

KERALA HIGHER JUDICIAL SERVICE EXAMINATION 2011

Duration : 3 Hours
Marks : 100

PAPER – I Part –I

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

1. Which are the exceptions to the rule that if a new party is added after the institution of the suit, it shall, as regards him, be deemed to have been instituted when he was made a party?
2. What is the amendment made in S. 53 A of the Transfer of Property Act in 2001?
3. Who should perform a contract?
4. What is the effect of a fraud committed by an agent acting in the course of his business for the principal?
5. What is the effect of a registration of the firm made in the course of a suit instituted by a registered firm to enforce a right arising from a contract?
6. Which is the court having jurisdiction to execute a decree of a Family Court?
7. What is the effect of a probate of a Will?
8. How is the order for return of the custody of a ward to his guardian enforced?
9. What is the mode of succession under the Hindu Succession Act if two or more heirs succeed together to the property of an intestate?
10. Who may apply for a reception under Mental Health Act?
11. What is the provision in the KB (L&R) Act regarding impleadment of a subtenant in an RCP where subletting is allowed under the original agreement of tenancy?
12. Who are the employees in a public service vehicle entitled to compulsory insurance under the M.V. Act?
13. What is Bolan Test?
14. Is adoption valid in Christianity? Give the reason.
15. Who is an elector for the purpose of presentation of an Election Petition under the Kerala Municipality Act?

Part – II

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

16. (a) An indigent O.P. was filed within time. After enquiring the court rejected the application for leave to sue as a pauper. By that time the suit became time barred. Can he file a suit paying court fees?
- (b) A suit against the government was filed for an emergent relief. In the course of the proceedings, the plaintiff filed an application to incorporate another relief which was not emergent. Is it maintainable?
17. (a) Examine the liability of a person who is in control of a movable property, of which he is not the owner, to deliver it to the person entitled to its immediate possession.
- (b) A enters into a contract with B for sale of 20 cents of land. On measurement, the extent of the property was found to be only 18.5 cents. B refused to buy it. Advise A.
18. (a) When may a court refuse to rescind a contract?
- (b) A executed a document in favour of B in respect of two properties. The document is voidable in respect of one property. What is the remedy of A?
19. (a) When is a person said to have notice under the T.P. Act?
- (b) Who are competent to transfer properties?
- (c) A has easement of way by prescription over the land of B. A enters into a contract with C to transfer the right of way. Examine the legality of the contract.
20. (a) What does mercantile document of title to goods mean under the T.P. Act?
- (b) A is the creditor of B. But A owed certain amount to B. A transferred his debt to C. C did not know that A owed some amount to B. C sued B for the debt. B claims to set off the amount due to him from B. Can it be allowed?
21. (a) Explain the doctrine of frustration of contract?
- (b) What is claytons rule of appropriation?
22. (a) What are the grounds on which the court may dissolve a firm?
- (b) When is a firm compulsorily dissolved?

23. (a) When can an insurer recover from the insured the compensation paid by it?
(b) What is the difference between composite negligence and contributory negligence?
24. (a) Who are the persons to whom Hindu Minority and Guardianship Act applies?
(b) What are the powers of a natural guardian of a Hindu?
(c) What is the effect of a mortgage deed by the de facto guardian of a Hindu minor?
25. (a) What is the provision in the Guardians and Wards Act regarding simultaneous proceedings in different courts for appointment of a guardian of a minor?
(b) What are the matters to be considered by the court in appointing a guardian for a minor under the Guardians and Wards Act?
26. (a) In the absence of a statutory provision what is the justification for the courts granting maintenance to a Christian minor from his father?
(b) What is the effect of an order of annulment of a Christian marriage by ecclesiastical court?
27. (a) What are the essentials of a valid gift under the Muslim Law?
(b) What are the requirements of a valid Talaq?
28. (a) Who may apply for a judicial inquisition under the Mental Health Act?
(b) What is the procedure to be followed by the District Court on receipt of an application for inquisition?
29. (a) What are the restrictions on the grant of succession certificate?
(b) An application for grant of a succession certificate was filed before a Munsiff Court though the amount involved was Rs. 5 lakhs. What should the court do? Why?
(c) What should be the contents of a succession certificate?
30. (a) How do Sections 4 to 24 of the Limitation Act apply to suits, appeals or applications under a special law or local law?
(b) How do the provisions in the Limitation Act apply to suits or other proceedings under marriage or divorce laws?

31. A made a gift of a certain immovable property to his son B with a condition that B shall not be entitled to any share in his other properties after the death of A. B accepted the gift. After the death of his father, B claims a share in his property as an heir. Examine the legality of the claim. Discuss the statutory principle involved in it.
32. (a) What is actionable claim?
(b) How can it be transferred?
33. (a) What is goodwill of a firm?
(b) What are the provisions in the Partnership Act regarding goodwill?
(c) What is the significance of goodwill at the dissolution of a firm?
34. (a) What are the grounds on which a candidate other than a returned candidate may be declared to have been elected under the Kerala Municipality Act?
(b) What is the procedure to be followed by the court when during the trial of an Election petition it appears that there is an equality of votes between two candidates?
- 35.(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?

Part – III

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

36. (a) What is a suit for foreclosure?
(b) Can a mortgagee in an equitable mortgage sue for foreclosure? Give reasons.
(c) Who, other than the mortgagor, may institute a suit for redemption?
(d) A, B, C & D mortgage a property to E. A redeems it paying the whole debt. B institutes a suit for partition. A contends that B, C & D have not redeemed the property and they are not entitled to the property since suit for redemption of mortgage has become time barred. Decide.

37. Law of limitation bars only the remedy and not the right. State and explain the exception.
38. (a) What are the requirements of a valid unprivileged will?
- (b) The burden is always on the propounder of the Will to prove its valid execution. Explain.
39. What are the requirements of a valid adoption under Hindu Law?
40. What are the facts to be proved before a landlord may obtain an order of eviction of a tenant on the ground of reconstruction of the building?
41. Examine the burden of proof in a case in which the landlord applies for eviction of tenant u/s. 11 (3) KBLR Act (Act 2/ 1965).
42. (a) What is an arbitration agreement and what are the requirements of a valid arbitration agreement under the Arbitration and Conciliation Act?
- (b) What are the interim measures the court may order under the Arbitration and Conciliation Act?
43. What are the essentials of valid marriage under Muslim law.
-