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19 (IV) CPRC 4-2

2018

**CIVIL PROCEDURE CODE**

Paper : 4-2

Full Marks : 80

Time : Three hours

***The figures in the margin indicate full marks for the questions.***

1. Fill in the blanks with appropriate answer given in the brackets : 1×10=10
  - (a) The Code of Civil Procedure, 1908 came into force with effect from \_\_\_\_\_.  
(1st January, 1909/26 February, 1909)
  - (b) \_\_\_\_\_ means any person in whose favour a decree has passed or an order capable of execution has been made.  
(Decree-holder/Judgement debtor)
  - (c) A Second appeal lies to the High Court on the ground of a \_\_\_\_\_.  
(substantial question of Law/question of fact)

Contd.

- (d) The law of limitation is \_\_\_\_\_.  
(Procedural Law/Substantive Law)
- (e) An appeal against a decree or order can be filed in a High Court within \_\_\_\_\_. (Thirty days/Ninety days)
- (f) A suit in a Civil Proceeding instituted by the presentation of \_\_\_\_\_. (plaint/written statement)
- (g) The Period of Limitation for recovery of immovable property is \_\_\_\_\_.  
(12 years/3 years)
- (h) Pleading must state the \_\_\_\_\_.  
(facts/law)
- (i) The Provisions of Limitation Act, 1963 \_\_\_\_\_ to writ petition filed in the Supreme Court or in the High Court.  
(apply/do not apply)
- (j) \_\_\_\_\_ deals with temporary injunctions. (Order 39/Order 40)

2. Explain the following terms :  $2 \times 5 = 10$

- (i) Affidavit
- (ii) Caveat
- (iii) Cause of action
- (iv) Pauper Suit
- (v) "Garnishee Order".

3. Discuss the provisions for determining the Jurisdiction of Civil Court. What is the procedure when the court has no jurisdiction to try a suit filed before it?

$8+4=12$

**OR**

What do you mean by "Plaint"? What particulars should a Plaint contain? What are the grounds for rejection of Plaint?

$2+5+5=12$

4. Explain the term "decree". What are the essentials of a decree? Distinguish between a "decree" and "Judgement".

$2+5+5=12$

**OR**

When should a defendant enter appearance in a suit? What consequence the defendant is to face for non-attendance after summons was duly served? What remedies are available to such a defaulting defendant?

$4+4+4=12$

5. What is "injunction"? When can a Civil Court grant temporary injunction? What is the remedy for violation of temporary injunction?

$2+6+4=12$

**OR**

On what grounds a Second appeal lies? State the circumstances when a new point can be raised for the first time in Second appeal.

6. Discuss the provisions relating to Suits by or against minor and lunatics.

12

**OR**

Write explanatory notes on : *(any two)*

- (a) Attachment before Judgement
  - (b) Different modes of Service of Summons
  - (c) Power of Court to issue Commission.
7. "Limitation bars the remedy but does not extinguish the title" — Explain. How far is it applicable to the suit for possession?

8+4=12

**OR**

Write in brief the important provisions of Law of Limitation. What do you mean by 'barred by Limitation'? Give examples.

8+4=12