

KERALA JUDICIAL SERVICE (MAIN) EXAMINATION - 2016

Marks: 100

Time: 3 hours

PAPER - I

[Questions 1 to 24 carry 1 mark each]

[24x1= 24 marks]

Correct the following sentences

1. All the furniture in this room are old-fashioned.
2. He is certainly as tall if not taller than his father.
3. If I had enough money, I would have bought the new house.
4. He has invited me for his daughter's marriage.
5. He outshines above all others in athletics.

Use the correct prepositions

6. The prisoner was dying ----- inches.
7. Poverty is not always a bar----- happiness.
8. This remark is indicative ----- the vulgarity of his nature.
9. We should not infringe----- other people's rights.
10. I could not persuade him ---- the truth of the statement.

Use the correct forms of the verbs in brackets

11. I wish I [know] his name.
12. The gardener [water] the plants when the storm broke.
13. I shall arrive tomorrow if the weather [be] fine.
14. The intruder [catch] as he was leaving the premises.
15. We [have] a very enjoyable holiday last summer.

Use the appropriate modals

16. If I were you, I ----- not have insulted a friend.
17. He took his raincoat lest he-----get wet.
18. How -----you insult the Principal?

Use the phrasal verbs in sentences

19. account for

20. go back on

Add tag questions to the following

21. Few people knew the answer.

22. We seldom see them these days.

23. Be careful when you cross the road.

24. Have another cup of tea.

[Questions 25 to 32 carry 2 marks each]

[8x2= 16 marks]

Change into indirect speech

25. "Where were you last evening?" the father asked his son.

26. "Did they understand what you meant?" I enquired.

27. "You had better hurry," he advised me.

28. "The earth spins on its axis once in twenty-four hours," said the teacher.

Change into passive

29. People will forget this incident in a few days.

30. Must we punish him for such a silly offence?

31. Don't grant him permission.

32. Who was helping the poor?

33. Write a précis of the following passage

[15 marks]

There are those who think that the Indian democracy is the professional politician's paradise. It is criticized as the government of the politicians, by the politicians and for the politicians. Few of our politicians, in their opinion, can make an honest living outside politics. It is well known, of course, that there are innumerable political parasites in the country who feed on the national economy through means and measures that undermine the precarious economic system of the country. Most of the politicians, both

of the ruling party and the opposition, have proved to be corrupt, incompetent and also completely devoid of any political norms or values. The dynamic leadership and noble idealism of a new generation of committed national leaders can instil a robust optimism in our political set-up. Such a youthful leadership should emerge from among the young generation of the day. Their motivational initiatives, if clearly focused and effectively implemented, can build up a new political system. The nation, as a whole will again absorb the idealism that once enabled us to stand united against the British rule. True democratic values will prevail in our homes, in the factories and in the offices. There will be neither parental dictatorship nor the irresponsibility of the young. Our young men and women will be as conscious of their responsibilities as they are of their rights and ambitions.

Since India became independent, that is in the last over six decades of representative democracy, one great casualty has been character. Corruption has become the order of the day. Black money has been on the increase. Employees everywhere ask for more. But they are not ready to put in quality effort for the improvement of the society or the progress of the nation. Black marketing, smuggling, tax evasion and rackets of all sorts have become so common. To make matters worse, there is political patronage to defend and protect the offenders. With the emergence of a motivated, committed and elite leadership of the young generation, all this evil will disappear. Character will once again be redeemed and enriched in our nation's socio-political history. People will work harder not merely so that they may have more, but that the country will have more. With everyone earning enough and sharing enough, everyone will have enough. Such a unique epoch in our national history will not be far off.

[358 words]

34. Write an essay of about 300 words on any two of the following [2x15= 30 marks]

- (a) Independence of the Judiciary in a Democratic System
- (b) The Judiciary and the Media
- (c) A Uniform Civil Code in the Indian Context
- (d) Gender Justice and the Legal System

Contd....

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PAPER - II

PART - I

Answer all the questions. (Answers to the questions in this Part should be marked only in the OMR Answer Sheet. Answers marked/written elsewhere will not be valued) (15 x 1 = 15 marks)

1. Which of the following is not a valid contract?
 - (A) A owes B ₹ 10,000/-, but the debt is barred by the Limitation Act. A signs a written promise to pay B ₹ 5,000/- on account of the debt.
 - (B) A finds B's purse and gives it to B. B promises to give A ₹ 5,00/-
 - (C) A, for natural love and affection, promises to give his son ₹ 50,000/-. A puts his promise into writing.
 - (D) A agrees to sell his car worth five lakh rupees to B for one lakh rupees. A's consent to the agreement was freely given.
2. Choose the correct statement.
 - (A) A transfer of property may be made without writing in every case in which a writing is not expressly required by law.
 - (B) A vested interest is defeated by the death of the transferee even if he had obtained possession of the property transferred to him.
 - (C) An easement can never be transferred.
 - (D) A usufructuary mortgagee can maintain a suit for sale, but not a suit for foreclosure.
3. Which of the following suits is not barred by any length of time?
 - (A) A suit for balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.
 - (B) A suit by or on behalf of the Central Government or any State Government for any relief except possession of immovable property.
 - (C) A suit to set aside a transfer of immovable property comprised in a Hindu religious and charitable endowment, made by the Manager thereof, for a valuable consideration.
 - (D) A suit against a person in whom property has become vested in trust for any specific purpose.

4. Identify the wrong statement.

- (A) The jurisdiction to decree specific performance is discretionary, and such relief may be refused even if it is lawful to grant it.
- (B) The court under no circumstance shall direct the specific performance of a part of a contract.
- (C) Specific performance of a contract cannot be enforced in favour of a person who would not be entitled to recover compensation for its breach.
- (D) A suit to have an instrument rectified is liable to be dismissed unless fraud, or mutual mistake of the parties, is alleged.

5. Mark the continuous easement.

- (A) A right annexed to one's house to receive light by the windows without obstruction by his neighbour.
- (B) A right of way annexed to one's house over his neighbour's land.
- (C) The right of every owner of land to so much light and air as pass vertically thereto.
- (D) The right of every owner of land abutting on a natural stream to use and consume its water for household purposes.

6. What shall the Rent Control Court do if the tenant denies the title of the landlord?

- (A) It shall stay the proceedings till the landlord establishes, by suit, his title to the tenanted premises.
- (B) It shall proceed with the case and, if it allows the petition, direct the landlord to establish his title in the execution proceedings.
- (C) It shall decide whether the landlord has title to the tenanted building.
- (D) It shall decide whether the denial of title is bonafide.

7. A Hindu male was survived by his father, mother, widow and son. The estate of the deceased would devolve under Sec.8 of the Hindu Succession Act upon
- (A) the son to the exclusion of others
 - (B) the widow and son to the exclusion of others.
 - (C) the mother, widow and son to the exclusion of the father.
 - (D) all of them.
8. An unregistered will recites, "I bequeath to my elder son all the properties mentioned in the schedule". But no schedule is attached to the will. The will is
- (A) void for non-registration.
 - (B) void for uncertainty.
 - (C) valid in respect of the properties left by the testator.
 - (D) valid in respect of all the properties the testator had at the time of making the will.
9. A Muslim woman is entitled to a decree for the dissolution of her marriage if
- (A) the whereabouts of the husband have not been known for a period of two years.
 - (B) the husband has been insane for a period of two years.
 - (C) the husband has been sentenced to imprisonment for a period of two years.
 - (D) the husband has failed to perform his marital obligations for a period of two years.
10. A plaintiff who is in joint possession of an immovable property sues for partition in a Munsiff's Court. What court fee shall be paid?
- (A) ₹ 300/-
 - (B) ₹ 150/-
 - (C) ₹ 100/-
 - (D) ₹ 50/-

11. An instrument which is not duly stamped is produced in a civil court and is sought to be admitted in evidence. The court shall
- (A) impound it.
 - (B) return it.
 - (C) collect the deficit duty.
 - (D) admit it in evidence and inform the Collector.
12. Which of the following is not a presumption under Sec.118 of the Negotiable Instruments Act?
- (A) A promissory note was made for consideration.
 - (B) A promissory note bearing a date was made on such date.
 - (C) A promissory note bearing the signature of its maker was duly executed.
 - (D) A lost promissory note was duly stamped.
13. Which of the following documents requires attestation if the value of the property is ₹ 100/- or more?
- (A) Sale deed
 - (B) Gift deed
 - (C) Lease deed
 - (D) Exchange deed
14. A contracts to pay to B one lakh rupees if B's house is burnt. This is
- (A) a contingent contract.
 - (B) a conditional contract.
 - (C) a void contract
 - (D) not a contract at all.
15. Which provision of the Specific Relief Act permits post decree rescission of contract?
- (A) Sec.30
 - (B) Sec.29
 - (C) Sec.28
 - (D) Sec.27

PART - II

Answer any 15 questions. Answers shall not exceed 120 words (1 page). If more than 15 questions are answered the first 15 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book. (15 x 3 = 45 marks)

16. Define free consent. What consideration and objects of an agreement are lawful?
17. To what extent an agreement in restraint of initiating legal proceedings to enforce a right under or in respect of a contract by a party thereto valid?
18. 'All leases of immovable property may be made either by a registered instrument or by an oral agreement accompanied by delivery of possession'. Comment.
19. A plaint was filed along with an application to sue as an indigent person on the last day of the period of limitation. The court after enquiry dismissed the application. The plaintiff thereafter remitted the requisite court fees. Defendant raised objection that there was a delay of three months in instituting the suit as on the date of payment of the court fees. Decide.
20. A contract the performance of which involves the performance of a continuous duty which the court cannot supervise cannot be specifically enforced. Is there any exception? If so, explain.
21. Define license. When will a license become irrevocable?
22. Certain rights cannot be acquired u/s 15 of the Indian Easements Act, 1882. What are those rights?
23. The tenant deposited arrears of rent with interest and costs along with an application to vacate the direction of eviction ordered u/s 11 (2) (b) of the Kerala Buildings (Lease & Rent Control) Act, 1965. Landlord contends that the application shall be dismissed since there is no direction by the Rent Control Court in its order to vacate the order for eviction on deposit of the arrears of rent, interest and costs. Decide.
24. How the property of a Hindu female dying intestate would devolve upon her heirs?

25. What are the rules according to which an unprivileged will shall be executed?
26. To what share the husband surviving his Christian wife is entitled when his wife has left no lineal descendants, but her father?
27. A Muslim marriage was dissolved by a Court on the ground that whereabouts of the husband have not been known for a period of 4 years. Later the husband moved the same court with an application to set aside the decree. Decide.
28. Is there any difference in the rules for refund of court fees if the Court
 - i) decides the suit on a compromise or on admission of the parties;
 - ii) refers the suit to an Adalat and it passes an award?
29. In a suit for cancellation of a sale deed court fee was paid on the market value of the property determined u/s 7 of the Kerala Court Fees & Suits Valuation Act, 1959. Comment.
30. What is the meaning of 'feeding the grant by estoppel'? Give an illustration.
31. What is the meaning of negotiation of instruments? Who may negotiate?
32. Is it required to register a certificate of sale of immovable property granted by a court? Discuss the provision of law on the point.
33. Is it mandatory for a Munsiff to impound every document produced before him, which is not duly stamped? Is there any difference if the production is before a Magistrate?
34. Explain the scope of a recrimination under the Kerala Panchayat Raj Act, 1994.
35. What are the rules regulating jurisdiction of Lok Adalats and cognizance of cases by Lok Adalats?

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PAPER - III

PART - I

Answer all the questions. (Answers to the questions in this Part should be marked only in the OMR Answer Sheet. Answers marked/written elsewhere will not be valued)
(15 x 1 = 15 marks)

1. When a person joins an unlawful assembly armed with a deadly weapon, he commits:-
 - (A) an offence under Section 147 IPC
 - (B) an offence under Section 148 IPC
 - (C) an offence under Section 144 IPC
 - (D) offences under Sections 147 & 148 IPC.
2. Which one of the following is not a grievous hurt?
 - (A) fracture of a tooth
 - (B) dislocation of a tooth
 - (C) privation of a joint
 - (D) permanent disfiguration of body
3. Which one of the following is not a sexual harassment by a man within the meaning of Section 354A IPC?
 - (A) a demand or request for sexual favours
 - (B) showing pornography to a woman
 - (C) making sexually coloured remarks
 - (D) showing pornography against the will of a woman
4. Whoever attempts to put any person in fear of injury in order to the committing of extortion, commits an offence under:-
 - (A) section 386 IPC
 - (B) section 385 IPC
 - (C) section 387 IPC
 - (D) section 388 IPC

5. The burden of an accused to prove that the case comes within the General Exceptions:-
- (A) should be beyond the shadow of doubt
 - (B) should be beyond reasonable doubt
 - (C) can be through preponderance of probabilities
 - (D) none of the above
6. The credit of a witness may be impeached:-
- (A) under Section 145 of the Indian Evidence Act
 - (B) under Section 154 of the Indian Evidence Act
 - (C) under Section 155 of the Indian Evidence Act
 - (D) under Section 156 of the Indian Evidence Act
7. Which one of the following is not correct? Upon receipt of a final report from the Abkari Officer, the Magistrate shall straight away:-
- (A) commit the case to Court of Session, after inquiry, if the offence is exclusively triable by Court of Session
 - (B) commit the case to Court of Session if the offence is exclusively triable by Court of Session
 - (C) inquire into such offence and try the accused, if the offence is not exclusively triable by Court of Session
 - (D) try the accused after inquiry, if the offence is not exclusively triable by Court of Session, as if a case instituted upon a police report
8. If an offence under Section 138 of the Negotiable Instruments Act is committed by an Association, who should be the accused:-
- (A) Every person in charge of and responsible to the conduct of the business of the Association and the Association
 - (B) Every person in charge of and responsible to the conduct of the business of the Association
 - (C) All the office bearers and members of the Association
 - (D) The President and Secretary and all other office bearers of the Association

9. A protection order under The Protection of Women from Domestic Violence Act can be passed;-
- (A) only when a domestic violence has taken place
 - (B) only when a domestic violence is likely to take place
 - (C) when a domestic violence has taken place or is likely to take place
 - (D) None of the above
10. Which one of the following is not dereliction of duty by a Police Officer?
- (A) pretends illness with a view to evading from duty
 - (B) engaging in acts unbecoming of a Police Officer
 - (C) guilty of cowardice
 - (D) violates any rule or regulation
11. Prior permission of the Government is required:-
- (A) for filing a suit against a Police Officer
 - (B) for filing a suit against a Public Servant appointed under the Kerala Police Act.
 - (C) for initiating criminal proceedings for an offence under the Kerala Police Act against a Police Officer.
 - (D) for taking cognizance of an offence under the Kerala Police Act against a Police Officer.
12. The contravention in respect of a small quantity of cocaine, invites an offence under:-
- (A) section 18(a) of the NDPS Act
 - (B) section 21(a) of the NDPS Act
 - (C) section 20(a) of the NDPS Act
 - (D) section 22(a) of the NDPS Act

13. Which one of the following will not invite an offence under Section 27(1) of the Kerala Forest Act, 1961?
- (A) cultivates in a reserved forest
 - (B) cultivates in a land proposed to be constituted a reserve forest
 - (C) attempt to set fire in a reserved forest
 - (D) attempts to receive a forest produce illicitly removed from a reserved forest
14. The preliminary assessment in case of serious offences under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall be disposed of by the Board within from the date of first production of the child before the Board.
- (A) one month
 - (B) four months
 - (C) three months
 - (D) six months
15. The court directing the release of an offender under Sections 3 or 4 of the Probation of Offenders Act may order directing him :-
- (A) to pay compensation for loss, with default sentence
 - (B) to pay compensation for injury, with default sentence
 - (C) to pay compensation for loss or injury, with default sentence
 - (D) to pay compensation for loss or injury and also costs of the proceedings.

PART - II

Answer any 15 questions. Answers shall not exceed 120 words (1 page). If more than 15 questions are answered the first 15 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book. (15 x 3 = 45 marks)

16. Discuss the plea of insanity within the meaning of the Indian Penal Code.
17. Discuss the offences under Sections 279, 337, 338 and 304A of the Indian Penal Code.
18. Discuss the difference between the offence under Section 332 and the offence under Section 353 of the Indian Penal Code.
19. What is grievous hurt?
20. What is house trespass? Discuss the difference between the offences under Sections 451 and 452 of the Indian Penal Code.
21. What is *res justae*? Discuss with illustration.
22. Discuss the presumptions under Section 4 of the Indian Evidence Act.
23. Discuss the provisions relating to confession to the Police, confession of an accused while in Police custody, its admissibility, and exception, if any.
24. What things are liable to confiscation and how confiscation can be ordered under the Kerala Abkari Act?
25. Give three instances of material alteration of cheques. What are its effects?
26. What are the provisions relating to the offence under Section 138 of the Negotiable Instruments Act, when committed by a company, firm or other association of individuals?
27. What are protection orders under the Protection of Women from Domestic Violence Act?

28. What are the procedures to be followed by a Magistrate who is not empowered under the Juvenile Justice (Care and Protection of Children) Act, 2015, under Section 9 of the Act?
29. Who is a "child in need of care and protection"?
30. Discuss the offences under Section 116 of the Kerala Police Act, 2011.
31. What are the powers to be exercised by a court in dealing with an offender who has failed to observe the conditions of the bond entered under Section 4 of the Probation of Offenders Act?
32. Discuss the provisions under Sections 6 and 7 of the Probation of Offenders Act.
33. What are the powers of a Magistrate in respect of property seized which are liable to confiscation in a forest offence?
34. What are the conditions to be complied with under the Narcotic Drugs and Psychotropic Substances Act, 1985, for conducting the body search of a person?
35. What are "charas" and "ganja"? What is the offence in contravention of the same, triable by a Magistrate?

PART - III

Answer any 5 questions. Answers shall not exceed 250 words (2 pages). If more than 5 questions are answered the first 5 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book.

(5 x 8 = 40 marks)

36. Write an essay on private defence.
37. Write an essay on common intention and common object within the meaning of the Indian Penal Code.
38. Exclusion of oral evidence by documentary evidence within the meaning of the Indian Evidence Act - comment.

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PAPER - IV

PART - I

Answer all the questions. (Answers to the questions in this Part should be marked only in the OMR Answer Sheet. Answers marked/written elsewhere will not be valued) (15 x 1 = 15 marks)

1. Which of the following is neither a decree nor a deemed Decree?
 - (A) an order under Sec.144 CPC directing restitution.
 - (B) an order under Order-VII Rule-11 CPC rejecting a plaint.
 - (C) an order under Order-IX Rule-8 CPC dismissing a suit for default.
 - (D) an order under Order-XXI Rule-98 CPC dismissing an application to remove obstruction.

2. A counter-claim cannot be entertained unless it is for any ascertained sum of money. A counter-claim can be entertained even if it is in respect of a cause of action accrued to the defendant after the filing of the suit.
 - (A) Both the above statements are correct.
 - (B) Both statements are wrong.
 - (C) The first statement is correct, but the second one is wrong.
 - (D) The second statement is correct, but the first one is wrong.

3. A caveat shall remain in force from the date of its lodging for a maximum period of
 - (A) 90 days
 - (B) 75 days
 - (C) 60 days
 - (D) 30 days

4. Identify the wrong statement.
 - (A) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action.
 - (B) Where a plaintiff omits, except with the leave of the court, to sue in respect of any portion of his claim, he shall not afterwards sue in respect of the portion so omitted.
 - (C) A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs.
 - (D) If a person entitled to more than one relief in respect of the same cause of action omits, except with the leave of the court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.

5. Which court is the Principal Civil Court of original jurisdiction?
 - (A) Court of Small Causes
 - (B) District Court
 - (C) Munsiff's Court
 - (D) Court of Subordinate Judge

6. Choose the correct statement.
 - (A) An attachment under a precept shall not continue for more than three months unless, by order, the period of attachment is extended within the said three months.
 - (B) A woman shall not be arrested or detained in civil prison in execution of any decree.
 - (C) On the application of the decree-holder the court may order execution of the decree by appointing a receiver.
 - (D) A warrant for the arrest of a judgment-debtor shall not be issued by the court unless his means to pay the decree-debt is proved by the decree-holder.

7. Mark the original document which shall not be marked as an exhibit.
 - (A) Book-IV produced by any Sub-Registrar.
 - (B) Banker's Book produced by any bank.
 - (C) Any document produced from the custody of the Speaker of a Legislative Assembly.
 - (D) Any document produced by the Registrar-General of a High Court.

8. Police Officers superior in rank to an officer in charge of a Police station:-
- (A) cannot investigate a crime
 - (B) cannot file the final report under Section 173(2) Cr.P.C.
 - (C) cannot exercise all the powers of the officer in charge of a Police Station
 - (D) can exercise all the powers of an officer in charge of a Police station
9. For a successful claim under Section 85(3) Cr.P.C. To get delivery of a property attached:-
- (A) the person has to approach the court within three years of the attachment
 - (B) the person has to approach the court within two years of the attachment
 - (C) the person has to approach the court within one year of the attachment
 - (D) the person can approach the court at any time after the attachment
10. Which of the following is not correct?

Before commitment of a case instituted otherwise than on a police report, to the Court of Session, the Magistrate:-

- (A) shall issue process under Section 204 Cr.P.C.
- (B) shall comply with Section 207 Cr.P.C.
- (C) shall furnish to the accused statements and confessions, if any recorded.
- (D) shall furnish to the accused statements recorded under Section 200 or Section 202 Cr.P.C.

11. Which one of the following is correct?
- (A) a complaint against Police Officer cannot be forwarded for investigation to an officer in charge of a police station under Section 156(3) Cr.P.C.
 - (B) a complaint against Police Officer can be referred to an officer in charge of a police station under Section 202 Cr.P.C.
 - (C) a complaint against Police Officer shall not be referred to an officer in charge of a police station under Section 202 Cr.P.C.
 - (D) None of the above is correct.
12. Which of the following is not correct?
A Magistrate can order delivery of property under Section 457 Cr.P.C.,
- (A) when such property is produced before court during an inquiry or trial
 - (B) respecting the custody and production of such property
 - (C) to the person entitled to the possession thereof
 - (D) when such property is not produced before court during an inquiry or trial
13. Which of the following is an irregularity which vitiates proceedings, if a Magistrate not empowered by law to do any of the following things does it erroneously in good faith:-
- (A) takes cognizance of an offence under Sec.190(1)(a) Cr.P.C.
 - (B) takes cognizance of an offence under Sec.190(1)(b) Cr.P.C
 - (C) takes cognizance of an offence under Sec.190(1)(c) Cr.P.C.
 - (D) tenders pardon under Sec.306 Cr.P.C.
14. What is the period of limitation for taking cognizance of an offence under Section 326 IPC.
- (A) six months
 - (B) one year
 - (C) three years
 - (D) no period of limitation.

15. In computing the period of remand of 15 days mentioned in Section 167(2) Cr.P.C.:-
- (A) the day on which the remand order is made and the day on which the accused is ordered to be produced before court shall be excluded
 - (B) the day on which the remand order is made and the day on which the accused is ordered to be produced before court shall be included
 - (C) the day on which the remand order is made alone shall be included
 - (D) the day on which the accused is ordered to be produced before court, alone shall be included

PART - II

Answer any 11 questions. Answers shall not exceed 160 words (1½ page). If more than 11 questions are answered the first 11 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book.

(11 x 5 = 55 marks)

16. A plaint was rejected for non-payment of balance court fee. Another suit was abandoned by the plaintiff, resulting in its dismissal. Is there any difference in the matter of filing a fresh suit on the same cause of action in the above instances? Discuss the relevant provisions.
17. Under Order 26 of the CPC what is the significance of a commission report? Is the statement that any number of commissioners can be deputed to collect evidence in respect of a disputed fact correct? Explain.
18. Explain the concepts:
- (i) Pecuniary jurisdiction.
 - (ii) Territorial Jurisdiction.
 - (iii) Jurisdiction relating to the subject matter.

What is the effect of a decree passed disregarding each one of them?

19. What are the rules regulating return of documents admitted in evidence in a civil case?
20. What are the reasons for which a civil court can order detention of a judgment-debtor in prison in execution of a decree for payment of money?
21. Write a note on substituted service of summons.
22. (i) What is the effect of a private alienation of property after its attachment in execution of a decree?

(ii) Describe the mode of publishing a proclamation of sale of an immovable property in execution of a decree.
23. Discuss the power of a Criminal Court or Magistrate under Sections 451 and 452 Cr.P.C.
24. Who can exercise the power under Section 173(8) Cr.P.C.? Can a Magistrate order the exercise of such a power?
25. Discuss the nature of powers to be exercised by a Magistrate under Sections 156(3) and 190 Cr.P.C.
26. Discuss the powers of a Magistrate to discharge an accused and also to frame charges.
27. Discuss the nature of powers to be exercised by a Magistrate under Sections 200 and 202 Cr.P.C.
28. Discuss the provisions relating to withdrawal from the prosecution.
29. Explain the mode of recording confessions as per the Criminal Rules of Practice, Kerala.
30. What is a committal warrant? What should be its contents?

PART - III

Answer both the questions. Answers to the questions in this Part should be written in the Common Answer Book. (2 x15 = 30 marks)

31. Write judgment.

(Name of the court alone to be indicated. Other details in the cause title and appendix are not necessary)

O.S.No.221/2015

Parties

Plaintiff - Elizabeth

Defendant - Joseph

Plaint

The plaintiff is the sister of the defendant. They are the children of Varghese and Mary. The plaint schedule property belonged to Varghese. He purchased it under a deed registered as document No.20/1985 of SRO, Vaikom. Varghese died in 2005. Mary predeceased him. The property devolved upon the plaintiff and the defendant. The plaintiff requested to partition the suit property, but the defendant was not amenable. Plaintiff is entitled to get the plaint schedule property partitioned for separation of her one-half share. The plaint schedule property is a coconut garden measuring 50 cents. The plaintiff was getting her due share of profits till two years ago. This Hon'ble Court may be pleased to direct partition of the plaint schedule property. The plaintiff may be allotted her share separately with share of profits.

Written statement

All the allegation in the plaint except those which are expressly admitted hereunder are denied. The suit is not maintainable in law or on facts. The suit is barred by the law of limitation. The suit is bad for non-joinder of necessary parties. It is true that the plaint schedule property was acquired by the father of the parties in the year 1985. The property was in the exclusive possession and enjoyment of Varghese. The plaintiff was given in marriage by Varghese. At that time Varghese sold a property belonging to him for two lakh rupees and paid dowry. Hence Varghese wanted the defendant alone to succeed to his estate. Therefore Varghese executed a will on 09.09.2005. He bequeathed the entire suit property to the defendant. Therefore the plaintiff is not entitled to

any share in the plaint schedule property. It is false to allege that she was getting share of profits till two years ago. The suit deserves to be dismissed with costs and compensatory costs.

Evidence

PW1 is examined and Ext A1 is marked on the side of the plaintiff.

DWs 1 & 2 are examined and Exts B1 & B2 are marked on the side of the defendant.

Ext A1

Certified copy of sale deed No.20/1985 of SRO, Vaikom.

Ext B1

Original of Ext A1.

Ext B2

Unregistered will dated 09.09.2005.

It recites as follows:

I own only one property which was purchased by me under sale deed No.20/1985 of SRO, Vaikom.

I bequeath it to my son Joseph.

(The document is signed and attested)

PW1 (Plaintiff)

Filed affidavit in lieu of examination-in-chief reproducing the allegations in the plaint and denying the allegations in the written statement.

Cross-Examination

My relationship with my father was never strained. I used to visit him every month. I do not know whether he had sold any property at the time of my marriage to give dowry. I do not remember whether any dowry was paid. I did not deny in my plaint the will relied on by the defendant. I was not aware that the defendant was

propounding any will. I deny that my uncle showed me the will after the death of my father. I do not know Thomas and Cherian. I deny that my father had a friend by name Thomas and a friend by name Cherian. I know Thomas and Cherian. They are the friends of the defendant. I was getting my share of income till two years before the suit. I do not remember the exact amount I received. I received it only once. The signature shown to me is not that of my father (Will shown to the witness). My father was bedridden for about three months. He had Alzheimer's disease. He was not in a position to recognise anybody for about one year before his death. I deny that my father was healthy.

Re-examination

I would have denied the will in my plaint had I been aware of it.

DW 1(Defendant)

Proof affidavit filed. The contentions in the written statement are reiterated and the allegations in the plaint are denied in the proof affidavit.

Cross-examination

Thomas is not my friend. He was very close to my father. Cherian is no more. He too was not my friend, but my father's friend. I am 50 years old. Thomas is 52 years old. Cherian died last year at the age of 51 years. My father died at the age of 91 years. I did not witness the execution of Ext B2. It was attested by Thomas and Cherian. I did not see them attest the will. Neither my father nor the attestors told me anything about the will. It was given to me by my uncle Abraham one week after the death of my father. I assert that the signature in Ext B2 is that of my father. I deny that I fabricated Ext B2. I deny that it does not contain the signature of my father. My father died on 12.09.2005. I never paid the plaintiff any amount as share of profits. There was no occasion for that as there was no request for it. The plaintiff's marriage was in 1990.

Re-examination

My father was keeping company with persons of all age.

DW 2 (Thomas)

Examination-in-chief

I know Varghese. My house is 1 km away from his house. This document shown to me (Ext B2 shown) contains my signature. It contains the signature of Varghese and Cherian. Myself and Cherian attested Ext B2 will executed by Varghese. We signed it in the presence of Varghese.

Cross-examination

Defendant is a very good friend of mine. Cherian was also our friend. Varghese knew me very well as a friend of the defendant. I attested the will in the presence of Varghese. The defendant was also present at that time. Did you see Varghese sign the will (Q) No (A) Did he tell you that the signature was his (Q) No (A) The defendant told me that the signature was put by his father. The condition of Varghese at that time was bad. He was lying on the bed. He did not talk to me. He was not in a position to speak. Was he suffering from Alzheimer's disease (Q) I do not know (A) Was he healthy (Q) I do not know (A) Varghese did not live more than a week after the execution of the will.

Re-examination

Nil

32. (a) Write an order on the following Crl.M.P.

While CW1 was walking along a lonely road by dusk, with a bag containing an amount of Rs.2,00,000/- arranged by him for the marriage of his daughter, the accused suddenly approached him with a knife and demanded the bag by putting CW1 in fear. CW1, who became frightened, handed over the bag to the accused. When the accused moved away with the bag, CW1 made a hue and cry, which attracted the attention of the public. The accused was caught red handed. The police registered the case, conducted and completed the investigation and filed the final report alleging an offence punishable under Section 387 IPC. The police produced the bag and the amount of Rs.2,00,000/- before court.