

General and Commercial Laws 261

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 4

NOTE : Answer SIX questions including Question No.1 which is compulsory.

1. (a) "Article 21 of the Constitution of India has been so transformed by the judiciary that it now encompasses all conceivable rights within its ambit." Discuss. (8 marks)
- (b) What do you understand by the expression 'State' under Part-III of the Constitution of India ? Explain with the help of decided case law on the point. (6 marks)
- (c) Explain 'delegated legislation'. State the circumstances in which delegated legislation is possible. (6 marks)
2. Comment on *any four* of the following :
 - (i) "Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application can stop it."
 - (ii) "Heydon's rule is not always operative in interpretation of statutes."
 - (iii) "A contract may not always be specifically enforceable."
 - (iv) "Conciliation is an informal process in which the conciliator (the third party) tries to bring the disputants to agreement."
 - (v) "An instrument admitted in evidence is not to be questioned."(4 marks each)
3. Distinguish between *any four* of the following :
 - (i) 'Decree' and 'order'.
 - (ii) 'Facts in issue' and 'issues of fact'.
 - (iii) 'Movable property' and 'immovable property'.
 - (iv) 'Sale' and 'exchange'.
 - (v) 'Computer' and 'computer system'.(4 marks each)
4. Attempt *any four* of the following :
 - (i) State the instruments which are chargeable with duty under the Indian Stamp Act, 1899.
 - (ii) Mention the documents which are not required to be registered compulsorily under the Registration Act, 1908.
 - (iii) "Law of limitation bars the remedy, but does not extinguish the right." Explain the statement with its exceptions.
 - (iv) State the effects of 'acknowledgement' and 'payment against debt' on the period of limitation.
 - (v) Discuss briefly the right of redemption.(4 marks each)

5. (a) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

- (i) A 'reference' may be made by the subordinate court to _____ under the provisions of the Code of Civil Procedure, 1908.
- (ii) Cyber Appellate Tribunal is to be presided over by a person who is or has been qualified to be a _____.
- (iii) An application for obtaining information under the Right to Information Act, 2005 is to be submitted to _____.
- (iv) In the interpretation of statutes, where the rule applies that the general words following the particular or specific words, such rule is called _____.
- (v) A person liable for the torts committed by other person is called _____ under the law of torts.
- (vi) A document executed outside India is not valid unless it is _____.
- (vii) Whoever commits 'hacking' shall be punished with _____.
- (viii) Digital signature is recognised as a valid method of _____.

(1 mark each)

(b) Write the most appropriate answer from the given options in respect of the following :

- (i) The definition of 'legal representative' under the Code of Civil Procedure, 1908 means —
 - (a) A person who represents the deceased
 - (b) A person who represents in law the estate of the deceased
 - (c) A person who intermeddles with the estate of the deceased
 - (d) Both (b) and (c) above.
- (ii) The mortgagee has the right to sell out the mortgaged property without intervention of the court in the —
 - (a) English mortgage
 - (b) Usufructuary mortgage
 - (c) Mortgage by conditional sale
 - (d) Simple mortgage.
- (iii) The Right to Information Act, 2005 confers on all citizens a right to receive information. This is now a —
 - (a) Legal right
 - (b) Constitutional right
 - (c) Fundamental right
 - (d) Human right.

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- (iv) The conciliation proceedings shall be terminated —
 - (a) By signing of the settlement agreement by the parties
 - (b) By a written declaration of the conciliator
 - (c) By a written declaration of the parties for termination
 - (d) All the above.
- (v) Where warrant remains unexecuted, the Code of Criminal Procedure, 1973 provides the remedy(ies) of —
 - (a) Issuing a proclamation
 - (b) Attachment and sale of property
 - (c) Sale of the property
 - (d) Both (a) and (b) above.
- (vi) Any magistrate of the first class and of the second class is specially empowered to take cognizance of an offence upon —
 - (a) His own knowledge that such offence has been committed
 - (b) Receiving a complaint of facts constituting such offence
 - (c) Information received from a police officer
 - (d) Both (a) and (b) above.
- (vii) Certain categories of information have been exempted from disclosure under the Right to Information Act, 2005 —
 - (a) Where the disclosure prejudicially affects the sovereignty and integrity of India
 - (b) Where disclosure would cause a breach of privilege of the Parliament or the State Legislature
 - (c) Information received in confidence from foreign government
 - (d) All the above.
- (viii) Appointment of an arbitral tribunal under section 11 of the Arbitration and Conciliation Act, 1996 has to be made by an agreement between the parties within —
 - (a) 30 Days
 - (b) 45 Days
 - (c) 60 Days
 - (d) None of the above.

(1 mark each)

6. (a) Explain strict or absolute liability under the law of torts. *(6 marks)*
- (b) What do you understand by 'Public Information Officer' (PIO) under the Right to Information Act, 2005 ? What are the duties of PIO under the said Act ? *(5 marks)*
- (c) Discuss the remedies available to a person who has been refused to register a document by a sub-registrar. Can registration of documents be refused on the ground of under-valuation of stamp duty ? *(5 marks)*

7. State, with reasons in brief, whether the following statements are true or false :

- (i) 'Actionable claim' as defined in the Transfer of Property Act, 1882 is a property and transferable.
- (ii) The provisions relating to 'fundamental rights' given in the Constitution of India are subject to amendment.
- (iii) Arbitration is the means by which the parties to a dispute get the same settled through the intervention of a third person.
- (iv) The limitation for taking cognizance of certain offences has been prescribed by the Code of Criminal Procedure, 1973.
- (v) Where a suit is pending in the jurisdictional civil court, a fresh suit cannot be proceeded with on the same cause of action between the same parties in another court in India.
- (vi) Questions arising between the parties and the representatives relating to execution, satisfaction and discharge of the decree will be decided by the executing court.
- (vii) Any person who is aggrieved by a decision of the Public Information Officer (PIO) may file an appeal under the Right to Information Act, 2005.
- (viii) Under the provisions of the Code of Criminal Procedure, 1973, the magistrate is empowered to issue search warrant for searching a document, parcel or other things in the custody of the postal or telegraph authority.

(2 marks each)

8. (a) A confession made by an accused on the faith of a promise made by the police officer making the investigation that he would get off if he made a disclosure of the offence committed by him or would get pardon. Whether such a confession made by the accused is admissible in evidence ? Answer citing the relevant provisions of law.

(6 marks)

(b) Arun, a Hindu, who has separated from his father Bharat, sells three fields X, Y and Z to Chandan representing that Arun is authorised to transfer the same. Of these fields, Field-Z does not belong to Arun, which was retained by Bharat during partition. On the death of Bharat, Arun obtains the possession of Field-Z. What are the rights of Chandan now ?

(5 marks)

(c) Amit is the resident of Jaipur and Babita is of Delhi. The marriage between two was solemnised at Ajmer. Both Amit, husband and Babita, wife lived together at Udaipur. Amit treated his wife Babita with cruelty. Babita, the wife comes to you as an advocate to file a suit against Amit for divorce on the ground of 'cruelty'. Advise Babita, in which court Babita has the right to file the suit. Decide citing the relevant provisions of law.

(5 marks)