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21 (8) CPRC 8-3

2019

**CIVIL PROCEDURE CODE 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 options :
1×10=10

(a) The object of the Code of Civil Procedure, 1908 is to consolidate and _____ the laws relating to the procedure of Courts of civil judicature. (amend/modify)

(b) Rejection of a plaint for non-payment of court fees _____ a decree. (is/is not)

(c) In the absence of a necessary party, an effective order _____ be passed. (can/cannot)

Contd.

(d) _____ are facts that are required to be proved. (*Facta Probandia*) *Facta Probanda*)

(e) Sec. _____ of Civil Procedure Code provides for suits by aliens. (83/84).

(f) A decree passed in favour of a minor without the appointment of a next friend is _____. (void/voidable)

(g) The right of a party to appeal is a _____ right. (inherent/ statutory)

(h) An application for review lies to the _____ court. (superior/same).

(i) _____ is an exception to the general rule that "Law of Limitation bars the remedy only but does not extinguish the right". (Right to Property/Breach of Contract)

(j) Sec. 24 of the Limitation Act lays down an _____ rule. (absolute/qualified)

2. Explain the following terms: 2×5=10

(a) Cause of Action

(b) Legal Set-off and Equitable Set-off

(c) Attachment before judgement

(d) *Caveat*

(e) Doctrine of sufficient cause.

3. Define pleadings. State the general rules of construction of pleadings. Can pleadings be amended? Explain. 2+6+4=12

Or

What is *res judicata*? Explain the doctrine of constructive *res judicata*. What are essentials for applicability of the doctrine of *res judicata*? 2+4+6=12

4. Define a decree. What are the different types of decree? State the grounds on which an *ex-parte* decree can be set aside. 2+6+4=12

Or

What is temporary injunction? What are the main principles which guide the court while dealing with an application for temporary injunction? 12

5. A private party Z has instituted a suit against a department of the State Government for non-payment of his bills. The defendant department takes the plea that mandatory prior notice (statutory) was not served upon it. Is this objection sustainable? Explain in the light of appropriate provisions of Code of Civil Procedure. 12

Or

What is an appeal? What are the different kinds of appeals under the Code of Civil Procedure? When and under what circumstances can a Second Appeal be filed? $2+4+6=12$

6. Write short notes on **any two** of the following: $2 \times 6 = 12$

- (a) Interpleader Suit
- (b) Suits by indigent persons
- (c) Summary Procedure.

Or

Discuss the scope and ambit of the power of review under the Code of Civil Procedure, 1908. How is review different from reference? $8+4=12$

7. Write an exhaustive note on the nature, object and applicability of the Law of Limitation. Discuss briefly the salient features of the Limitation Act, 1963. 12

Or

Explain the various provisions in relation to legal disability under the Limitation Act, 1961. Briefly explain the concept of 'Continuous running of time'. $8+4=12$