

SERIES-01



HARYANA CIVIL SERVICE JUDICIAL EXAMINATION-2021

Paper-I

Civil Law-1

TIME: 3 HRS.

MAX. MARKS: 200

Notes:

- (i) Candidates are required to attempt all the question of equal weightage in the same serial order as they appear in the Question Paper including the parts and sub-parts of the attempted question.
- (ii) Marks are indicated against each part or sub-part of the given question.
- (iii) Support your answer with relevant provisions and judicial precedents.
- (iv) No extra Answer Sheet will be provided and the candidates are expected to confine their answers within the limit of the sheets provided in the answer book.

1. (a) “For deciding the jurisdiction of a civil court, the averments made in the plaint are material”, explain the statement supported with relevant case laws. **(10 Marks)**
- (b) Mark out the distinction between ‘*res judicata*’ and ‘*res sub judice*’. Whether the plea of *res judicata* can be waived? **(10 Marks)**
- (c) What is “pleading”? Whether a pleading can be amended if yes than under what circumstances and at which state? **(10 Marks)**
- (d) What are the essential conditions required for the application of doctrine of set-off?

A sues B on a bill of exchange. B alleges that A has wrongfully neglected to ensure B’s good and is liable to him in compensation which he claims to set off. Whether the amount can be set-off by B? **(10 Marks)**

2. (a) What is an ex-parte decree? What are the remedies available to the party against whom an ex-parte decree has been passed, state the relevant statutory provisions? **(10 Marks)**
- (b) Plaintiff “A” was a dealer on the land held by the Hindustan petroleum Corporation (lessee) and was in possession of a service station. The municipal corporation issued a notice to the plaintiff for demolition of a certain constructions alleging that it was unauthorized. The plaintiff filed a suit for permanent injunction against the Municipal corporation. Hindustan Petroleum Corporation applied for being impleaded as a party defendant. Decide whether the Hindustan Petroleum corporation can be allowed to do, in the light of relevant statutory provision and case laws? Under what circumstances an application for addition or substitution of plaintiff as well as striking out or adding parties may lie to the court. **(15 Marks)**
- (c) Define and elaborate the following terms. **(15 Marks)**
 - (a) Decree
 - (b) Mesne profit
 - (c) Legal representative

4. The plaintiff an Abkari contractor who was in default on the payment of today welfare fund was ineligible to participate in the auction and to take any contract in his name due to the reason of ineligibility he agreed with the defendant that the defendant should take some shops at the auction and transfer some of those for the same the defendant having failed to person his part of the agreement, the plaintiff claimed back of the agreement, the plaintiff claimed back the consideration paid by him to the defendant. Decide the validity of the agreement as well as of the claim of the plaintiff in the light of relevant provisions of Indian Contract Act, 1872? **(10 Marks)**

5. (a) What do you understand by the phrase “admission in civil cases without prejudice”. explain in the light of relevant provisions of Indian Evidence Act, 1872. **(10 Marks)**
- (b) A trustee mortgages the trust properties alleging that he was the owner of the properties. The mortgagee, in good faith and without notice that the properties belonged to the trust took the mortgage. He (the Mortgagee) obtained a decree and the properties were sold. The trustee subsequently filed a suit to recover the property from the auction-purchases on the ground that the properties were the trust properties and he had no power to mortgage them decide whether the contention of the trustee will succeed in the light of the relevant provisions of law? **(10 Marks)**
- (c) “Oral evidence must in all cases whatever be direct” explain the statement in the light of relevant provision of the Indian Evidence Act, 1872, also state the exception of the above statement, if any? **(10 Marks)**
- (d) (i) The provisions of Indian Evidence Act, 1872 are not applicable to Arbitration. Give reasons why arbitrators have been excluded from the ambit of Indian Evidence Act, 1872. **(5 Marks)**
- (ii) A letter was dispatched to Mr.X he sent a reply of this letter. The letter of Mr.X. was produced in evidence. But the contents could not be proved. The plaintiff contends to prove the facts of the receipt Purporting to come from Mr. X in reply of letter sent to him, whether he can be allowed to prove the same if yes then under which provisions of the Indian Evidence Act, 1872. **(5 Marks)**
6. (i) A, being B’ advocate, threatens to publish B’s written communication with him, showing that B has committed the offence. What remedy is available to B in Specific Relief Act, 1963? **5 Marks)**
- (ii) Write short notes on the following **(3 Marks)**
- (a) Declaratory decree
- (b) Further relief.
7. (a) The relation of partnership arises from contract and not from status, comment? **(10 Marks)**
- (b) The plaintiff deposited a sum of money with the Kanpur Municipal Board in the name of a Civil Engineering company for obtaining a license for producing electricity in partnership with another. The board refused licence and the money was refunded to the civil Engineering Co. The plaintiff claimed it. The other partner contended that it would be paid after meeting partnership liabilities, Decide. **(5 Marks)**

- (c) (i) What factors are taken into consideration while determining the existence of partnership? Discuss in the right of relevant case law? **(10 Marks)**
- (ii) Differentiate between partnership and co-ownership. **(5 Marks)**
- (d) 'A partner is the agent of the firm for the purpose of the business of the firm' in the light of above statement discuss the extent of implied authority of the partners in a partnership firm. **(10 Marks)**
8. Discuss in brief the provision of penalties as provided under Harayana urban (Control of Rent and Eviction) Act, 1973. **(5 Marks)**
9. Does the provisions of Indian limitation Act, 1963 is applicable while computing the limitation period for an appeal under the provisions of the Punjab Courts Act 1918? **(5 Marks)**
10. Write down the distinction between 'conditions' and 'Warranty' and enumerates the circumstances in which condition can be treated as warranty. **(10 Marks)**

□□□□□