

Kerala Judicial Service Main (Written) Examination-2017

Paper-I : General English

Duration : 3 hours

Total Marks : 100

[Questions 1 to 25 carry 1 mark each.]

Correct the following sentences:-

1. Good people will make good laws, but good laws passed by a few does not necessarily make a good society.
2. He is serving under me for the last several years, but I cannot claim even today that I have understood him thoroughly.
3. Neither his advisors nor the president himself have acted wisely in the crisis.
4. He was not only involved in her kidnapping but also in her murder.
5. Hardly he has arrived when the house caught fire and everything was reduced to ashes.
6. How does he earn money is more important than how much he earns.
7. He had laughed and been reprimanded for his action.
8. The girl wrote an essay so well that her teacher was exceedingly pleased at her.
9. The chief has instructed the manager to appraise the governor of the activities of our institute.
10. Beside being lengthy, the speech was badly delivered.

Identify the miss-spelt word in each set and correct it:-

11. Quarrel, Quorum, Querilous, Quinine.
12. Receipient, Reluctantly, Regrettable, Revere.

13. Satellite, Sergeant, Skilful, Susceptable.
14. Vacation, Vengeance, Verandah, Vicious.
15. Reagent, Reclamation, Harrass, Recumbent.
16. Sapphire, Semestar, Sentience, Sentinel.

Attempt the following according to the directions given:-

17. I shall always remember his politeness (change into negative sentence)
18. The teacher said 'The earth moves round the sun' (change into reported speech)
19. This was the first time the prize had been won by an Indian athlete (rewrite beginning with Never before ..)
20. The door could not be opened without using force (rewrite beginning with only by)
21. No sooner had he reached home than it began to rain. (rewrite using As soon as...)

Use in Sentences:-

22. last straw
23. in the grip of
24. at a low ebb
25. turn over a new leaf

[Questions 26 to 30 carry 2 marks each.]

Use the following pairs of words in separate sentences:-

Example : Peace - There is no peace in Kashmir.

Piece - This piece of cloth matches with the original lot.

26. Abatement - Abetment
27. Afflict - Inflict
28. Averse - Adverse
29. Diagnosis - Prognosis
30. Empathy - Apathy

31. **Summarise the following into a passage of about one third of its length retaining the essence of the passage:- (20 marks)**

The test of great book is whether we want to read it only once or more than once. Any really great book we want to read the second time; and every additional time that we read it we find new meaning and new beauties in it. A book that a person of education and good taste does not care to read more than once is very probably not worth much. But we cannot consider the judgment of a single individual infallible. We may doubt the judgment of the single critic at times. But there is no doubt possible in regard to the judgment of generations. Even if we do not at once perceive anything good in a book, which has been admired and praised for hundreds of years, we may be sure that by trying, by studying it carefully, we shall at last be able to feel the reason for this admiration and praise. The best of all libraries for a poor man would be a library entirely composed of such great works only, books, which have passed the test of time.

This then would be the most important guide for us in the choice of readings. We should read only the book we want to read more than once, nor should buy any others, unless we have some special reason for so investing money. The second fact demanding attention is the general character of the value that lies hidden in all

such great works. They never become old; their youth is immortal. A great book is not apt to be comprehended by a young person at the first reading, except in a superficial way. Only the surface, the narrative is enjoyed. No young man can possibly see at first reading the qualities of a great book. Remember that it has taken humanity in many cases hundreds of years to find out all that there is in such a book. But according to a man's experience of life, the text will unfold new meaning to him. The book that delighted us at eighteen if it be a good book will delight us much more at twenty - five and it will prove like a new book to us at thirty years of age. At forty we shall re-read it wondering why we never saw how beautiful it was before. At fifty or sixty years of age the same facts will repeat themselves. A great book grows exactly in proportion to the growth of the reader's mind.

32. **Write an essay of about two pages on any two of the following:-**

(15 x 2 : 30 marks)

- (a) To what extent can death penalty have a deterrent effect on serious crimes?
- (b) Is the Indian economy a victim of financial chicanery and bulldozing by corporate defaulters?
- (c) Is Gender Bias a peculiarly Indian phenomenon?
- (d) Growing income inequality versus development.
- (e) Kerala's versatile Jackfruit is no more just a poor man's delicacy.

33. **Translate the attached Malayalam passage into English:-**

(15 marks)

KERALA JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION -2017

Marks: 100

Duration : 3 Hours.

PAPER - II

PART - 1

Answer all the questions. (Answers to the questions in this should be marked only in the OMR Answer Sheet. Answers marked/written elsewhere will not be valued).

(15 x1 = 15 marks)

1. Which one among the following constitutes spes successionis ?
 - a). Succession to a property by will.
 - b). Intestate transfer of property.
 - c). Mere chance of a heir apparent succeeding to an estate.
 - d). Succession of a stranger to a property.

2. Novation of a contract means?
 - a). Removal of certain clauses in a contract.
 - b). Addition of certain clauses to a contract.
 - c). Substituting a contract with a new contract.
 - d). None of the above.

3. What is the period prescribed under the limitation Act for instituting a suit for possession of immovable property on the strength of previous possession?
 - a). 3 years from the date of dispossession.

- b). 12 years from the date of dispossession.
- c). One year from the date of dispossession.
- d). 6 months from the date of dispossession.

4. Which one among the following is not a compulsorily registerable document?

- a). Instrument of gift of immovable property.
- b). Non-testamentary instrument which create title of immovable property.
- c). Leases of immovable property from year to year.
- d). Will relating to immovable property.

5. Who shall be the executive Chairman of the State Legal Services Authority?

- a). The Chief Justice of the State.
- b). A District Judge nominated by the Chief Justice.
- c). A serving or retired Judge of High Court, nominated by Governor in consultation with the Chief Justice.
- d). None of the above.

6. In a suit, more than one reliefs are sought in the alternative, based on the same cause of action. How is the court fee chargeable on the plaint ?

- a). Aggregate of the court fee payable in each relief.
- b). With the highest of the fees leviable in respect of anyone of

the reliefs.

- c). With the lowest of the fees leviable in respect of anyone of the reliefs.
- d). None of the above.

7. Specific relief can be granted for the enforcement of?

- a). Individual civil right.
- b). Individual civil wrongs.
- c). Public rights.
- d). None of the above.

8. Two persons are said to be related to each other by half blood, under Hindu Succession Act, when they are descended from?

- a). A common ancestor but by different husbands.
- b). A common ancestor but by different wives.
- c). A common ancestor through same husband.
- d). A common grandfather or grandmother.

9. Which one among the following is a discontinuous easement ?

- a). Which is exercised at regular intervals.
- b). Which is enjoyed intermittently
- c). Which needs the act of man for its enjoyment.
- d). Which is interrupted at regular intervals.

10. What is the presumption under the Hindu Succession Act, for the purpose of succession regarding simultaneous death of two persons when the circumstances are uncertain whether either of them, and if so, which survived the other ?

- a). Elder survived the younger.
- b). Younger survived the elder.
- c). Both died at the same time.
- d). None of the above.

11. A Right is attached to a house to draw 50 buckets of water a day. The dominant heritage is divided into 2 equal portions and one each given to one person. What is the right attached to each portion of dominant heritage?

- a). Right to draw 25 buckets of water each day.
- b). Right to draw 50 buckets of water each day.
- c). Right to draw 50 buckets of water on alternate days.
- d). Right to draw 50 buckets of water each day, but amount drawn by both must not exceed 50 buckets of water a day.

12. A defeated candidate challenges an election under the Kerala Municipality Act with a prayer to declare election as void and to declare him as the elected candidate. Who should be arrayed as the respondent(s) in the election petition ?

- a). The elected candidate.
- b). All other persons who had submitted nomination papers.
- c). All other candidates of recognised parties .
- d). All the other contesting candidates.

13. Who is the sanctioning authority under the Kerala Panchayath Raj Act for prosecution of the President of a Panchayath ?

- a). District Collector.
- b). Governor of the State.
- c). The Government.
- d). The Chief Minister.

14. What is the limitation period for prosecution of any person who commits an offence under the Kerala Municipality Act and Rules.

- a). Twelve months from the date of commission of offence.
- b). One year from the date of commission of offence.
- c). Three months from the date of commission of offence.
- d). 90 days from the date of commission of offence.

15. Under Chapter XIII of Negotiable Instruments Act, Estoppel will not apply regarding which among the following ?

- a). Denying the original validity of the instrument in a suit filed by the holder in due course.
- b). Denying the capacity of payee to indorse in a suit filed by the holder in due course.
- c). Denying signature or capacity of prior party to the instrument in a suit by a subsequent holder.
- d). Denying the receipt of consideration.

PART II

Answer any 15 questions. Answer 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 duties of an agent towards his principal under the Indian Contract Act ?
17. What is the procedure to be followed by a court before whom an instrument chargeable under Kerala Stamp Act is produced, which, in the opinion of the court is not duly stamped ?
18. Distinguish vested rights and contingent rights under the Transfer of Property Act ?
19. Discuss the grounds on which an election can be declared void by the court under the Provisions of Kerala Municipality Act. ?
20. Explain the doctrine of election under the Transfer of Property Act ?
21. What is meant by indorsement of a Negotiable Instrument? What are its legal consequences?
22. Comment on ; "Right of Redemption of Mortgage is co-extensive with right to foreclose "
23. Explain briefly, with reference to case laws, principles governing granting of temporary injunctions?
24. Explain with the aid of case laws whether partition of property among the legal heirs involve a transfer of property as governed by Transfer of Property Act.

25. Landlord and tenant entered into an agreement for sale of the tenanted premises. Later the agreement fell through. Will the original tenancy be resurrected? Explain with reasons and decisions?
26. Discuss the scope of an award of Lok Adalath. What is its binding nature? Can it be challenged under any circumstance?
27. " Unlike 'bona fide' employed under sections 11 (3), 11(7) and 11 (18), bona fides of the requirement for reconstruction can be manifested through other material evidence. Hence, non-examination of landlord in a Rent Control Petition is not fatal, if he succeeds in proving statutory requirement under section 11 (4) (iv) by other evidence to the satisfaction of Court" comment with cogent reasons.
28. Explain whether a trespasser could claim adverse possession without denouncing the title of true owner necessary for a hostile animus apart from possession for the requisite period.
29. "Easement by prescription and easement of necessity cannot operate together in respect of same immovable property". Critically analyze the above proposition with reference to case laws.
30. Discuss the impact of Hindu Succession (Amendment) Act 2005 on section 6 of Hindu Succession Act with respect to the right of a daughter of a Co-parcener?
31. Write notes on : Negotiation of a Negotiable Instrument.
32. Write notes on the effect of acknowledgment in writing of a liability on the period of limitation?
33. What are the corrupt practices enumerated in Chapter XI of the Kerala Panchayath Raj Act?
34. What is the effect of non-registration of documents required to be registered? Can such documents be received in evidence in any circumstance?
35. What is the procedure for granting a succession certificate under the Indian Succession Act ?

PART III

Answer any 5 questions. Answers shall not exceed 250 words(2 pages). If more than five 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. What are the Rules governing transfer of property to an unborn person under the Transfer of Property Act ?
37. Write note on void agreements under the Indian Contract Act ?
38. Discuss the grounds on which a Muslim women is entitled to seek dissolution of marriage under the Dissolution of Muslim Marriage Act, 1939?
39. Analyze the Rules of succession and manner of distribution among heirs of a female Hindu dying intestate.
40. Explain with reference to statutory provisions; extinction and revival of easements.
41. " Once a mortgage always a mortgage, nothing but mortgage" comment.
42. Distinguish between lease and licence with reference to case laws ?
43. " Articles 42 and 48 of Stamp Act, pertaining to partition and release are explicitly distinct in their operation and not even remotely connected to each other" critically analyze the observation.

KERALA JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION -2017

Marks. 100

Duration 3 hours.

PAPER - III

PART - 1

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.)

1. Which among the following offences is not punishable with a sentence of death ?

- a). Waging war against Government of India.
- b). Attempting to wage war against Government of India.
- c). Collecting arms, men or ammunition with the intention of waging war against Government of India.
- d). Abetment of committing mutiny by a soldier in the army, in consequence of which mutiny is committed.

2. What is the maximum penalty that can be imposed on the respondent for breach of protection order granted by the Court under the Protection of Women from Domestic Violence Act.

- a). Imprisonment that may extent to one year or with fine upto Rs.20,000/- or both.
- b). Imprisonment that may extent to six months or with fine
- c). Imprisonment that may extend to 3 months or with fine
- d). Imprisonment that may extend to one month and fine upto Rs.20,000/-

3. What is the maximum punishment for adultery under section 497 IPC. ?

- a). Imprisonment for 5 years or with fine or both.
- b). Imprisonment for 5 years and with fine.
- c). Imprisonment for 3 years and with fine.
- d). Imprisonment for 3 years or with fine or both.

4. A Court cannot take judicial notice of which among the following facts?

- a). All laws in force in the territory of India.
- b). All public Acts passed by the Parliament of United Kingdom.
- c). All laws and personal laws of common wealth countries.
- d). The Rule of the road, on land or at sea.

5. What is the punishment provided under section 229 A IPC to a person released on bail without sureties for failure to appear in court?

- a) Imprisonment for one year or with fine or both.
- b). Imprisonment for 6 months or with fine or both.
- c). Imprisonment for 3 months or with fine or both .
- d). Imprisonment for one month or with fine or both.

6. Contents of a document can be proved by ?

- a). Primary evidence only
- b). Secondary evidence only
- c). By oral evidence only
- d). Primary or by secondary evidence as under section 62 or 65 of the Evidence Act.

7. What is the maximum punishment under Section 27(b) of NDPS Act?

- a). 6 months or fine upto Rs.10,000/- or both.
- b). 6 months and fine.
- c). 3 months or fine of Rs.5000/- or both.
- d). 1 month or fine of Rs. 5000/- or both.

8. On what ground can an order passed under the Domestic Violence Act be altered ?

- a). Order has become unenforceable.
- b). Implementation of the order is cumbersome.
- c). Change in circumstance.
- d). Order is against public policy.

9. To constitute an offence under section 306 IPC. There must be clear mens rea to commit offence and there ought to be?

- a). An indirect and positive conduct drawing the deceased to commit suicide.
- b). An active or direct act leading the deceased to commit suicide left with no option.
- c). An act done fully knowing that the deceased was hyper sensitive to ordinary petulance and that deceased was likely to commit suicide.
- d). A willful neglect likely to drive a person to commit suicide.

10. How long will a protection order granted under section 19 of the Protection of Women from Domestic Violence Act be in force.

- a). Till both parties jointly apply for revocation.
- b). On the request of the respondent.

- c). Till aggrieved person applies for discharge.
 - d). Till respondent applies for discharge.
11. Which among the following fact does bankers' slip denoting dishonour produced in a proceeding under section 138 of Negotiable Instruments Act prima facie evidence ?
- a). Dishonour of the cheque.
 - b). Complainant has presented the cheque.
 - c). Complainant has an account in that bank.
 - d). None of the above.
12. In which circumstance can a court which released an offender on probation for misconduct, vary the condition on the basis of a report of probation officer?
- a). That offender has committed breach of the conditions of bond.
 - b). Offender is likely repeat the offence.
 - c). In the interest of offender and the public.
 - d). Offender is likely to abscond.
13. What is the duty of a Magistrate, not empowered to exercise powers of a Juvenile Justice Board, before whom a person who appears to be a child alleged to have committed an offence is brought?
- a). He shall direct the child to be produced to the Board.
 - b). Assume powers of the Board and exercise such powers.
 - c). Record his opinion without delay and forward the child immediately to the Board, along with record of proceedings.
 - d). Forward the child immediately along with record of proceedings to be produced before the jurisdictional magistrate.

14. If a child apprehended on an allegation of committing offence is not granted bail, where should the child be kept thereafter?

- a). In an observation home.
- b). In a Children home.
- c). In a place of safety.
- d). In a special home.

15. Who is competent to compound offences under section 113, 118 and 119(2) of Kerala Police Act in appropriate cases, before court has initiated action ?

- a). District Police Chief.
- b). State Police Chief.
- c). SHO of the concerned police station.
- d). None of the above.

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. What are the defences available to an accused in a prosecution for defamation under section 499 IPC ?
17. Discuss the ingredients of voyeurism defined under IPC ?
18. Briefly mention the duties of a protection officer under the Protection of Women from Domestic Violence Act ?
19. Explain the nature of protection available to an Abkari Officer under section 72 of Abkari Act.
20. Compare and distinguish the powers of court under sections 3 and 4 of the Probation of Offenders Act ?
21. What are the principles guiding the court for granting bail under the Abkari Act.
22. Write notes on:
 - a) Children's home.
 - b) Open Shelter
 - c) Observation home.
23. Mention any five acts which are liable for penalty under section 118 of Kerala Police Act.
24. What are the circumstances under which presumption under section 90 of Indian Evidence Act be drawn ?
25. An accused involved in an offence under section 55 (1) of Abkari Act was acquitted after trial. What will be the effect of acquittal on order of confiscation of vehicle under section 67B? Can the authorised officer proceed with confiscation proceedings? Answer with reasons.

26. Critically analyse the legal impact of not impleading the company in a proceeding under section 138 of NI Act on a cheque issued by the company.
27. What is the impact of the decision of the Supreme Court in Hiral. P.Hansora v. Kusum Narottamdas Hansora and others (2016 (5) KHC 15) on the definition of respondent under section 2 (q) of the Protection of Women from Domestic Violence Act 2005 ?
28. Once an act of domestic violence is committed will a subsequent decree of divorce absolve the respondent from the duty to provide the benefit under the Protection of Women from Domestic Violence Act, on a contention that domestic relationship is not existing. Explain with authorities.
29. Distinguish between the offences under section 324 and 325 of the Indian Penal Code?
30. Write notes on Res Gestae.
31. What are the provisions relating to grant of bail to a person who is apparently a child alleged to be in conflict with law.
32. What is the extent to which disclosure of professional communication is protected under the Indian Evidence Act.
33. Discuss the extent of prohibition of identity of children in conflict with law, proceeded under the Juvenile Justice(Care and Protection of Children) Act 2015.
34. Discuss the scope of exclusion of oral evidence by documentary evidence.
35. What is the procedure contemplated under the Indian Evidence Act to impeach the credit of a witness.

KERALA JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION -2017

Marks:100

Duration : 3 Hours.

PAPER - IV

PART - 1

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 one among the following is correct?
 - a) . Term Legal representative is wider than the term legal heir.
 - b). Term legal heir is wider than legal representative.
 - c). Term legal representative is always synonymous with the term legal heir
 - d). Terms legal heir and legal representative are defined in the CPC.

2. Are the powers under section 386 Cr.P.C, exercisable by all appellate courts ?
 - a). Yes.
 - b). section 386 (a) Cr.P.C. can be exercised by High Court only.
 - c). section 386 (b) Cr.P.C. can be exercised by High Court only
 - d) None of the above.

3. Which one among the following regarding the "Mesne Profit" under CPC is incorrect ?

- a). It includes profit which a person in wrongful possession actually received.
- b). It includes profit which a person in wrongful possession might have with ordinary diligence received.
- c). It includes interest on such profit also.
- d). It includes the profit due to improvements made by the person in wrongful possession also.

4. In a proceeding before the Special Court, accused filed an application for statutory bail under section 167(2) Cr.P.C., contending that the prosecution failed to lay final report within the statutory period. Before the expiry of statutory period, prosecutor had filed an application for extension of period for filing charge sheet, invoking the enabling provision under the special statute. Which application should be taken first ?

- a). Application for extension of time
- b). Application for statutory bail.
- c). Both should be taken up simultaneously.
- d). None of the above.

5. An order of a Single Judge of High Court under section 407 Cr.P.C. refusing to transfer a case from a criminal court to another criminal court is challenged before the Division Bench. Is it sustainable ?

- a). Yes.
- b). No; since it is not an order exercised under the original jurisdiction of the Court
- c). Yes, since the order is one passed under the original jurisdiction of the court.
- d). None of the above.

6. Which one among the following is not the correct ingredient of res judicata?

- a). Matter in issue in one suit must be directly and specifically in issue in the other suit.
- b). Both suits must be between same parties or between parties under whom they or one of them claim, litigating under same title.
- c). The suits must be before competent courts.
- d). Former suit must have been heard and finally decided by the Court.

7. What are the materials to be relied on by magistrate under section 239 of Cr.P.C. to discharge the accused?

- a). The police report only.
- b). The police report and documents sent with it under sec.173 Cr.P.C.
- c). The documents produced by police and documents placed by accused.
- d). None of the above.

8. What is the limit of the pecuniary jurisdiction of a Munsiff Court. ?

- a). Upto Rs. 5 Lakhs.
- b). Does not exceed Rs. 10 Lakhs.
- c). Upto Rs. 15 Lakhs.
- d). Does not exceed Rs. 20 Lakhs.

9. What is the maximum compensation that can be ordered under C.P.C. by the court to a plaintiff who obtains arrest, attachment or injunction on insufficient grounds.

- a). Rs.10,000/-.
- b). Rs. 20,000/-
- c). Rs.50,000/-
- d). Rs. 75,000/-.

10. What is the appellate civil jurisdiction of District Court.

- a). Appeals from decrees and order of Munsiff's Courts.
- b). Appeals from decrees and orders of Munsiff Court and sub Courts.
- c). Appeals from decrees and orders of Munsiffs Courts and Interlocutory orders of sub Curt.
- d). Appeals from decrees and order of Munsiff's courts and all decrees and orders of sub court, where subject matter does not exceed Rs. 20 Lakhs.

11. In a proceeding under section 138 of Negotiable Instruments Act, the court imposed a sentence of imprisonment for one month and fine of Rs. 1 Lakh and ordered it to be paid as compensation under section 357(3) Cr.P.C. Is it proper ?

- a). Correct, in the light of Section 357 (3) Cr.P.C.
- b). Correct, since it is in accordance with Section 357(1) Cr.P.C.
- c). No. Since court has chosen to impose fine, it has no power to order compensation under section 357(3) Cr.P.C.
- d).None of the above.

12. What is a committal warrant under the Criminal Rules of Practice?
- Warrant for committal to jail prepared when a person is sentenced to a term of imprisonment.
 - Order issued in a procedure of committal to Sessions Court.
 - Warrant of arrest.
 - None of above.
13. Plaint can be returned, in which among the following circumstances?
- Where it does not disclose a cause of action.
 - Where suit appears to be barred by any law.
 - If it is not presented in the proper court.
 - Where the suit is under valued and it is not corrected in spite of notice.
14. What shall be the ordinary place of enquiry and trial of any offence.
- In the court within whose jurisdiction accused is residing.
 - In the court within whose jurisdiction, offence was committed.
 - In the court within whose jurisdiction accused was apprehended.
 - None of the above.
15. Concept of autrefois convict and autrefois acquit is incorporated in ---?
- Section 248 of Cr.P.C.
 - Section 232 of Cr.P.C.
 - Section 235 of Cr.P.C
 - Section 300 of Cr.P.C

PART II

Answer any 11 questions. Answers shall not exceed 160 words(1 ½ 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.

(11x5 = 55 marks)

16. What are the procedure contemplated under the CPC relating to arrest and detention of a judgment debtor ?

17. What are the options available to a Magistrate who receives a complaint under section 190(a) of Cr.P.C.? What are the procedure to be followed ?

18. Discuss the irregularities that may vitiate proceedings under section 461 Cr.P.C.

19. Explain the scope of garnishee proceedings under the CPC ?

20. What are the powers of a criminal court for ordering custody and disposal of property pending trial and after conclusion of trial?

21. Plaintiff filed a suit for injunction. Defendant raised a counter claim claiming possession. Suit was decreed holding that the plaintiff was in possession. Counter claim was dismissed. Two appeals were preferred. They were consolidated and by a single judgment both appeals were dismissed. Defendant filed a single second appeal challenging judgment in both appeals paying separate court fee. Is it maintainable ? Explain with reasons.

22. Write notes on the process of recording of confession of an accused as provided under the Cr.P.C. and Criminal Rules of Practice.

23. Write short notes on the following topics under the Criminal Rules of Practice.

a). Calender statement.

b). Procedure to be followed under Rules 15 and 16 of Criminal Rules of Practice in the case of an absconding accused.

24. In a suit, the defendant was set ex parte and suit was decreed. Defendant filed an application to set aside ex parte decree under Order 9 Rule 13 CPC and also filed an appeal against ex parte decree invoking section 96 CPC. Are both reliefs mutually exclusive ? What is the legal position ?

25. What are the procedure under the Civil Rules of Practice for the production and inspection of records in the custody of another court?

26. Write Short notes on :

a). Deposit of money for purchase of Non Judicial stamp paper for final decree and consequence of failure to deposit, under Civil Rules of Practice.

b). Procedure for delivery of property to decree holder in execution, under Civil Rules of Practice.

27. What are the powers of a Magistrate to order further investigation under section 173 (8) Cr.P.C.? Can it be ordered at the request of parties after filing of final report ?

28. How is a suit instituted by an indigent person dealt with by the court, till adjudication of indigency?

29. Discuss the scope of an application under Order 21 Rule 90 CPC.

30. What is the provision relating to appointment of receivers and the duties of receiver. ?

PART III

Answer both the questions. Answers to the question in this part should be written in the common answer book.

(15 x 2 = 30 marks)

31) Write an interlocutory order (name of the Court alone to be indicated. Other details in the cause title and appendix are not necessary)

I.A.No.681 of 2018 in O.S.No.51 of 2018

Parties

Raju S/o.Narayanan

Plaintiff/Petitioner

Ramakrishnan S/o. Krishnan

Defendant/Respondent

Affidavit in support of the interlocutory application for prohibitory and mandatory injunction, filed by the petitioner

I am the owner in possession of 20 cents of land in survey No.31/2 of Kumaranelloor Village, which is described as the plaint schedule property. The property belonged to my father, who had extensive lands. I acquired the plaint schedule property from my father by settlement deed executed by the father during his life time as document No.128/08 of SRO, Kumaranelloor. I am in possession of the above property since the date of execution of the settlement deed. I have constructed a residential building therein in the year 2010 and is residing with family there. It is bounded by walls on all sides except the northern side, which was bounded by fence. The defendant/respondent is residing on the northern side of the plaint

schedule property. He started residing there in the year 2015. Inside the petition schedule property and within the property of the petitioner, there was an old jackfruit tree. Respondent herein used to raise unnecessary claims regarding the boundary. On 03.02.2018, respondent herein along with few local persons came to the spot, demolished the fence and cut and removed the jack tree. Even though I objected to it, they threatened me using weapons. A complaint was laid before the local police, who did not enquire into it. Hence, the present suit was filed on 06.02.2018 seeking reliefs in the nature of prohibitory injunction restraining the defendant from trespassing into the plaint schedule property and from cutting and removing any trees, collecting the usufructs or in any manner interfering with the peaceful enjoyment and possession of the petition schedule property by the petitioner. Petitioner hence seeks prohibitory injunction and also further direction to the respondents to restore the fence on the northern boundary to its original position.

Counter affidavit filed by the respondent.

I deny the entire allegations in the plaint as well as in the affidavit in support of the interlocutory application for injunction. The lie of the property is admitted. Respondent herein is residing on the northern side of the petition schedule property. It is incorrect to say that the petitioner herein is in complete possession of 20 cents of property comprised in the settlement deed. Even though, a document purported to assign 20 cents of land to the petitioner was executed by his father, the father did not have right over the entire 20 cents of land. Petitioner was never in possession of the entire extent of land covered by the above document. Property was not well defined on the northern side. In fact, petitioner herein was trying to trespass into the respondent's property and to claim right over his property having the extent of 10 cents. In the last week of January 2018, petitioner

cut and removed the jackfruit tree from his property and sold it to strangers. There was a portion of the fence constructed which was not in accordance with the actual boundary. Respondent has always objected to it. Respondent has not demolished the fence or any portion of it. Hence, petitioner is not entitled for the extent of land as claimed. No relief is liable to be granted to him.

The documents produced on the side of petitioner.

1. Ext.A1 - Settlement deed No. 128/08 of SRO, Kumaranelloor
2. Ext.A2 - The tax receipt issued by the concerned authority dated 06.01.2018.

Documents produced on the side of the respondent.

1. Ext.B1 - Title deed in favour of the respondent dated 30.05.2015 for an extent of 10 cents.
2. Ext.B2 - Tax receipt evidencing the payment of land tax in March 2018.

Commission Report

The Commissioner visited the petitioner's property on 06.02.2018, pursuant to the orders of this Court. Petition schedule property has an approximate extent of 20 cents. At the time of inspection, petitioner and his family members were present. The respondent was absent.

There is a residential building in the petition schedule property. It was stated by the petitioner that the respondent is residing on the northern side of the property of the petitioner. His land appeared to be approximately 10 cents. There is a residential building in that property also. Petition schedule property is bounded on all three sides except the northern side. Remnants of an old fence could be seen at both the ends of northern boundary. The property was not

seen well demarcated in between the petition schedule property and the neighbouring property. However, it appears that, from the remnants of the fence that, at one point of time, the fence existed separating both the properties. The cut and removed bottom portion of a reasonably sized jackfruit tree could be seen on the northern side of the petition schedule property. It seems to have been cut and removed within a period of less than one month from the date of inspection of the petition schedule property.

32) Write judgment on the following facts.

C.C.No.23 of 2017

| | | |
|-----------------------------|---|-------------|
| X Chitties and Finances Ltd | - | Complainant |
| Subramaniam | - | Accused |

Complaint filed under section 138 of the Negotiable Instruments Act.

The complainant is a company registered under the Companies Act in the year 2001 and has been conducting financial transactions, money lending, chitties and also gold loan transactions. The complainant has obtained necessary license under the Money Lenders Act for the purpose of conducting money lending and also registration under the Chitties Act for conducting chitties. The company has its head office at Bangalore and a branch office in the city of Thiruvananthapuram. On 05.08.2017, accused herein came to the branch office of the complainant at Thiruvananthapuram and availed a loan of Rs.1,00,000/-. He executed and delivered a cheque for a sum of Rs.1,00,000/- on the same day undertaking to repay the amount with interest within three months and in case of default, to repay the money with interest. Since the amount was not repaid

within the stipulated time, it was presented for collection in a bank on 02.12.2017. It was returned dishonoured on 03.12.2017, on ground of insufficiency of funds. Hence, notice was issued dated 20.12.2017 calling upon the accused to repay the money with interest. He issued a reply contending that, on 05.08.2017, he had not availed any loan from the complainant. It was further stated that, in November 2014, the wife of the accused had joined three chitties and had bid two of them in September, 2015. At the time of availing the chitty amount, a blank signed cheque was entrusted by the accused as a security. The wife has been repaying the entire amount without default. However, to claim unconscionable profit, the complainant had filled up the cheque and has presented it for collection. The cheque is not supported by any consideration and hence, he has not committed the offence punishable under section 138 of the Negotiable Instruments Act. Since the amount was not repaid, the complaint is filed. It is requested that summons may be issued to accused and after trial, he may be convicted for offence under section 138 of the NI Act and order payment of compensation.

Evidence of PW1 on behalf of the complainant.

Chief Examination

I am the present manager of the complainant company. I am aware of the facts of the case. Accused had availed the loan for a sum of Rs.1,00,000/- on 05.08.2017 and had executed a cheque, on the same day, undertaking to repay the amount with interest, within three months. Ext.P1 is the cheque issued. Since the amount was not repaid within the stipulated time, it was presented for collection on 02.12.2017. It was returned dishonoured on 03.12.2017 on the ground of insufficiency of funds. Ext.P2 is the memo of dishonour issued by the bank. Hence, notice dated 20.12.2017 was issued calling upon the accused to repay the money with interest. It was

replied raising false allegations. Ext.P3 is the copy of the lawyer notice and Ext.P4, its reply. All the facts mentioned in the complaint are true to the best of my knowledge as is discernible from the records.

Cross Examination.

I am the present branch manager of the company at Thiruvananthapuram. It is true that, I am not the complainant in the complaint. Complaint was signed by the then branch manager. I joined the present branch on 30.01.2018. The cheque was not signed in my presence. I do not know the accused personally. However, I am aware of the entire facts from the records. The cheque was signed in the presence of other officers of the company including PW2. From the records, it is seen that the wife had joined three chitties and had bid two chitties in September 2015. It is not correct to say that the wife has been repaying the amount without any default. Separate notice was sent to her calling upon her to repay the amount due. She did not reply to the notice. It is true that, we have not yet initiated any proceeding against her. I deny the suggestion that Ext.P1 was given at the time of executing the kuri security bond as an additional security. The company never takes blank signed cheques as security. I have not produced any of the records relating to the chitty transaction since it is not related to the present transaction. I am ready and willing to produce it when called for. The documents now shown to me are three passbooks relating to the chitty transaction, joined by the wife of the accused (marked as Ext.D1 series). I deny the suggestion that the entire amounts were paid. I further deny the suggestion that, I did not produce the records relating to the chitty transaction, since it would show that no amount is due. At the time of availing loans, we never ask for security, except the cheque itself. I deny the suggestion that whatever I have deposed in Court is false.

Deposition of DW2.Chief Examination.

I am presently working as the clerk in the complainant bank. I have been working in that capacity in the Thiruvananthapuram branch for the past 15 years. I know the accused and his wife. On 05.08.2017, accused and his wife came to the Thiruvananthapuram branch of the complainant and availed a loan for a sum of Rs.1,00,000/- Towards the discharge of the liability, he had executed Ext.P1 cheque. It was presented for collection and was returned dishonoured evidenced by Ext.P2 dishonour memo. Ext.P3 is the lawyer notice issued on behalf of the company and Ext.P4 is the reply. The claim set up in the complaint is correct. I have seen the execution of the cheque.

Cross examination.

I know the accused and his wife from the time when the wife joined the chitty. She bid two chitties which are endorsed in D1(b) and (c) passbooks. Thereafter, she committed default and a lawyer notice was issued to her. I deny the suggestion that accused had never come to our office on 05.08.2017 or any day before that. He had visited the office along with his wife when she came for joining the chitty. Ext.P1 cheque was executed in my presence. I saw payment of consideration also. In the account books and registers, the payment of consideration of Rs.1,00,000/- was entered by me. I deny the suggestion that Ext.P2 is a blank signed cheque issued at the time of joining the chitty. I admit that the entries in the cheque except the signature are mine (adds). The amount in figures was entered by the accused. All the remaining entries were filled up by him since the accused stated that, he was not very fluent in writing in English. Same pen was used throughout.