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HPJS (Prelims)

**Previous Year Paper
(Civil Law-I) Paper-I
2018**



BOOKLET NO.

1865

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HPJS/2018

TEST BOOKLET SERIES

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

A

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 :
- (A) (B) (C) (D)
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. An application for grant of temporary injunction, in case of grant of *ex parte* temporary injunction, should be endeavoured to be decided within :
 - (A) Thirty days as provided under Order XXXIX, Rule 3-A of Civil Procedure Code
 - (B) Forty days as provided under Order XXXIX, Rule 4-A of Civil Procedure Code
 - (C) Sixty days as provided under Order XXXIX, Rule 5-A of Civil Procedure Code
 - (D) Ninety days as provided under Order XXXIX, Rule 6-A of Civil Procedure Code
2. Any person who, — (a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or, (b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiate the same; or, (c) with the like intent, practices or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force; shall be punishable with :
 - (A) fine which may extend to five hundred rupees under Section 67 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.
 - (B) fine which may extend to one thousand rupees under Section 68 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.
 - (C) fine which may extend to two thousand rupees under Section 69 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.
 - (D) fine which may extend to three thousand rupees under Section 70 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.

3. Any person appointed to sell stamps who disobeys any rule made under Section 74; and (b) any person not so appointed who sells or offers for sale any stamp (other than a ten *naye paise* for five *naye paise* adhesive stamp); shall be punishable with :

- (A) imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both under Section 74 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.
- (B) imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both under Section 71 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.
- (C) imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both under Section 69 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.
- (D) imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both under Section 66 of the Indian Stamp Act as applicable in the State of Himachal Pradesh.

4. Which of the following is *correct* ?

- (A) No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class, shall try any offence under Indian Stamp Act as applicable in the State of Himachal Pradesh Act as specified in its Section 51.
- (B) No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under Indian Stamp Act as applicable in the State of Himachal Pradesh Act as specified in its Section 71.
- (C) No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Chief Judicial Magistrate shall try any offence under Indian Stamp Act as applicable in the State of Himachal Pradesh Act as specified in its Section 81.
- (D) No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under the Indian Stamp Act as applicable in the State of Himachal Pradesh Act as specified in its Section 91.

5. Choose the *correct* statement from the following :

- (A) "Bill of exchange" means a bill of exchange as defined by the General Clauses Act, 1897, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money as defined under Section 2(5) the Indian Stamp Act as applicable in the State of Himachal Pradesh;
- (B) "Bill of exchange" means a bill of exchange as defined by the Sale of Goods Act, 1930, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money as defined under Section 2(4) the Indian Stamp Act as applicable in the State of Himachal Pradesh;
- (C) "Bill of exchange" means a bill of exchange as defined by the Banking Regulations (Amendment) Act 2017, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money as defined under Section 2(3) the Indian Stamp Act as applicable in the State of Himachal Pradesh;
- (D) "Bill of exchange" means a bill of exchange as defined by the Negotiable Instruments Act, 1881, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money as defined under Section 2(2) the Indian Stamp Act as applicable in the State of Himachal Pradesh;

6. In which of the following latest cases the Supreme Court of India made the following important observations :

“The expression “Lease” under the Stamp Act has a wider meaning as compared to its original meaning contained in Section 105 of Transfer of Property Act ... If “Lease” under Section 2(16) of the Stamp Act includes therein four specified category of documents set out in Clauses (a) to (d), we do not find any such inclusion in Section 105 of the Transfer of Property Act. It is for this reason, we are of the view that the definition of “Lease” for the purpose of Stamp Act is extensive in nature. It is also clear from the use of the expression “and includes also” in Section 2(16) of the Stamp Act....So by fiction, “any instrument by which tolls of any description are let” is considered as “Lease” for the purpose of payment of stamp duty under the Stamp Act, 1899”

- (A) Nasiruddin Vs. The State of Uttar Pradesh, (2018) 1 SCC 754
- (B) Aamira Fatima Vs. Annamalai University, (2018) 9 SCC 171
- (C) Gunwantlal Godawat Vs. Union of India, (2018) 12 SCC 309
- (D) Navtej Singh Johar Vs. Union of India, (2018) 10 SCC 1

7. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped. However, more provisions exist in this regard in the Indian Stamp Act. Find on correct option out of the following such provisions :

- (A) Any such instrument shall be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of any instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;
- (B) Where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;
- (C) Both (A) and (B) are correct under Section 35 the Indian Stamp Act as applicable in the State of Himachal Pradesh;
- (D) Both (A) and (B) are incorrect under Section 35 the Indian Stamp Act as applicable in the State of Himachal Pradesh;

8. Situation : Application was filed under O 21 R. 90 r/w S. 47, CPC for setting aside a court auction-sale. Order dismissing the application was though appealable but no appeal was filed and sale was confirmed under O 21 R. 92(1), and confirmation of sale was not questioned whereby auction purchase attained finality. The Supreme Court of India examined this situation recently. What was the response of the in this matter ? Specify out of the following options :

- (A) By virtue of R. 92(3) applicant/objector would not be barred from bringing fresh suit to set aside sale on same ground.
- (B) By virtue of R. 92(3) applicant/objector would be barred from bringing fresh suit to set aside sale on same ground.
- (C) By virtue of R. 92(4) applicant/objector would be barred from bringing fresh suit to set aside sale on same ground.
- (D) By virtue of R. 92(4) applicant/objector would not be barred from bringing fresh suit to set aside sale on same ground.

9. In which case the Supreme Court of India dealt with the situation as in previous question, i.e., "An application was filed under O 21 R. 90 r/w S. 47, CPC for setting aside a court auction-sale. Order dismissing the application was though appealable but no appeal was filed and sale was confirmed under O 21 R. 92(1), and confirmation of sale was not questioned whereby auction purchase attained finality".
- (A) Siddagangaiah Vs. N.K. Giriraja Shetty, (2018) 7 SCC 278
- (B) Selvi Vs. Gopalakrishnan Nair, (2018) 7 SCC 319
- (C) Kerala Asstt. Public Prosecutors Assn. Vs. State of Kerala, (2018) 7 SCC 314
- (D) Union of India Vs. Hardy Exploration and Production (India) Inc., (2018) 7 SCC 374
10. Which provision of Code of Civil Procedure, 1908 debars a tenant from filing an inter-pleader suit against his landlord ?
- (A) Section 88 (B) Order XXXV Rule 3
- (C) Order XXXVI Rule 4 (D) None of these
11. Which Section of Code of Civil Procedure, 1908 states that place of trial is to be deemed to be open court ?
- (A) 153 (B) 153-A
- (C) 153-B (D) 153-C
12. A decree for restitution of conjugal rights may be enforced under Order XXI Rule 32 of Code of Civil Procedure, 1908, by :
- (A) Imposition of fine (B) Attachment of property
- (C) Detention in civil prison (D) All of these

13. Can in any situation a suit, akin to public interest litigation, be instituted under Civil Procedure Code even though no special damage has been caused to persons willing to file the suit ?
- (A) No, only a writ petition lies under Article 226 of the Constitution.
(B) No, only a writ petition lies under Article 32 of the Constitution.
(C) Yes, a suit can be instituted under Section 91 Civil Procedure Code.
(D) Yes, a suit lies under a Section 92 Civil Procedure Code.
14. Any person can be appointed guardian for a suit only :
- (A) On his oral consent under Order XXXII, Rule 4 of Civil Procedure Code
(B) On his consent in writing under Order XXXII, Rule 4 of Civil Procedure Code
(C) On either (A) or (B)
(D) On neither (A) nor (B)
15. Which Section of Civil Procedure Code prohibits arrest or detention of women in the execution of decree for money ?
- (A) Section 56 (B) Section 55
(C) Section 60 (D) Section 59
16. If a plaintiff omits to sue for the whole of the claim which he was entitled to make in respect of a cause of action in the first suit then he will be precluded from suing again in respect of the portion so omitted, by virtue of :
- (A) Explanation II of Section 11, CPC
(B) Explanation IV of Section 11, CPC
(C) Order II, Rule 2 CPC
(D) Order II, Rule 3 CPC

17. Which final judgment, order or decree of a Competent Court, among the following is a judgment in *rem* ?
- (A) Judgment in a money suit.
 - (B) Judgment in a suit for permanent injunction.
 - (C) Judgment in exercise of matrimonial or insolvency jurisdiction
 - (D) None of the above.
18. Under which provision of the Code of Civil Procedure 1908, the Collector may be appointed as receiver ?
- (A) Order XL Rule 1
 - (B) Order XL Rule 3
 - (C) Order XL Rule 5
 - (D) Order XL Rule 2
19. In which of the following cases the Supreme Court held that delay in pronouncing the judgment amounts to denial of justice ?
- (A) Surendra Sing Vs. State of U.P.
 - (B) Anil Rai Vs. State of Bihar
 - (C) State of U.P. Vs. Chander Bhushan
 - (D) None of the above
20. Under Civil Procedure Code when the service of summon to a defendant is not made to him due to his absence within reasonable time, summons can be served to the :
- (A) Servant or Munim of the defendant
 - (B) Adult son of the defendant
 - (C) Minor daughter of the defendant
 - (D) None of the above

21. Whether the purchaser of a property in execution sale can make an application for setting aside the sale on the ground that the judgment debtor had no saleable interest in the property sold ?
- (A) Yes, he can make application under Order 21, Rule 89, Civil Procedure Code
 - (B) Yes, he can make application under Order 21, Rule 90, Civil Procedure Code
 - (C) Yes, he can make application under Order 21, Rule 91, Civil Procedure Code
 - (D) No, as he is a purchaser, he cannot get the sale set aside
22. Right to appeal from original decrees has been provided under :
- (A) Section 94 of Civil Procedure Code
 - (B) Section 95 of Civil Procedure Code
 - (C) Section 96 of Civil Procedure Code
 - (D) Section 100 of Civil Procedure Code
23. Abatement of proceedings is governed :
- (A) By Order XXI of Civil Procedure Code
 - (B) By Order XXII of Civil Procedure Code
 - (C) By Order XXIV of Civil Procedure Code
 - (D) By Order XX of Civil Procedure Code
24. Which of the following deals with the application of the Code of Revenue Courts with the Code of Civil Procedure ?
- (A) Section 5
 - (B) Section 2
 - (C) Section 3
 - (D) Section 4
25. Which of the following deals with the power of court to order separate trials in the Code of Civil Procedure ?
- (A) O 1 R 1
 - (B) O 1 R 2
 - (C) O 1 R 3
 - (D) O 2 R 8

26. Which of the following deals with objections to jurisdiction proceeding in the Civil Procedure Code ?
- (A) Section 18 (B) Section 20
(C) Section 21 (D) Section 25
27. Under Section 40 of the Civil Procedure Code, where a decree is sent for execution in another State, it shall be sent to such Court and executed in such manner as may be prescribed by rules in force :
- (A) In the State where the decree was passed
(B) In the State where the decree was sent for execution
(C) Either of the above
(D) Neither of the above
28. What is the distinction between injunction order and attachment order ?
- (A) There is no distinction, both are one and the same
(B) Injunction order binds not only the parties to the but also third parties, whereas attachment order binds only parties to the suit
(C) Injunction order binds only the parties to the suit, whereas attachment order not only binds the parties to the suit but also the third parties.
(D) None of the above

29. To which of the following provisions of the Indian Evidence Act the well known case of Muhammad Sharif Vs. Bande Ali is related to :
- (A) Sections 101 and 102 (B) Sections 107 and 108
(C) Sections 112 and 113 (D) Sections 118 and 119
30. Out of the following cases which one is *not* related to confession :
- (A) M.C. Verghese Vs. Ponnann
(B) Kottaya Vs. King Emperor
(C) State of U.P. Vs. Deoman Upadhyay
(D) State of Bombay Vs. Kathi Kalu
31. In which case it was held that "A dying declaration may be made by signs when the injured person is unable to speak" ?
- (A) Muhammad Sharif Vs. Bande Ali
(B) R. Vs. Podala
(C) R Vs. Abdullah
(D) Kamini Kumar Vs. Birendra Nath

32. Out of the following provisions of the Indian Evidence Act which one uses the words : "No barrister, attorney, pleader or vakil shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney or vakil, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment or to disclose any advice given by him to his client in the course and for the purpose of such employment" :
- (A) Sections 126 and 127 (B) Section 128 only
(C) Sections 129 and 130 (D) Sections 133 and 134
33. The Bill of Evidence Act was prepared by :
- (A) Fourth Law Commission (B) Sir Henry Maine
(C) Sir James Stephen (D) Second Law Commission
34. Which provision of the Indian Evidence Act makes space for the application of the principle of "*res judicata*" ?
- (A) Section 26 (B) Section 40
(C) Section 45 (D) Section 140

35. Under which of the following Sections of the Indian Evidence Act, a witness under examination can "while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned..." :
- (A) Section 158 (B) Section 159
(C) Section 160 (D) Section 162
36. Which significant principle of law was declared by the Supreme Court of India in the case of Pawan Kumar Vs. State of Haryana, AIR 2001 SC 1324 :
- (A) Presumption as to dowry death
(B) Presumption as to legitimacy
(C) Presumption as to rape
(D) Presumption as to abetment of suicide by a married women
37. As per which provision of the Indian Evidence Act 1872, secondary evidence may be given of the contents of a document when the original is of such a nature as not to be easily moveable ?
- (A) Section 65(e) (B) Section 65(d)
(C) Section 65(c) (D) Section 65(b)
38. Which of the following Sections of the Indian Evidence Act was amended by the Criminal Law (Amendment) Act, 2006 ?
- (A) Section 154 (B) Section 118
(C) Section 32 (D) Section 90-A

39. The previous conviction of a person is relevant under Indian Evidence Act, 1872 under :
- (A) Section 14 Explanation I (B) Section 14 Explanation II
(C) Section 8 Explanation I (D) Section 8 Explanation II
40. A witness cannot be converted into an accused person, though may be compelled to answer questions relating to an offence. Under which Section of the Indian Evidence Act, 1872 this immunity is granted to a witness ?
- (A) Under Section 148 (B) Under Section 163
(C) Under Section 131 (D) Under Section 132
41. In which of the following cases the Supreme Court of India observed that even a student may be treated as an expert under Section 45 of the Indian Evidence Act, 1872 ?
- (A) Bhoginbhai Hirjibhai Vs. State of Gujarat (1983)
(B) Shankaria Vs. State of Rajasthan (1978)
(C) Kanpur University Vs. Samir Gupta (1983)
(D) Punjab Singh Vs. State of Haryana (1984)
42. Which Section was inserted by the Specific Relief (Amendment) Act, 2018, which gives the power to the courts to engage experts where it considers the same necessary ?
- (A) Section 13A (B) Section 14A
(C) Section 15A (D) Section 16A
43. Where an instrument is evidence of different rights of different obligation, the Court may, in a proper case, cancel it in part and allow it to stand for the residue. This provision is provided in the Specific Relief Act under :
- (A) Section 21 (B) Section 32
(C) Section 42 (D) Section 40

44. Against a decree passed in a suit filed under Section 6 of the Specific Relief Act :
- (A) Only review is allowed
 - (B) Appeal can be filed
 - (C) No appeal or review is allowed
 - (D) None of the above
45. In a suit for Specific performance of agreement of sale of immovable property, the plaintiff must aver and prove the following :
- (A) That plaintiff paid the entire sale consideration.
 - (B) That plaintiff obtained clearance from all authorities
 - (C) That plaintiff obtained encumbrance certificate
 - (D) That plaintiff is ready and willing to perform his part of contract
46. When an instrument does not express the real intention of parties, the same may be rectified under which of the following Sections of the Specific Relief Act ?
- (A) Section 25
 - (B) Section 26
 - (C) Section 27
 - (D) Section 28
47. A declaratory decree passed under Section 34 of SR Act, 1963 operates :
- (A) Jus in rem
 - (B) Jus in personam
 - (C) Both (A) and (B)
 - (D) None of these
48. In Section 3 of the Himachal Pradesh Courts Act, 1976 providing for the establishment of some courts which of the following is *not* expressly mentioned :
- (A) The Court of District Judge
 - (B) The Court of Additional District Judge
 - (C) The Court of Senior Civil Judge
 - (D) The Court of Civil Judge

49. "An appeal shall not lie to the High Court from a decree or order of an Additional District Judge in any case, in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court." This is provided by :
- (A) Section 15 (2), Himachal Pradesh Courts Act, 1976
 - (B) Section 18 (2), Himachal Pradesh Courts Act, 1976
 - (C) Section 20 (2), Himachal Pradesh Courts Act, 1976
 - (D) Section 22 (2), Himachal Pradesh Courts Act, 1976
50. Section 25 of the Himachal Pradesh Courts Act, 1976 makes provisions regarding petition writers providing that the High Court may from time to time make rules consistent with this Act and any other enactment for the time being in force. Which of the following purposes for rule making is *not* mentioned in that Section ?
- (A) Declaring what persons shall be permitted to act as petition writer in the Courts subordinate thereto;
 - (B) Engaging associates for petition writers to assist them in their work whenever necessary
 - (C) Regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them; and
 - (D) Determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.