

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 3

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

1. (a) In India, there is no law on conveyancing or interpretation of documents. Explain how disputed ambiguous formal deeds can be judicially decided then.

(8 marks)
- (b) What is meant by 'outsourcing' ? Draft a specimen of an outsourcing agreement.

(7 marks)
- (c) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
 - (i) In the case where the mortgagor without delivering possession of the mortgaged property binds himself personally to pay the mortgaged money, and agrees expressly or impliedly that if he fails to pay the debt and interest in terms of the mortgage deed, the property will be sold and the proceeds applied in payment of the mortgaged money, such a mortgage is called _____ .
 - (ii) Equitable mortgage is _____ by the lenders/banks/creditors as well as the commercial enterprises because of the inherent advantages.
 - (iii) The term 'deed' normally refers to all the instruments by which two or more persons agree to effect any _____ or _____ .
 - (iv) The general requisites of an arbitration award must be consistent with the submission, certain, fair to the parties, _____ and its implementation must be possible.
 - (v) The general rule, with reference to Mrs. Om Prabha Jain vs. Abnash Chand Jain, AIR 1968 SC 1083, is that no pleadings, no _____ .

(1 mark each)

2. (a) Explain the following :
- (i) *Force majeure*
 - (ii) Debenture trust deeds.
- (4 marks each)
- (b) Discuss how section 8 of the Transfer of Property Act, 1882 regarding operation of transfer has simplified 'parcels clause' in a deed.
- (8 marks)
3. (a) In what respect, if any, pleadings in the memorandum of appeals under sections 96 to 99, Order XLI, sections 100 to 103, 104 to 106, Order XLIII, Rules 1 and 2 and Appeals to Supreme Court under the Code of Civil Procedure, 1908, differ from the pleadings in appeals under Articles 132(1), 133 and 134 of the Constitution of India ?
- (6 marks)
- (b) State, with reasons in brief, whether the following statements are true or false :
- (i) Drafting is first thinking and second composing.
 - (ii) Registration of partnership means registration under the Income-tax Act, 1961.
 - (iii) In practice, 'applications' and 'petitions' are interchangeable terms.
 - (iv) A right of appeal is not a natural or inherent right but a creature of the statute.
 - (v) Dress code prescribed by the Institute of Company Secretaries of India for its members appearing before Tribunals is a bunch of guidelines only.
- (2 marks each)
4. Write notes on *any four* of the following :
- (i) Underwriting contracts
 - (ii) Compounding of offences under the Companies Act, 1956
 - (iii) Rejoinder
 - (iv) Art of pleadings
 - (v) Rule of adverse inference.
- (4 marks each)
5. (a) Draft a specimen deed of guarantee to be provided by a bank on behalf of its client company for the execution of a contract in favour of State government.
- (10 marks)
- (b) In the light of case law on the subject, distinguish in what respects should a lease deed be different from leave and license agreement.
- (6 marks)

6. (a) A suit for specific performance was instituted in the civil court at Delhi against Positive Energy Ltd. The managing director asked the Company Secretary to file written statement under his own signature as if he had implied authority to do so. This was done, but the plaintiff sought dismissal of the written statement for want of proper legal authority for verifying written statement. In the meantime, the company granted *ex post facto* sanction and ratification of the authority of the Company Secretary to sign pleadings on behalf of the company. Yet, the court dismissed the written statement.

On what legal grounds, should the aggrieved company prefer an appeal impugning civil court's order ? Cite case law, if any.

(8 marks)

- (b) "A Company Secretary representing his company in court proceedings is not an advocate even though he is a law graduate performing advocacy functions." Comment, highlighting conceptual distinction between Company Secretary and Advocate as professionals.

(8 marks)

7. (a) Complying with the provisions of section 76 of the Companies Act, 1956, draft an underwriting agreement in a letter form between Prosperity Ltd. proposing public issue of one lakh equity shares of ₹100 face value each, on the one side, and Desire Company who are registered brokers.

(8 marks)

- (b) Distinguish between the following :

- (i) 'Endorsements' and 'supplemental deed'.
 (ii) 'Revision' and 'review' applications in a High Court.

(4 marks each)

8. Examine and comment on *any four* of the following statements :

- (i) Where the amendment changes the character of the suit, it cannot be allowed.
 (ii) Pleadings cannot be construed too technically.
 (iii) Rejection of plaint will amount to decree.
 (iv) Institution of a suit in a court of higher grade is only an irregularity.
 (v) Where the defendant pleads set-off, he will be in the position of plaintiff.

(4 marks each)