1, 000 per sale. Within 2 years the officers of X Ltd. received complaints from customers as to the rude behavior of the employees of Y and faulty installation of air conditioners. There were also reports received that Y was also selling the air conditioners of Z Ltd; a rival of X Ltd. X Ltd terminated the dealership of Y. In the termination notice reference was placed on clause 2 of the dealership agreement which empowered X Ltd to terminate the dealership agreement forthwith in case a dealer acted against its business interest. the dealership agreement also contained clause 3 which permitted either party to terminate the agreement without assigning any reason upon giving one (1) month's notice. Y instituted a suit. In the suit Y prayed for the following relieves:

- (i) declare that the termination of dealership agreement was illegal;
- (ii) specific performance of the agreement for the balance period, i.e., 3 years, and X Ltd opposed the suit on the ground that the termination was valid, in the alternative the dealership agreement was determinable at will and hence specific performance could not be ordered, and lastly damages, if any, could only be paid only for the 30 days period in terms of clause 3.

The evidence on record showed that the complaints against Y were bogus. Y in the past one year had contributed to the increase of sales of X Ltd in the NCT of Delhi.

Discuss what relief, if any, would Y be entitled to?

Q. 6 Discuss with the help of relevant case law the exceptional circumstances in which a court will injunct a bank from honoring a guarantee issued by it in favor of the beneficiary.

Q. 7. FACTS:

A, who was in Shimla, made an offer to B residing at Delhi over telephone for sale of 1000 boxes of apples of 10 Kgs. Each of the rate of Rs. 100 per kg. B accepted the offer. It was agreed between them that 50% of the consideration will be paid in advance by wire transferring the money to A's account with his bank in Shimla within 2 days. The consignment was to reach Delhi most definitely by the end of the following week since the season for apples was drawing to a close. A breached the contract inasmuch as the

RESILIENCE LAW ACADEMY

consignment was late by 2 weeks. B, who had transmitted the advance sum, refused to lift the consignment. A instituted a suit in Shimla for the balance consideration.

STAND TAKEN:

B defended the suit on merits as well as on the ground that since the acceptance was intimated from Delhi the contract was concluded in Delhi and hence, the court in Delhi had jurisdiction to entertain and try the suit.

POSER:

Is the suit instituted by A in Shimla maintainable? Give short reasons.

Q. 8. How are damages awarded under a contract any different from those awarded for committing a tort?

Q. 9. How are liquidated damages different from general damages? Are liquidated damages required to be proved?

Q. 10 X who was the owner of one room on a barsati floor in a residential building situated in north Delhi gave it on rent of Rs. 3000 per month for a period of 3 years to Y. The tenancy agreement provided for a yearly hike in rent at the rate of 10% p.a. At the commencement of the third year of the tenancy, X's husband passed away. X filed a petition for eviction invoking the provisions of the Delhi Rent Control Act, 1958 on the ground that she being a widow required the tenanted premises for her purposes as her husband's official residence had to be vacated. Y opposed the petition on merits as well as on jurisdiction. The argument being that since the agreement provided for a 10% yearly hike the rent of the tenanted premises was more than Rs. 3,500 per month. The fact, however, remained that before the hike could be triggered the petition for eviction was filed.

Can 'X' maintain her eviction petition against 'Y'?

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 2 2010

CIVIL LAW II

PART A

Q. 1. The plaintiff sued for specific performance of an agreement for sale of immovable property and for recovery of damages. After the framing of issues but before the commencement of evidence, the plaintiff filed an application under section 65 of the Indian Evidence Act stating that the original agreement to sell had been handed over to the counsel earlier engaged by the plaintiff, that the said counsel expired and a new counsel was engaged; that the new counsel upon inspection of the court record found that the original agreement to sell was not on record; that inquiries were made from the office/residence of the earlier advocate but the original agreement to sell was not found there also. The plaintiff thus seeks permission to prove the photocopy of said agreement to sell. The defendant files a reply to the said application denying each and every content thereof.

Whether secondary evidence is admissible? Also answer the stage at which such an application is to be decided?

Q. 2. The plaintiff instituted a suit for recovery of money. It is the case of the plaintiff that he had purchased certain land from the defendant; the said land was acquired by the Government and accordingly he applied for compensation; however the defendant objected to the release of compensation to the plaintiff owing where to the release of compensation to the plaintiff was delayed by several years. The defendant however subsequently withdrew his objections and where after the compensation was released to the plaintiff. the suit is filed for recovery of compensation for delay caused by the defendant in release of land acquisition compensation. The defendant contested the suit by denying sale of land to the plaintiff and further pleaded that the objections to release of compensation was withdrawn by him on the basis of a compromise in writing arrived at between the parties but the plaintiff mischievously obtained his signatures on an unconditional application for withdrawal of objection also. The defendant however did not file the compromise in writing along with the written statement. However, during the cross-examination of the plaintiff, the defendant put to him the said compromise in writing. The plaintiff denied his signature on the same. The defendant thereafter in his own evidence sought to prove the said compromise in writing. The plaintiff objected to the same contending that the defendant having not filed the document at the appropriate stage could not prove the same.

Decide the said objection of the plaintiff.

Q. 3. The plaintiff sued for recovery of money as an indigent person. The plaint was accompanied with an application under Order 33, rule 1 of the CPC. An inquiry into the indigency of the plaintiff was ordered. The said inquiry remained pending and no progress was made therein. The plaintiff thereafter withdrew the application under Order 33, rule 1 of the CPC, wanting to proceed with the suit as a non-indigenous person. The defendant contended that the claim in suit, though within time when permission to sue as an indigent person was sought, was barred by time when the application under Order 33, rule 1 was withdrawn.

RESILIENCE LAW ACADEMY

Decide the said objection.

Q. 4. The plaintiff institutes the suit for recovery of Rs. 3 lacs by way of damages for breach of contract against the defendant. It is the case of the plaintiff that the defendant had vide a lease deed dated 1st January, 2008 prepared on a stamp paper of Rs. 50 let out his property in Delhi to the plaintiff at a rent of Rs. 5000 and for a period of ten years; that the defendant however without any reason and in breach of the said lease terminated the said lease on 1st January, 2010 only and also instituted a suit for ejectment of the plaintiff. the plaintiff thus claimed damages of Rs. 3 lacs for breach of contract. The defendant files an application for rejection of the plaint on the ground that the plaint does not disclose a cause of action.

Decide the said application.

Q. 5. The plaintiff on 1st February, 2010 institutes a suit for recovery of money for price of goods sold to the defendant. It is the case of the plaintiff that the goods were sold vide invoice dated 3rd January, 2007; that the defendant had given a cheque dated 27th January, 2007 for the invoice amount; that the said cheque was returned dishonored on 3rd February, 2007. The defendant takes a plea that the suit is barred by time.

Decide the said plea.

Q. 6. A applies for execution of a decree for possession against B. During the pendency of the said execution, B dies on 10th March, 2008. A applies on 10th September, 2008 for substitution of legal representatives of B in the execution.

Q. 7. The petitioner in a probate case examined an attesting witness to the Will who was cross examined by the objector. The evidence of the objector has begun. The objector wants to examine, as his own witness, the attesting witness to the Will whom he had cross examined earlier. It is his case that the said attesting witness had on an earlier occasion deposed under pressure from the petitioner and now wants to give the correct statement.

Whether the objector can be permitted to examine as his own witness, the witness whom he had cross examined earlier.

PART B

Q. 1. The plaintiff instituted a suit pleading that one A was the producer of certain films, negatives whereof had been kept by him in the custody of defendant No. 3 Laboratory for preservation; A died leaving the defendant No's. 1 and 2 as his only legal heirs; that upon the demise of A, defendants Nos. 1 to 2 had become the owners of the films, negatives whereof were kept in the custody of the defendant No. 3; that the defendants No. 1 and 2 had sold their rights in the said films/negatives in favour of the plaintiff. the plaintiff thus sued for mandatory injunction for direction to defendant No. 3 to deliver the negatives of the films to the plaintiff. The defendants No. 1 and 2 did not contest the suit. The defendant No. 3 files a written statement pleading that A had kept the negatives with it for safe custody on payment of charges; that a sum of Rs. 6 lacs was due towards the said charges. One of the issues framed in the suit was as to whether the defendant No. 3 was entitled to the sum of Rs. 6 lacs towards charges for safe custody of the negatives. The defendant No. 3 did not lead any evidence in the suit. Resultantly,

RESILIENCE LAW ACADEMY

the issue as to its entitlement to Rs. 6 lacs was decided against it. The decree for mandatory injunction was passed directing the defendant No. 3 to hand over the negatives to the plaintiff subject to payment of appropriate charges. The plaintiff filed an application for execution. The defendant No. 3 again said that besides the sum of Rs. 6 lacs earlier stated to be due, further amounts had accrued towards charges for safe custody of the negatives.

How would you proceed with the execution?

Q. 2. A died leaving his widow and a son as his only legal heirs. A was the owner of a house the ground floor whereof was commercial and occupied by various tenants and one portion of the ground floor was in use of the son for his business. The widow and the son were residing on the upper floor. The widow filed a suit against her son claiming that upon the demise of A, under his Will she had become the absolute owner of the house; that the son was merely a licensee in a portion of the ground floor and which license came to an end on the demise of A; that the son had however failed to vacate the said portion of the ground floor. The widow sought a decree for injunction restraining the son from selling transferring or parting with possession of the portion of the ground floor in his occupation. The son after some contest gave a statement stating that he will not sell, transfer or part with possession of the said portion of the ground floor and the suit was disposed off. On the demise of the widow, her brother filed a second suit against the son claiming that the widow under her Will bequeathed the house to him and claiming possession not only of the portion of the ground floor in which the son was had been running a shop but also of the upper floor. The defendant contended that the suit was barred Order 2, rule 2 of the CPC.

Decide the said objection.

Q. 3. The application of the plaintiff under Order 39, rules 1 and 2 of the CPC was dismissed by the Trial Court. The plaintiff preferred an appeal against the said order. However, after some arguments the appeal was dismissed as withdrawn. The plaintiff thereafter applied to the Trial Court for review of the order of dismissal of the application. The defendant took a preliminary objection that an appeal having been preferred and withdrawn, the plaintiff was not entitled to apply for review.

Decide the said preliminary objection to the maintainability of the review.

Q. 4. The plaintiff instituted a suit for recovery of money from the defendant. The defendant filed a written statement contesting the suit. It is, inter alia, the case of the defendant that it had sent its proposal to the foreign parent company of the plaintiff and negotiations were held with and terms settled with the foreign parent company of the plaintiff; that the said foreign parent company of the plaintiff however forwarded the proposal to the plaintiff which accepted the same. The defendant thus averred that the terms and conditions of the agreement on the basis whereof monies were claimed by the plaintiff were different from as claimed by the plaintiff. The defendant after filing of the written statement filed a counter claim not only against the plaintiff but also against the foreign parent company of the plaintiff.

Discuss the maintainability of a counter-claim against a non-party to the suit.

RESILIENCE LAW ACADEMY

Q. 5. The plaintiff instituted a suit for recovery of money under Order 37 of the CPC on the basis of a dishonored cheque. It is the case in the plaint that one A owed monies to the plaintiff and in payment of the said monies had issued the cheque aforesaid in favour of the plaintiff, however, the plaintiff did not present the said cheque on request of A; however A died unexpectedly and where after the plaintiff presented the cheque which was returned dishonored with the remark "Withdrawal stopped owing to death". The plaintiff thus instituted the suit for recovery of the cheque amount against the legal representatives of A.

Whether the suit is maintainable under Order 37.

Q. 6. The court makes efforts for amicable settlement in a suit. Amicable settlement is arrived at between the parties, the broad terms whereof are recorded by the court in its order. The matter is adjourned for filing of an application under Order 23, rule 3 of the CPC by the parties. However, the defendant does not join in the said application. The plaintiff applies for decreeing the suit in terms of the compromise recorded in the earlier order of the court. The defendant opposes.

Decide.

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 1 2011

CIVIL LAW-I

TIME DURATION : 3 HOURS

MAXIMUM MARKS – 200

IMPORTANT INSTRUCTIONS

This question paper comprises of two parts i.e. Part-A and Part-B. Candidates should answer Part-A and Part-B questions in separate answer sheets. If any question of Part-A is attempted in Part-B answer sheet or vice versa, it would not be evaluated.

(PART-A)

Question No. 1 & 2 are compulsory. The candidates may attempt any two questions out of questions No. 3 to 6.

Even if you do not know the answer, you may attempt the questions as the test is not only of knowledge of law but of the candidate's analytical skill also.

Q.No. 1. Kanika agreed to sell a plot of land measuring 200 sq. yards to Pradeep for a consideration of rupees ten lakhs by an agreement 'X' executed on 01.01.2000. The agreement begins as "Agreement for Sale between Kanika and pradeep" and ends "in witness whereof the parties have hereunto set and subscribed their respective hands and seals on these presents". On that very day a sum of rupees one lakh is paid as earnest money for which a separate receipt is executed and signed by Kanika. The sale was to be completed within a period of six months after obtaining all clearances from the DDA. A further sum of rupees one lakh was paid on 02.02.2000 and an endorsement was made on the earlier receipt. Kanika refused to execute the sale deed and denies the agreement 'X'. She says that her signatures were obtained on a blank paper. 'X' does not bear signatures of Pradeep. Kanika pleaded that since 'X' was not signed by pradeep there was no concluded contract between the parties. Though the receipts for rupees two lakhs were denied, but the same were proved. Kanika was unable to prove the circumstances under which she signed a blank paper. A suit is filed by pradeep for specific performance of the contract.

Whether the agreement is valid and binding? Decide and write a judgment with case law, if any.

(Marks 25)

Q.No.2. 'H', the husband entered into an agreement to sell with the plaintiff for sale of a house for Rs. 1.10 crores. The vendee (the plaintiff) paid a sum of Rs. 11 lakhs as earnest money and the remaining amount of Rs. 99 lakhs was to be paid at the time of execution and registration of the sale deed. The vendor's wife 'W' sent a notice to the vendee as well as the vendor 'H' calling upon them to cancel the agreement as she was owner of one half share having devolved upon her on death of her son. In the notice she

RESILIENCE LAW ACADEMY

stated that she was not willing to sell her share and was ready to purchase the share of the vendor 'H'. The vendee replied that the agreement was binding on her and the notice had been given in collusion with the vendor 'H'. The vendee files a suit for specific performance.

Decide.

(Marks 25)

Q.No. 3(a). Explain doctrine of frustration or impossibility. Give illustrations.
(Marks 12.5)

(b). Discuss exceptions to the rule of 'Caveat Emptor'.

(Marks 12.5)

Q.No. 4(a). 'A' is an outgoing partner of the firm ABC. By an agreement between all the partners, 'A' was prohibited from carrying on business, carried on by the firm within the National Capital Territory of Delhi.

Whether the agreement is in restraint of trade? Can the agreement be enforced by the continuing partners?

(Marks 12.5)

(b). A partnership firm opened a bank account. The account was to be operated by 'A' and another partner jointly. No authority was given to 'A' to act as an agent of the firm. 'A' executed an acknowledgement in favour of the bank. Is the firm bound by acknowledgement given by 'A'?

Discuss.

(Marks 12.5)

Q.No. 5(a). A promissory note was signed by a minor for consideration received by him. On attaining majority, he ratifies that promissory note. Can the creditor enforce it? Explain.

(Marks 12.5)

(b). In an auction of liquor shop by the State, the highest bid is offered by 'A' but he fails to deposit the prescribed minimum amount within the stipulated period and the bid is not accepted. In re-auction, the amount fetched is less than what was offered by 'A'. The State files a suit for damages against 'a' for breach of contract to recover the loss suffered by it. 'A' contests the suit denying his liability.

Decide.

(Marks 12.5)

Q.No. 6(a). A share broker having sold shares of a Company in Bombay handed to the buyer the share certificates together with blank transfer deeds signed by the registered holder. The buyer gave a cheque for the price, the cheque was dishonoured on presentation and the buyer failed to pay the price. The buyer in the meanwhile sold the shares to the respondent and handed over to him the certificates and transfer deeds. The seller sued the buyer and the respondent for return of the certificates and transfer deeds and for damages. Decide with reference to the section(s) of the Sale of Goods Act, and case law, if any.

(Marks 12.5)

(b). 'A' is tenant under 'B' on an agricultural land. 'B' was in arrears of land revenue payable to the Government. The land is put to sale by the Government. Consequent upon sale taking place, lease in favour of 'A' was liable to be annulled under Revenue

RESILIENCE LAW ACADEMY

Laws. In order to avoid the land being put to sale, 'A' pays land revenue arrears to the Government. Can 'A' recover the amount from 'B'?

Discuss. (Marks 12.5)

(PART-B)

Answer only two questions from each Section I, II, III and IV. Wherever necessary, answer with reference to statutory provisions as also case law, if any.

(SECTION-I) (ANSWER ANY TWO)

Q.No.1. 'H', a divorcee, married 'W' in the year 2005. 'H' discovers in the year 2008 that 'W' was already married to 'N' in London and had married him without obtaining divorce from 'N'. 'H' alleges that 'W' never informed him regarding the previous marriage. Immediately, in the year 2008 'W' obtains a decree of nullity of marriage with 'N'.

What is the legal status of the marriage of 'H' and 'W' and a daughter born during their wedlock? Would it make any difference to the legal status of their marriage and their daughter, if 'W' obtained a decree of divorce instead of a decree of nullity against 'A'?

(Marks 15)

Q.No.2. 'H' files a petition against wife 'W' for divorce on the ground of adultery. 'W' files a petition against 'H' seeking restitution of conjugal rights. During the pendency of both the petitions, 'H' and 'W' mutually resolve to get separated by mutual consent and move for conversion of petition filed by 'H' seeking divorce to seeking divorce by mutual consent.

Can they also move for conversion of petition seeking restitution of conjugal rights to one seeking divorce by mutual consent? What according to you are the requirements to be satisfied for grant of divorce by mutual consent?

(Marks 15)

Q.No.3 Section 6 of Hindu Succession Act, 1956 deals with devolution of interest in Coparcenary Property amongst the members of the coparcenary.

(Marks 15)

(i) What do you understand by Hindu Mitakshara Coparcenary?

(ii) What are the rights and liabilities of the daughters in Hindu Mitakshara Coparcenary Property?

(iii) Can a daughter make a will of coparcenary property?

(SECTION-II) (ANSWER ANY TWO)

Q.No.4. Under Delhi Rent Control Act, a tenant can be evicted where he has built, acquired or has been allotted residence. 'A' let out suit premises to 'B' for, residential

RESILIENCE LAW ACADEMY

purpose in October, 2005. On or about 2008, B's wife was allotted a government flat due to her employment. A year after, 'A' sues 'B' for eviction on the ground of 'B' having acquired a residence.

Would it make any difference if B had built a residential house with his own savings?
(Marks 15)

Q.No. 5. 'A' let out his premises to 'B' vide a written agreement for the purpose of a guest house for the officers of the company of 'B'. The premises was used for considerable time for guest house, but later on, it was also used as company's office. 'A' filed a petition under Section 14(1) (e) read with Section 25(B) of Delhi Rent Control Act for bona fide requirement of said premises for his residence and that of his family members comprising of his wife, aged parents and two self employed grown up marriageable age sons. The respondent contested alleging the purpose of letting it be for office purpose and the petitioner not requiring the premises for residence for himself or that of his family members, he being in possession of five bed room accommodation on the first floor of the same premises.

Discuss. (Marks 15)

Q.No.6. A landlord lets out his premises to a tenant for the purpose which is contrary to the terms of perpetual lease granted by DDA. DDA threatens to cancel the lease on the ground of misuse. Can landlord seek eviction of tenant under Section 14 (1) (k) of the Delhi Rent control Act?

What defence is open to the tenant in such a case?

Discuss. (Marks 15)

(SECTION-III) (ANSWER ANY TWO)

Q.No.7. The defendant tenant was carrying on business in shoes and had stored in a store room combustible material. Some of his workers used to smoke cigarettes and biris in the premises itself. Fire broke out causing substantial damages to the building which was about eighty years old. One worker also sustained serious injuries. Discuss his liability, if any, towards the owner of the building and the injured worker.

(Marks 10)

Q.No.8. There is a distinction between Tort and Crime, but there are various wrongs which find place both under Criminal Law and Law of Torts.

Comment. (Marks 10)

Q.No.9. Though, the concept of Tort is essentially based on the principle of Equity and Justice, but the essence of tortious liability lies in violation of legal right.

Discuss. (Marks 10)

(SECTION-IV) (ANSWER ANY TWO)

RESILIENCE LAW ACADEMY

Q.No. 10. How, what and from whom a Muslim woman can claim maintenance for herself and children? Whether, she would be entitled to maintenance for herself and children after a divorce from husband?

Explain. (Marks 10)

Q.No.11. What are the essential requirements of a valid gift or 'Hiba' under Muslim Law in the case of ancestral and self acquired properties, movable or immovable?

Explain. (Marks 10)

Q.No.12. Do you agree that marriage in a Muslim Law is a civil contract? What are the rights of a minor girl married by her guardian? What is the Muslim Law on the subject?

Discuss. (Marks 10)

RESILIENCE

RESILIENCE LAW ACADEMY

Delhi Mains Civil Law 2 2011

CIVIL LAW - II

TIME DURATION : 3 HOURS

MAXIMUM MARKS – 200

IMPORTANT INSTRUCTIONS

This question paper comprises of two parts i.e. Part-A and Part-B. Candidates should answer Part-A and Part-B questions in separate answer sheets. If any question of Part-A is attempted in Part-B answer sheet or vice versa, it would not be evaluated.

(PART-A)

(SECTION - I)

Answer any two of the questions given below

Q.No.1. For an immovable property situated at Kanpur a suit is filed for specific performance in Jaipur on the ground that the agreement was executed in Jaipur, and where both the proposed buyer and seller resided and worked for gain. The suit is contested and decreed by the court at Jaipur and the appeals against the decree are dismissed right upto the Supreme Court. In execution proceedings the defendant/judgment debtor takes up the objection that the decree is null and void as the same is passed by a court which did not have inherent jurisdiction as the court which had inherent jurisdiction was only the civil court at Kanpur.

(i) Under what provision the objection is filed to the execution of the decree and will it succeed, if so why?

(ii) What would be your answer if the plaintiff/decreed holder contends that the objection raised by the judgment-debtor is an objection not to the inherent jurisdiction of the court but only qua the territorial jurisdiction and which stands waived then what would be the provision of CPC which would be relied upon by the decree holder?

(Marks 25)

Q.No.2. (a) A summary suit, as different from a regular suit, is filed for recovery of money. The suit is filed on the basis of a cheque of Rs. 25 lacs which was issued by the plaintiff in favour of the defendant and which cheque was encashed on presentation. Since the amount was not paid on the due date by the defendant a suit for recovery of moneys was filed claiming the principal amount of Rs. 25 lacs and interest @ 18% p.a. for the pre-suit period as also claiming such interest pendent lite and after passing of the decree till realization.

(b) In this suit the defendant did not put in appearance after service and hence the suit was decreed for failing to file appearance for an amount of Rs. 25 lacs with pre-suit interest and also interest at the same rate pendent lite and future till realization.

(c) The defendant thereafter files an application under O. 9 R 13 CPC to set aside the ex parte decree on the ground that the service was not validly effected inasmuch as he had shifted from the place where the summons were served of the suit. No other

RESILIENCE LAW ACADEMY

avertment is made in the application for setting aside the ex parte decree except that the defendant was not served in the suit although on merits the defendant had an excellent case because he had repaid the amount due to the plaintiff with interest two months before the summary suit was filed by means of a cheque which was encashed by the plaintiff.

- (i) A summary suit is filed under which provision of CPC and in such a suit can the court which passed the ex parte decree pass a decree for payment of interest till realization?
 - (ii) Was the suit maintainable as a summary suit or should the suit have been filed only as an ordinary suit?
 - (iii) Did the defendant validly invoke the provision of O. 9 R. 13 CPC and if not, under which provision, the application would lie, and can the court suo moto treat the application as filed under the correct provision of law if yes how?
 - (iv) In addition to pleading the factum of non-service what else had the defendant to plead in an application to set aside the ex parte decree and under which provision?
- (Marks 25)

Q.No.3. Plaintiff-Madan Bhai, the son, files a suit for declaration against his mother Smt. Sushila Bai-defendant, claiming ownership rights in the property 1 – Golf Links, New Delhi (suit property) on the ground that the suit property was actually purchased from the funds provided by Madan Bhai, though the sale deed is in the name of Smt. Sushila Bai. In an earlier suit filed by Smt. Meera Devi, the wife of Madan Bhai against Madan Bhai for right of residence in the suit property, Madan Bhai had filed a written statement stating that the suit property was of his mother Sushila Devi and therefore the suit property was not a matrimonial home or a shared household in which Smt. Meera Devi could claim a right of residence. This earlier suit filed by Smt. Meera Devi was thus dismissed as the house was held not to be a matrimonial home or a shared household. In madan Bhai's suit Smt. Sushila Devi files an application for dismissal of the suit even before issues are framed by filing a certified copy of the written statement filed by Madan Bhai in the suit filed by Smt. Meera Devi and which showed that madan Bhai admitted the suit property to be owned by Smt. Sushila Bai.

- (i) Give your decision on such application including by stating the applicable provision of Code of Civil Procedure, 1908 (CPC)?
- (II) In your decision deal with the argument urged by Madan Bhai in his reply that the application of Smt. Sushila Bai cannot be decided unless evidence is led by both the parties and that an application for decreeing the suit can only be filed by a plaintiff and not a defendant. (Marks 25)

Q.No.4. Facts: (a) A suit for possession (1st Suit) was filed by one Chiranji Lal in 1975 against Mohan and Sohan with respect to the suit property 10-Aurangzeb Road, New Delhi pleading ownership under a sale deed dated 31.1.1974 from late Jai Ram, the father of the defendants Sohan and Mohan. In this plaint Chiranji Lal pleaded that Jai Ram had purchased the property on 1.1.1974 vide a sale deed from Sh. Om Shastri.

RESILIENCE LAW ACADEMY

Mohan in his written-statement states that the sale deed by Jai Ram in favour of Chiranji Lal is void for lack of consideration. Sohan in this suit pleaded in his written statement that actually he was the owner of the suit property because he had purchased the suit property earlier on 1.1.1973 from Om Shastri – the very person from whom his father Jai Ram had purchased the suit property on 1.1.1974. This suit filed by Chiranji Lal where both Sohan and Mohan were defendants is not decided as on 1.1.1980.

(b) On 31.1.1980 Mohan files a suit against his brother Sohan for partition of the suit property 10-Aurangzeb Road, New Delhi (2nd suit). Partition is claimed as the father Jai Ram was the owner under a sale deed dated 1.1.1974 and that since Jai Ram died intestate Sohan and Mohan were equal co-owners by inheritance. Declaration is also sought in this suit against Chiranji Lal that Chiranji Lal is not the owner of the suit property as the sale deed in his favour was void on account of lack of consideration. Sohan defended this suit by pleading his exclusive ownership of the suit property on account of his having the earlier sale deed in his favour dated 1.1.1973. Chiranji Lal a defendant in this suit pleads his ownership of the property as per sale deed dated 31.1.1974 and prays for dismissal of the suit.

(c) Sohan files on 1.3.1980 a suit for declaration of his exclusive ownership of the suit property (3rd suit) on the basis of the registered sale deed dated 1.1.1973 and which suit both Chiranji Lal and Mohan are made as defendants. This suit filed by Sohan after evidence was led by all the parties, is decreed in favour of Sohan on 31.12.1981, holding that Sohan was the owner of the suit property although earlier suits of Mohan and Chiranji Lal were suit pending.

(i) Could the 3rd suit of Sohan have been decided and decreed by the Court although earlier suits of Chiranji Lal and Mohan were pending? If yes, then by reference to which provision of CPC?

(ii) If an application was filed by Chiranji Lal in the 3rd suit stating that this suit of Sohan cannot proceed till his/Chiranji Lal's suit is decided first such an application would have been moved under which provision of CPC and how would the same have been decided?

(iii) What is the effect of the decision of the suit filed by Sohan on the pending suits of Chiranji Lal and Mohan?

Q.No.5. Facts:(a) A suit was filed by the mother Smt. Hira on behalf of her minor son Chandresh against her father-in-law Sh. Jawahar for partition of the HUF property being the residential house at 50, Vasant Kunj, New Delhi. Though the son was a minor no application was filed to pursue the suit as the next friend of the minor son. Chandresh became a major during the pendency of the suit and being in need of money sold his undivided share to one Gurdas Singh who instead of substituting himself for Chandresh continued the suit on behalf of Chandresh and obtained a decree for partition.

(b) During the execution proceedings the executing court held that instead of partition Gurdas Singh was only entitled to the value of the undivided share and not physical partition.

RESILIENCE LAW ACADEMY

(c) When the proceedings were going on to determine the value of the share for being paid to Gurdas Singh, the father-in-law Sh. Jawahar filed an application to hold that the decree was null and void on two grounds. The first was that no application was filed to appoint the mother as the next friend and therefore the decree was null and void. The second ground was that Gurdas Singh never applied for substituting himself in place of the original plaintiff Chandresh and since by the time the decree was passed, Chandresh was no longer owner of any interest in the HUF property thus the decree passed in favour of Chandresh was bad in law.

(i) Was it necessary for Smt. Hira to get herself appointed as a next friend by a court order?

(ii) What would be the position if the minor was a defendant in the suit and in such a case whether it is necessary for the court to appoint a person to defend a suit on behalf of the minor and what would be the effect of not appointing such a person?

(iii) Whether it was necessary for Gurdas Singh to get himself substituted in place of Chandresh before the decree was passed, and if yes then the application had to be filed under which provision of CPC, and why? (Marks 25)

(SECTION – II)

(Answer any two questions. Each question is of 25 marks)

Q.No.6.(a) Amrita Singh gave a loan of Rs. 5,00,000/- to Kulvinder Singh bearing interest @18% p.a. simple. A promissory note was signed by Kulvinder Singh at the time of giving of the loan in the presence of Amrita Singh.

(b) Over two years after the loan was granted, Kulvinder Singh paid different amounts on ten occasions and signed a register in the presence of Amrita Singh on each occasion when he paid amounts either towards part repayment of the loan or towards interest.

(c) Amrita Singh had an accountant Kalyanji who used to maintain in the regular course of business all the books of accounts and also all the business records of the various loans which used to be advanced by Amrita Singh.

(d) An acknowledgment of debt form was signed by Kulvinder Singh after two years of the signing of the promissory note in the presence of Kalyanji but not in the presence of Amrita Singh.

(e) Since the loan was not repaid Amrita Singh filed a suit for the recovery of loan and interest due. During the pendency of the suit and during the course of leading her evidence Amrita Singh died. Amrita Singh in her evidence before she died had proved and exhibited the promissory note and the register, but before she could depose further she expired.

(f) After the legal heirs of Amrita Singh were brought on record the suit continued and the remaining evidence in the suit was led in the form of deposition of Kalyanji and who also again proved and exhibited the promissory note, the register which Kulvinder Singh signed at the time of repayment of the part of the loan/interest and also the acknowledgement of debt form.

RESILIENCE LAW ACADEMY

(g) The advocate of Kulvinder Singh at the stage of final arguments took the objection that the evidence led by Amrita Singh could not be looked into as she died before she was cross examined and that Kalyanji could not prove and exhibit the promissory note and the register where Kulvinder Singh had signed because the said documents were not signed in Kalyanji's presence by Kulvinder Singh.

Q. (i) Decide the objections.

(ii) Could Amrita Singh if she was alive and had led evidence proved and exhibited the acknowledgment of debt form which was not signed in her presence?

Q.No.7(a) Two brothers, an elder and a younger, inherited an immovable property from their father. After the death of the father a Memorandum of Family Settlement was entered into and which showed how the property was already divided by metes and bounds by the parties.

(b) The original of this Memorandum was retained by the elder brother as recorded in the Memorandum and the younger brother only had a photocopy made from the original Memorandum.

(c) One day the elder brother went to the house of the younger brother for discussing the aspect of mutation of the property in the municipal records for property tax purposes in separate names of both the brothers for the divided portions of the property, and, during the discussion on the pretext of making a photocopy from the market out of the photocopy of the Memorandum which was with the younger brother, the elder brother took the photocopy of the Memorandum but did not return back from the market.

(d) Thinking that the younger brother had no longer any proof with him of the Family Settlement, the elder brother filed a suit for partition of the inherited property claiming that the property remained undivided after the death of the father.

(e) It however so happened that the wife of the younger brother had made a photocopy of the photocopy of the Memorandum and had put the same in her bank locked and this she remembered and got the photocopy (which had an endorsement of true copy as per original) from the locker and during the course of recording of the evidence she gave it to her husband who thus wanted to file and prove the same.

(f) The Advocate of the elder brother objected to the production of the photocopy of the Memorandum on the ground that the document was only secondary evidence and hence not admissible in evidence.

(i) Can the court admit the photocopy of the original Memorandum and what are the requirements which a person must comply before he seeks to lead in evidence the photocopy/secondary evidence such of the Memorandum.

(ii) Whether any notice is required to be given to the elder brother before leading in evidence the photocopy of the Memorandum and if so under which provision?

(iii) Without notice being given to the opposite party can evidence be led of the photocopy of the Memorandum?

(iv) Is a photocopy of the Memorandum secondary evidence and if yes or no then under which provision?

RESILIENCE LAW ACADEMY

(v) Is it permissible to lead in evidence a photocopy of a photocopy?

Q.No.8:(a) Raman executes a registered gift deed of his plot of land in Delhi in favour of his younger brother Chaman out of natural love and affection and pursuant to which mutation in the name of Chaman is done in the municipal records after taking a no-objection form from Raman.

(b) In a suit for perpetual injunction filed by Chaman against a third person for preventing the third person from entering the suit property, Raman is added as a party to the suit and he files a written statement admitting the execution of the gift deed of the plot in Delhi.

(c) After this stage Chaman sells the plot for valuable consideration to Hira, and who purchases the same after verification of the registered gift deed, the mutation papers and the written statement filed by Raman.

(d) Hira starts construction on the suit plot and more or less completes the construction, without any protest from Raman who knows of the construction being carried out.

(e) Hira also continues the suit filed by Chaman against the third person by getting himself substituted as plaintiff in place of Chaman. Raman however at this stage seeks to amend his written statement to dispute the execution of the gift deed by filing an application to amend his written statement to dispute the execution of the gift deed.

(f) Raman also files an independent suit, against Hira and Chaman, disputing the gift deed on the ground that actually Raman was under a wrong belief that under the gift deed actually the plot of land in the village had been transferred and not the plot in Delhi. Chaman in the evidence in the suit which was filed by him against the third person, which is now continued by Hira, proves the gift deed by only his own deposition that Raman had signed the gift deed in his presence and no other witness is summoned.

(i) Can the gift deed be said to have been validly proved by Hira in the suit which was originally filed by Chaman and continued by Hira?

(ii) Is Raman prevented from challenging the gift deed at the late stage at which he did?

(iii) Which is the provision which Hira can take and of to invalidate the new stand set up by Raman by seeking amendment at the late stage?

(iv) What would be the position if Raman was not party to the suit originally filed by Chaman but had admitted the execution of the gift deed in a letter written by him to Chaman as also in the mutation form i.e. is there any difference in the type of admission made in a written statement and in a letter?

Q.No.9. Answer the following giving the applicable provisions: (Marks 5 each)

A. if a fact is admitted by a person is it still required to be proved? Can a court require an admitted fact to be proved?

B, Are books of accounts maintained in the ordinary course of business themselves sufficient to fasten liability upon a defendant in a suit for recovery of moneys? No or yes?

RESILIENCE LAW ACADEMY

C, can a witness be cross-examined on facts not deposed by him in his examination-in-chief, if otherwise the cross-examination is on a relevant point?

D, When a document is summoned by a plaintiff from a defendant for being produced as evidence, can the defendant after producing the same insist that the same be taken as evidence, if yes then when and if no then when?

E, If in a letter a person admits a fact for arriving at a compromise, can he say that such admitted fact is without prejudice to a pending court case and the letter will not be used in any place except for recording settlement in the court case?

(PART-B) (SECTION - I)

Attempt any three questions

Note: Give reason in support of your decision.

Q.No. 1. 'S' the sister of 'B' filed a suit for partition of properties left behind by their father, who had expired intestate. Their mother had predeceased their father and there was no other legal heir. The subject matter of the suit were two flats. One flat was at Dwarka and the other one was at Model Town. The flat at Model Town was much costlier than the flat at Dwarka. During the course of the proceedings in the suit, the parties arrived at a settlement whereby 'S' was given the flat at Dwarka, while 'B' became the exclusive owner of the flat at Model Town. In order to compensate 'S', 'B' also surrendered his rights in a small flat at Mayur Vihar in favour of 'S'. The flat at Mayur Vihar was owned by 'B' and had been purchased by 'B' out of his own earnings. Decide, as to whether such a decree shall require registration under the Registration Act?
(Marks 20)

Q.No.2. The owner of certain premises let it out to tenant for a period of five years. The parties executed a lease deed, which was not registered. One of the terms of the said lease deed permitted the tenant to sub let the premises to his friend Mr. 'X', if the tenant so desired without the prior consent of the landlord. The tenant sub let the premises to his friend Mr. 'X' without taking prior permission of the landlord, on which the landlord filed a petition for eviction of the tenant on the ground that the tenant had sub let the premises without his consent and thus the tenant had incurred the liability of eviction under Section 14(1) proviso (b) of the Delhi Rent Control Act, 1958. The tenant contends that in view of the term of the lease as stated above, he (tenant) was well within his rights to sublet the premises. The landlord on the other hand contends that the lease deed having not been registered cannot be looked into. The tenant replies that the clause permitting the subletting, by itself, did not require compulsory registration. Thus, though the lease deed cannot be looked into for determining the period of the lease between the parties, the same can certainly be looked into for the limited purpose of establishing the authority of the tenant to sub let the premises.
Decide.

(Marks 20)

RESILIENCE LAW ACADEMY

Q.No.3. 'A' and 'B' entered into partnership business of retail sale of books on various subjects. 'A' was having a shop at Chandni Chowk which was made the common property of the firm. 'B' invested substantial amount of cash for purchasing the books from various publishers and other purposes relating to the business. The partnership continued for some months. There was a dispute between the two partners and thus the partnership was got dissolved through a dissolution deed, whereby 'B' was given the exclusive rights of the shop while 'A' received the total amount lying in the bank account of the partnership firm along with the unsold books lying with the firm on the date of the transfer. 'A' then filed a suit for dissolution of partnership and accounts, wherein he contends that since the partnership assets included immovable property, namely, the shop and the dissolution deed recorded relinquishment by 'B' of his interests in the shop, this document was compulsorily registrable under Section 17(1)© of the Registration Act. Since the dissolution deed was not got registered it was inadmissible in evidence to prove the dissolution of the partnership, settlement of accounts and ownership of the shop.

Decide.

(Marks 20)

Q.No.4. 'A' sold a house to 'B' for a sum of Rs.1,00,000/- on 3.3.2011. 'A' retained the possession of the house. On 7.3.2011, 'A' again sold the same house to 'C' for a sum of Rs. 2,00,000/-. 'C' was aware of the earlier sale deed between 'A' and 'B'. The sale deed in favour of 'C' was got registered on the same day and 'C' was also given the physical possession of the house. The sale deed in favour of 'B' was got registered on 10.4.2011. 'B' thereafter filed a suit for recovery of possession of the house against 'A' and 'C'.

Decide.

(Marks 20)

(SECTION - II)

Attempt any two questions

Q.No.5. Mohan advanced Rs. 1,00,000/- by way of loan to Raman. The payment was made on 1.1.2007. On the same day, Raman executed a document, whereby Raman undertook to pay the loan amount with simple interest at the rate of 10% p.a. on demand. On 10.10.2009, Mohan got sent a legal notice asking Raman to make the payment of due amount. In response, Raman asked his advocate to respond to the notice requesting Mohan to extend the time for making the payment for a period of two years as Raman was passing through financial crisis and had no money to make the payment. The advocate of Raman sent the reply to the notice accordingly. The reply was got drafted and dispatched on 1.1.2010 under the signatures of the advocate of Raman. Mohan filed a suit against Raman for recovery of loan amount along with accrued interest on 3.2.2012. Raman in his written statement raised the sole contention that the suit is barred by limitation. Decide while referring to various legal provisions involved.

(Marks 20)

RESILIENCE LAW ACADEMY

Q.No.6. 'X', a landlady inducted 'Y' as a tenant on a monthly rent of Rs. 5,000/- per month. The tenancy was for two years and was evidenced by the registered lease deed executed between the parties. The tenancy commenced in the year 1992. After expiry of two years, the tenant continued to occupy the tenanted premises. He also paid rent till the year 1996. In the year 1996, 'X' was transferred to Chennai and 'Y' stopped paying the rent thereafter. There was no correspondence between 'X' and 'Y' till the year 2011. In the year 2011, 'X' got sent a legal notice to 'Y', terminating the tenancy as per law and asked 'Y' to hand over the vacant possession of the premises to 'X'. 'X' vide the same legal notice, also asked 'Y' to remit the complete due amount of rent to 'X'. 'Y' in response contends that as he continued in possession of the premises for fourteen years without paying even a single rupee by way of rent, he has become the owner of the house. Thus he is neither liable to vacate the tenanted house nor liable to pay the due rent.

Decide.

(Marks 20)

Q.No.7. Ramesh sold his land measuring 200 square yards for Rs. 2,00,000/- and handed over the possession of the same to Sarjesh in the year 1990. In the year 1991, Sarjesh sold his land to ABC Co. for a sum of Rs. 2,10,000/-. On 2.3.1992, one of the sons of Ramesh, who had attained majority in the year 1991, filed a suit for recovery of possession of the land against ABC Co. on the ground that the land in issue was a joint Hindu Family property and thus Ramesh could not have sold the land to Sarjesh as the transaction was neither for a legal necessity nor in the interests of the Joint Hindu Family. ABC Co. in its written statement inter alia raised a preliminary objection that as Sarjesh has not been made party to the suit, and the two sale deeds were not under challenge, the suit as framed was not maintainable. The suit remained pending for some time and ultimately got dismissed on the two preliminary objections raised by ABC Co. the plaintiff filed an appeal and then withdrew the same in the year 2001 with liberty to take such other legal recourse including a civil suit against the defendant as may be permissible in law. The plaintiff then in the year 2002 again filed a fresh suit for a declaration that the sale deed in favour of Sarjesh and the consequent sale deed in favour of ABC Co. were null and void and for recovery of possession of land. This time Sarjesh was made a defendant to the suit. ABC Co. filed its written statement and raised a preliminary objection that the suit was barred by time. The plaintiff relied on Section 14 of the Limitation Act and contended that the suit was within time.

Decide.

(Marks 20)

RESILIENCE LAW ACADEMY

Delhi Mains Criminal Law 2010

CRIMINAL LAW 2010

PART A

Q. 1 R was living with her 5 children and 70 years old father-in-law at House No. 10, Vikas Puri, Delhi. Her husband was living separately. S, a friend of her husband, had an evil on her.

On 19-12-2009 at around 3 a.m. in the morning, some person knocked her door. When she went to open it, no one was found. She returned back to her room and thereafter went to the toilet. Toilet was open to the sky. On entering the toilet she saw S hiding there. He immediately poured kerosene on her and lit her with a match. R ran out, shouting for help. Her elder son D, aged 6 years, woke up and tried to save her. S fled away. R was admitted in the hospital in a semi-naked condition. At 4.45 a.m. R was declared fit for statement. Her statement was recorded by the Investigating Officer. She named S as the culprit.

FIR was registered under section 307, I.P.C. SDM was informed. SDM recorded a second statement of R at 5.30 a.m. after obtaining a fitness certificate. M.L.C. of the victim has recorded 100% burns.

Statement of D was recorded under section 164 Cr.P.C.

R died on 24-12-2009. FIR was converted to an offence under section 302, I.P.C. S was arrested. From his personal search a bus ticket dated 19-12-2009 was recovered.

Case of the prosecution:

The two dying declarations are consistent and a valuable piece of evidence. D was an eyewitness. Bus ticket recovered from the personal search of S evidenced his presence in Delhi on 19-12-2009.

Defence of accused:

The dying declarations are suspect; 1st was in the narrative form. Victim had 100% burns. 2nd dying declarations had the stamp of the SDM engrossed beneath the writing showing that the page was already stamped which was at some later point filled in. Child witness cannot be relied upon; why grandfather was not produced as a witness; R had intimate relations with S; to save her honour she had falsely implicated S. Accused entitled to benefit of doubt.

Write a judgment, dealing with the rival contentions, citing the statutory provisions and case law.

Q. 2. Trial court had convicted S under section 302, I.P.C. for having committed murder of N. Two pieces of evidence were relied upon:

- (i) Extra judicial confession made by S to MN.
- (ii) Recovery of a blood-stained pana from bus No. DL 1P A 1294 and blood-stained pant of S.

Facts:

On 16-01-2009 at 7.25 a.m. dead body of N was recovered from a park near Kamal Cinema. Trail of blood from the dead body led to bus no. DL 1P A 1294 parked near the park. Driver of the bus R and bus helper MN were examined.

RESILIENCE LAW ACADEMY

MN stated that S, who had boarded the bus along with his friend N, had made an extra judicial confession to him inculcating himself. Bus had developed a snag; N, S and MN had dinner together in the bus; in the morning dead body of N was found in the bus parked behind bus no. DL 1P A 1294; S was sleeping in bus No. DL 1P A 1294 when MN woke him; S confessed to the crime.

Disclosure statement of S was recorded; he got recovered a blood-stained pana from bus No. DL 1P A 1294 and his blood-stained pant. Conviction under section 302, I.P.C. followed.

Case of the Prosecution:

Extra-Judicial confession coupled with the recovery of the weapon, i.e., the blood-stained pana, and the pant was sufficient to sustain the conviction.

Defence of the accused:

Circumstances are not proved. Extra-judicial confession is a weak evidence; recovery of the blood-stained pana and the pant are demolished as the recovery was not witnessed by public witnesses; there is no medical or scientific evidence.

Write a judgment, dealing with the rival contentions, citing the statutory provisions and case law.

Q. 3. On 23-01-2009 at 8.05 p.m. DD No. 15 was recorded at PS Ambedkar Nagar that R was reported missing; she had not returned from school. On 24-01-2009 a written complaint was given by her father that R had been kidnapped. On 25-01-2009, R was produced in the police station by her father. Her MLC recorded a torn hymen; no injury was visible; age was recorded as 15 years.

Statement of R was recorded under section 164, Cr. P.C. Accused was arrested on her statement. He was charge-sheeted and convicted under sections 363 and 376, I.P.C.

Case of prosecution:

Version of R by itself is sufficient to convict the accused. This version is corroborated by the medical evidence.

Defence of the accused:

The three statements of R under section 161, 164 Cr. P.C. and on oath in court are contrary and conflicting. R was admittedly known to the accused; it is a case of consent. Write a judgment, dealing with the rival contentions, citing the statutory provisions and case law.

PART B

Q. 1. Death by negligence. Discuss in the light of plea bargaining.

Q. 2. Registration of FIR to filling of charge-sheet in a non-bailable offence. Discuss the stages.

Q. 3. Bail and parole! What are the guidelines for the courts?

Q. 4. Sentencing parameters in non-bailable offences.

Q. 5. Abetment; conspiracy; common intention: Do they overlap? Discuss.

Q. 6. Locus standi in a Protest Petition: Can it be entertained after acceptance of the closure report?

Q. 7. Cyber crime and electronic evidence: Is it admissible?

RESILIENCE LAW ACADEMY

U.P. HIGHER JUDICIAL 2012 LAW- 2 PROCEDURE AND EVIDENCE

The questions may be answered either in English or Hindi.

1. (a) Under what circumstances, a statement made by an accused before a police officer can be used in evidence? An accused, while in police custody, gives information to the Investigating Officer that he purchased the murder weapon from a particular dealer, and then taken the Investigating Officer and the witnesses to the place of the dealer and points him out.

Whether the information given by the accused, and the evidence of the Investigating Officer and witnesses are admissible? Answer referring to relevant provisions of Evidence Act. 10

(b) 'A' a witness is asked whether he was dismissed from service for dishonesty. He denies it. Evidence is offered to show that he was dismissed for dishonesty. Is this evidence admissible?

10

2. (a) The Rules of evidence are in general the same in Civil and Criminal proceedings, give the exception, if any. 10

(b) 'A' after learning that 'C' had been murdered went to the spot and found that the body of 'C' was being taken to the house of 'C' by four persons who told him that 'B' had murdered 'C' and ran away. Does the statement of four persons form part of res gestae?

10

3. (a) An accused may be a competent witness. Discuss with relevant provisions?

10

(b) Five persons 'A', 'B', 'C', 'D' and E received serious injuries in the course of a factious fight. They were first taken to the police station and then to the hospital. At the police station 'A' gave a report Exhibit I which was recorded as the first information report. Police also recorded statements Exhibits II and III from 'B' and 'C'. At that time 'D' and 'E' were unconscious. At the hospital the doctor sent for a Magistrate who recorded statements of all five of them. They were Exhibits IV, V, VI, VII and VIII. Subsequently 'A', 'C' and 'E' died of the injuries, received in the fight. 'B' and 'D' were examined at the trial as witnesses. For what purpose could each of the statements Exhibits I to VIII be used at the trial? 10

4. (a) Can a police officer refuse to register a first information report on the ground that the said police station does not have territorial jurisdiction over the place of crime? Answer referring to relevant provisions of Code of Criminal Procedure. 10

(b) 'A' is charged under section 242 of the Indian Penal Code with having been "In possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit. "He challenges his conviction on the ground that there was error in the charge because the word "fraudulently" was omitted. Decide.

10

5. (a) Distinguish between, dismissal of a complaint, discharge and acquittal of an accused. What are remedies available in each of these cases of the complainant? 10

RESILIENCE LAW ACADEMY

(b) A company lodged first information report for offences under sections 408/420 I.P.C. against 'X', its former Divisional Manager After completing the investigation, report under section 173, Cr. P.C. was sent to the Magistrate stating that the case was of civil nature. The Company lodged a protest petition with the Magistrate, and sought permission to prove the commission of offences by 'X'. The Magistrate, after perusing the investigation records, came to the conclusion that a prima facie case under section 408/420 I.P.C. was made out against 'X', and consequently issued process against him under section 204 of the Code of Criminal Procedure. The legality of this order is challenged by 'X' on the ground that the Magistrate had no power to issue process against him without first complying with the provisions of Sections 200 and 202 of the Criminal Procedure Code. Decide the objection. 10

6. (a) When can a warrant be issued by a Court in lieu of summon? 10

(b) 'A' who was convicted by the trial court and punished with imprisonment for two years, files an appeal against the conviction, but dies during the pendency of the appeal. His son 'B' submits an application and prays that appeal be finally decided. Decide referring to referring to relevant provisions. 10

7. (a) Briefly describe the circumstances where under a police officer, a private person and a Magistrate may arrest a person without warrant. 10

(b) 'A' is arrested on the charge of committing an offence. The arresting officer, reasonably believing that his medical examination would afford evidence as to commission of the offence, takes him to a Registered Medical Practitioner. 'A' resists the examination on the ground of his right under Article 20(3) of the Constitution of India. Decide. 10

8. (a) When a document is impounded by a Court, what are the further steps to be taken in this matter? 10

(b) 'A' residing in Delhi, publishes a defamatory statement about 'B' in Kolkata. 'B' is resident of Patna. Determine the forum for institution of suit in this case giving relevant provisions of Code Procedure. 10

9. (a) Explain the law relating to interim injunction. Under what circumstance temporary injunction in mandatory form can be granted. Whether an interim injunction can be granted on the application of the defendant, who has not filed any counter claim, if so in what circumstances? 10

(b) A plaint is rejected by the court on the ground that it does not disclose any cause of action. Can the plaintiff present a fresh plaint on the same cause of action? Give reasons and also refer relevant provisions. 10

10. (a) Does an application of review lie in a case where the judgment is rendered erroneous by reason by statutory amendments? Explain by giving reasons. 10

(b) 'A' files a suit against 'B' in respect of a house on the ground of a will in his favour by original owner, 'M', A previous suit against the same defendant filed by 'A' on the ground of 'a' being an heir of 'M' had already failed. How would you decide the present suit? Give reasons for your answer.

10

RESILIENCE LAW ACADEMY

U.P. HIGHER JUDICIAL 2012 LAW – 3 SUBSTANTIVE LAW

The questions may be answered either in English or Hindi.

1. (a) On breach of contract only such loss can be recovered as was in the contemplation of both the parties at the time of entering into contract. Discuss.
10
(b) Being fed up with each other quarreling nature both husband and wife entered into an agreement in which wife agrees to live separately from her husband permanently and husband agrees to pay her a monthly maintenance allowance of Rs. 1,000/-. After six months husband refuses to pay the amount. Can wife enforce the agreement against her husband in a court of law?
10
2. (a) Partnership, which is a partnership at will, is dissolved by a partner giving a notice to other partner of his intention to retire from partnership. From what date does such dissolution take effect/ When does the liability of such partner with respect to the dealings of the firm with outsider ceases? 10
(b) Discuss the scope of implied authority of a partner. A partner of a firm of solicitors borrows Rs. 5,000/- in the name of the firm. Will it be a valid act within its implied authority? 10
3. (a) What do you understand by customary easements? Specify the main ingredients to establish such easements. 10
(b) The plaintiff, a food grains merchant, enjoying good reputation, had incurred ill will of a Food Inspector who falsely implicated him in a case under Section 3/7 of the Essential Commodities Act, 1955. The plaintiff was arrested and detained for 7 days. After the trial he was acquitted. In the plaintiff's suit for damages the State as well as the Inspector pleaded that since the prosecution was not malafide, the State was not liable for the act of Food Inspector, the suit must fail. Whether, the State would be vicariously liable for the acts of the Food Inspector? 10
4. (a) What are the distinctions between a mortgage, a hypothecation, a pledge and a floating charge? 10
(b) 'A' mortgaged his house 'X' to 'B', 'C' and 'D' successively for Rs. 80,000/-, Rs. 40,000/- and Rs. 20,000/- respectively. 'A' mortgaged house 'Y' to 'D' and 'C' successively for Rs. 30,000/- and Rs. 15,000/- respectively. Houses 'X' and 'Y' are sold for Rs. 1,00,000/- and 30,000/- respectively. What are the respective right of 'B', 'C' and 'D' in the sale proceeds? 10
5. (a) Whether all contracts can be specifically enforced? If not, state exceptions referring to relevant provisions. 10
(b) 'A' a famous magician entered into an agreement with Ashoka Hotel to give performance every evening from 1st September, 2012 to 1st December, 2012. Subsequent to the agreement with Ashoka Hotel the magician entered into an agreement with International Hotel to given performance every evening from 1st September, 2012 to 1st December, 2012. The Ashoka Hotel filed a suit for the specific

RESILIENCE LAW ACADEMY

performance of the contract against 'A'. 'A' contested the suit. Decide referring to relevant provisions of law. 10

6. (a) What are the changes brought in the Hindu Succession Act by Act 39 of 2005 with regard to females? Refer to relevant provisions. 10

(b) 'P' a Hindu female dies leaving 'R' her husband, 'T' a full brother and 'S' a deceased brother's son, 'P' left considerable property which she had inherited from her deceased mother. On whom will the property devolve? Refer to the relevant provisions.

10

7. (a) What are the requisites of a valid will under Mohammadan Law and whether the testamentary power of a Muslim is limited or not? If limited, to what extent? 10

(b) A Muslim husband 'X' contracts a second marriage. His first wife 'Z' claims separate residence and maintenance under the Criminal Procedure Code. 'X' pleads defence of his personal law which permits him to take more than one wife. Decide. 10

8. (a) The exercise of executive clemency is not a privilege but is based on several principles and discretion has to be exercised in public consideration. Analyse this statement in context of the powers of the President of India. 10

(b) The Rajya Sabha after passing a Bill sends the same to the Lok Sabha for getting it to be passed. Before the Bill could be taken up for consideration, the Lok Sabha was dissolved and was thereafter again constituted. Whether the Bill can be taken up and passed by the Lok Sabha/ Refer to constitutional provisions also. 10

9. (a) Critically examine the scope of reservation in promotion as provided for in Article 16(4A) of the Constitution of India. Discuss referring to important judgments on the subject.

10

(b) 'S' born of Kshatriya father and scheduled tribe mother claims benefit of reservation meant for scheduled tribe. Discuss referring to relevant judgments of the Hon'ble Supreme Court.

10

10. (a) There are many provisions in Constitution of India which secure independence and impartiality of the judiciary. Discuss those provisions and refer to important judgments of the Hon'ble Supreme Court. 10

(b) In order to ensure availability of timber to the common man at a reasonable rate, the State of U.P. declared timber as an essential commodity and imposed a total ban on the movement of timber from Uttar Pradesh to any other area outside the State. The total ban is challenged as violative of article 301 of the Constitution. Decide.

10

RESILIENCE LAW ACADEMY

U.P. Higher Judicial Service (Main) Examination-2012

Paper-4

General Knowledge

Time : 3 hours

Marks:200

Notes: (i) All questions are to be attempted.

(ii) The questions may be answered either in English or Hindi.

(iii) Each question in Part 'A' carries 2 marks and each question in part 'B' carries 5 marks.

PART-'A'

1. The earliest city discovered in India was-
2. Who was the learned lady who is said to have debated with famous law-giver Yagyavalkya?
3. The words "Satyamev Jayte" in the State Emblem of India was adopted from which Upanishad?
4. Name the famous Indian Astronomer and Mathematician who explained the cause of solar and lunar eclipse and declared that earth rotate round its axis?
5. Magesthenes was envoy of which king?
6. Which Sufi Saint's Dargah is at Ajmer?
7. Which State has the largest coastline in India?
8. Which country has longest international boundary with India?
9. Which State in India has smallest land area?
10. Kaziranga National Park is famous for which animal?
11. Who was the President of the Constituent Assembly of the independent India?
12. Who made the declaration that "democracy is a Government of people, by the people and for the people"?
13. How many languages have been recognised by the Constitution of India?
14. The final authority in India, who adopts a five years' plan in the country, vests in which body?
15. Indian Pulse Research Institute is located in which city in the State of Uttar Pradesh?
16. On which date universal declaration of Human Rights was adopted by the General Assembly of the United Nations?
17. The International Criminal Police Organisation (Interpol) has its headquarter in which country?
18. In which part of human brain, centre of intelligence is said to exist?
19. Blood bank of human body is situate in which organ of the body?
20. What are the number of pair of ribs found in a man?
21. What is the total number of bones which are found in a man?
22. What is the time taken to complete one heart beat?
23. Who was the first Rajya Sabha Chairman?
24. Who was the first Chief Information Commissioner of Central Information Commission after coming into force of the Right to Information Act, 2005?

RESILIENCE LAW ACADEMY

25. Name the writer of famous book "Brief History of Time"?
26. Who was the first woman Governor of an Indian State?
27. Who is the author of the book "Before Memory Fades"?
28. How many days, is the life of red blood cells, in the body?
29. What is measured by hygrometer?
30. Who was the President of India at the time of proclamation of emergency in the year 1975?
31. Who was the first Asian to win Nobel Prize?
32. Who was the immediate successor of Guru Nanak?
33. Name the Chief justice of India who died abroad, while in office.
34. Humayun the Mughal emperor received the Kohinoor Diamond from which ruler?
35. Who is known as the Father of Indian Cinema?
36. Where is the headquarter of World Health Organisation (WHO) located?
37. Who was the first Indian woman to become a Judge of the Supreme Court?
38. Who is known as the 'Jal-Purush' of India?
39. Which foreign country is closest to Andman Islands?
40. Who is ex-officio patron of NALSA (National Legal Services Authority)?
41. On which date is the Legal Services day celebrated?
42. Who has been recently made the Prime Ministry of Pakistan?
43. Yingluck Shinawatra was the chief guest at the Republic Day Parade of India in this year. She is the first woman PM of which country?
44. Who was the founder of the Red Cross?
45. Name the place where manufacturing unit of an Automobile Company was closed due to workers' unrest.
46. For which event "Pokharan" is famous?
47. Name the High Court which recently celebrated 150th years of its establishment.
48. Which Judge of the Supreme Court of India has been recently elected to the International Court of Justice?
49. Name the Astronaut of Indian origin who has recently undertaken space mission.
50. Who is at present the Chairman of the Planning Commission of India?

Part-'B'

(Write on following in about 50 words each)

51. The diminishing population of vultures.
52. Differences between Compact Disc (CD), Digital Versatile Disc (DVD) and Blue Ray Disc.
53. Intellectual Property Rights.
54. Privilege Motion?
55. Vote of Account?
56. Value Added Tax?
57. Sahitya Academy Award.
58. Achievements by Indian Players in London OLYMPIC
59. The first-aid that you can safely administer to a person standing next to you at the bus stop who suddenly faints.

RESILIENCE LAW ACADEMY

60. V. Tejaswini Bai
61. World Food Programme (WFP) of the United Nations (UN).
62. Mediation & Conciliation, as alternate dispute resolution mechanism.
63. Controller & Auditor General of India.
64. Dedicated Freight Corridor.
65. Bhuvan Website.
66. Domestic Violence Act 2005.
67. DNA Test.
68. 2G Spectrum.
69. W.T.O. (World Trade Organisation)
70. Child Labour.

RESILIENCE

RESILIENCE LAW ACADEMY

U.P. Higher Judicial Service (Main) Examination-2012

Paper-5

(Language)

Time : 3 hours

Marks: 200

Notes: (i) All questions are to be attempted.

(ii) The marks of each question are given in the margin.

1. Write an essay in English on any one of the following topics- 60

(a) What electoral reforms in context of our country are desired.

(b) Corruption is cancer that eventually destroys everything.

(c) Alternative Energy Sources.

(d) Fourth Pillar of democracy needs regulatory measures.

(e) Environmental protection is a prime need of our country.

2. Give précis of following passage in English in about 150 words and also give a suitable title-

60

One of the greatest lessons I have learnt in my life is to pay as much attention to the means of work as to its end. He was a great man from whom I learnt it, and his own life was a practical demonstration of this great principle. I have been always learning great lessons from that one principle, and it appears to me that all the secret of success is there; to pay as much attention to the means as to the end.

But whenever failure comes, if we analyse it critically, in ninety-nine per cent of cases we shall find that it was because we did not pay attention to the means. Proper attention to the finishing, strengthening, of the means is what we need. With the means all right, the end must come. We forget that it is the cause that produces the effect; the effect cannot come by itself; and unless the causes are exact, proper, and powerful, the effect will not be produced. Once the ideal is chosen and the means determined, we may almost let go the ideal, because we are sure it will be there, when the means are perfected. When the cause is there, there is no more difficulty about the effect, the effect is bound to come. If we take care of the cause, the effect will take care of itself. The realization of the ideal is the effect. The means are the cause: attention to the means, therefore, is the great secret of life. We also read this in the Gita and learn that we have to work, constantly work with all our power; to put our whole mind in the work, whatever it be, that we are doing. At the same time, we must not be attached. That is to say, we must not be drawn away from the work by anything else; still, we must be able to quit the work whenever we like. If we examine our own lives, we find that the greatest cause of sorrow is this; we take up something, and put our whole energy on it—perhaps it is a failure and yet we cannot give it up. We know that it is hurting us, that any further clinging to it is simply bringing misery on us; still, we cannot tear ourselves away from it. The bee came to sip the honey, but its feet stuck to the honey-pot and it could not get away. Again and again, we are finding ourselves in that state. That is the whole secret of existence.

3. Translate the following passage into Hindi- 40

The arbitrator is the final arbiter for the dispute between the parties and it is not open to challenge the award on the ground that the arbitrator has drawn his own conclusion or has failed to appreciate the facts. In *Sudarsan Trading Co. v. Govt. of Kerala* it has been held by this Court that there is a distinction between disputes as to the jurisdiction of the arbitrator and the disputes as to in what way that jurisdiction should be exercised. There may be a conflict as to the power of the arbitrator to grant a particular remedy. One has to determine the distinction between an error within the jurisdiction and an error in excess of the jurisdiction. Court cannot substitute its own evaluation of the conclusion of law or fact to come to the conclusion that the arbitrator had acted contrary to the bargain between the parties. Whether a particular amount was liable to be paid is a decision within the competency of the arbitrator. By purporting to construe the contract the court cannot take upon itself the burden of saying that this was contrary to the contract and as such beyond jurisdiction. If on a view taken of a contract, the decision of the arbitrator on certain amounts awarded is a possible view though perhaps not the only correct view, the award cannot be examined by the court. Where the reasons have been given by the arbitrator in making the award the court cannot examine the reasonableness of the reasons. If the parties have selected their own forum, the deciding forum must be conceded the power of appraisal of evidence. The arbitrator is the sole judge of the quality as well as the quantity of evidence and it will not be for the court to take upon itself the task of being a judge on the evidence before the arbitrator.

RESILIENCE LAW ACADEMY

PUNJAB SUPERIOR JUDICIAL SERVICE (MAIN WRITTEN EXAMINATION) 2012

CIVIL LAW – I

Time Allowed : 3 Hours

Max. Marks – 200

Note: (i) Answer all questions.

(ii) All questions carry equal marks. However, the marks carried by each part in a question have been indicated against that part.

Q.1(a) "In reference to Mohiri Bibi Vs. Dharmodas Ghose discuss contractual liability of a minor under the Indian Contract Act with the help of relevant case law on following grounds :

- (i) Nature and effect of minor's contract
- (ii) Restitution and Restoration of benefits in minor's Contract
- (iii) Applicability of Doctrine of Estoppel
- (iv) Unjust Enrichment

20 Marks

1(b) Municipal Committee, Nabha (MCN) advertised a public auction on 25.5.2008 at its Head Office at Nabha to sell few old vehicles. Mr. Seth was interested in some of the vehicles. For this purpose, he reached Nabha on the day of auction by morning flight, paying Rs 5000/- as travel expenses. He stayed in a hotel paying Rs. 3000/-. When he reached the Head Office, he found that the auction was postponed for a week. He filed a suit to recover expenses suffered in travelling and lodging. Based on above facts answer the following questions:-

- a. Whether the contract is concluded?
- b. Explain the nature of advertisement for auction and suggest appropriate plea to MCN.

10 Marks

1(c) Discuss the doctrine of frustration with relevant case laws?

M, a singer, contracts with N to sing at his theatre and N pays her Rs 1000/- in advance. M fell ill seriously and became unable to sing on the fixed date. N files a suit against her demanding the return of the advance money and also for recovering damages for the loss arising to him due to breach of contract. Decide.

10 Marks

Q.2(a) How will you decide that a suit is of a civil nature? Are the following suits of civil nature:

- (i) Right to take out religious procession
- (ii) Right of purdanasheen lady to observe Purda
- (iii) Right to franchise
- (iv) Brijijman Rights
- (v) Right to worship in temple

10 Marks

2(b) What are the grounds on which the court may appoint Receiver and Commissioner? Whether the report submitted by them is mandatory to be considered by the court? 10 Marks

RESILIENCE LAW ACADEMY

2(c) In a suit, 10.10.2007 was fixed for final hearing. On that date the defendants moved an application for adjournment on the grounds of illness. The prayer was allowed subject to payment of costs and 10.12.2007 was fixed for final hearing. On this date, counsel for both the parties were present and the counsel for the defendants after paying the costs moved another application for adjournment. This application was rejected by the court. Thereupon counsel for the defendants stated that he had no further instructions and was therefore, withdrawing from the case. The Court directed that the case would proceed under Order XVII, Rule 3 of CPC. Thereafter the plaintiff produced his evidence and closed the case. On 10.2.2008 the suit was decided on merits. Under these circumstances, whether an application under Order IX Rule 13 CPC lies. Discuss and state any other remedy, if available to the defendants?

10 Marks

2(d) A plaintiff gives notice under Section 80 of Civil Procedure Code and institutes a suit before two months but is allowed to withdraw the same with liberty to file a fresh suit. Is he entitled to file a fresh suit without a fresh notice? Explain. 10

Marks

Q.3(a) What is the difference between:

- (i) Doctrine of Limitation and Prescription
- (ii) Doctrine of Limitation and Laches
- (iii) Doctrine of Limitation and Acquiescence
- (iv) Section 5 and section 14 of the Indian Limitation Act. 20 Marks

3(b) A, on separation from his wife, settled upon her a house worth Rs 50,000/- in lieu of her right of maintenance of separate residence, through an unregistered document. On a dispute between the parties, the wife wanted to produce the said document in evidence. A raised an objection that the document required compulsory registration and as such inadmissible in evidence. Decide the objection?

10 Marks

3(c) Shiv Kumaran presented a document written in Tamil for registration. The Registering Officer refused to register it on the ground that he did not know the language. Advise Shiv Kumaran.

10 Marks

Q.4(a) A, a famous actress of the bollywood entered into an agreement with the Board of Cricket Association (BCA) to perform on the inaugural function of T-20 international cricket tournament on 2.5.2011. Subsequent to this agreement, A received another offer from the Olympic Association for performance during its inaugural function which she accepted and entered into an agreement of performance. Coincidentally the inaugural dates for both is 2.5.2011. On 25.4.2011, A informs the BCA that she would not be able to perform. BCA files a suit for specific performance of agreement against A. A, contests the suit pleading that relief of specific performance cannot be allowed.

Write a judgment and discuss the relevant provision of law. 10 Marks

4(b) X filed a suit for permanent and mandatory injunction against Y alleging that Y was threatening to dispossess him from his premises and had erected a wall in front of X's door thereby blocking his entry into his own house. X prays for interim mandatory

RESILIENCE LAW ACADEMY

injunction directing Y to remove that wall so that he may use his premises. Y opposes interim mandatory injunction on the main ground that its grant would amount to decreeing the suit. Discuss the law and deliver the order. 15 Marks

4(c) Can the following contracts be enforced specifically?

- (i) A contracts for the sale of property which is under attachment by court's order.
 - (ii) Mere agreement to enter into a contract
 - (iii) A contracts to write a book for B. He writes the book but refuses to assign copyright and hand over the manuscript to B who then sues A for specific performance.
- 15 Marks

Q.5(a) What are the principles of lis pendens? Is there any exception to this principle? Explain with case law. 10 Marks

5(b) A is the owner of two properties X and Y. A mortgages X to B for rupees 200/- and then both X and Y are mortgaged to C for 400/-. A sells X to D. The value of each of both these properties is 500/-. The prior mortgage money of 200/- is paid out of property of X. C recovers the amount of 400/- from A. Whether A can file a case against D for the contribution to the mortgage-debt. If no, then why. If yes, then under what provision and for what amount D will be held liable? 10 Marks

5(c) Name some of the documents which are compulsorily registerable according to Transfer of Property Act, 1892 and the Registration Act, 1908 and state within what time a document compulsorily registerable can be presented for registration, from the date of its execution? 10 Marks

5(d) In 2005, Food Corporation of India invited offers from landowners for construction of plinth and other facilities for storage purposes and after construction, to lease to FCI on rent for three years. A submitted offer. After negotiation, offer of A at negotiated rate was accepted and agreement on 1.6.2006 was entered into giving details of terms on which A agreed to lease out plinths after construction under lease agreement to be executed between the parties in the prescribed proforma. Time was essence of the agreement and in case of delay in construction and faulty workmanship, FCI was not bound to take plinths on lease. A borrowed loan from Bank and raised construction. FCI took possession on 12.01.2007, but served notice of vacation on 14.09.2008. A filed suit for damages for breach of contract. Main defence of FCI is that in absence of registered lease deed the parties were not bound by the period of lease as the agreement was unenforceable and in absence of valid agreement, tenancy was month to month and liable to be terminated under section 106 of Transfer of Property Act, and hence A cannot claim damages?

Decide by giving reasons. 10 Marks

RESILIENCE LAW ACADEMY

Punjab Superior Judicial Service (Main Written Examination) 2012

Civil Law-II

Time Allowed: 3 Hours

Max. Marks- 200

Note: (i) Answer all questions.

(ii) All questions carry equal marks. However, the marks carried by each part in a question have been indicated against that part.

Q.1(a) The expanding horizon of Article 21 i.e. Right to life and Personal liberty is interpreted by our Supreme Court as per need of the society. Explain with the help of relevant case laws. 10 Marks

1(b) Write short notes on the following:-

(i) Doctrine of Severability

(ii) Doctrine of Waiver

(iii) Doctrine of Pleasure

(iv) Doctrine of Eminent Domain 20 Marks

1(c) "So sadly and oppressively deep-rooted is caste in our country that it has cut across even the barriers of religion. The caste system has penetrated other religious and dissentient Hindu sects to whom the practice of caste should be anathema and we find that practitioner of other religious faiths and Hindus dissentients are sometimes as rigid adherents to the system of caste as the conservative Hindus".

In light of the above observation, critically evaluate the constitutional provision related to the recent demand of reservation for the Muslim Community from the quota of reservation for OBC. 10 Marks

Q.2(a) "Subject to the other provisions of part XIII of the constitution, trade, commerce and intercourse through the territory of India shall be free". Critically elaborate the freedom of trade, commerce and intercourse along with limitation/restrictions put on such freedom and also point out if taxing powers of the state is hit by the provisions of Article 301. 20 Marks

2(b) Adesh and Akhilesh were twin brothers. Adesh was taking care of his father's Real Estate business and Akhilesh was a software Engineer. Adesh married Anusha, who was a Civil Engineer, and Akhilesh married Deepika, who was also a software Engineer. Their marriage was solemnized on the same day according to the Hindu rites and ceremonies.

After marriage, Anusha was blessed with a baby boy and Deepika also with & babu Garg. The entire family rejoiced and was very happy. Both Akhilesh and Deepika got a good job in the U.S.A. and were preparing themselves to leave for America. Deepika was making all necessary purchases. Once when she went out for shopping on her scooty, she met with an accident and died on the spot. The whole family was grief-stricken. Akhilesh was plunged in deep depression. He was absolutely not able to manage the newborn child Aditya. The child was comfortable only with Anusha.

RESILIENCE LAW ACADEMY

Every one consoled Akhilesh and advised him to proceed with his job in the U.S.A. His parents strongly felt that only if he went to America, he could forget his sorrow and his bereavement caused by the sad and unfortunate incident. They felt, eventually, he should marry again and start a new life. In the meantime the child got attached to Anusha and Anusha also felt a deeper attachment for the child. Akhilesh also felt that in a foreign country, in a totally new circumstance, he won't be able to manage with the child, if taken along. Adesh and Anusha were ready to adopt the child. Elders also felt that it will be for the good of Akhilesh, so that he could start his life anew. Akhilesh also condescended to the proposal. On the day of Akhilesh's departure to America, in front of all the relatives, the child was handed over to Adesh and Anusha, and they adopted the child.

Akhilesh lived in America for three years. Those three years period of time radically changed his life. He came back to normal life and agreed for the second marriage, arranged by his parents. He came back to India for his marriage. After marriage he and his new wife Vinitha stayed in India for three months. During his stay in India he spent a lot of time with his son, Aditya. Both Vinitha and Akhilesh decided that they will take Aditya with them to U.S.A. But Adesh and Anusha did not agree to it. They said, they had taken Aditya in adoption, and now he was their child.

Akhilesh argued that it was only in thw welfare of the child that they wanted to take him along. In the U.S.A. he could possibly give him the best comforts and the high standards of living. He also said there were no ceremonies performed according to their caste's custom. There was no evidence in writing whatsoever. So the adoption could not be valid.

Under the above circumstances:

1. Discuss, whether the adoption of Aditya by Adesh and Anusha is valid, under the Hindu Adoption and Maintenance Act, 1956?
2. What are the essentials of a valid adoption under the Hindu Adoption and Maintenance Act, 1956? 20 Marks

Q.3(a) What is the impact of Anand Marriage (Amendment) Act, 2012 on Hindu Marriage Act, 1955.

Is it an Act to supplement Hindu Marriage Act, 1955? Discuss. 10 Marks

3(b) What are the legal provisions regarding restitution of Conjugal rights and judicial separation under Hindu Marriage Act? Discuss with the help of recent case laws? 10 Marks

3(c) A Hindu female is survived by her adopted son, natural born son and an illegitimate son. Upon whom her property will devolve and in what ratio? Cite relevant sections and case laws? 10 Marks

3(d) A and his sons, B and C constitute a Mitakshara Coparcenary. B separates himself after getting 1/3rd share of the coparcenary property. A dies intestate leaving behind his surviving daughter D and sons B and C.

Examine the claims of D, B and C to the property (coparcenary and self acquired) left by A. 10 Marks

RESILIENCE LAW ACADEMY

Q.4(a) The rule of "ejusdem generis" has to be applied with care and caution. It is not an inviolable rule of law, but it is only permissible inference in the absence of an indication to the contrary, and where context, object and mischief of the enactment do not require restricted meaning to be attached to words of general import, it becomes the duty of the courts to give those words their plain and ordinary meaning.

Comment critically.

20 Marks

4(b) Write short notes on the following:-

(i) Harmonious Construction

(ii) Contextual Interpretation

10 Marks

5(d) Landlord Mahipal claimed rent from his tenant Dharampal @ Rs 200/- per month whereas according to Dharampal the rate of rent was Rs 30/- per month. However, Dharampal deposited rent @ Rs 200/- per month under protest. Landlord mahipal withdrew his petition without any protest by Dharampal who also did not claim any refund. Whether Dharampal could have claimed the refund of excess rent paid? Is there any limitation of such a recovery? Whether Dharampal is now stopped from questioning the payment of excess rent in a subsequent petition filed by the landlord Mahipal? Discuss.

10 Marks

RESILIENCE LAW ACADEMY

Punjab Superior Judicial Service (Main Written Examination) 2012

Criminal Law

Time Allowed: 3 Hours

Max. Marks – 200

Note: (i) Answer all questions.

(ii) All questions carry equal marks. However, the marks carried by each part in a question have been indicated against that part.

Q.1(a) X, a newly married young and dynamic person at senior position in a multinational company and Y, a beautiful, sincere unmarried girl of advance thought were the friends at work place. Within short span of time they fell in love with each other. There was an understanding between them that they will eventually marry each other soon after settling all issues related to X's marriage. On the basis of said promise many times he had sexual intercourse with Y with her consent at her house where she was residing alone. The wife of X was not ready to leave but X was trying hard to resolve his marriage issues. Y eventually considering this circumstance started liking another person Z at the same work place and there was a change in her behaviour towards X. On realizing this fact X tried to compel her for sexual intercourse and they did it last time on 5.5.2011. Shocked by the conduct of X, Y filed a criminal complaint against him for prosecuting him for the offence of rape. X pleads that such sexual intercourse were with the consent of Y, therefore, he has committed no offence. Decide with the help of legal provisions and judicial decisions. Also explain if otherwise X can be prosecuted. 20 Marks

1(b) Pankaj was a cadet in the Indian Air Force. He took off from Chandigarh Aerodrome on an Aircraft which was not meant for training without the authority of the Commandant and flew it away to Pakistan. Later at the instance of Pankaj, the Indian High Commissioner in Pakistan arranged for the return of Pankaj and aircraft to India. It was contended on behalf of Pankaj that his intention was to go to Pakistan and not to steal the Aircraft which he always meant to return. There was thus no dishonest intention on him and he could not be convicted of theft. Discuss the liability of Pankaj for the offence of theft. 10 Marks

1(c) Bring out the difference between common intention and common object. 10 Marks

Q.2(a) T, an unmarried girl became pregnant as a result of a rape. She, along with her mother, went to the clinic of J, a homoeo-medical practitioner and requested him for an abortion. J agreed to abort her on payment of rupees 20,000/-. The amount was paid and an operation was performed. But within an hour, the condition of T became very critical and she died. What are the offences under which J could be charged.

Discuss with latest case law. 10 Marks

2(b) A Magistrate orders remand of the accused under Section 309 Cr.P.C. having passed an order adjourning trial proceedings by merely filling the columns on the reverse of the printed warrant form already signed on the front side on some earlier

RESILIENCE LAW ACADEMY

date. Ignoring the note given in the printed form requiring reasons to be given for remanding the accused, the Magistrate omits to pass a separate reasoned remand order. Is the remand order legal? 10 Marks

2(c) Comment with reasons on the legality or otherwise of the sentences imposed in the cases given below:-

- (i) Session Judge finding person guilty of murder and sentencing him to death by hanging – the same to be carried out forthwith.
- (ii) Judicial Magistrate Ist Class finding a person guilty of theft punishable under Section 379 IPC sentenced him to 5 years rigorous imprisonment and fine of rupees 10,000/- and in default of payment of fine additional rigorous imprisonment for 2 years.
- (iii) Chief Judicial Magistrate trying a theft case summarily, imposing a sentence of one year imprisonment.
- (iv) Offence of criminal breach of trust by public servant is tried by Judicial Magistrate Ist Class? Can the Magistrate impose sentence of life imprisonment? 20 Marks

Q.4(a) Arun, a food inspector demanded rupees 5,000/- per month from each of 10 shop owners who are running their business at Supreme Market, Ludhiana, with a threat for making false cases against them on non payment of the said amount and to cancel their licences. All shop owners agreed for payment and paid to him for 3 months from January to March, 2011.

In the month of April 2011 two shop owners (Ravi and Rupesh) decided for non payment and made a complaint to concerned authorities. The authorities provided them identified currency. Just after receiving the amount, Arun was caught with the amount of rupees 5,000/- and his hands too turned pink on being dipped in sodium carbonate.

Based on the facts, answer the following questions:

- (i) Whether the amount of rupees 5,000/- is a gratification?
- (ii) Whether Arun has committed any offence?
- (iii) What will be the procedure required to be followed for trying Arun?
- (iv) Considering all circumstances pass the order. 20 Marks

4(b) What is the requirement of previous sanction for prosecution of a public servant under the Prevention of Corruption Act? Explain. 10 Marks

4(c) Do you agree that there is a distinction between admissibility and credibility of evidence?

Certain accused persons were brought before a Sub Divisional Magistrate for recording of confessions. The Magistrate did not ascertain from any of the accused whether he was making the confession voluntarily; or whether there was any threat or inducement. He did not ascertain how long they were in police custody before they were brought before him. After the time for reflection was over and the accused were again brought before him, he proceeded to record their confessions without putting any further questions to them. He did not make any memorandum that he was satisfied that the confessions were made voluntarily. Are the confessions admissible in evidence?

Discuss. 10 Marks

RESILIENCE LAW ACADEMY

Q.5(a) What are the presumptions as to documents contained in Sections 79 to 90 of Evidence Act? Bring out the difference between the expressions the court shall presume' and the 'court may presume'.

10 Marks

5(b) What are the essentials of a dying declaration and the precautions to be taken by a Magistrate while recording the dying declaration? 10 Marks

5(c) It is the quality of evidence that counts and not the quantity. Which provision of law enacts this rule and what is its purpose and significance? Explain with the help of relevant cases.

5(d) Comment on the probative value of the following and whether conviction on the basis of any one of them can be sustained and if so, under what circumstance –

(i) Evidence of Prosecutrix

(ii) Evidence of child witness

10 Marks

RESILIENCE

RESILIENCE LAW ACADEMY

PUNJAB SUPERIOR JUDICIAL SERVICE MAIN WRITTEN EXAMINATION-2012

PART-I

Time : 3 Hours

Maximum Marks: 100

English

Note: i) Candidates are required to attempt all questions in the same seriatim as they appear.

ii) Marks are indicated against each question.

iii) No extra answer sheet will be provided.

Q-1 Write an essay on the following topic

Joint Family System Versus Nuclear Family System (30 Marks)

Q-2 Read the following passage carefully, suggest a suitable title for it and write précis in about 1/3 of its present length.

Man is an intelligent being and curiosity is one of the most valuable attributes of human intelligence. It signifies a constant striving to penetrate the area of darkness that surrounds us. A child feels afraid of venturing into dark because we are by nature afraid of the unknown. In the beginning when man had little understanding of the phenomena of nature, he felt afraid of lightning, thunder, fire and floods etc. But by this natural curiosity or desire of learning he was able to unravel their secrets and even harness these phenomena to serve him. Archimedes was curious to know why a body immersed in a liquid, weighs less than it does in the air. He found the solution to the riddle while lying immersed in his bath tub. The joy of discovery was so great that he ran out naked crying "Eureka".

Curiosity leads to happiness born out of knowledge as it always does. It is curiosity that has enabled man to accumulate knowledge and make the world a better place to live in. We feel happy when we see new vistas in nature or we come upon a new and lovable aspect of the nature of a person for whom we have great regard. Happiness lies in discovery which is the child of curiosity. (Total Words 216)

(20

Marks)

RESILIENCE LAW ACADEMY

PUNJAB SUPERIOR JUDICIAL SERVICES 2011 LAW PAPER-I

1. (a) "All illegal agreements are void, but all void agreements are not necessarily illegal". Comment with the help of decided cases and illustrations. (15 Marks)

A settlement was made amongst the members of the Gram Sabha that for two years 'A' would remain as Sarpanch and for the remaining three years 'B' would be the Sarpanch. Discuss the validity of this settlement. Support your answer with reasons and decided case law. (5 Marks)

(b) Discuss the contracts which can be specifically enforced under the Specific Relief Act, 1963. Support your answer with illustrations.

Mohini contracts to marry Pyare Mohan but she refuses to marry him later on. Pyare Mohan files a suit in the Court for enforcement of specific performance of the Contract. Will he succeed? Answer with reasons. (10 Marks)

(c) Whether family settlement proposing to extinguish the title of one shareholder and to create a right in favour of the other, requires registration as per Registration Act, 1908.

(10 Marks)

2. (a) "The foundation of the doctrine of election is that one may not approbate and reprobate at the same time". Comment. (10 Marks)

A Hindu widow dies making a Will in respect of property which she inherited from her husband. She bequeathed Rs. 2000/- as a legacy to the plaintiff, and the immovable property to the defendant's father. The plaintiff and the defendant's father were the heirs of her husband. The plaintiff sued for the legacy under the Will and for half of the immovable property as heir. Will the plaintiff succeed? Answer with reasons.

(10 Marks)

(b) (i) Whether it is necessary to pay court fee on every relief claimed.

(5 Marks)

(ii) What will be the court fee in suits for specific performance of contract of sale.

(5 Marks)

(c) (i) Whether the registering authority has power to examine the instrument regarding sufficiency of stamp? (5 Marks)

(ii) What is deciding factor for determination of market value of the property under the Stamp act, 1899? (5 Marks)

3. (a) "A decree of restitution of conjugal rights constitutes the grossest form of violation of an individual's right to privacy. It denies the woman her free choice; whether, when and how she is to become a vehicle for the procreation of another human being".

In the light of this statement, discuss the remedy of Restitution of Conjugal Rights as provided in the Hindu Marriage Act, 1955. Also examine the constitutionality of this remedy. (10 Marks)

(b) "Let no woman give or take a son in adoption except with the consent of her lord". (Vashishtha)

RESILIENCE LAW ACADEMY

In the light of the above statement examine the power of a Hindu woman with regard to adoption. Do you think that the changes brought about by the Hindu Adoption and maintenance Act, 1956 and further by the Personal Laws (Amendment) Act, 2010 have actually enlarged her power in this regard? Elaborate.

A married Hindu Woman takes a son in adoption with the consent of her husband (who is physically and mentally fit). The couple was issueless at the time of adoption. Decide the validity of this adoption.

Section 2, Sub-section 17 of the Civil Procedure Code defines Public Officer. According to this section public officer means a person falling under any of the following eight categories, namely;

- 1) every Judge ;
- 2) every member of an all -India Service ;
- 3) every commissioned or gazetted officer in the military , naval or air force of the Union , while serving under the Government ;
- 4) every officer of a Court of Justice whose duty it is , as such officer , to investigate or report on any matter of law or fact , or to make , authenticate or keep any document , or to take charge or dispose of any property , or to execute any judicial process , or to administer any oath , or to interrupt , or to preserve order in the Court , and every person especially authorised by a Court of Justice to perform any of such duties ;
- 5) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;
- 6) every officer of the Government whose duty it is , as such officer , to prevent offences , to give information of offences , to bring offenders to justice , or to protect the public health , safety or convenience ;
- 7) every officer whose duty it is , as such officer , to take , receive , keep or expend any property on behalf of the Government or to make any survey , assessment or contract on behalf of the Government or to execute any revenue process , or to investigate , or to report any matter affecting the pecuniary interest of the Government , or to make , authenticate or keep any document relating to the pecuniary interests of the Government , or to prevent the infraction of any law for the protection of the pecuniary interests of the Government ; and
- 8) every officer in the service and pay of the Government , or remunerated by fees or commission for the performance of any duty .

Section 2, Sub-section 17 of the Civil Procedure Code defines Public Officer. According to this section public officer means a person falling under any of the following eight categories, namely;

- 1) every Judge ;
- 2) every member of an all -India Service ;
- 3) every commissioned or gazetted officer in the military , naval or air force of the Union , while serving under the Government ;
- 4) every officer of a Court of Justice whose duty it is , as such officer , to investigate or report on any matter of law or fact , or to make , authenticate or keep any document , or to take charge or dispose of any property , or to execute any judicial process , or to

RESILIENCE LAW ACADEMY

administer any oath , or to interrupt , or to preserve order in the Court , and every person especially authorised by a Court of Justice to perform any of such duties ;

5) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

6) every officer of the Government whose duty it is , as such officer , to prevent offences , to give information of offences , to bring offenders to justice , or to protect the public health , safety or convenience ;

7) every officer whose duty it is , as such officer , to take , receive , keep or expend any property on behalf of the Government or to make any survey , assessment or contract on behalf of the Government or to execute any revenue process , or to investigate , or to report any matter affecting the pecuniary interest of the Government , or to make , authenticate or keep any document relating to the pecuniary interests of the Government , or to prevent the infraction of any law for the protection of the pecuniary interests of the Government ; and

8) every officer in the service and pay of the Government , or remunerated by fees or commission for the performance of any duty .

PUNJAB SUPERIOR JUDICIAL 2011 LAW PAPER-II

1. (a) Naresh was having illicit relations with the wife of Shyam, the deceased, and his visit to Shyam's house were resented by Shyam. One day when Naresh visited the house of the deceased, Shyam was not there. In the meantime Shyam reached his house and finding Naresh there, he objected his presence in the house. An altercation took place between the two and in the process Naresh stabbed Shyam which resulted into the death of Shyam. Discuss with the help of case law the liability of Naresh, if any?

(b) A was arrested and prosecuted for murder. He was convicted under Section 302 of the India Penal code on 1.1.1997 and sentenced to imprisonment for life.

A has undergone 14 years of actual imprisonment and total period of imprisonment including remission comes to more than 17 years. No formal order has been made by the State Government either about remittance or commutation of sentence. A, therefore, pleads that in the absence of any formal order, it must be deemed that Government has commuted his sentence to 14 years. Hence, any further detention in jail is illegal and he is entitled to be released forthwith. Give reasons for your answer.

2. (a) What is the difference between 'extra judicial confession' and 'judicial confession'?

(b) An accused, during investigation, points out the place of occurrence and confesses his involvement in the crime in the presence of a Magistrate. The Magistrate appears in evidence and states that the accused confessed his guilty before him. Would the confession be admissible without recording the statement of the accused under Section 164/281 Cr. P.C.

(c) What procedure is required to be followed by a Magistrate where an accused feels the pangs of conscience and to relieve himself of the burden wants to disclose his involvement in the crime?

(d) Whether an accused can be convicted solely on the basis of entries in the accounts maintained on loose sheets for an offence of misappropriation of funds?

RESILIENCE LAW ACADEMY

3. (a) An FIR based on the complaint made by the complainant is found to be incorrect during investigation and a second version is found to be correct. Whether the police is required to file its report on both the versions or the one found by it to be correct during investigation?

(b) What action can be contemplated against the informant if the allegations as leveled in the FIR are found to be false?

(c) An informant comes to the police station and informs of a shoot out in a locality. Should the Incharge of the Police Station register an FIR or only make an entry in the Daily Diary Register and Why?

(d) Whether the Sessions Judge can summon a person as an additional accused prior to recording the prosecution evidence?

(b) A married B in 2001 and the divorce took place in 2003. In the year 2002, when A was posted as Revenue Officer, in the State X, he amassed enough wealth through illegal means and communicated the same to B his wife. after divorce in 2003, b remarried C. A is being prosecuted for criminal misappropriation of money during 2001-2002. Prosecution intends to bring B, his former wife as witness in the Court against this case. Can it do so or not? Give reasons and law to support your case.

(c) In the light of the decision in State of Maharashtra v. Christian community Welfare Council of India, (2003)8 SCC 546, state the law relating to arrest of a woman by Police.

RESILIENCE LAW ACADEMY

PUNJAB SUPERIOR JUDICIAL 2011 LAW PAPER-III

1.(a)The Directive Principles of the State Policy contain the policy matters which can improve the life of a person or a group. Keeping this in view, evaluate the judicial decisions which have expanded the horizons of Articles 14 and 21 of the Constitution, to limitless boundaries. Is it a good use of constitutionalism?

(b)"Secularism is neither anti-God nor pro-God. It eliminates God from the matters of State and ensures that no one shall be discriminated on the ground of religion."In the light of the above statement, discuss the true import of freedom of religion guaranteed under the Constitution of India.

2.(a)'A' a Political party routs 'B', another political party in the general elections to Parliament. The Political Party 'B', does not get even a single Parliamentary seat in the nine States where it had the majority of seats in the State Assembly by virtue of an election in the past. The President dissolves the Assemblies of these States on the advice rendered by the 'A' Political Party's cabinet at the Centre. The nine States challenge the action before the Supreme Court. Will they succeed? Give reasons.

(b)The trial Court after closing the evidence fixes the matter for argument, but the defendant did not appear and accordingly the trial Court passed an order in accordance with provisions of Order XVII Rule 2 Code of Civil Procedure and proceeded ex-parte against the defendant and fixed a date for hearing of the matter ex-parte. Thereafter, the trial Court heard the matter and decreed the suit. The defendant filed an application under Order IX Rule 13 CPC which was rejected by the trial Court on the ground that it was not maintainable. The revision under Section 115 CPC was also dismissed. What remedy is available to the defendant?

(c)What do you mean by a foreign judgment? When is a foreign judgment not conclusive? Refer to case law.

3.(a)Whether objections against the report of the Local Commissioner, appointed by the Court during the course of trial, are maintainable and what are the options available to discredit such report.

(b)In execution of a decree for specific performance of the immovable property, B files objections on the ground that he has a prior agreement to sell in pursuance of which he is in possession. Whether such objections are maintainable? Discuss with provisions of law and the remedies available to the Objector against an order passed in such proceedings.

(c)A money decree for the recovery of Rs.3.00 lacs (Rupees Three Lacs) is granted in favour of three plaintiffs A, B and C.C files execution for recovery of the entire amount. Whether such execution is maintainable? Discuss with provisions of law.

(d)What is the distinction between Res-judicata, as defined under Section 11 CPC, Order 2 Rule 2 and Order 23 Rule 1 of the Code of Civil Procedure?

4.(a)The principle of ejusdem-generis' is an important tool of interpretation, but it is one to be applied with care and caution and should not be pushed too far. Discuss and illustrate.

RESILIENCE LAW ACADEMY

(b) In a case the question was how to construe the term 'Prize Competition' as defined in Section 2(d) of the Prize Competition Act, 1955, which defines it as "any competition in which prizes are offered for the solution of any puzzle based upon the building up arrangement, combination or permutation of letters, words or figures." The question was whether in view of this definition, the Act applies to competitions which involve substantial 'skill' and are not in the nature of 'gambling'. Discuss the rule of construction to be applied to construe the term 'Prize Competition' and decide.

5.(a) With Kohler, Geny and Stammler the twentieth century saw the revival of natural law theories. Give reasons and point out how the modern theory of natural law treats law with variable context.

(b) The Supreme Court of India in its Full Court Meeting held on May 7, 1997 unanimously adopted a Charter called the "Restatement of Values of Judicial Life", generally known as Code of Conduct for Judges? Show your acquaintance with the Code.

(c) The National Commission to review the working of the Constitution, 2002, recommended the establishment of National Judicial Commission in view of the need to preserve the independence of judiciary, Narrate in brief its salient features.

RESILIENCE LAW ACADEMY

HARYANA SUPERIOR JUDICIAL SERVICES, 2011

LAW PAPER-I

1. (a) Distinguish an "offer" from an "invitation to offer" , under the Indian Contract Act. Refer to case law.
(b) 'A' borrowed a sum of Rs. 25,000/- from 'B' in order to bet with 'C' as to result of a cricket match between Indian and England. The betting on a cricket match is not authorised. 'A' lost bet to 'C'. 'A' neither paid a sum of Rs. 25,000/- to 'C' nor returned Rs.25,000/- to 'B' 'B' and 'C' initiated legal remedies against 'A' separately for recovery of Rs. 25,000/-. Decide and give reasons.
(c) Discuss relevant principles that govern grant of temporary injunction. Whether a temporary injunction can be granted in the form of mandatory injunction ? Refer to decided cases.
(d) A Hindu widow owned a house. On 1.4.1965 she adopted 'B' as her son and executed a deed of adoption. The deed is not registered, but in the deed she has stated that after this deed of adoption her adopted son will be entitled to her whole property of movable and immovable and she will have no right to alienate any part of the property. The widow sold the house to 'K' by registered sale deed. 'K' filed suit for possession against 'B' on the basis of sale deed. 'B' relied upon the adoption deed to plead that 'A' had no right to sell the house. Decide and give reasons.
2. (a) 'H' and his sister 'R' inherited the property of their mother, but the name of 'H' alone was recorded in the revenue record and he dealt with the whole of the property as his own. In 1950, he alone mortgaged the property and afterwards redeemed the mortgage. "R' had not taken any exception to the mortgage. Twenty five years later, he again mortgaged the property to the same mortgagee, who satisfied himself that 'H's name was still in the revenue record as the recognized owner of the property. 'R' then sued to annual the mortgage so far as her share of the property was concerned and to recover her share. Discuss with the help of decided cases.
(b) Examine the conditions under which the 'lease' of immovable property is determined. Whether the notice to quit is necessary under Section 106 of Transfer of Property Act in cases of periodic tenancies. Refer to recent case law.
(c) Can a question regarding the sufficiency of Court fee be raised for the first time in second appeal? Decide and give reasons.
3. (a) Whether in a suit for declaration by a coparcener, who is in possession of the property subject matter of sale, challenging the sale deed executed by Karta, would require affixation of Court fee as per the amount mentioned in the sale deed or the fixed Court fee? Discuss with the recent case law.
(b) Property of a minor is sold by his natural guardian without permission of the competent Court. Discuss the remedies available to the minor after 6 years of attaining the majority with provisions of law and case law.
(c) Discuss 'the doctrine of relation back'. Explain its application and assess the extent to which it applies even after the enactment of the Hindu Adoption and Maintenance Act, 1956, by the Supreme Court. Refer to recent case law.

RESILIENCE LAW ACADEMY

(d) 'A' husband and 'B' wife file a petition under Section 13-B of the Hindu Marriage Act, 1955 within one year of marriage along with an application seeking permission to file petition and also to dispense with the period of second motion of six months.

Discuss with the provisions of law and case law as to whether the petition can be entertained and whether the period of six months can be waived off?

5. (a) 'A' files a suit for possession on the basis of title against 'B', his nephew, who is in possession for the last 15 years. 'B' sets up a plea of adverse possession being in continuous possession for the last more than 12 years. Whether the plaintiff is entitled to decree for possession? Discuss the merits of the plaintiff's case with case law.

(b) 'A' and 'B' are two co-owners of a residential building. 'A' has inducted 'C' as a tenant in the said building. 'B', an ex-serviceman, seeks summary eviction of 'C' to which petition 'A' does not contest. Discuss the maintainability of petition with statutory provisions and case law.

(c) Whether, a tenant can be evicted from the tenant premises consisting of three rooms, when roof of the veranda has fallen down and the flooring of two room is damaged from many places?

RESILIENCE LAW ACADEMY

HARYANA SUPERIOR JUDICIAL SERVICES, 2011 LAW PAPER-II

1. (a) In pursuit of earning quick money, A and B agreed to 'kidnap children from reputed public schools, whose parents are capable of paying ransom. A wrote a letter to B asking him to be present on 1.1.2011 at 12.30 P.M. at the gates of a public school in Chandigarh. A waited for B at the agreed spot and during this period gave a message through his mobile phone to B, asking him to get some Chloroform to facilitate the execution of work (kidnapping). Police working on a tip arrested B before he could meet A. B in police custody agreed to have chalked out a plan for the purposes of kidnapping.

In the charge for conspiracy to kidnap, prosecution produces following evidence:-

- (i) Letter written by A to B
- (ii) Mobile phone message of A to B
- (iii) Statement of B, after arrest.

Give your opinion about relevancy and admissibility of above evidence with relevant provisions of law and decided cases.

(b) X and Y were childhood friends in the village. Both of them grew together and there was an understanding between them that they will eventually marry each other after X takes up a job in the city. X got a job and was to leave for the city. Before leaving for city, he made a promise to Y that he will be marrying her after he returns from city with sufficient money for marriage. On the basis of said promise, he had a sexual intercourse with Y with her consent, before leaving for the city. In the city X was attracted to another girl Z in his office and started evading Y. shocked by the conduct of X, Y filed a criminal complaint against X for prosecuting him for the offence of Rape. X pleads that such sexual intercourse was with the consent of Y, therefore, he has committed no offence. Decide with the help of legal provisions and judicial decisions.

2. (a) Explain with the help of case law:-

- (i) Facts of issue
 - (ii) Expert evidence
 - (iii) Hostile witness
 - (iv) Testimony of accomplice
- (b) "The retracted extra judicial confession though a piece of evidence on which reliance can be placed but same is to be corroborated with independent evidence."

Explain the above statement with the help of case law.

(c) It cannot be laid down as an absolute rule of law that dying declaration cannot form the sole basis of conviction unless it is corroborated. Discuss in the light of decided cases.

3. (a) What is law of plea bargaining and its applicability and relevancy in India?

(b) Mr. K, an under trial, is rescued from Central Prison by X. In doing so X caused grievous hurt to Y, a warden of prison. X is tried and convicted for unlawfully rescuing an under trial from legal custody. Subsequently X is tried for causing grievous hurt to prison warden Y.

RESILIENCE LAW ACADEMY

X pleads that his subsequent trial is against his procedural and constitutional rights. In your opinion, is the trial (subsequent) permissible in this case. Give reasons if the answer is affirmative or negative.

(c) Discuss the impact of insertion of Section 437-A (in 2009) on the process of Bail in non-bailable offences?

5. (a) Sections 304-B and 498-A of the Indian Penal Code, are not mutually exclusive (Elaborate your answer with decided cases).

(b) X, a former Minister, alleges that he has been falsely implicated in a corruption case at the behest of his political rivals. Apprehending his arrest, he moves an application to the Sessions Judge, for grant of anticipatory bail. What guidelines should be kept in mind while considering X's application?

(c) In a case of attempt rape on M – a maid servant, by X, the evidence is produced that shortly after the commission of act, M made a complaint to W (wife of X) stating the name of the offender. Is the evidence relevant and admissible. Elaborate.

HARYANA SUPERIOR JUDICIAL SERVICES, 2011 LAW PAPER-3

1.(a).In Zee Telefilms Ltd. v. Union of India (2005), the Supreme Court observed that in Article 12 the term "other authorities" was introduced at the time of framing of the Constitution with a limited objective of granting judicial review of actions of such authorities which are created under statute and which discharge state functions. Trace the judicial interpretation of Article 12.

(b)What do you understand by the colourable exercise of the legislative power? Discuss.

(c)The State education rules provide for compulsory singing of National Anthem in Schools every morning. 'A' a student whose religion, it is alleged, does not permit singing in praise of anyone, other than God, refuses to sing but stands in respect when National Anthem is sung. The School Authorities expel 'A' for violating the Rules. Write the grounds on which the expulsion can be challenged, if any

2.(a)What do you understand by the principle of res-judicata? Discuss the essential conditions of the doctrine of res-judicata. Whether it applies to co-defendants? Refer to case law

(b)Satnam Singh files a suit for partition against his father and brothers. The suit is resisted on the ground that there is already a partition in the family through an unregistered family settlement. The document is tendered in evidence but the plaintiff raises an objection to its reception on the ground that it is unstamped and unregistered. How would you proceed?

(c) 'A' claims a sum of money as due to him from 'X' or 'Y'. The suit is decreed partly against 'X' and partly against 'Y', "X' appeals and 'Y' does not. Whether the Appellate Court can discharge 'X', making 'Y' liable for the whole amount?

5.(a)The inherent powers of the Court are in addition to the powers specifically conferred on the Court by the Code of Civil Procedure. Whether they are complimentary to those powers and the Court is free to exercise them for the ends of justice or to prevent the abuse of the process of the Court? Discuss.

(b)'A' is a tradesman in Kolkata. 'B' carries on business in Mumbai. 'B' by his agent in Kolkata buys goods of 'A' and requests 'A' to deliver them to Golden-Indian Railway

RESILIENCE LAW ACADEMY

Company in Kolkata.' A' delivers the goods accordingly in Kolkata. In a dispute for the price of goods, where 'A' can sue 'B'? Discuss the relevant provision of the Civil Procedure Code and decide.

RESILIENCE

RESILIENCE LAW ACADEMY

HARYANA SUPERIOR JUDICIAL SERVICES EXAMINATION, 2008--PAPER I - LAW (CORE SUBJECTS)

Q.I (a) How would you prove the following documents under the Indian Evidence Act?

(i) A Will of which the attesting witnesses are dead.

(ii) A registered sale deed.

(iii) A document which is thirty years old.

I (b) A institutes a suit for possession of the property on the basis of a sale deed in his favour. However, he does not produce the sale deed in his evidence. Can the possession be granted to him on the basis of other evidence on record?

I (c) A send a notice to B through registered post at his correct address informing him that the cheque issued by him has been dishonoured and asks him to make the payment within 15 days from the receipt of the notice. B, at the trial, states that he had not received the notice. Can the court presume that the notice had been delivered to B?

And can B be stopped from raising this contention?

I (d) A produces a certified copy of the Will contending that he has lost the original Will without any declaration about the date or the approximate period of the loss. Can the certified copy of the Will and his testimony in that behalf be accepted as sufficient evidence by the court?

Q. II (a) A is in possession of a piece of land. B files a suit seeking decree for declaration of the title of the land in his name. However, B does not seek further relief of possession of the land. Is B's suit for mere declaration of title maintainable under the Specific relief Act?

II (b) A had given his building to B on rent. B opened his office in that building. B shifted his office to some other place due to fire in that building. However at the time of his shifting, his lease had already expired. B files a suit for possession of the building under the Act on the ground that the lease was renewable and that he had to shift his office only because of fire in the building. Will the court restore the possession of the building to B?

Q. III (a) Capital punishment can be awarded to a guilty person in rarest of rare case. What are the cardinal questions that you would like to address while awarding death sentence to a murderer in the light of the decisions of the Apex Court?

III (b) (i) Accused 'X' hit bottle filled with some liquid on the head of Z, but there was no evidence to show whether that liquid was kerosene or petrol. The other accused 'Y' threw lighted lamp from a distance causing fire to Z, who died on the spot. This act of throwing lighted lamp was random and resorted to at the spur of moment. For what offences 'X' and 'Y' are respectively liable? Are they liable for one and the same offence?
(ii) A scuffle took place between 'X' and 'Y'. During the scuffle, 'X' picked up a knife that fell down from the hands of 'Y'. The grappling however still continued and 'Y' caught hold of the neck of 'X' and, thus, began to strangle him. 'X' then loosing his self control gave two blows of knife to Y, who died. Is 'X' entitled to get the benefit of the provisions of right to defence, if so, give reasons?

RESILIENCE LAW ACADEMY

III (c) (i) Is 'test identification parade' evidence receivable? Discuss briefly in the light of the statement that 'section 9 of the Evidence Act is a second exception to the general rule that evidence of collateral facts is not usually receivable.'

(ii) Is trial with the aid of video conferencing permissible under the provisions of the Evidence Act?

III (d) (i) Discuss the evidentiary value of D.N.A. profiling of an accused.

(ii) It is true that if a person making a dying declaration chances to survive, his statement is inadmissible as a dying declaration under section 32. But could it be relied upon or used for the purpose of contradictions etc., under other provisions of the Evidence Act?

Q. IV (a) (i) Critically analyze the provision of Code of Criminal procedure relating to examination of an accused by a registered medical practitioner.

(ii) Can an accused released on bail be ordered to undergo a medical test?

IV (b) (i) Discuss the provisions of Code of Criminal Procedure relating to the maintenance to wife with special reference to amendment made by the Code of Criminal Procedure (Amendment) Act, 2001.

(ii) Are following persons entitled to maintenance under the Code:

(i) divorced wife.

(ii) wife of a void marriage.

(iii) father from his married daughter.

IV (c) (i) Explain briefly the procedure to be adopted by the police upon seizure of property.

(ii) In case of rival claims to vehicle by the financier and the registered owner of the vehicle, to whom the court should return the vehicle?

IV (d) An accused in a case under section 308 of IPC seeks permission of the court to enter into a compromise with the complaint. In support of his request he submits an affidavit of the complaint to this effect. Can such permission be granted under the provisions of Cr. P.C.?

Q. V (a) Market value of the land is said to be the principal factor for determining the payable compensation for compulsory acquisition of land under the Land acquisition Act of 1894. However, if the definite material for determining the market value either in the shape of similar lands in the neighbourhood at or about the date of notification under section 4(1) of the Act or otherwise is not available, what other evidence in the form of 'positive and negative factors,' as spelled out by the Apex Court in various decisions, is available as determinant of market value? Discuss.

V (b) A dealer of the Hindustan petroleum took on lease some premises for a period of ten years. On the expiry of lease period, the landlord refused to renew the lease. After giving notice to quit, he filed a suit for eviction of his tenant. However, the tenant continued in possession of the suit property and paid the rent regularly. The landlord accepted the rent under protest. He also made it clear that the money being paid by the tenant would be adjusted against the damages which the tenant is liable to pay for wrongful possession of the suit property. Under the circumstances, the tenant took the

RESILIENCE LAW ACADEMY

plea that he has become 'tenant by holding over' under section 116 of the Transfer of Property Act, 1882, inasmuch as the rent is being accepted by the landlord. Decide whether tenant would succeed.

Q. VI (a) When can temporary injunction be granted by the Civil Court? Is this power discretionary?(8 Marks)

(b) What is a representative suit? By whom and under which circumstances can such a suit be filed? (8 Marks)

(c) Distinguish between Appeal, Revision, Review and Reference.(8 Marks)

(d) The second appellate court is said to have the requisite jurisdiction to interfere with the concurrent findings of the both the courts below under section 100 of CPC if the case involves a substantial question of law. Discuss what is 'question of law' and show how it is different from 'substantial question of law' for the purpose of invoking jurisdiction of the second appellate court under section 100 of the CPC.

Q. VII (a) (i) Briefly discuss the principle of irretrievable breakdown of marriage?

(ii) What is the objective of three judge bench decision of the Supreme Court in Naveen Kohli v. Neelu Kohli, AIR 2006 SC 1675, in recommending the introduction of the breakdown principle as a ground of divorce into the Hindu Marriage Act, 1955.

(b) (i) What are the legal bars (the matrimonial bars) under the Hindu Marriage Act, 1955?

(ii) How do these bars assist the court in the resolution of marital conflict problems?

(c) A husband applied for divorce on ground of cruelty of his wife. The Trial Court found that the incidents demonstrated by the husband in his testimony fell within the purview of petty quibbles that happen in day-to-day married life. finding that the withdrawal by the husband from the society of the wife was unreasonable, the court granted the decree of restitution of conjugal rights in favor of wife. Husband did not resume cohabitation with her. After a period of one year, he moved the court for divorce under section 13(1A) of the Hindu Marriage Act, 1955. The wife resisted the petition by invoking the provisions of section 23(1)(a) of the said Act. Decide the case.

RESILIENCE LAW ACADEMY

TRANSFER OF PROPERTY & EASEMENT

Q.1 Define "Transfer of Property" and give the general principles/essential features of transfer of property.

Q.2 "Property of every kind may be transferred." State the exception to this rule if any.

Or

"Transferability is the most inherent quality of Property". Explain what are the exceptions to this rule?

Q.3 What is the meaning of immovable property. Give some examples as to what are immovable and movable properties?

Q.4 Give the meaning and essentials of a gift as given in section 122 of transfer of property act. Can a gift be suspended or revoked discuss.

Q.5 Give the meaning and essentials of lease. Who can grant lease? Also distinguish between lease and licence.

Q.6 Explain the meaning and essential elements of a "Mortgage". Also examine the effect of failure of mortgagee to advance the amount undertaken. Discuss the different kinds of mortgages.

Q.7 Define easement. What are the essential elements of easement. Discuss in detail.

Q.8 Define sale. What are the essentials of a valid sale? How it is made. Distinguish between (a) Sale and Gift (b) Sale and Exchange

Q.9 Discuss the transfer by unauthorized person who subsequently acquires interests in property transferred as given sec. 43 of Transfer of Property Act 1882. Also differentiate between sec. 6(a), 41 and 43 of the T.P. Act.

Q.10 Examine the following intangible properties.

(i) Copy-right (ii) Trade Mark (iii) Trade Name (iv) Patent Right

Section- B (Short Answer Question)

Q.1 Examine the scope and object of the T.P. Act, 1882. Give the various definitions under sec 3 of T.P. Act.

Q.2 Explain the meaning and essentials of Attestation. Examine the legal effect of attestation.

Q.3 Define Notice. Discuss Notice to agent in detail.

Q.4 What do you know about the "Rule" against property. Also give the exception to this rule.

Q.5 Explain the "Doctrine of Lis pendens"?

Q.6 Define and explain the term "Exchange" as given in sec 118 of T.P. Act, 1882.

Q.7 What is an actionable claim?

Q.8 Discuss the rights and liabilities of lessor and lessee as given in sec. 108 of T.P. Act.

Section- C (Very Short Answers)

Q.1 Define natural rights. What rights come under the category?

RESILIENCE LAW ACADEMY

Q.2 What is the meaning of easement?

Q.3 Give the meaning of property.

Q.4 What do you mean by onerous gift?

Q.5 Give the meaning of charge. Distinguish between charge and mortgage.

RESILIENCE