

PRELIMINARY EXAMINATION OCT.2010.

CIVIL PROCEDURE CODE & LAW OF LIMITATION

Marks 100

Marks 20

Q.No.1 Answer the following in not more than 2 sentences.

- a. What is laches ?
- b. What is the effect of disability in the Law of Limitation?
- c. The defendant dies during the pendency of the suit. What the plaintiff should do for the survival of the suit?
- d. When the suit is treated as vide for multifariousness ?
- e. What is a representative suit?
- f. Give two instances relating to Bar to further suit.
- g. What is precept ?
- h. What is meant by Court of first instance?
- i. What is word Decree?
- j. When the plaint is written ?

Q.No.2 Write short notes on any four of the following.

20 Marks

- a. Rejection of the plaint.
- b. Ex-Parte order.
- c. Constructive Res judicata.
- d. Attachment before judgement.
- e. Remand by the appellate Court
- f. Commissioner. *appellate*

Q.No.3 Answer any two with reasons.

16 Marks

- a. Decree holders D1 D2 obtain Decrees of Rs.40,000/- & 50,000/- against J.D. respectively. One M obtains a decree against J.D. in the mortgage suit and claims for the foreclosure and sale of the property X belonging to J.D. The Property X is sold for Rs.45,000/- in the execution of the decree by D1 & D2 to Z.
 - i. Discuss the shares of D1 & D2 from the assets held by the Court i.e. Rs. 45,000/-
 - ii. Whether M has any share in the amount of Rs.45,000/- Why?

b. The Property X is sold in the execution of Decree to P. The Judgement debtor obstructs P in giving possession .

- i. Who have the remedy against the Judgement Debtor?
- ii. What are the consequences for such obstructions?

c. A has borrowed Rs.50,000/- from X on 01.01.2005 with a promise to refund on 31.12.2009.

On 30.12.2008 A has not paid anything.

- i. Discuss the provision under Limitation Act which can be applied here.
- ii. Which is the last date for A to refund the amount?

48 Marks.

Q.No.4. Answer any 4 of the following.

- a. Who is a Receiver? What is his role?
- b. Discuss the provisions relating to indigent person.
- c. What are the ingredients of Res Judicata? Distinguish between Res Judicata & constructive Res Judicata.
- d. Discuss the provisions relating to the attachment before judgement.
- e. The Creditor wants to file a suit against the data after 3 years from the date of caus of action. Can he do so? Explain?
- f. Discuss the provisions which are appeal able under order 43.