

Total number of printed pages—4

21 (8) CCPL 8-3

2018

**CODE OF CIVIL PROCEDURE AND
LIMITATION ACT**

Paper : 8-3

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks with appropriate answers given in the brackets : 1×10=10
 - (a) A Civil Court has jurisdiction to try all suits of civil nature unless _____ barred. (expressly/expressly and impliedly)
 - (b) Jurisdiction of a Court depends on averments made in the _____. (plaint/written statement)
 - (c) It is the duty of the _____ to take care that proper notice is issued to provide sufficient information to the persons interested in the suit. (Court/Plaintiff)

Contd.

- (d) Where a plaintiff omits to sue or intentionally relinquishes any portion of his claim, he _____ afterwards be allowed to sue in respect of the portion so omitted or relinquished. (shall/shall not)
- (e) An appeal _____ against an order rejecting application to set aside *ex-parte* decree. (does not lie/lies)
- (f) In computing the period of limitation the period of notice u/s 80 CPC is to be _____. (included/excluded)
- (g) The High Court may exercise revisional jurisdiction _____. (only on the application of a party/even on its own)
- (h) The High Court _____ exercise revisional jurisdiction where alternative remedy is available to the aggrieved party. (may/may not)
- (i) Limitation Act, 1963 does not apply to _____. (appeals/writ petitions)
- (j) Plea of laches may be raised against _____. (the defendant only/either plaintiff or defendant)

2. Answer the following questions : 2×5=10

- (a) What is the function of procedural law?
- (b) What is "forum shopping"?
- (c) What do you mean by "multifariousness" in case of institution of suits?

- (d) What is "First hearing"?
- (e) What is "acknowledgement" for the purpose of the Limitation Act?

3. (a) Narrate the principles as set forth in the Code of Civil Procedure, 1908, regarding "denial" by a defendant in his written statement.
- (b) In a suit the defendant seeks more than 90 days' time for submission of Written Statement. How should the Court proceed? Cite case law. 6+6=12

OR

- (a) A sues B for rent. The suit is dismissed on finding that A was not the landlord, but A and B were tenants in common. Can A subsequently file a suit against B for partition of the property? Give reasons.
- (b) Write a note on signing and verification of pleadings. 6+6=12

4. Define the term "issue". What are the materials on the basis of which issues are framed? What are the consequences of omission to frame issues? 2+6+4=12

OR

- Define the term "summons". Explain different modes of service of summons. 2+10=12

5. What is appeal? Explain the powers and duties of Appellate Court. $2+5+5=12$

OR

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

- (a) Cross-Objection
- (b) Substantial question of law
- (c) Interference with concurrent findings.

6. Discuss the provisions relating to suits by or against minors and lunatics. 12

OR

Explain the term "execution". Which are the courts by which decrees may be executed? Who can file application for execution? Who are the parties against whom execution proceedings may be drawn? What are the different modes of execution of decrees?

12

7. "The Statute of limitation is the statute of repose, peace and justice". — Explain the statement. 12

OR

"Limitation bars the remedy but does not extinguish the title" — Examine the statement. 12