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HPJS (Prelims)

**Previous Year Paper
(Civil Law-I) Paper-I
2017**



DO NOT OPEN THIS TEST BOOKLET UNTIL YOU ARE ASKED TO DO SO**TEST BOOKLET SERIES**

**TEST BOOKLET
PAPER I
CIVIL LAW-I**



Time Allowed : 1 Hour

[Maximum Marks : 100]

All questions carry equal marks.

INSTRUCTIONS

1. Write your Roll Number only in the box provided alongside.
Do not write anything else on the Test Booklet.
2. This Test Booklet contains 50 items (questions). Each item comprises four responses (answers). Choose only one response for each item, which you consider the best/correct.
3. After the candidate has read each item in the Test Booklet and decided which of the given responses is correct or the best, he has to mark the circle containing the letter of the selected response by blackening it completely with ball point pen as shown below. In the following example, response "C" is so marked :



4. Do the encoding carefully as given in the illustrations. While encoding your particulars or marking the answers on answer sheet, you should blacken the circle corresponding to the choice in full and no part of the circle should be left unfilled. In the test ball point pen of black or blue ink is to be used as such you should be very careful while marking the responses. Double marking in the answer sheet will fetch zero mark. You may clearly note that since the answer sheets are to be scored/evaluated on O.M.R., any violation of the instructions may result in reduction of your marks for which you would yourself be responsible.
5. You have to mark all your responses ONLY on the ANSWER SHEET separately given to you. No erasing/correction fluid is allowed.
6. All items carry equal marks. Attempt *all* items. Your total marks will depend only on the number of correct responses marked by you in the Answer Sheet. There will be no negative marking.
7. Before you proceed to mark responses in the Answer Sheet, fill in the particulars in the front portion of the Answer Sheet as per the instructions sent to you.
8. After you have completed the test, hand over the Answer Sheet only to the Invigilator. You are permitted to take away with you the Test Booklet.

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CIVIL LAW-I

Time Allowed : 1 Hour]

[Maximum Marks : 100

1. For the purposes of the Specific Relief Act, 1963 the word "settlement" means :
 - (A) An instrument whereby the destination or devolution of successive interests in movable property is disposed of
 - (B) An instrument including codicil or will whereby the destination or devolution of successive interests in immovable property is disposed of or is agreed to be disposed of
 - (C) An instrument including codicil or will whereby the devolution of successive interests in movable or immovable property is disposed of
 - (D) An instrument including codicil or will whereby the destination or devolution of successive interests in movable or immovable property is disposed of or is agreed to be disposed of
2. In which of the following cases the "prohibitory injunction under the Specific Relief Act" was discussed ?
 - (A) Sarvesh Vs. Smt. Sanju, AIR 2010 Uttra 16
 - (B) Mansha Ram Vs. Dr. Ved, AIR 2010 Uttra 14
 - (C) Daulat Ram Vs. Gopal Krishan, AIR 2010 Uttra 9
 - (D) Vijay Goyal Vs. State, AIR 2010 Uttra 12
3. "Jurisdiction of civil court is not excluded in respect of adoption. The question regarding adoption involves declaration as to status/character of person can be decided only by civil court." This was held by the Supreme Court of India in :
 - (A) Ramchandra Dagdu Sonavane Vs. Vithu, AIR 2010 SC 818
 - (B) Sushil Kumar Vs. State, AIR 2010 SC 832
 - (C) Parminder Kaur Vs. State, AIR 2010 SC 840
 - (D) Alagarsamy Vs. State, AIR 2010 SC 849

4. Under the Himachal Pradesh Courts Act, 1976, Additional District Judge/s as may be necessary for speedy disposal of pending business before the Court of any District Judge can be appointed by :

- (A) the concerned District Judge after consultation with High Court
- (B) the concerned District Judge after consultation with the State Government
- (C) the State Government after consultation with High Court
- (D) the High Court after consultation with the State Government

5. The High Court or the District Judge may assign to an Additional District Judge any of the functions of the District Judge :

- (A) Not including the functions of receiving and registering cases and appeals
- (B) including the functions of receiving and registering cases and appeals
- (C) including the functions of receiving and registering only cases and not appeals
- (D) Not including the functions of receiving and registering new appeals

6. Under Section 14 of the Himachal Pradesh Courts Act, 1976, the High Court may by general or special order authorise any Subordinate Judge to take cognizance of, and any District Judge to transfer to such a Subordinate Judge under his control, any proceedings or any class of proceedings, specified in such order under any of the enactments mentioned in that section. One such Act is :

- (A) The Hindu Marriage Act, 1955
- (B) The Hindu Succession Act, 1956
- (C) The Provincial Insolvency Act, 1920
- (D) All of the above

7. Provisions for 'Appeals from Subordinate Judges' to District Judge and the High Court are given in :

- (A) Section 19 of the Himachal Pradesh Courts Act, 1976
- (B) Section 20 of the Himachal Pradesh Courts Act, 1976
- (C) Section 21 of the Himachal Pradesh Courts Act, 1976
- (D) Section 22 of the Himachal Pradesh Courts Act, 1976

8. Under Section 9 of the Himachal Pradesh Courts Act, 1976, the principle civil court of original jurisdiction in the district is :

- (A) Court of Small causes
- (B) Court of Subordinate judge
- (C) Court of District Judge
- (D) High Court of Himachal Pradesh

9. Power to make rules for the purpose of carrying into effect the provisions of the Himachal Pradesh Courts Act, 1976 under Section 29 lies with :

- (A) High Court of Himachal Pradesh
- (B) Government of Himachal Pradesh
- (C) Government of Himachal Pradesh after consultation with High Court
- (D) State Legislative Assembly

10. Which of the following instruments is a 'bond' under the Indian Stamp Act as applicable to State of Himachal Pradesh ?

- (A) Any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be
- (B) Any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another
- (C) Any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another
- (D) All of the above

11. Which of the following is *not* a 'lease' under the Indian Stamp Act as applicable to State of Himachal Pradesh ?

(A) A patta

(B) A kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy, or pay or deliver rent for, immovable property;

(C) Any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event

(D) Any instrument by which tolls of any description are let; and any writing on an application for a lease intended to signify that the application is granted

12. Out of the following instruments which one may *not* be stamped with adhesive stamps ?

(A) Bills of exchange and promissory notes drawn or made out of India;

(B) Entry as an advocate, vakil or attorney on the roll of a High Court;

(C) Notarial acts

(D) Cheques

13. Which of the following securities dealt in depository are not being liable to stamp duty under the Indian Stamp Act ?

(A) The transfer of registered ownership of securities from a person to a depository or from a depository to a beneficial owner

(B) The transfer of beneficial ownership of securities, dealt with by a depository

(C) Both (A) and (B)

(D) Neither (A) nor (B)

14. Instruments executed out of India, chargeable with duty, but not being a bill of exchange or promissory note, are required to be stamped, after first received in India :

(A) within three months (B) within two months

(C) within forty five days (D) within one month

15. All duties, penalties and other sums required to be paid for instruments not duly stamped may be recovered by the Collector :

(A) Only by distress and sale of the movable property of the person from whom the same are due

(B) Only by any process for the time being in force for the recovery of arrears of land revenue

(C) Either by (A) or (B)

(D) None of the above

16. Evidence under the Indian Evidence Act, 1872 means and includes :

- (A) Documentary evidence
- (B) Ocular evidence
- (C) Both ocular and documentary evidence
- (D) Ocular evidence based on documentary evidence only

17. Proof of a fact for the purposes of evidence depends on :

- (A) Rigid mathematical demonstration
- (B) Probability of its existence
- (C) Accuracy of the statement
- (D) None of the above

18. Choose the *correct* assertion based on the following propositions :

Propositions :

- (I) Statement is a genus; admission is a species while confession is a sub-species.
- (II) Statement and admission are species while confession is a sub-species.
- (III) Statement and admission are genus while confession is a species.

Assertions :

- (A) I is correct, II and III are incorrect
- (B) I and II are correct and III is incorrect
- (C) I and III are correct and II is incorrect
- (D) III is correct and I and II are incorrect

19. Declaration by a person, not able to be called as witness, in the course of business is admissible under :

- (A) Section 32 (1) of the Indian Evidence Act, 1872
- (B) Section 32 (2) of the Indian Evidence Act, 1872
- (C) Section 32 (4) of the Indian Evidence Act, 1872
- (D) Section 32 (7) of the Indian Evidence Act, 1872

20. *Omnia presumuntur rite esse acta* means :

- (A) All acts are presumed to be rightly done
- (B) All acts are presumed to be not rightly done
- (C) All acts are presumed to be wrongly done
- (D) All acts are presumed to be not wrongly done

21. Electronic record in proper custody gives rise to a presumption as to the digital signature to be fixed by that particular person under section 90A of Indian Evidence Act if the electronic record produced is :

- (A) 20 years old
- (B) 15 years old
- (C) 10 years old
- (D) 5 years old

22. Oral evidence of a fact invalidating a document is admissible :

- (A) Under proviso 1 to section 92 of Indian Evidence Act, 1872
- (B) Under proviso 2 to section 92 of Indian Evidence Act, 1872
- (C) Under proviso 4 to section 92 of Indian Evidence Act, 1872
- (D) Under proviso 6 to section 92 of Indian Evidence Act, 1872

23. The doctrine of estoppel is a :

- (A) Substantive law
- (B) Rule of equity
- (C) Rule of evidence
- (D) Rule of pleadings

24. Which of the following descriptions is *correct* under section 145 of the Indian Evidence Act, 1872 ?

- (A) A witness may be cross examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; even if it is intended to contradict him by the writing, his attention need not, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.
- (B) A witness may be cross examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.
- (C) A witness may be cross examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to such new materials which are to be used for the purpose of contradicting him.
- (D) A witness may be cross examined as to previous statements made by him in writing or reduced into writing, even if not relevant to matters in question, without such writing being shown to him, or being proved for any purpose.

25. A co-defendant in a case :

- (A) Cannot be cross examined by another co-defendant under any circumstances
- (B) Can be cross examined by another co-defendant if their interests are identical
- (C) Can be cross examined by another co-defendant when their interests are adverse to each other
- (D) Can be cross examined by another co-defendant as a matter of right

26. In which of the following cases the Supreme Court of India held that the rule of prudence requires that the evidence of an accomplice should ordinarily be corroborated by some other evidence :

- (A) Francis Stanly Vs. Intelligence Officer, AIR 2007 SC 794
- (B) Youaraj Rai Vs. Chander Bahadur Karki, AIR 2007 SC 561
- (C) Kamla Devi Vs. Khushal Kanwar, AIR 2007 SC 663
- (D) Bablu Vs. State of Rajasthan, AIR 2006 SC 115

27. As regards question by a party to its own witness under section 154 of the Indian Evidence Act, 1872, which of the following propositions/expressions is *correct* ?

- (A) Two statements sought to be contradicted in addition should be drawn to the previous statement
- (B) The person who calls a witness is entitled to put any questions to him which might be put in cross-examination by the adverse party.
- (C) Corroborating a witness by questioning him on surrounding circumstances
- (D) Former statement of witness may be proved to corroborate later testimony as to same fact

28. The "test identification parade is only an aid to investigation. The practice is not born out of prudence" was held by Supreme Court of India in :

- (A) Siddharth Vashist @ Manu Sharma Vs. State (NCT of Delhi), AIR 2010 SC 2352
- (B) Shivaji Vs. Nagendra, AIR 2010 SC 2261
- (C) S. Jaiswal Vs. Alok, AIR 2010 SC (NOC) 805
- (D) Sujata Vs. S.K. Bahera, AIR 2010 (NOC) 812

29. "Order" is defined as a formal expression of any decision of a civil court which is *not* a decree in :

- (A) Section 2 (1) of Civil Procedure Code 1908
- (B) Section 2 (14) of Civil Procedure Code 1908
- (C) Section 2 (9) of Civil Procedure Code 1908
- (D) Section 2 (16) of Civil Procedure Code 1908

30. *Mesne* profits of property as defined in Section 2 (12) of Civil Procedure Code, 1908 means :

- (A) Those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received together with interest on such profits.
- (B) Those profits which the person in wrongful possession of such property actually received including profits due to improvements made by such person
- (C) Those profits which the person in wrongful possession of such property actually received or might have received but without any interest on such profits
- (D) Those profits which the person in wrongful possession of such property actually received

31. A decision in a civil suit may operate as *res judicata* against persons not expressly named as parties to a suit by virtue of :

- (A) Explanation II of Section 11 of the Civil Procedure Code 1908
- (B) Explanation IV of Section 11 of the Civil Procedure Code 1908
- (C) Explanation VI of Section 11 of the Civil Procedure Code 1908
- (D) Explanation VIII of Section 11 of the Civil Procedure Code 1908

32. A private transfer and delivery of property attached under section 64(2) of the Civil Procedure Code 1908 shall not be void :

- (A) If made in pursuance of any contract for such transfer or delivery entered into and registered before the attachment
- (B) If made in pursuance of any contract for such transfer or delivery entered into and registered after the attachment
- (C) If made in pursuance of any contract for such transfer or delivery entered into before the attachment but registered after the attachment
- (D) As in (B) and (C) above

35. Which of the following amendments can be allowed under Order VI, Rule 17 of the Civil Procedure Code 1908 ?

- (A) Amendment for granting relief on the basis of different approaches to the same facts
- (B) Amendment taking note of subsequent events
- (C) Amendment for correcting the misdescription of property
- (D) All of the above

36. On dismissal of a suit for non-compliance with an order for discovery under Order XI, Rule 21 of the Civil Procedure Code 1908, the plaintiff :

- (A) can bring a fresh suit on the same cause of action as a matter of right
- (B) can bring a fresh suit on the same cause of action only with the leave of the court
- (C) can bring a fresh suit on the same cause of action only if the court dismissing the suit has granted liberty to file a fresh suit
- (D) cannot bring any fresh suit on the same cause of action

37. Arrest and detention of a person in civil imprisonment in execution of a decree :

(A) Absolves him from liability under the decree but can be re-arrested

(B) Does not absolve him but the person cannot be re-arrested

(C) Does not absolve him and the person cannot be re-arrested

(D) Absolves him from liability altogether and cannot be re-arrested

38. In case a party to the suit moved no application for the substitution of legal representatives within the statutory period under Order XXII, Rule 19 of the Civil Procedure Code 1908 :

(A) The suit automatically abates on the expiry of the statutory period for moving the application without any formal order of the court

(B) The suit automatically abates on the expiry of the statutory period for moving the application, however there has to be a formal and specific order of the court to that effect

(C) The suit does not automatically abate on the expiry of the statutory period for moving the application a formal and specific order of the court to that effect is a must

(D) The suit is to be stayed till the application is presented

39. A receiver :

- (A) Can be sued generally for acts done in his official capacity by a third party
- (B) Cannot be sued at all for acts done in his official capacity by a third party
- (C) Can sue and can be sued for acts done in his official capacity by a third party only with the leave of the court appointing him
- (D) Can sue with the leave of the court but cannot be sued without the leave of the court appointing him

40. Subsequent to the filing of written statement under Order VIII, Rule 9 of the Civil Procedure Code 1908, the defendant :

- (A) Can file the proceedings by way of defence of set-off or counter-claim without the leave of the court
- (B) Can file the proceedings by way of defence of set-off or counter-claim only with the leave of the court
- (C) Cannot file the proceedings by way of defence of set-off or counter-claim at all
- (D) Can do as in both (A) and (B)

41. In which of the following cases the Supreme Court of India held the 1999 and 2002 amendments to the Civil Procedure Code 1908 valid :

- (A) Salem Advocate Bar Association, Tamil Nadu Vs. Union of India
- (B) Delhi High Court Bar Association Vs. Union of India
- (C) Allahabad High Court Bar Association Vs. Union of India
- (D) Punjab and Haryana High Court Bar Association Vs. Union of India

42. Where a mortgagee obtains a decree for payment of money in satisfaction of claim arising under the mortgage :

- (A) He is entitled to bring the mortgaged property to sale without instituting a suit for sale in enforcement of the mortgage under Order XXXIV and Rule 14 of the Civil Procedure Code 1908
- (B) He is entitled to bring the mortgaged property to sale only by instituting a suit for sale in enforcement of the mortgage under Order XXXIV and Rule 14 of the Civil Procedure Code 1908
- (C) He is entitled to bring the mortgaged property to sale in execution proceedings
- (D) He is entitled as in (A) or (C)

43. "The second appeal is permissible only if the finding is perverse" was held by the Supreme Court of India in :

- (A) Dinesh Kumar Vs. Yusuf Ali, AIR 2010 SC 2679
- (B) State Vs. M.L. Keshari, AIR 2010 SC 2587
- (C) Bimlesh Vs. New India Assurance Company Ltd. AIR 2010 SC 2591
- (D) Dasrath Vs. State of Madhya Pradesh, AIR 2010 SC 2592

44. The Specific Relief Act, 1963 is the product of :

- (A) 8th Report of the Law Commission of India on Specific Relief of 1958
- (B) 9th Report of the Law Commission of India on Specific Relief of 1958
- (C) 10th Report of the Law Commission of India on Specific Relief of 1958
- (D) None of the above

45. Section 8 of the Specific Relief Act, 1963 can be invoked :

- (A) If compensation in money is an adequate relief
- (B) If the damages can be easily ascertained
- (C) If the article is held by the person as agent or trustee of the claimant
- (D) If the article has been rightly transferred from the claimant

46. Which of the following can be specifically enforced under Section 10 of the Specific Relief Act, 1963 ?

- (A) Contingent contract
- (B) Formation of a partnership
- (C) Chattel of special value
- (D) Deeds of separation

47. Remedy of rectification available under Section 26 Specific Relief Act, 1963 relates to :

- (A) Mistake in expression of contract only
- (B) The contract itself, i.e. the formation of the contract
- (C) Matters which were overlooked by the parties
- (D) Addition of terms in the agreement which was not considered

48. Jurisdiction of the court to enforce specific performance of a contract is :

- (A) Absolute
- (B) Discretionary
- (C) General (not exceptional)
- (D) Extensive

49. Choose the *true* statement about the propositions :

Propositions :

- (I) A contract for sale of a patent can be specifically enforced.
- (II) A contract to assign a copyright is specifically enforceable.
- (III) An agreement to form a partnership is specifically enforceable as a general rule.

Assertions :

- (A) I and II are incorrect, III is correct
- (B) I is incorrect, II and III are correct
- (C) II is incorrect, I and III are correct
- (D) III is incorrect, I and II are correct

50. The principle of *qua timet* means :

- (A) Some future probable injury to the rights or interests of a person
- (B) Some past injury to the rights or interests of a person
- (C) Some past serious injury to the rights or interests of a person
- (D) Some small injury capable of being estimated in money