

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 6

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) On what grounds and against whom the writ of *mandamus* can be issued ?
(6 marks)
- (c) Discuss the rule of harmonious construction in the interpretation of statutes.
(6 marks)
2. (a) Explain the expression 'specific performance of contract'. Describe the contracts which cannot be specifically enforced under the Specific Relief Act, 1963.
(6 marks)
- (b) Discuss the procedure to be followed for arbitral proceedings by an arbitral tribunal under the Arbitration and Conciliation Act, 1996.
(5 marks)
- (c) Mention the properties which cannot be transferred under the Transfer of Property Act, 1882.
(5 marks)
3. Explain **any four** of the following :
 - (i) Doctrine of waiver of rights.
 - (ii) Declaratory decree.
 - (iii) Digital signature.
 - (iv) Denoting duty.
 - (v) Circumstantial evidence.(4 marks each)
4. Attempt **any four** of the following :
 - (i) State the legal remedies available to the officer concerned for an unstamped receipt under the Indian Stamp Act, 1899.
 - (ii) Under the Registration Act, 1908, certain documents are not required to be registered compulsorily. Name them.

- (iii) “The majority of the legal problems arising in the sphere of information technology relate to (a) the machine; (b) the medium; and (c) the message.” Illustrate the statement.
- (iv) “Marginal notes appended to the Articles in the Constitution of India furnish some clue as to the meaning and purpose of the Articles.” Explain.
- (v) What is ‘delegated legislation’ ? What purposes does it serve ?

(4 marks each)

5. (a) Choose the most appropriate answer from the given options in respect of the following :
- (i) The Parliament is empowered to make laws on the subjects enumerated in —
 - (a) List I
 - (b) List II
 - (c) Both List I and List II
 - (d) None of the above.
 - (ii) The relief of cancellation of instruments is founded upon the principle of —
 - (a) Preventive justice
 - (b) Protective justice
 - (c) Proper justice
 - (d) Any of the above.
 - (iii) An award may be challenged on the grounds of —
 - (a) Incapacity of a party
 - (b) Invalidity of the arbitration agreement
 - (c) Both (a) and (b)
 - (d) None of the above.
 - (iv) As per the Transfer of Property Act, 1882, a person is an ostensible owner of an immovable property where he becomes interested therein by —
 - (a) Express consent
 - (b) Implied consent
 - (c) Either (a) or (b)
 - (d) Both (a) and (b).

- (v) As per the Indian Trusts Act, 1882, the doctrine of *cypres* applies to —
- (a) Charitable trusts
 - (b) Educational trusts
 - (c) Simple trusts
 - (d) None of the above.
- (vi) Where possession of the property is to be given to the mortgagee, the mortgage is called —
- (a) Usufructuary mortgage
 - (b) Simple mortgage
 - (c) Anomalous mortgage
 - (d) None of the above.
- (vii) As per the Registration Act, 1908, a testator may deposit with any Registrar his will in a sealed cover superscribed with the name of the testator —
- (a) Personally
 - (b) Through an agent
 - (c) Through any person
 - (d) Either (a) or (b).
- (viii) Summary trials will apply to such offences not punishable with imprisonment for a term exceeding —
- (a) Two years
 - (b) One year
 - (c) 60 days
 - (d) 90 days.

(1 mark each)

- (b) Re-write the following sentences after filling-up the blank spaces with appropriate word(s)/figure(s) :
- (i) The Directive Principles of State Policy have to conform to and run as _____ to the chapter of fundamental rights.
 - (ii) A law based on a permissible classification fulfils the guarantee of the _____ protection of the laws and is valid.
 - (iii) Rectification means correction of an _____ in an instrument in order to give effect to the real intention of the parties.
 - (iv) The formulation of reasons is a powerful _____ and it may lead the arbitral tribunal to change its initial view on the matter.
 - (v) Any suit, appeal or application if made beyond the prescribed period of limitation, it is the duty of the court not to _____ with such suits irrespective of the fact whether the plea of limitation has been set up in defence or not.

- (vi) Where a person transfers his property so that his creditors shall not have any thing out of the property, the transfer is called _____ transfer.
- (vii) Courts have invariably upheld the principles of substance of the transaction over the form, in the matter of deciding the nature of the _____.
- (viii) _____ means a person who is intended by the originator to receive the electronic record but does not include any intermediary.

(1 mark each)

6. (a) State, with reasons in brief, whether the following statements are correct or incorrect. Attempt **any four** :

- (i) An unregistered document under section 17 of the Registration Act, 1908 can be used in any legal proceeding to bring out indirectly the effect which it would have if registered.
- (ii) The pendency of a suit in a foreign court does not preclude the courts in India from trying a suit founded in the same cause of action.
- (iii) Any person aggrieved by an order of the Controller of Certifying Authorities or the adjudicator can appeal to the Cyber Regulations Appellate Tribunal within 40 days.
- (iv) Secondary evidence is generally in the form of compared copies, certified copies or copies made by such mechanical processes as in themselves ensure accuracy.
- (v) A society registered under the Societies Registration Act, 1860 is a body corporate.
- (vi) In case of death of one of the trustees, the other trustees have a right to act, unless contrary intention appears from the instrument.

(2 marks each)

(b) Attempt **any two** of the following :

- (i) Attestation is an important formality in connection with the execution of the transfer as per the Transfer of Property Act, 1882. Comment. (4 marks)
- (ii) All orders made by courts are not appealable under the Code of Civil Procedure, 1908. What are the appealable orders under the Code of Civil Procedure, 1908 ? (4 marks)
- (iii) The governing body of a society registered under the Societies Registration Act, 1860 wants to alter some of its objects. For this purpose, the society convened a special meeting of the members of the society who signified their assent for the alteration. The governing body did not call another meeting after one month of the first meeting. Further, the first meeting was attended by 50% of the members of the society. The Registrar of Societies refused to accept these alterations. Can the governing body go for an appeal against the decision of the Registrar of Societies ? Advise. (4 marks)

(4 marks)

(iv) Arun is charged of murder of Varun. The charge sheet is filed in the court of Chief Judicial Magistrate, who passed an order of sentence of imprisonment for life. Arun engages you as a lawyer to advise him. Advise him giving reasons.

(4 marks)

7. (a) A suit was instituted by Rosy Pvt. Ltd. dealing in cosmetics alleging infringement by Sunder Pvt. Ltd. by using trade name 'Monica' and selling the same in wrappers and cartons of identical design and colour used by the plaintiff company. A subsequent suit was instituted in different court by the defendant company (Sunder Pvt. Ltd.) against the plaintiff company with the same allegation. Decide, whether the subsequent suit will be allowed to continue. Give reasons and support your answer with case law.

(4 marks)

(b) Atul contracts Bimal to sell a piece of land consisting of 200 bighas of land for Rs.3 lakh. It turns out that only 100 bighas of land belongs to Atul.

(i) Can Atul demand specific performance of the contract ?

(ii) What are the rights of Bimal in this case ?

(4 marks)

(c) An organisation of some persons belonging to a particular community sat on a dharna near Jantar Mantar in New Delhi and later on moved towards Parliament House raising slogans against the Government to press for their demands. This led to traffic jam. The government had imposed a ban on demonstrations near and at the Parliament House. The organisation filed a petition in the High Court against the ban, pleading infringement of their fundamental right of freedom. Will the petition be admitted ? Give reasons.

(4 marks)

(d) Avadhesh bequeaths to Brijesh all his property in trust for Chandresh during his lifetime and on his death for Dashmesh, and on Dashmesh's death for Eashwar. Avadhesh's property consists of three leasehold houses and there is nothing in Avadhesh's will to show that he intended the houses to be enjoyed *in specie*. Can Brijesh sell out these houses and invest the sale proceeds in fixed deposits in a nationalised bank ? Discuss.

(4 marks)

8. (a) Ritu informed Sushil in the year 1998 that she had committed theft of the jewellery of her neighbour. Thereafter, Ritu and Sushil were married in 1999. In the year 2001, prosecution was started against Ritu in respect of the theft of jewellery. Sushil is called to give evidence in this case. Discuss whether Sushil can disclose the communication made to him by Ritu.

(6 marks)

- (b) Mizaz and Siraj entered into an agreement to refer a dispute relating to genuineness of a will to an arbitral tribunal. In spite of this, Siraj commenced proceedings relating to this dispute in the district court of competent jurisdiction. Mizaz submits an application for stay of legal proceedings under the Arbitration and Conciliation Act, 1996. Will he succeed ? Explain.

(5 marks)

- (c) A transport company has its head office at Mumbai and branch offices at Allahabad, Patna and Bhopal. A dispute cropped up between Sameer and the company in respect of a transaction through Allahabad office. Sameer files a suit in respect of this dispute against the company in a court at Patna. How will the court decide ?

(5 marks)

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