

HIGH COURT OF KERALA
KERALA JUDICIAL SERVICE EXAMINATION (MAIN) 2007

PAPER - III

Total marks: 200

Time: 3 hours

- I. Discuss the doctrine of "Lis Pendens" (15)
- II. Explain the principle of "Feeding the grant by Estoppel". Give an example where the principle could be invoked. (15)
- III. Answer the following: (15)
- (a) What is the purpose sought to be served by the legal requirement of 'attestation'?
- (b) What documents, if any, are valid even if they do not bear such attestation?
- (c) What is the meaning of:
- (i) Actual notice
- (ii) Constructive notice
- Give one example of each.
- IV. Answer the following: (15)
- (a) A father executes a registered gift deed of a piece of land absolutely in favour of his wife, but with a condition against alienation by her. Is the gift valid? If so, is the condition valid? Give reasons.
- (b) Would the position be the same or different, if the document executed is not a gift deed, but is a lease deed? Explain.
- V. Answer the following: (15)
- (a) A promissory note shows the amount promised as "Rs. 2000" in figures and as "Rupees three thousand" in words; which shall prevail and for what reason?
- (b) Who is competent to execute a promissory note? Support your view with reference to statutory provisions.
- (c) What, if any, is the difference between a "promissory note" and "demand promissory note"? If there is any difference, has it any effect on filing of suit for recovery of money due thereunder?
- VI. Answer the following: (10)
- A husband and wife (both Hindus) realised within three months of marriage that due to incompatibility of temperament they cannot continue their married life and hence they decided to have a decree of divorce. As the husband has to leave India within another month, the couple want to file a joint petition for divorce before the Family Court. Give your legal opinion in the matter if the parties approach you.
- VII. Answer the following: (10)
- (a) An illegitimate child and aged mother of a Hindu male, are unable to maintain themselves. Can they claim maintenance from him in a Court of Civil Law? Is the claim to be by way of suit or original petition?

- (b) What are the powers of a natural guardian of a Hindu minor? Refer to the statutory provisions, if any, on the subject.

VIII. Answer the following:

(15)

- (1) What is meant by easement of necessity? Is there any limitation for the dominant owner in exercising such right over a servient heritage?
- (2) A is the owner of a piece of vacant land. Adjoining east of A's land, is the land of B in which is situated an old but small one storied building. B demolished that building and constructed a substantial multi-storied building which has the effect of obstructing free passage of light and air to A's land -
- (a) Explain whether A has any remedy in law.
- (b) Would it make any difference if A had filed a suit for an appropriate relief before the walls on the ground floor of the new building were being constructed?

IX. Answer the following:

(10)

A executed a sale deed in respect of a piece of land for Rs. 10,000/- in favour of B on 1.1.2005. It was registered on 2.2.2005. Meanwhile on 21.1.2005, A executed a registered sale deed in respect of the same land in favour of C for Rs. 11,000/-. Who, among B and C will derive title to the land, and why?

X. Answer the following:

(10)

A sold a piece of land to B for Rs. 10,000/- by an unregistered sale deed. The deed recited that B had paid Rs. 9,000/- to A one month previously and A had put B in possession of the land and that on the date of the sale deed, B is already in possession as vendee.

A files a suit against B alleging that B trespassed into the land and is a trespasser for that reason. B denied this allegation and contended that he derived valid possession from A. B seeks to introduce the sale deed in evidence.

Is the deed admissible in evidence to any extent? Explain.

XI. Answer the following:

(10)

Under what circumstances can the Court

- (a) declare the election of a returned candidate at a Panchayat election void, and;
- (b) declare the petitioner to have been duly elected.

XII. Write short notes on the following:

(15)

- (a) The executive officer of a District Panchayat
- (b) Chairperson of a Municipality under the Kerala Municipalities Act.

XIII. Write short notes on any three of the following:

(15)

- (1) Anomalous mortgage
- (2) Holder in due course
- (3) Onerous gift
- (4) Subrogation
- (5) Waiver of forfeiture

XIV. A and B, both Doctors of Medicine, entered into a registered deed styled as "Lease Deed" in respect of a building belonging to A and in which he has been running a clinic and hospital. The main provisions of the deed are as follows:-

(15)

The building contains various kinds of furniture and medical equipment. A is going abroad for a period of three years on an assignment. B is desirous of running a clinic and hospital in the building.

B is put in occupation of the building for three years and allowed to run a clinic and hospital therein. He has the right to use the furniture and equipment belonging to A.

~~B can bring in additional furniture and equipment.~~ B shall be liable to pay property tax and responsible for the proper maintenance of the building, furniture and equipment. B can use the Second Floor for his residence. He shall pay monthly rent of Rs. 25,000/- by the first of the next month. A has the right to enter the building, to inspect the building, movables and fixtures. B shall cease to use the premises at the end of the period of three years. During the period, A shall be entitled to use for his own purpose, the room in the north-eastern corner of the ground floor building.

Is the transaction a lease or license? Support your view with reasons.

XV. What is the ambit of "part performance" under the Transfer of Property Act?

(15)

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