

MAINS

**DELHI
JUDICIAL
SERVICES**

PRACTICE PAPER



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DELHI JUDICIAL SERVICES MAINS WRITTEN MOCK TEST 1

Paper III

Civil Law - II

Time: 3 Hours

Maximum Marks: 200

Instructions:

1. Attempt all the questions in the same order in which they appear in the Question Paper.
2. Marks for individual questions are indicated against each question.
3. Support each of your answers with reasons, relevant legal provisions and legal principles. Length of answer would not determine the marks.
4. Write your Name, Paper name and Page no. on the answer sheet.

1. The plaintiff instituted a suit for recovery of money. It is the case of the plaintiff that he had purchased certain land from the defendant; the said land was acquired by the Government and accordingly he applied for compensation; however, the defendant objected to the release of compensation to the plaintiff owing where to the release of compensation to the plaintiff was delayed by several years.

The defendant however subsequently withdrew his objections and where after the compensation was released to the plaintiff. The suit is filed for recovery of compensation for delay caused by the defendant in the release of land acquisition compensation. The defendant contested the suit by denying the sale of land to the plaintiff and further pleaded that the objections to release of compensation was withdrawn by him on the basis of a compromise in writing arrived at between the parties but the plaintiff mischievously obtained his signatures on an unconditional application for withdrawal of objection also.

The defendant however did not file the compromise in writing along with the written statement. However, during the cross-examination of the plaintiff, the defendant put to him the said compromise in writing. The plaintiff denied his signature on the same. The defendant thereafter in his own evidence sought to prove the said compromise in writing. The plaintiff objected to the same contending that the defendant has not filed the document at the appropriate stage, hence could not prove the same. Decide the said objection of the plaintiff. (20)

2. Determine the place of suing in the following cases: (10)

(i) 'A', a resident of Delhi, 'B' a resident of Bangalore and 'C' of Calcutta, meet at Kurukshetra. There 'B' and 'C' borrowed Rs. 10,000/- from 'A' and jointly executed a pronote and handed it over to 'A'. All of them went back to their respective places but the money was not returned. 'A' wants to file a suit for recovery of his money.

(ii) Father of 'A' and 'B' had a bungalow at Gurgaon, one house at Rohtak and Delhi each and two big mango-groves in the district of Hissar. After the death of the father, 'A' took over the management of the entire property and began appropriating the income. 'B' wants to sue for partition of the property.

3. 'A' brought a suit against 'B' to recover possession of math property claiming it as the heir of deceased Mahant. The suit was dismissed because 'A' failed to produce a certificate of succession to establish his heirship. 'A' brings another suit against 'B' claiming the math property as manager of the math property on behalf of the math. Plea of res judicata is raised. Decide. (20)

4. A Hindu wife files a petition against her husband for dissolution of marriage by a decree of divorce. Immediately after service of summons of the petition and before the filing of written statement the defendant files an application under section 8 of the Arbitration & Conciliation Act for reference to arbitration in accordance with the arbitration clause in a Settlement Agreement signed by the parties when on an earlier occasion police complaints were made against each other. The wife admits the Arbitration Agreement which encompasses all disputes and differences of any kind between the parties. Discuss the fate of application under section 8 of the Arbitration & Conciliation Act filed by the husband. (10)

5. 'A' files a suit against 'B' for recovery of possession of a house situated at Juhu (Mumbai) on the basis of a sale deed executed by 'B'. The suit is heard and dismissed by a court of competent jurisdiction 'A' after two years again files a suit against 'B' for the same house on the same ground which he had asserted in the previous suit, in the same court. Can the court try the subsequent suit filed by 'A' against 'B'? Give reasons for your answer. (10)

6. While going to the court for filing a suit, Ramesh meets with an accident. As a consequence, there of Ramesh remains unconscious for fifteen days. The period of limitation for filing the suit expires during this period. Can Ramesh claim an extension of time? (10)

7. Discuss the Doctrine of Honest Concurrent User in relation to the registration of a trade mark under the Trade Marks Act, 1999 with the help of decided cases. (10)

8. Discuss the following: (5x4=20)

(i) Decree Holder

(ii) Foreign Court

(iii) Mesne Profit

(iv) Ex parte Decree

9. 'Y' the appellant handed over some papers to his advocate 'K' in the morning of the last day for filing the appeal. Through pressure of urgent work, the advocate did not look into the papers till the evening of that day when he found that, that was the last day. The appeal was filed on next day. Is there sufficient cause to grant the appellant an extension of a day under Section 5 of the Limitation Act? Decide with the help of case law. (10)

10. Discuss the concept of “first owner” in relation to different types of copyright work? (10)
11. A lease deed was signed and executed on 4th July 1989. It was presented for registration on 6th November 1989. Can it be registered? Explain the answer. (10)
12. (i) What is premature discovery? (5x2=10)
- (ii) What is the penalty for non-compliance by a party with the order of the court for the discovery of the document?
13. Plaintiff came to know about the death of defendant on 15-12-94 from remarks of process server on summons received in court unserved that defendant died on 1-6-94. He moved an application immediately for substitution of legal representative of deceased defendant. Would this application be allowed or rejected on the ground of expiry of period prescribed? (10)
14. In an eviction proceeding, 27-5-1989 was fixed for evidence of landlord and 2-6-89 for evidence of tenant. On 27-5-89 neither tenant nor his counsel appeared at hearing. The court recorded evidence of landlord and passed ex-parte eviction order. Same day tenant applied for setting aside the ex parte order alleging that he was ill and his counsel had forgotten mentioning the case in his diary. He filed his affidavit but did not file medical certificate and diary and affidavit of counsel. The landlord rebutted his allegation on affidavit. Decide the application. (10)
15. What is the effect of the reversal of the Preliminary decree on the final decree passed by the lower court during the pendency of appeal against the final decree. (10)
16. A owned some land which B was cultivating as a tenant. A had four sons C, D, E and F. After A's death the land was sold by C, D, E and G son of predeceased son F to H vide registered sale deed dt. 12.2.68. H filed suit for recovery of possession against B. B contested the suit on the ground inter alia that there are other co-owners of that property and since all co owners have not joined in the filing of suit, the suit is bad for non-joinder of necessary parties. In the written statement he also gave the pedigree table of A but did not lead any evidence in this regard. The revenue record also did not show that there was any other legal heir of A except C, D, E and G at the time of sale. So, H contended that he is sole owner and suit is not bad for non-joinder of other co-owners. Decide. (20)

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