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HJS Mains

Previous Year Paper
(Civil Law-II)
13 Jul, 2024



HARYANA CIVIL SERVICES (JUDICIAL BRANCH) MAIN WRITTEN EXAMINATION-2024
CIVIL LAW-II

Time: Three Hours

Maximum Marks: 200

Instructions for candidates:

1. Attempt ALL the questions and in the same order in which they appear in the question paper.
2. Marks for individual questions are indicated against each question.
3. Support all your answers with relevant provisions and case law.
4. No extra answer sheet will be provided.

Q1. a) *Ramesh* and *Anju* were married for several years; they are now going through a contentious divorce. After the birth of their child, *Anju* quit her job. *Ramesh* alleges that *Anju's* decision to stay unemployed is intentional. *Anju*, on the other hand, claims that she quit her job to take care of their child. Since *Anju*, is unemployed, she seeks maintenance from *Ramesh* under Section 18 of Hindu Adoption and Maintenance Act, 1956. What factors will the court consider in determining whether *Anju* is entitled to maintenance, and whether *Ramesh's* claim of *Anju's* intentional unemployment is a valid justification to object to *Anju's* claim? (10 Marks)

b) *Ravi* is an IT professional while *Priya* is a doctor. *Ravi* deliberately provides inaccurate information about his finances to impress *Priya's* rich family, during their marriage negotiations. Post-marriage, *Priya* discovers the deception, leading to a profound sense of betrayal and financial strain. How does the Hindu Marriage Act, 1955 address marriages where vital information is misrepresented and significantly impacts the dynamics of the marriage including the voluntary consent of the parties involved? (10 Marks)

c) A female Hindu dies intestate leaving behind her brother and her husband's brother. While citing the provisions of Hindu Succession Act, 1956 decide:

i) Devolution of her property self-acquired property.

ii) Devolution of her property that she received from her husband. (10 Marks)

d) Father died in the year 1983 leaving behind three sons and one daughter. Their sons continue to occupy the property whereas the daughter is married. In the year 2022, she decides to seek partition of the ancestral/coparcenary property. The sons contend that there was an oral partition in the year 1990 and therefore the daughter cannot get any right in the property. In the light of *Vineeta Sharma v. Rakesh Sharma*, AIR 2020 SC 3717, decide whether daughter has any merit in her claim. (10 Marks)

Q2 a) If a person is suffering from a legal disability, can he file a suit after the legal disability ceases to exist? If so, what is the prescribed period of Limitation? Cite the relevant provisions of the Indian Limitation Act, 1963. (10 Marks)

b) "Impotency can be proved by medical examination or by the conduct of the parties after their marriage or it can be established even by the uncorroborated testimony of the petitioner if the same is plausible." Discuss this statement in the light of various judicial pronouncements of the Supreme Court of India. (10 Marks)

c) The plaintiff filed a suit on 01.01.2015. The summons were served on the defendant on 01-06-2015. The defendant filed a written statement on 20.08.2015. The defendant raised the defence of set-off. The period of limitation qua the recovery of amount sought to be set-off for

the defendant expired on 01.06.2015. Whether the defence of set-off raised by the defendant would be admissible? (10 Marks)

d) A Muslim man cohabited with a Muslim lady on the promise of marriage. Later the lady claimed the status of a wife and asserted that there was an offer from the husband to marry her and the cohabitation amounted to acceptance from her side. Decide the validity of the claim of marriage and discuss the essential requisites of marriage under Muslim law. (10 Marks)

Q3. a) Anil executed a mortgage deed in favor of a bank for a loan, but the deed was not registered. Upon default, the bank sought to enforce the terms/conditions of the mortgage. Discuss the enforceability of the unregistered mortgage deed and the legal recourse available to the bank under The Registration Act, 1908. (10 Marks)

b) Sumit and Anita were married in 2004 according to Hindu rituals and customs. Six years later, a joint petition for divorce by mutual consent was filed by them under the Hindu Marriage Act, 1955. About seven months after filing of the petition, Sumit alone moved the court and pressed his application for divorce. A notice was sent to the wife and on the request of both the parties, the case was adjourned. There were several adjournments thereafter and unsuccessful attempts were made by the court for bringing about a reconciliation between the parties. However, since the efforts were in vain, Anita withdrew her consent for mutual divorce, and sought dismissal of the petition, which prayer remained pending for appropriate orders of the Court. Sumit, strongly objected to the same and argued that she could not withdraw her consent after expiry of six months period. Thereafter, Sumit remarried. After learning about the second marriage of Sumit, Anita filed a civil case for declaring the second marriage as illegal and void. Decide? (10 Marks)

c) "Once adopted is always adopted" Discuss the provisions of Hindu Adoption and Maintenance Act, 1956 in the light of the above statement. (10 Marks)

d) The word 'after' used in Section 6 (a) The Hindu Minority and Guardianship Act, 1956 does give an impression that the mother can be considered to be the natural guardian of the minor, only after the life-time of the father. If the said section is interpreted as such, whether, the same can be termed unconstitutional being violative of gender equality. Discuss the meaning and interpretation given by the Supreme Court of India to the word 'after' in Section 6 (a) of The Hindu Minority and Guardianship Act, 1956. (10 Marks)

Q4. a) Joint Hindu Family consisting of *Prahlad*, his wife *Jayanti*, four children, 'A', 'B', 'C' and 'D' aged 29 years, 27 years, 21 years and 14 years respectively was owner of owner of 10 acres of land situated in village *Ramgarh*, District *Una*. In the year 2023, unfortunately, *Prahlad*, the *Karta* died. The property was inherited by the remaining members, including his widow and four children. The family decides to shift to *Chandigarh* and in order to purchase a house in *Chandigarh*, it is unanimously decided to sell the land, so as to generate funds. 10 acres of the inherited land is jointly sold by the widow and all four children to 'X' for a sum of ₹ 40 lakhs by a registered sale deed. In March, 2024, the family purchases a house in *Chandigarh* with the sale proceeds. All the members jointly start residing in the said house. In May, 2024, 'D', the youngest son of *Prahlad* raises a dispute stating since he is a minor and no permission for sale of the inherited land was taken from the Court nor was any guardian appointed, thus, the said sale

to 'X' was void to the extent of his share. 'D' serves a legal notice upon 'X'. Explain whether the claim raised is sustainable keeping in view the provisions of Hindu Minority and Guardianship Act, 1956.

(15 Marks)

b) *Rakesh* and his wife *Rekha* adopted *Sam* fulfilling all necessary formalities, according to Hindu rites and ceremonies, on 20.01.1955. The adoption deed was duly registered. Sometime later, upon the death of *Rakesh*, *Sam* and *Rekha*, his adoptive mother, inherited the properties belonging to *Rakesh*. Subsequently, because of some differences between the two regarding the management of those properties, *Rekha* wanted to alienate them. *Sam*, realizing what was in store for him, filed a petition for partition of the properties, which was challenged by *Rekha*, who questioned the very validity of *Sam*'s adoption since he was basing his claim for partition on the same. Consequently, she contended, among other things, that her late husband, *Rakesh*, had not taken her consent while adopting *Sam*. More importantly, it was contended that, since the adoption was prior to the commencement of the Hindu Adoption and Maintenance Act, 1956, its validity must be determined on the basis of the traditional principles practiced by the Hindu community prior to the enactment of the said legislation. Decide the validity of adoption, both prior to and after the enactment of the Hindu Adoption and Maintenance Act, 1956.

(15 Marks)

c) On 13.11.2008, *Madhu* took a loan of ₹ 75000/- from *Sunil*. He paid ₹ 15,000/- to him on 31st August 2011 towards partial payment of loan. Despite a demand being raised, *Madhu* failed to pay the remaining amount. Subsequently, *Sunil* filed a suit for recovery from *Madhu* but after the expiry of 2 years from the date of part payment. Discuss whether the said part payment can be treated as an acknowledgment?

(10 Marks)

Q5. a) 'A' executed a sale document of his house in *Delhi* outside India on 02.01.2024 respecting his house in *Delhi*. He came to India on 06.06.2024 and presented the document for registration. Can the Sub-Registrar accept the said document for registration? If registered, from which date the said document would operate.

(10 Marks)

b) 'A', a husband who is medical practitioner was ill-treating his wife, and committing atrocities upon her. He would often rape her. Resultantly, she left her matrimonial home and moved to her parental house. She filed a divorce petition on the ground of marital rape before the Family Court. 'A' filed a petition for restitution of conjugal rights. 'A' contended that marital rape is not recognised in Indian Courts and her divorce petition is not maintainable. Decide the divorce and restitution of conjugal rights petitions filed by the parties.

(10 Marks)

c) Write a short note on the concept of *Iddat* and the validity of a marriage with a woman undergoing *Iddat* with relevant case laws.

(10 Marks)

d) *Anand Kumar* died leaving behind his widow *Basanti*; a son *Swapna Kumar*; *Charulatha* widow of a predeceased son *Kishore Kumar*; *Smitha*, *Ramesh*, *Satish* and *Shriya*- the widow, two sons and daughter respectively of another predeceased son *Himesh Kumar*; a daughter *Shilpa Devi* and *Sangeet*, *Swapna* and *Sudha*- the son and two daughters of a predeceased daughter *Basundhara Devi*. *Anand Kumar* has left behind a property worth ₹ 50 lakhs. Divide the property and appropriate the share to each heir according to the relevant provisions of Hindu Succession Act, 1956.

(10 Marks)

