

KERALA HIGHER JUDICIAL SERVICE EXAMINATION 2011
(NCA Vacancies)

Duration : 3 Hours

Marks : 100

PAPER – I
Part –I

(Answer all the questions in one or two sentences. Each carries one mark)

1. What does 'prescribed period' mean under the Limitation Act?
2. What is the case in which the court may order cancellation in part of a document?
3. At whose option the transfer of an immovable property made with intent to defeat or delay the creditor is voidable?
4. What is the right of a co-owner/mortgagor who redeems the mortgage?
5. What is the effect of novation of a contract?
6. When is a firm dissolved compulsorily?
7. When is a letters of administration issued by a court?
8. What does the term 'after him' mean in the provision that the natural guardian of a Hindu minor, in the case of a boy or an unmarried girl, is the father, and after him, the mother?
9. What are the grounds on which an application for divorce by mutual consent may be presented under the Hindu Marriage Act?
10. Who is a mentally ill person under the Mental Health Act?
11. What are the issues on which the District Court shall enter finding on completion of the inquisition under the Mental Health Act?
12. Under the Indian Succession Act what is the rule of distribution of the property of an intestate who leaves behind his widow, father and mother and no lineal descendants?
13. What is the provision in the KB (L&R) Act regarding conversion of buildings?
14. What is deemed transfer of certificate of insurance?
15. When does a decision of a court taken at the conclusion of the trial of an Election petition under the Kerala Municipality Act take effect?

Part – II

(Answer any 15 questions in not exceeding 120 words. Each carries three Marks)

16. What is the effect of substitution or addition of parties under the Limitation Act?
17. Examine the right of a plaintiff to claim and the power of the court to award compensation in a suit for specific performance.
18. (a) 'Once a mortgage, always a mortgage and nothing but a mortgage'. Explain.
- (b) A mortgages his property to B. The period for repayment of the loan is fixed at 10 years. The mortgage deed provides that if the amount is not paid within 10 years thereafter, A will not be entitled to redeem the mortgage. Examine the validity of the provision and the principle involved in the matter.
19. (a) What is pawnor's right of redemption?
- (b) What are the rights of a pawnee?
- (c) A obtained from B title to a gold ornament by misrepresenting certain facts. A pledged it with C. After the pledge, B makes a claim to the property. Examine the validity of his claim in the light of the statutory provisions.
20. (a) An Unregistered firm advanced a loan of a certain amount to a person on his issuing a cheque for the amount. The cheque was dishonoured. The firm filed a complaint against the borrower u/s. 138 N.I. Act. He contended that since the firm is unregistered, the complaint is not maintainable. Examine the validity of the contention.
- (b) What is the mode of giving public notice under the Partnership Act?
21. (a) What is bribery for the purposes of The Kerala Panchayat Raj Act?
- (b) Under the Kerala Panchayat Raj Act what is the ground on which a court can dismiss an Election Petition at the threshold?
- (c) What is the remedy of the petitioner when an Election Petition is dismissed at the threshold?
22. (a) What are the matters over which a Family Court has jurisdiction?
- (b) A and B are husband and wife. A property was purchased in their joint names. Their marriage was dissolved by a decree of divorce. Thereafter, a dispute

arose between them with regard to the property. Can B maintain a petition for partition in the Family Court? Give reasons.

- (c) A wife sued her husband in the Family Court for recovery of an immovable property. Since the husband gave the property on lease to a stranger, the latter was also made a party. The husband contends that the proceedings is not maintainable in the Family Court. Examine the validity of the contention.

23. (a) Distinguish between probate and letters of administration.

- (b) In an application for letters of administration if there is reason to believe that there is a Will in existence, is it proper for the court to grant letters of administration. Give reasons.

24. (a) Distinguish between strict liability and absolute liability in torts. Discuss case law.

- (b) Distinguish between composite negligence and contributory negligence.

25. (a) What is the liability of joint tortfeasors and several tortfeasors?

- (b) A and B jointly committed a wrong. In a suit filed by the victim, A was compelled to pay compensation to the victim. A filed a suit against B for contribution. Will he succeed? Will it make any difference if there was an agreement between A and B for contribution by B?

26. (a) Distinguish between gift and Will under Muslim Law.

- (b) A Muslim makes a gift of his property. The donee was not put in possession of the property, but the gift deed was registered. Is the gift valid? Give reasons.

27. (a) 'The claims under S. 163 A and S. 166 M.V. Act are mutually exclusive'. Discuss.

- (b) The owner of a car insured it and issued a cheque for the premium. The insurer issued a policy. The cheque was dishonoured. The next day the car hit a pedestrian causing injuries to him. Is the insurer liable to pay compensation to him. Give reasons.

28. (a) Are the provisions in CPC applicable to an O.P. filed in MACT?

- (b) What is the mode of execution of an award passed against an insurer under M.V. Act?

29. (a) Which is the court having jurisdiction to entertain divorce petition filed by a Christian wife. Discuss the relevant statutory provisions.

- (b) Discuss the liability of a Christian father to maintain his minor son and major unmarried daughter.
30. Examine the provision in the KB (L&R) Act relating to commission of waste by the tenant in the leased out premises.
31. (a) When does the authority of the guardian of the person cease under the Guardians and Wards Act?
- (b) Does the principle of res judicata apply to the order of custody of a minor?
32. (a) What are the conditions for a valid adoption under the Hindu Adoptions and Maintenance Act?
- (b) Is it legal for adoptive parents to bequeath their properties to a stranger after they have adopted a child?
33. (a) Who are the persons entitled to file an application for inquisition under the Mental Health Act?
- (b) What are the orders that may be passed by the court on such application?
- (c) What is the procedure to be followed by the District Court if it has reason to believe that a person who was found to be mentally ill after inquisition has ceased to be mentally ill?
34. (a) What are the grounds for revocation or annulment of a probate or letters of administration?
- (b) What is the procedure to be followed by the court if after the grant of letters of administration with the Will annexed a codicil is discovered?
- (c) What is the procedure to be followed, if an error in the purpose in a limited grant has crept in?
35. (a) What is actionable claim?
- (b) How can it be transferred?

Part – III

(Answer any 5 questions in not exceeding 250 words. Each carries eight marks)

36. (a) Explain the term adverse possession?
- (b) Distinguish between Art. 64 and Art. 65 Limitation Act.
- (c) A was born on 1-1-1970. On 5-7-1982 a property in his possession was taken illegal possession of by his neighbour. After becoming a major he

wants to file a suit on the basis of his previous possession. Which is the last date for filing the suit? Examine the relevant statutory provisions.

- 37.(a) How is fraudulent transfer dealt with under the T.P. Act?
- (b) What is the provision in the T.P. Act regarding transfer by unauthorised person who subsequently acquires interest in the property transferred?
- (c) A & B are husband and wife. B's father made a gift of Rs.10 lakhs to her. With this money, a property was purchased in the names of A & B. A dispute arose between them. B filed a suit for a declaration that she has exclusive title to the property. Examine her claim in the light of the relevant provision in the T.P. Act. Discuss the provision.
- 38.(a) Who are the persons compulsorily insurable under the M.V. Act?
- (b) When is the insurer entitled to recover from the insured the amount paid by it in a claim petition under the M.V. Act?
- (c) Discuss permanent disability and loss of earning capacity.
- 39.(a) What are the remedies available to a Muslim divorced woman who is denied maintenance?
- (b) Discuss the validity of dissolution by agreement of Muslim marriage.
- (c) What is the difference (if any) between apostacy from Islam of a Muslim husband and of a Muslim wife so far as its consequence on marriage is concerned?
40. (a) What are declaratory decrees? What are the principles for granting declaratory decrees?
- (b) A files a suit for a declaration that his brother is dead on the allegation that his whereabouts have not been known for the last 10 years. Discuss the maintainability of the suit.
- (c) Why is it said that a decree in a suit for specific performance of agreement for sale is in the nature of a preliminary decree?
41. (a) What are the rules for execution of an unprivileged Will?
- (b) Explain the armchair theory in construing a Will?

(c) How is a Will different from other documents so far as inconsistent clauses are concerned?

42.(a) Discuss the entitlement of a landlord under the KB (L & R) Act to evict a tenant on the ground of bona fide own occupation or occupation by any member of his family dependant on him.

(b) On whom the burden lies in proving the ingredients in each of the clauses?

(c) How is section 11 (3) different from S. 11 (8)?

43.(a) Examine the powers of the court to order interim measures under the Arbitration & Conciliation Act?

(b) What are the grounds on which an arbitration award may be set aside?
