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19 (8) CCPR 8-3

2017

**CODE OF CIVIL PROCEDURE AND
LIMITATION ACT**

Paper : 8-3

(New Course)

Full Marks : 80

Time : Three hours

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

1. Choose the correct option : 1×10=10

(i) Principle of *res-judicata* is contained in

(a) Section 10 of C.P.C.

(b) Section 11 of C.P.C.

(c) Section 13 of C.P.C.

(d) Section 14 of C.P.C.

Contd.

(ii) Which of the following is not a decree ?

- (a) dismissal in default
- (b) rejection of a plaint
- (c) both (a) and (b)
- (d) neither (a) nor (b).

(iii) Pleading can be amended

- (a) before the trial court
- (b) before the first appellate court
- (c) before the second appellate court
- (d) all of the above.

(iv) A judgement contains

- (a) concise statement of the case
- (b) the decision on the points of determination and reasons thereof
- (c) the points for determination
- (d) all of the above.

(v) Provisions relating to execution of decrees are contained in

- (a) Order XXI
- (b) Order XXV
- (c) Order XXXIII
- (d) Order XXXVI

(vi) A decree for execution

- (a) cannot be transferred to another court
- (b) can be transferred to another court
- (c) may or may not be transferred
- (d) either (a) or (c).

(vii) A 'garnishee' is

- (a) the judgement debtor
- (b) judgement debtor's debtor
- (c) judgement debtor's creditor
- (d) the banker of the judgement debtor.

(viii) The object of interim order is —

- (a) to protect the rights of the parties in the intervening period between commencement of proceeding and its final adjudication
- (b) to prevent any abuse of process during pendency of proceeding
- (c) both (a) and (b) above
- (d) neither (a) nor (b).

(ix) A revision application lies on question of fact and law —

- (a) True
- (b) False
- (c) Partly true
- (d) None of the above.

(x) A minor or lunatic —

- (a) is not entitled to sue or be sued
- (b) may institute a suit through his next friend
- (c) may defend any suit through the guardian appointed by the court
- (d) both (b) and (c) are correct.

2. Answer the following questions : $2 \times 5 = 10$

- (a) Who is an indignant person ?
- (b) What is 'Mesne Profit' ?
- (c) What do you mean by 'Interlocutory Order' ?
- (d) Who is a 'Next friend' of a minor ?
- (e) Define affidavit.

3. State the distinctions between : $6 + 6 = 12$

- (a) *Res-subjudice* and *Res-judicata*
- (b) Appeal and Review.

Or

What are the requirements of Notice under Section 80 of Civil Procedure Code ? Write a draft notice under Section 80 of the Civil Procedure Code.

4. Discuss the provisions under Code of Civil Procedure dealing with the jurisdictions of the civil courts. 12

Or

Explain the powers and procedure of Civil Court in granting temporary injunctions. Can the court grant ad-interim injunction against the Government or Public officer without serving notice ? $8+4=12$

5. On what ground a second appeal lies ? Distinguish between second appeal and revision. $6+6=12$

Or

What is 'attachment before judgement' ? Discuss the provisions relating to powers of court for such attachment. $4+8=12$

6. 'An executing court cannot go behind the decree'. Elucidate. Can an executing court interfere with the decree ? Illustrate your answer. $6+2+4=12$

Or

Write an exhaustive note on inherent powers of the civil court. 12

7. "Limitation bars the remedy but does not extinguish the right". — Explain. 12

Or

Explain the terms : $4 \times 3 = 12$

- (a) Continuous running of time
(b) Objectives of 'Law of Limitation'
(c) Sufficient cause.
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