

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

(APPELLATE SIDE)

COMPETITIVE WRITTEN EXAMINATION TEST

FOR THE POST OF DISTRICT JUDGE - 2008

Code No.

Sunday, 6th January 2008

Total Marks Out of 80 /

(Signature of Examiner)

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 (4) marks and one (1) mark will be deducted for each wrong answer.

PART - I (Objective questions)

1. "Directive principles and Fundamental duties " are part of - :
- (a) Constitution of India
 - (b) Administrative Law.
 - (c) Conduct and Discipline Rules
 - (d) Labour Laws.

2. "Charge" and "Exchange" are :-

- (a) Transfer of property;
- (b) Negotiable Instruments;
- (c) Right of Government to collect revenue or taxes by attachment and sale of property;

3. Sub Divisional Officer, Deputy Collector, Collector and Commissioner are the authorities exercising powers under :-

- (a) Income Tax Act
- (b) Sales Tax Act
- (c) Bombay Provincial Municipal Corporation Act
- (d) Maharashtra Land Revenue Code

4. Right to property is :-

- (a) Fundamental right;
- (b) Constitutional right;
- (c) Moral right;
- (d) Contractual right

5. Claim on the basis of "No Fault Liability" can be made under :

- (a) Law of torts
- (b) Motor Vehicles Act
- (c) Contract between carrier and passenger
- (d) Motor Vehicles Taxation Law
- (e) Railways and Merchant Shipping Act.

6. Supreme Court Judgment in Maneka Gandhi Vs. Union of India decides :-

- (a) Right to property;
- (b) Right to dwelling house;
- (c) Right to reside and stay in India;
- (d) Right to get passport and travel abroad.

7. Supreme Court decision in Srilekha Vidyarthi Vs. State of Uttar Pradesh is based on :

- (a) Right to equality under Article 14 of the Constitution of India;
- (b) Right to contract with anybody irrespective of gender and sex.
- (c) Right to practice as Advocate.
- (d) Right to claim damages and compensation.

8. 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.

9. "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

10. 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 is set up is against two or more trespassers in the property.
- (d) In suit against two or more indigent person.

11. 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 Courts judgment into the Original/ Trial Court's judgment.

12. Pre-arrest bail is granted under :

- (a) I.P.C.
- (b) Code of Civil Procedure
- (c) International Convention of Human Rights.
- (d) Section 438 of the Code of Criminal Procedure

13. Discovery and Inspection and administering interrogatories is a procedure under :-

- (a) Common Law;
- (b) Penal Law;
- (c) Code of Civil Procedure while trying civil suits and proceedings;
- (d) Service Law

14. The term "Award and Decree" is used to denote:-

- (a) The order of Commissioner of Income Tax;
- (b) The order of Collector passed while recovering the revenue;
- (c) Order of Civil Court, Arbitrator, Industrial Court, Cooperative Court etc.;
- (d) Final order of Supreme Court.

15. The word "Primary and Secondary evidence" is part of :-

- (a) Law of procedure;
- (b) Principles of fair play and justice.
- (c) Law of evidence;
- (d) Banking and Security Law.

20. "Defamation" is a :

- (a) Immoral Act;
- (b) Unethical Behaviour by media;
- (c) Corrupt and indecent behaviour in public;
- (d) Custom and Practice contrary to public policy.
- (e) Civil wrong and criminal offence.

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PART - II

Sunday, 6th January 2008

Total Marks 120

Time : 11.00 A.M. To 2.00 P.M.

For Both Parts (i.e. Part I and II)

1. Write a judgment on the following facts : 30 marks

- Note :
- (a) The facts should be stated in brief and not reproduced verbatim.
 - (b) It should be presumed that necessary witnesses have been examined to support the case
 - (c) That necessary and relevant documents have been produced.

One Gharkul society is a Cooperative Housing Society. It has several members to whom it allotted flats and bungalows. They are allotted in pursuance of share certificates and letters of allotment after they paid subscription to the society. The persons concerned applied for membership after reading the bylaws of the society. After the society was registered and the Managing Committee was constituted in the meeting of the General Body, the members were called upon to make contribution for proper management and administration of the society. They were issued notices to pay monies for making arrangement for security and cleanliness in society premises,

basic amenities and payment of statutory charges and taxes. One "M" was the member of the Cooperative Housing Society. He was issued such notice but failed to pay the amount. Thereafter, the society raised a demand upon him in writing and sent legal notice. The society approached the Registrar, Cooperative Societies to issue a Recovery Certificate in favour of the society to enable it to recover the sums from the defaulting Member "M". The Registrar issued the Recovery Certificate enabling the society to recover the dues. The member "M" challenged the recovery certificate by filing a civil suit in a civil Court and claimed declaration and permanent injunction restraining the society from acting upon or in furtherance of the Recovery Certificate. The suit was placed before the civil court after pleadings were complete. It framed the necessary issues and held that the suit is maintainable. It granted the relief prayed for by "M". Its judgment and decree is challenged by the society in appeal.

2. Write short notes on any three :

15 marks

- a) Divorce by Mutual consent.
- b) Inheritance to property of a male and female Hindu who died intestate.
- c) Resjudicata and finality of judgment.
- d) Succession certificate, Probate and Letters of Administration.
- e) Beneficial and Liberal interpretation.

3. Explain the difference between any three :- 15 marks

- a) Permanent and Temporary Injunction in a mandatory form.
- b) Counter claim and set off.
- c) Reference, review and revision.
- d) Lease and licence
- e) A summons case and a warrant case.

4. a) Whether recent Amendments to the Code of Civil and Criminal Procedure, have helped in early investigation and expeditious disposal of civil and criminal cases or not ? Kindly comment.

OR

b) Whether "socialism" is a constitutional goal or a mere political thought and whether privatisation is contrary to and defeating the said goal or objective ? Kindly give your views.

30 marks.

5. Is delay in disposal of cases under the Prevention of Corruption Act responsible for large scale corruption amongs. public servants ? Kindly comment.

OR

Provision for adoption in all personal laws is a progressive step and ensures welfare of children . Please comment.

30 marks.
