

General and Commercial Laws

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Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 7

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

1. (a) Creation of monopoly rights in favour of a person or body of persons to carry on any business *prima facie* affects the freedom of trade. Can the State create a monopoly in favour of itself ? Answer citing case law, if any.

(8 marks)

(b) Describe in brief the powers of Parliament to make laws on the subjects enumerated in the State List.

(6 marks)

(c) The true place of a preamble in a statute was at one time the subject of conflicting decisions. Is such an opinion still prevailing ? Discuss, citing case law.

(6 marks)

2. Comment on **any four** of the following :

(i) Parliamentary history as an external aid in the interpretation of statutes.

(ii) Persons against whom specific performance of contract is available.

(iii) Making of additional award by arbitral tribunal.

(iv) Exceptions to the rule that absolute restraint on transfer of property is void.

(v) Computation of period of limitation for an appeal or an application for leave to appeal.

(4 marks each)

3. Distinguish between *any four* of the following :

- (i) 'Writ of prohibition' and 'writ of mandamus'.
- (ii) 'Remedies of specific performance' and 'remedies of injunction'.
- (iii) 'Arbitration' and 'conciliation'.
- (iv) 'Libel' and 'slander'.
- (v) 'Mortgage' and 'charge'.

(4 marks each)

4. Attempt *any four* of the following :

- (i) The law looks into the substance and effect (or intended effect) of the text of the instrument and not the physical medium through which it is recorded. Comment.
- (ii) The majority of legal problems in the information technology relate to the machine, the medium and the message. Discuss.
- (iii) Explain the rules relating to delivery of summons by court under the Code of Civil Procedure (Amendment) Act, 2002.
- (iv) The principle of *estoppel* says that a man shall not say one thing at one time and later on say a different thing. Comment.
- (v) When can the Magistrate take cognizance of an offence ?

(4 marks each)

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

- (i) The Constitution of India is a comprehensive document containing 395 Articles and _____ Schedules.
- (ii) One of the fundamental duties given in Article 51A of the Constitution of India is to uphold and protect the sovereignty, unity and _____ of India.
- (iii) The right to receive future rents and profits of land is _____ property.
- (iv) In lease, the transfer of immovable property is for a certain period or _____.

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- (v) In every criminal offence, _____ is an essential ingredient.
- (vi) A complaint in criminal case must be made to _____.
- (vii) A private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence or who is a _____.
- (viii) Every Public Information Officer in case of not performing his duties will be liable for a fine of ₹ 250 per day upto a maximum of ₹ _____.

(1 mark each)

- (b) Write the most appropriate answer from the given options in respect of the following :
- (i) Which of the following contracts are not specifically enforced as per the Specific Relief Act, 1963 –
 - (a) Contracts for sale of patent right
 - (b) Contracts for copyright
 - (c) Contracts for rent laws
 - (d) Contracts for future property.
 - (ii) An instrument in writing containing an unconditional order signed by the maker is called –
 - (a) Cheque
 - (b) Bill of exchange
 - (c) I.O.U.
 - (d) Promissory note.
 - (iii) Section 46 of the Information Technology Act, 2000 deals with –
 - (a) Hacking
 - (b) Tampering
 - (c) Contravention of a rule
 - (d) The appointment of adjudicating officer.

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- (iv) Who among the following acts as Chairman of the committee for appointment of the Central Information Commissioners –
 - (a) President of India
 - (b) Prime Minister of India
 - (c) The leader of opposition in Lok Sabha
 - (d) None of the above.
- (v) Which of the following authority under section 5 of the Limitation Act, 1963 is empowered to extend the period of limitation –
 - (a) Labour Court
 - (b) District Court
 - (c) High Court
 - (d) Arbitrator.
- (vi) Under the provisions of the Code of Civil Procedure, 1908, from the date of the decree or order, an appeal can be made in the High Court within –
 - (a) 60 Days
 - (b) 30 Days
 - (c) 90 Days
 - (d) 120 Days.
- (vii) Under the provisions of the Code of Civil Procedure, 1908, the defendant has to file the written statement of his defence from the date of the service of summons within a period of –
 - (a) 40 Days
 - (b) 30 Days
 - (c) 45 Days
 - (d) 60 Days.

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- (viii) Under the Code of Criminal Procedure, 1973, a search warrant can be issued under –
- (a) Section 91
 - (b) Section 92
 - (c) Section 92(2)
 - (d) Section 93.

(1 mark each)

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

- (i) Ram sells a property to Shyam for ` 10,00,000 which is subject to mortgage to Mohan for ` 20,00,000 and unpaid interest of ` 4,00,000. Stamp duty is payable on ` 34,00,000.
- (ii) Every copy of the summons issued must be signed by the Judge or an authorised officer of the court.
- (iii) Under the Code of Criminal Procedure, 1973, summary trial is conducted in those offences which are not punishable with imprisonment for a term exceeding two years.
- (iv) Where the information requested for concerns the life or liberty of a person, the same should be provided within 48 hours of the receipt of such request under the provisions of the Right to Information Act, 2005.
- (v) As per the provisions of the Arbitration and Conciliation Act, 1996 conciliator is bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872.
- (vi) Under the Information Technology Act, 2000, 'addressee' is a person who is supposed to receive information sent by the originator of the message through an intermediary.
- (vii) A document executed by several persons at different times may be presented for registration and re-registration within six months from the date of each execution.
- (viii) A collector is not authorised to impound the instrument or to impose any penalty if he comes to the conclusion that the instrument is not sufficiently stamped.

(2 marks each)

7. (a) Amrit (*lessor*) grants his immovable property (premises) on lease for 4 years to Sukant (*lessee*) commencing from 1st June, 2001. The lessor gives a notice to the lessee on 1st February, 2008 for vacating the premises on 1st March, 2008 :

(i) Is this notice a valid notice ?

(ii) If the lease is continued after 4 years, will the tenancy be on monthly basis or yearly basis ? Decide.

(6 marks)

(b) The managing clerk of a firm of solicitors, while acting in the ordinary course of business committed fraud against a lady client by fraudulently inducing her to sign documents transferring her property to him. The clerk did so without the knowledge of his principal.

Who is liable to the lady in this case ? Support your answer with reasons, citing case law, if any.

(5 marks)

(c) Bimal made an application in writing with prescribed fee to the Public Information Officer (PIO) for obtaining the information which is permissible under the relevant statute. The PIO neither provided the required information nor rejected the application of Bimal for providing the required information although a period of 45 days elapsed from the date of submitting the aforesaid application to the PIO. Bimal wants to file a suit in the civil court for not providing the required information to him. Advise Bimal.

(5 marks)

8. (a) One morning, scientists at an atomic research centre found a rude-nuclear message splashed across their computer screens. Someone had breached the atomic research centre's advanced security system and sensitive e-mail.

What offence has been committed in the atomic research centre ? Decide with reference to the provisions of the relevant statute.

(6 marks)

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- (b) Rohit executes a sale deed of a house in favour of Prem. The house is situated at NOIDA (Uttar Pradesh), but the transferor (Rohit) and transferee (Prem) want the sale deed to be registered at Lucknow, which is capital of the State. Can they do so ? Discuss.

(5 marks)

- (c) A suit was instituted by the plaintiff company alleging infringement by the defendant company by using trade name of medicine and selling the same colour combination, *etc.*, as that of plaintiff company. A subsequent suit was instituted in a different court by the defendant company containing the same allegations. Advise the plaintiff company about the steps to be taken by it giving reference to relevant legal provisions and case law.

(5 marks)

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