

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

(APPELLATE SIDE)

COMPETITIVE WRITTEN EXAMINATION TEST

FOR THE POST OF DISTRICT JUDGE – 2007

Monday, 21<sup>st</sup> May 2007  
Time : 12 noon to 2.00 p.m.

Total Marks 200

**NOTE :**

Candidates are required to answer all questions in Part-I by tick-marking on appropriate choice of answer. Each right answer will be allotted four marks and one mark will be deducted for each wrong answer.

**PART – I**

1. The “Wednesbury principle” is referable to :
  - (a) Administrative Law
  - (b) Service Law
  - (c) Labour Law
  - (d) Banking Law
  
2. “Res ipsa loquitur” is the maxim used when :
  - (a) The circumstantial evidence is sufficient.
  - (b) There is no evidence available to prove a fact
  - (c) The things (circumstance) would speak for itself
  - (d) The witness is called from lock-up (detention).
  
3. The legal principle “nec-vi, nec-ciam, nec-precario” is in relation to :
  - (a) Plea of protection due to bonafide purchase.
  - (b) Plea of prescriptive title.
  - (c) Plea for condonation of delay.
  - (d) Plea of private defence.
  
4. A dishonoured cheque issued in January 2007 towards repayment of loan advanced in December 2004 will cause following legal effect in a suit for recovery of loan amount.
  - (a) It would amount to neither acknowledgment nor part payment of debt and hence no fresh limitation will start running from date of the cheque in January, 2007.
  - (b) It will cause revival of the time barred debt and hence the amount can be recovered.

- (c) It being dishonoured cheque, cannot be treated as part payment of debt and thus, the suit will be barred by limitation.
  - (d) It is the cheque without consideration and will be of no effect, whatsoever for extension of limitation.
5. The death of a Mohammedan person dying intestate, and leaving male and female heirs to inherit his properties will have the legal effect of
- (a) The male and female legal heirs will become joint tenants.
  - (b) The male heirs will be co-parceners and the female heirs will only have right of maintenance from the estate.
  - (c) The male and female heirs will become tenants in common
  - (d) The male members will be tenants in common and female heirs will be joint tenants.
6. "Vishakha case decision" of the Apex Court relates to subject of :
- (a) Domestic violence against Women.
  - (b) Sexual harassment of women at working places.
  - (c) Immoral trafficking in women.
  - (d) Custodial rape on women.
7. "Corpus Delicti" would mean :
- (a) Absence of dead body.
  - (b) Collection of fund for cops (police).
  - (c) Investigation of Crime.
  - (d) Commission of Crime.
8. The concept of "Issue Estoppel" does imply :
- (a) An estoppel due to decision in a criminal case for different offence on same set of facts, in the second case for another offence.
  - (b) An issue decided between same parties in Civil Suit which bars trial of such issue in another suit.
  - (c) An order issued by the High Court to stop further proceedings.
  - (d) The estoppel caused by Record.
9. Which one of the following cannot be isolatedly transferred.
- (a) An easementary right to approach a common Well.
  - (b) An undivided share in the common Well.
  - (c) An electric motor house adjacent to the common Well along with electric motor, individually owned by a common share of the Well.
  - (d) Undivided share in common bathroom appurtenant to the common Well.
10. When three things (viz. prima facie case, irreparable injury and

balance of convenience) are same for both parties in a suit, the appropriate order to pass on interim application will be thus :

- (a) Appointment of Court Receiver.
- (b) Temporary Injunction in plaintiff's favour.
- (c) No interim order in favour of either party and dismissal of the application.
- (d) Attachment of defendant's property, before Judgment.

11. Interpleader suit can be filed when :

- (a) There is claim against Pleader (Advocate).
- (b) The claim is filed against two or more defendants who have set up rival titles to the property, in order to locate real landlord by the tenant for payment of rent.
- (c) The claim set up is against two or more trespassers in the property.
- (d) In suit against two or more indigent person.

12. The Nineth Schedule of the Constitution relates to the laws :

- (a) Which cannot be judicially reviewed by the Courts and are protected from judicial scrutiny.
- (b) The Laws which are not in the concurrent lists.
- (c) The Laws which deal with detention and curtailment of liberties during emergency.
- (d) The Laws pertaining to acquisition or requisition of properties.

13. Doctrine of Merger deals with :

- (a) Merger of self acquired property into the joint family property.
- (b) Merger of different cadres to form uniform cadre.
- (c) Merger of the lands during consolidation of holdings.
- (d) Merger of appellate Court's Judgment into the Original/ Trial Court's Judgment.

14. For taxation of property by Municipal Council, the "Rateable Value" is determined on the basis of :

- (a) Market rate.
- (b) Property value index of the Government.
- (c) Rent for each year after deduction of maintenance charges (Normally 20%).
- (d) The purchase value shown in the instrument like sale deed.

15. An order to appoint Court Commissioner is sought for recording statements of witnesses in the proceedings filed for interim injunction under Order 39, Rule 1 and 2, [C.P.C.](#)

- (a) You will reject the application as not maintainable.
  - (b) You will grant the application as permissible.
  - (c) You will pass alternative order for recording statements by visiting the Spot and to give report of fact finding on basis of such statement.
  - (d) You will yourself proceed to record such statements.
16. In an application under Section 166 of the Motor Vehicles Act, for compensation on account of injury suffered by the claimant, the quantum can be determined on the basis of :
- (a) The structured formula only.
  - (b) The structured formula cannot be used at all.
  - (c) The percentage of disability shown in the medical certificate without reference to occupation of the claimant.
  - (d) By using structured formula as a guideline besides other factors.
17. What is the legal status of “Secularism” enshrined in the Constitution?
- (a) It is a part of basic structure and cannot be changed.
  - (b) It is a part of directive principles and may be changed by 2/3<sup>rd</sup> majority in Parliament.
  - (c) Any religion can be regarded as religion of the Country by suitable amendment in the Constitution.
  - (d) It has restricted scope to the extent of fundamental rights available under the Constitution.
18. In a private complaint case, which is found to be false, the question of awarding compensation to the accused can be decided as follows :
- (a) By immediately passing order of compensation in the same order of acquittal.
  - (b) By immediately passing order to arrest and detain the complainant in default of payment of the fine/compensation, which may be awarded.
  - (c) By giving direction to the accused to file suit for compensation, while passing order of acquittal.
  - (d) By giving finding about falsity and after summary inquiry and deciding separately the issue of compensation.
19. The Supreme Court of India has original jurisdiction to try a suit in :
- (a) Important question of interpretation of Constitutional provisions.
  - (b) Important international disputes between a Corporation like O.N.G.C. and Corporation in U.S.A.
  - (c) In disputes between national political parties.
  - (d) the civil disputes between two States.

20. For purpose of precedent, a Judgment “per-incurium” would mean :

- (a) A Judgment which does not decide any question of law.
- (b) A Judgment which decides substantial question of law.
- (c) A Judgment which decides personal right arising out of departmental enquiry.
- (d) A Judgment which omits to consider existing law on the subject.

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PART – II

1. Write a judgment on following facts after mentioning bare necessary facts and presuming that necessary witnesses were examined by the prosecution. Marks: 30

Nirmala was happily married to Chandu. The couple had a daughter aged 4 years. She was not keeping well and hence they brought her to Amaravati for Medical treatment, where father of Nirmala was staying. They had come to Amravati on 30.10.2001. On 02.11.2001 at 1.30 p.m. Nirmala was chit-chatting with her neighbourers and old friends Sharda and Savita in front of her house. At that time Chandu was standing at the distance of 15 to 20 feet from the house. He was talking with Sahebrao, a distant relative, above certain property which Sahebrao was claiming to have inherited from his uncle who had died intestate. Their talks converted in heated exchange of words and Sahebrao started abusing Chandu. Sahebrao then asked Jiwan who was standing near him, to bring a sword. Jiwan brought two swords and handed over one of them to Sahebrao. Sahebrao gave two blows of swords on the head of Chandu. Chandu fell on the ground and started bleeding profusely. Nirmala and her sister rushed near him and also called the persons residing in the neighbourhood for help. The neighbourers put him in a bullock-cart and carried him to the hospital where he was declared dead.

Nirmala then went to the police station and lodged a compliant. After registering the offence, police went to the spot and inspected the same in the presence of panchas. Police then proceeded to the hospital and recorded the inquest. The blood stained clothes of the deceased were seized. The statements of witnesses were recorded. Sahebrao and Jiwan came to be arrested. During the course of interrogation, Sahebrao admitted that he had hidden the sword in a bush behind his house and agreed to show the same. The sword came to be seized in the presence of panchas. The blood stained clothes of Sahebrao and Jiwan as well as one sword from Jiwan were also seized.

The post mortem report revealed that apart from the fracture of skull, the deceased had suffered 2 incised wounds, one on the left temporal region of skull, 1 inch above the ear transverse in direction

admeasuring 16 cms. X 1 cm. X 3cm. Brain tissues had came out. Another was just below injury No.1, transverse in direction, cutting ear pinna admeasuring 8 cms. X 1/2 cm. X muscle deep. The Medical Officer had opined that both the injuries were sufficient in the ordinary course of nature to cause the death.

2. Write short notes on any two (2) : Marks:20
- I. Rule of Law
  - II. Doctrine of Part Performance
  - III. Customary easement
  - IV. Inheritance to property of a female Hindu who died intestate
3. Write short notes on any two (2) : Marks:20
- I. Res Gestae
  - II. Hearsay evidence whether admissible? If yes, When?
  - III. Presumptions under Evidence Act
  - IV. Proof of private and public documents: Primary and Secondary
4. Write short notes on any two (2) : Marks:20
- I. Release of accused on bail in offences under the provisions of the S.C. and S.T. (Prevention of Atrocities Act).
  - II. Grant of pardon to an approver
  - III. Defences available under the N.I. Act
  - IV. Capital punishment circumstances and provisions in which dealing with the cases when it has to be awarded.
5. Discuss provisions of territorial jurisdiction for filing suit, with special reference to suit against Corporations/ Corporate organization. Marks:15
6. Describe in 25 sentences as to what are the qualities of a good Judicial Officer. Marks:15

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