

EXAMINATION FOR RECRUITMENT TO THE POST OF DISTRICT
JUDGES (CIVIL LAW)

25/9/2010

MAX. MARKS: 150

Duration : 3 hours

Marks

Answer the following in a few sentences:

1. State the concept of 'Alternative Dispute Resolution' as contemplated under Sec. 89 of C.P.C. (5)
2. What is decree and what is order? How many kinds of decree can be passed? Whether in a pending suit Court is competent to pass a preliminary decree? (10)
3. What is rejudicata and constructive resjudicate? What is estoppel? (10)
4. What questions can be determined by an executing court under Sec. 47 of C.P.C.? (5)
5. Who can object for execution of the decree under Or. 21 R. 97 And how such application has to be considered by the Court (5)
6. What are the properties not liable for attachment or sale? (5)
7. What are appealable orders? Explain with reference to Or. 43 R. 1 of C.P.C. (5)
8. Write a note on fundamental rights guaranteed under the Constitution of India? (10)
8. Explain the conditions of a valid marriage under Sec. 5 of Hindu Marriage Act? (5)
9. Write different grounds available for divorce under Sec. 13 of Hindu Marriage Act? (10)

10. Who are the members of a Hindu undivided family entitled for a share at partition? Whether a Hindu female can maintain a suit for partition? (10)

11. What is maintenance? Discuss the maintenance under Muslim Personal Law and the Muslim Women (Protection of Rights on Divorce) Act, 1996. (10)

12. What are the contracts which are not specifically enforceable? Explain. (5)

13. Define undue influence, coercion, fraud and consent. (5)

14. Explain the following in one or two sentences:

(Each question carries 2 marks).

a. Doctrine of Lis pendence

b. Part performance of a contract

c. Inchoate Instrument

d. Caveat Emptor

e. Res ipsa loquitor

f. Mesne profits

g. Obiter Dicta

h. Per incurium

i. Subrogation

j. Public document

k. Oualty

l. Illatum son-in-law

m. Vis major

n. Patria protesta

o. Void ab initio

(30)

15. Translate the following from English to Kannada . (10)

Based on the above issues, the parties were expected to lead evidence and in fact, as stated above evidence was let in. So far as relationship between Rathna Bai and Yalloji Rao there is no dispute. During the pendency of the suit, the 2nd defendant who is the mother of the parties to the suit, also died. Apparently she has not dealt with her share of the properties in any manner during her lifetime. Therefore, plaintiff and the children and wife of Yalloji Rao would fall under class I heirs of wife of Durgoji Rao. P.W.1 as already stated above is the son of Yalloji Rao. He had to give evidence before Court as Mr. Yalloji Rao was no more by the time the matter came up for evidence.

P.W.1 is the plaintiff -- Rathna Bai, P.W.2 is one Laxmanrao Pawar. He was examined to show how Durgoji Rao acquired the properties and he knows both the daughter and son of Durgoji Rao. According to him, there was a panchayath as late Durgoji Rao did not give share in the properties but he does not know the outcome of the panchayath. As a matter of fact, this person does not even say that he was one of the participants in the panchayath in which plaintiff's daughter sought a share from the properties of the father.

Translate from Kannada to English -4-

8. ಭೂಮಾಲೀಕನು ಮತ್ತು ಬಾಡಿಗೆದಾರಳು ಪುಂಡಿಸಿದ ಇಡೀ ಸಂಸ್ಕಾರವನ್ನು ಇಡಿಯಾಗಿ ಓದಿದರೆ. ಭೂಮಾಲೀಕನು, ಅಪನ ಪಾಟೀಸವಾಲಿನಲ್ಲಿ 1992-93ನೇ ವರ್ಷದಲ್ಲಿ ಕಟ್ಟಡವು ಪೂರ್ಣಗೊಂಡಿರುವುದಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಅದು ಕಟ್ಟಡದ ಎರಡನೇ ಮಹಡಿಗೇ ಸಂಬಂಧಪಟ್ಟಿದ್ದೆಂದು ಪ್ರಶ್ನಿತ ಆವರಣಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಿದ್ದಲ್ಲವೆಂದು ಹೇಳಲೇಬೇಕಾಗಿತ್ತೆಂದು ಧಾರಾಳವಾಗಿ ಹೇಳಬಹುದು. 2(3)(ಎಫ್) ಪ್ರಕರಣದ ಉಪಬಂಧಗಳಲ್ಲಿ ಕಂಡುಬರಬಹುದಾದಂತೆ, "ಆವರಣ" ಎಂಬ ಪದವನ್ನು ಬಳಸಲಾಗಿದೆಯೇ ವಿನಾ "ಕಟ್ಟಡ" ಎಂದು ಬಳಸಿಲ್ಲ. ಪಾಟೀಸವಾಲಿನಲ್ಲಿ ಸಹ, ಬಾಡಿಗೆದಾರಳು "ಕಟ್ಟಡ"ವನ್ನು 1992-93ನೇ ವರ್ಷದಲ್ಲಿ ನಿರ್ಮಿಸಲಾಗಿದೆ ಎಂದು ಮಾತ್ರವೇ ಹೇಳಿದ್ದಾಳೆ. ಆಕೆಯು "ಆವರಣ" ಎಂಬ ಪದವನ್ನು ಬಳಸಿಲ್ಲ. ಆವರಣವನ್ನು (ನೆಲಮಹಡಿಯ ಭಾಗ) 1989ರಲ್ಲಿಯೇ ಎಂದರೆ, ಬಾಡಿಗೆಯ ಒಪ್ಪಂದ ಪತ್ರವನ್ನು ಬರೆದುಕೊಡುವ ಮೊದಲನೇ ನಿರ್ಮಾಣ ಮಾಡಲಾಗಿತ್ತು. ಅದು ಇಡೀ ಕಟ್ಟಡಕ್ಕೆ ಸಂಬಂಧಪಡುವುದಿಲ್ಲ. ಈ ವಿಷಯದ ದೃಷ್ಟಿಯಿಂದ, ಕೆಳನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಸಮರ್ಥಿಸುವಂತಿಲ್ಲ ಮತ್ತು ಅದನ್ನು ರದ್ದುಪಡಿಸಲು ಬದ್ಧವಾಗಿದೆ. ಆದ್ದರಿಂದ, ಈ ಮುಂದಿನ ಆದೇಶವನ್ನು ಮಾಡಲಾಗಿದೆ :

XIX ಹೆಚ್ಚುವರಿ ಲಘುವ್ಯಾಜ್ಯಗಳ ನ್ಯಾಯಾಧೀಶರು, ಬೆಂಗಳೂರು ಇವರು ಹೆಚ್.ಆರ್.ಸಿ. ಸ.607/2004ರಲ್ಲಿ ಹೊರಡಿಸಿದ ದಿನಾಂಕ 2006ನೇ ಸೆಪ್ಟೆಂಬರ್ 20ರ ಆದೇಶವನ್ನು ರದ್ದುಪಡಿಸಲಾಗಿದೆ. ಅಧಿವಿಚಾರಣಾ ನ್ಯಾಯಾಲಯವು, ಇತರ ಅಂಶಗಳ ಬಗ್ಗೆ ಯಾವುದೇ ನಿರ್ಣಯವನ್ನು ನೀಡಿಲ್ಲವಾದ್ದರಿಂದ, ವಿಷಯವನ್ನು ಹಿಂದಕ್ಕೆ ಕಳುಹಿಸಬೇಕಾಗಿದೆ. ಆದ್ದರಿಂದ, ಇತರ ಅಂಶಗಳ ಬಗ್ಗೆ ವಿಷಯವನ್ನು ಹೊಸದಾಗಿ ವಿಲೇ ಮಾಡಲು ವಿಷಯವನ್ನು ಕೆಳನ್ಯಾಯಾಲಯಕ್ಕೆ ಕಳುಹಿಸಲಾಗಿದೆ. ಕೆಳನ್ಯಾಯಾಲಯವು, ವಿಷಯವನ್ನು ಸಾಧ್ಯವಾದಷ್ಟು ಬೇಗನೆ, ಆದರೆ ಈ ಆದೇಶವನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕದಿಂದ ನಾಲ್ಕು ತಿಂಗಳ ಅವಧಿಗಿಂತ ತಡವಾಗದಂತೆ ವಿಲೇ ಮಾಡತಕ್ಕದ್ದು.

ತದನುಸಾರವಾಗಿ ಅರ್ಜಿಯನ್ನು ಅನುಮತಿಸಲಾಗಿದೆ.

WRITTEN TEST QUESTION PAPER FOR SELECTION OF DISTRICT AND
SESSIONS JUDGE BY DIRECT RECRUITMENT

QUESTION PAPER NO.2 – CRIMINAL LAW

Maximum Marks 150

Date: 25.09.2010

MARKS

Answer any 12 questions carrying 10 marks:- and
Question No-16 carrying 30 marks.

- (1) When does culpable homicide amounts to murder and explain the exceptions which constitute culpable homicide not amounting to murder. (10)
- (2) Explain the procedure for conducting sessions trial. (10)
- (3) What are the general exceptions available to the accused as a defence in criminal trial under Chapter IV of IPC with special reference to unsound mind, intoxication, the act done in good faith for the benefit of a person without sound mind. (10)
- (4) What are the ingredients of offence of dowry death U/s.304-B of IPC and what is the presumptions available to the prosecution under the Evidence Act. (10)
- (5) What constitutes an offence of rape U/s.376 IPC and explain the weightage to be given to the evidence of prosecutrix. (10)
- (6) What are the ingredients of criminal conspiracy,

common object, common intention, common knowledge,
abatement of offence. When the member of unlawful assembly
becomes liable for the acts of other member of the unlawful assembly
U/s.149 of IPC. (10)

(7) Who is a Public servant under Section 21 of IPC. (10)

(8) Why Test Identification Parade is conducted, narrate
the procedure to be adopted and the safe guards to be taken
for conduct of Test Identification Parade with reference to
decisions of Supreme Court. (10)

(9) When the statement of a person can be used as evidence
although he cannot be examined as witness, under what provisions
of law dying declaration is admissible as an evidence and how
the evidence of dying declaration is appreciated, explain with reference to
decisions of the Supreme Court. (10)

(10) What are the legal considerations for grant of bail
U/s.437 and 439 of Cr.P.C. vis-à-vis grant of bail for
the offences under NDPS Act and Forest Act (10)

(11) Who is competent to grant sanction for prosecution
of a public servant under Prevention of Corruption Act

and explain the law relating to sanction with reference to decisions of the Supreme Court.

(10)

(12) Who is entitled to the benefit U/s. 4 of the Probation of Offenders Act. What is the legal consequence when a person is admitted to probation, what is the jurisdiction of the Court to award compensation to the victim under the Probation of Offenders Act.

(10)

(13) What are the offences that come within the purview of the Section 3(2) of the SC/ST (Prevention of Atrocities Act) 1989 which entitles for higher punishment and to what extent.

(10)

(14) What is extra judicial confession and a judicial confession U/s.164 of Cr.P.C. the procedure to be followed for recording U/s.164 of Cr.P.C. Explain the case law with reference to decisions of the Supreme Court.

(10)

(15) What is the procedure adopted by the Investigation Agency for detecting and proving the guilt in a trap case under the Prevention of Corruption Act.

(10)

(30)

(16) Write Short notes on

- (1) Legal presumptions U/s.20 of the Prevention of Corruption Act.
- (2) Omissions and Contradictions. (3) Plea bargaining. (4) Discovery of fact U/s.27 of the Evidence Act. (5) Compensation to victim U/s.357 of Cr.P.C. (6). Reference of a case to the High Court U/s.395 of Cr.P.C.
- (7) Procedure of search U/s.50 of the NDPS Act. (8) Revisional powers of the Sessions Judge U/s. 397 of Cr.P.C. (9) Confession.
- (10) Withdrawal from prosecution U/s. 321 of Cr.P.C.