

# Manipur Judicial Service, Grade – I Examination

Question Booklet No: 1000100

Registration Number :

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Paper I-2019

Time : 3 Hours

[Maximum Marks: 100]

Read the following instructions carefully before you begin to answer the questions.

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## IMPORTANT INSTRUCTIONS

1. The candidate will be supplied with Question Booklet 15 minutes before commencement of the examination.
2. This Question Booklet contains **47** questions in three parts. Before answering, the candidates are requested to check whether all the questions are in seriatim and ensure that there are no blank pages / question in the question booklet. In case of any defect in the printing is noticed, it shall be reported to the Invigilator within first 10 minutes and get it replaced with a new Question Booklet and after 10 minutes, it will not be replaced.
3. The Question paper is set in English. All questions in **Part – A** carry equal marks **30x1=30** marks. All questions in **Part – B** carry equal marks **10x2=20** marks. All questions in **Part – C** carry equal marks **5x10=50** marks.
4. You must write your Register Number in the space provided on the top right side of this page. Do not write anything else on the Question Booklet except in the space provided for the rough work.
5. Pre printed Answer Sheet Booklet let will be supplied for answering the questions and shall follow the instructions given in the answer booklet also.

turn over...

**PART- A**

**This part contains 30 questions and each question carries one mark.**

**(30x1=30)**

**(Write the correct answer in words along with the corresponding serial number in the answer book)**

1. Who was the first Chairman of Rajya sabha?

- (A) S.V. Krishnamoorthi
- (B) A. Krishnaswamy
- (C) S.N. Banerjee
- (D) Manekshaw

2. The Joint Meeting of both Houses of Parliament is chaired by-

- (A) President of India
- (B) Chairman of Rajya Sabha
- (C) Speaker of Lok Sabha
- (D) None of the above

3. Which State in India implemented the 'Panchayati Raj System' first?

- (A) Bihar
- (B) Maharashtra
- (C) Rajasthan
- (D) Uttar Pradesh

4. Which of the following is not mentioned in the Directive Principles of State Policy under the Constitution of India?

- (A) Right to adequate means of livelihood
- (B) Right to equal pay for equal work
- (C) Promotion of international peace and security
- (D) Free and compulsory education for children up to fourteen years of age

5. The power of the Supreme Court of India to decide disputes between the Centre and the States falls under its

- (A) Advisory Jurisdiction.
- (B) Appellate Jurisdiction.
- (C) Original Jurisdiction.
- (D) Constitutional Jurisdiction

6. The author of the book "India Wins Freedom" is:

- (A) A.P.J Abdul Kalam
- (B) Abdul Kalam Azad
- (C) S.A Dange
- (D) Gandhiji

7. Who was the first woman Chief Minister in India?

- (A) Nandini Satpati
- (B) Sashikala Kodokar
- (C) Vijay Laxmi Pandit
- (D) Sucheta Kripalani

8. 'By gaining independence, we have lost our power to blame the British. If anything goes wrong, we are responsible now'. These are the words of:

- (A) Dr. Rajendra Prasad
- (B) Gandhiji
- (C) Vallabhai Patel
- (D) Jawharlal Nehru

9. Ajanta and Ellora caves are in:

- (A) Maharashtra
- (B) Rajasthan
- (C) Karnataka
- (D) Tamil Nadu

10. The strait that separates India from Sri Lanka:

- (A) Mandeb
- (B) Magellan
- (C) Malacca
- (D) Palk

11. James Bond is a character created by:

- (A) Perry Mason
- (B) Stanley Gardener
- (C) Ian Fleming
- (D) P.G Wode House

12. Which one of the following is percussion Musical instrument?

- (A) Sitar
- (B) Mridangam
- (C) Santoor
- (D) Sarod

13. When there is one buyer and many sellers in a market- the situation is called?

- (A) Monopoly
- (B) Oligopoly
- (C) Monopsony
- (D) Monotony

14. Where did Buddha die?

- (A) Lumbini
- (B) Kusinagara
- (C) Pavapuri
- (D) Magadha

15. Kalidasa the great Sanskrit poet was a member of the court of an Indian King. The name of the king:

- (A) Chandragupta I
- (B) Chandragupta II
- (C) Kumara Gupta I
- (D) Samudhra gupta

16. 'A' is the mother of 'B', 'B' is the grandson of 'C'. 'D' is the grandson of 'C'. 'D' is also the son of 'E'. Then how 'E' is related to A?

- (A) Brother
- (B) Father
- (C) Uncle
- (D) Grand father

17. In which of the following cases did the Supreme Court direct the compulsory registration of all marriages in India?

- (A) Danial Latifi vs Union of India
- (B) Ashok Kumar vs Union of India
- (C) Seema vs Ashwini Kumar
- (D) Sharda vs Dharampal

18. In World Cup 2019, Newzland defeated India in the semi-final match by \_\_\_\_\_ runs.

- (A) 16
- (B) 17
- (C) 18
- (D) 19

19. Who heads the Ministry of Jal Shakti Abhiyan ?

- (A) Gajendra Singh Shekhawat
- (B) Smriti Zubin Irani
- (C) Nirmala Sitharaman
- (D) Piyush Goyal

20. Who proposed the inter-linking of rivers across the country to ease the irrigation and drinking water crisis?

- (A) Morarji Desai
- (B) P.V. Narasimha Rao
- (C) Atal Bihari Vajpayee
- (D) Manmohan Singh

21. Father of Local Self Government is

- (A) Lord Rippon
- (B) Lord Chelmsford
- (C) Lord Canning
- (D) Lord Mountbatten

22. Who is the first and foremost king of Manipur in 15th century BC?

- (A) Ningthou Kangba
- (A) Sharmilla
- (C) Budhachandra
- (D) None of the above

23. Manipur was made a Union Territory in

- (A) 1956
- (B) 1957
- (C) 1955
- (D) 1954

24. Who was the founder of Nalanda University?

- (A) Samudra gupta
- (B) Chandra gupta II
- (C) Kumara gupta
- (D) Skanda gupta

25. Akbar's land revenue system was known as

- (A) Todarmal's revenue
- (B) Zabti system
- (C) Bandobast system
- (D) Rayadhwari system

26. Who has assumed the title Badushah?

- (A) Babur
- (B) Akbar
- (C) Shah Jahan
- (D) Aurangazeb

27. Who started Home Rule Movement in India?

- (A) Annie Besant
- (B) Sathiya moorthi
- (C) E.V. Ramasamy
- (D) K. Kamaraj

28. The Portuguese Sailor who reached Calicut in 1498 A.D. was?

- (A) De Almeida
- (B) Vasco da Gama
- (C) Robert Clive
- (D) Albuquerque

29. Who was the First Indian to preach the gospel of Swadeshi?

- (A) Raja Ram Mohan Roy
- (B) Dayanand Saraswathi
- (C) Mahatma Gandhi
- (D) Annie Besant

30. Who among the following is now appointed as an International Judge of Singapore International Commercial Court ?

- (A) Hon'ble Justice Madan D Lokhur
- (B) Hon'ble Justice A.K. Sikri
- (C) Hon'ble Justice Deepak Mishra
- (D) Hon'ble Justice Dalveer Bandari

### **PART - B ENGLISH**

**Each question carries 2 marks.**

**(10x2=20  
marks)**

31. Complement means .....

- (A) What completes
- (B) Good wishes
- (C) Complaint
- (D) Offer

32. Exotic is antonym of .....

- (A) Neurotic
- (B) Chaotic
- (C) Indigenous
- (D) Myopic

33. Misanthropist means .....

- (A) one who hates animals
- (B) one who hates human being
- (C) one who dislikes marriage
- (D) one who hates women

34. Synonym for glitch -----

- (A) bug
- (B) Snag
- (C) hug
- (D) Bag

35. Synonyms for 'mettlesome' -----

- (A) Valiant, doughty, plucky
- (B) Gorgeous, aesthetic, dazzling
- (C) Lustrous, incandescent, quick witted
- (D) Distinguished, famed, renowned

36. He said to her "please wait". Convert this sentence into indirect speech

- (A) He told her that please wait
- (B) He said to her that please wait
- (C) He requested her to wait
- (D) None of the above.

37. Which of the following sentence is correct?

1. on the beach

2. on drugs

3. on TV

4. on foot

(A) 3 alone is correct

(B) All the four are correct

(C) 1,2 and 3 are alone correct

(D) 2 and 3 are alone correct

38. Which of the following sentences are correct ?

1. at sea

2. on Sunday

3. at midnight

4. in groups of five

(A) 2 alone is correct

(B) 1,2,3 and 4 are correct

(C) 2 and 3 alone are correct

(D) 2, 3 and 4 alone are correct

39. Choose the appropriate options to complete the sentence- The Amazon in Brazil is \_\_\_\_ longest river in \_\_\_\_\_ South America.

(A) the/ -

- (B) a / the
- (C) - / -
- (D) the / the

40. Choose the appropriate options to complete the sentence- \_\_\_\_\_ of what he said was very sensible

- (A) many
- (B) much
- (C) a few
- (D) few

### PART - C

**Write essay on any Five among the following preferably not exceeding 200 words. Each essay carries 10 marks. (5x10=50 marks)**

- 41. Role of courts in Protection of Migrants' right and State Sovereignty.
- 42. Judicial Approach in India in Protecting the Environment – with reference to the Sustainable development, the Precautionary Principle, Doctrine of Public Trust doctrine and Polluter pays Principle.
- 43. Discuss about the Reservations in Promotions for Government employees and its application to private sectors and a step towards substantive Equality.
- 44. Discuss on the Prevention of Money Laundering and Financing the Terrorist Activities.

45. Contempt of Court vis a vis fair criticism.

46. Discuss the Due process of law and Procedures established by Law in connection with the working of the Indian Constitution.

47. Discuss the Laws, Rules & Regulations Governing Adoptions in India and Adoption Process under Juvenile Justice (Care and Protection) Act.

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# Manipur Judicial Service, Grade – I Examination

Question Booklet No:2000074

Registration Number :

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Paper II-2019

Time : 3 Hours

[Maximum Marks: 100]

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**PART A**

**This part contains 30 questions and each question carries one mark. (30X1=30)**

**(Write the question number with the corresponding answer with the alphabetical serial of the answer on the answer sheets to be supplied.)**

**1. Under Order XVIII, Rule 4(4) of Civil Procedure Code, the objection raised during the recording of evidence before the Commissioner**

- (A) shall be recorded and decided by him.
- (B) shall be recorded by him and the same shall be decided by the court at the stage of arguments
- (C) shall be recorded by him and referred to the court immediately for deciding further with the recording of evidence
- (D) shall be recorded by him and decided by him in consultation with the court

**2. Under Order XII, Rule 2 of Civil Procedure Code, the time to be given to a party to admit any document, when called upon by the other party by notice, is**

- (A) 15 days
- (B) 7 days
- (C) 10 days
- (D) 30 days

**3. Under Order XI, Rule 8 of Civil Procedure Code, the interrogatories shall be answered**

- (A) On simple application
- (B) By an affidavit
- (C) By filing the documents
- (D) No format is prescribed for answering.

**4. When the amendment sought by the plaintiff takes away the suit out of the jurisdiction of the court, the course open to the Court concerned is to**

- (A) refuse the amendment proposed
- (B) advise the party to withdraw the suit
- (C) allow the amendment proposed
- (D) both B and C are correct

**5. Which of the following shall be pleaded in the pleadings**

- (A) facta probantia
- (B) facta probanda
- (C) both (a) & (b) are correct
- (D) both facts and law

**6. Statement I- Set-off and Counter-claim arises out of the same transaction.**

Statement II- Set-off should not be barred on the date of the suit while  
Counter-claim should not be barred on the date of filing of  
written statement.

Statement III- Claim for Set-off cannot exceed the plaintiff's claim, whereas  
Counter-claim can exceed the plaintiff's claim.

**Which of the above statements are correct:**

- (A) Statements I, II & III are correct
- (B) Statement s I & II alone are correct
- (C) Statements I & III alone are correct
- (D) Statement II & III alone are correct

**7. The principle which has not been laid down in Dhulabhai etc. v. State of Madhya Pradesh, AIR 1969 SC 78, regarding the exclusion of jurisdiction of civil courts:**

- (A) Where a statute gives a nullity to the orders of the special tribunals, the civil courts jurisdiction must be held to be excluded if there is adequate remedy in a suit
- (B) Where there is an express bar of jurisdiction of the court, an examination of the scheme of the particular Act to find out the adequacy or sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court
- (C) Questions as to the correctness of the assessment apart from its constitutionality are the decisions of the authorities and a civil suit lies even if the orders of the authorities are declared to be final
- (D) None of the above.

**8. On production of a certified copy of a foreign judgment, the presumption as to the competency of the court which passed the decree, under section 14 of Civil Procedure Code is a:**

- (A) Presumption of fact
- (B) Presumption of fact & law
- (C) Rebuttable presumption of law
- (D) irrebuttable presumption of fact and law.

**9. A gift comprising both existing and future property:-**

- (A) Is void
- (B) Is valid
- (C) Is void as to the existing property
- (D) Is void as to the future property

**11. Relevancy and admissibility under the Indian Evidence Act are**

- (A) Synonymous
- (B) Co-extensive
- (C) Neither synonymous nor Co-extensive
- (D) Both Synonymous & Co-extensive.

**12. Statements : Under the Indian Evidence Act**

- I. Affidavit is evidence.
- II. Everything produced before the court for inspection is evidence.
- III. Anything of which judicial notice can be taken is evidence.
- IV. Written statement of an accused is evidence.

**Which of the above statements is correct :**

- (A) Statements I, II, III & IV all are correct
- (B) Statements I, II alone are correct
- (C) Statements I, II & IV alone are correct
- (D) Statement III alone is correct

**13. Which of the following documents are not admissible in evidence:**

- (A) documents improperly procured
- (B) documents procured by illegal means
- (C) both (A) & (B) are correct
- (D) neither (A) nor (B).

**14. Doctrine of 'Necessity rule' as to the admissibility of evidence is contained in**

- (A) Section 31 of Evidence Act
- (B) Section 32 of Evidence Act
- (C) Section 60 of Evidence Act
- (D) Section 61 of Evidence Act.

**15.** Statements under the Evidence Act are

- I. In civil cases, character evidence is inadmissible unless the character of a party is a fact in issue.
- II. In criminal cases, the evidence of good character is generally admissible
- III. In criminal proceedings, evidence of bad character is inadmissible unless the same is a fact in issue.
- IV. In criminal proceedings evidence of bad character is admissible when evidence of good character has been given.

**which of the following is correct statement**

- (A) all the four (I, II, III & IV) are correct
- (B) I, II & III are correct but IV is incorrect
- (C) I & II are correct but III & IV are incorrect
- (D) I & III are correct but II & IV are incorrect

**16. Which of the following pair is not correctly matched :**

- (A) Necessity – D.P.P Vs Beard
- (B) Insanity – Mc’Naughten case
- (C) Mens Rea - R Vs Prince
- (D) Intoxication- Basudeo Vs State of Pepsu

**17. The Maxim ‘ de minimus non curat lex’ means-**

- (A) Law would not take action on small and trifling matter
- (B) Law does not ignore any act which causes the slightest harm
- (C) Law would not take action in serious matters.
- (D) None of the above

**18. The basic principle which runs through section 32 to 38 of IPC is that:**

- (A) In certain circumstances, some part of the act is attributed to a person who may have performed only a fractional part of it.
- (B) In certain circumstances, an entire act is attributed to a person who may have performed only a fractional part of it.
- (C) In certain circumstances, an entire act is attributed to a person who may have performed the whole of it
- (D) In certain circumstances, no act is attributed to a person who may have performed only a fractional part of it.

**19. According to Criminal Law (Amendment) Act, 2013, the right of private defence of the body extends to the voluntary causing of death or of any other harm to the assistant if the offence which occasions the exercise of the right is the act of :**

- (A) Acid attack
- (B) Stalking
- (C) Voyeurism
- (D) All the above

**20. Statement 1 – Illegal signifies everything which is an offence  
Statement 2 – Illegal signifies everything which is prohibited by law  
Statement 3 - Illegal signifies everything which furnishes ground for civil action**

**Which of the above statements are true?**

- (A) Statement 2 and 3 are correct
- (B) Statement 1. and 3 are correct
- (C) Statement 1.2 and 3 are correct
- (D) Statement 1 and 2 are correct

**21. How many types of punishments have been prescribed under the Indian Penal Code?**

- (A) Three
- (B) Six
- (C) Four
- (D) Five

**22. When army men commit a civil offence-**

- (A) Court Martial has alone jurisdiction over army men to try him
- (B) Criminal Court has alone jurisdiction over army men to try him for civil offence
- (C) Criminal Court and Court Martial have concurrent jurisdiction to try army men for civil offence
- (D) It is for the army men to opt the Court

**23. A filed a suit against state on 24.10.2009 for recovery of Rs 9 lakhs which remained unpaid from 30.09.2006, after issuance of notice under section 80 of CPC on 24.09.2006. Which of the following statements is correct?**

- (A) Suit is not barred by limitation since there is 30 years period of limitation against state
- (B) Suit is not barred by limitation.
- (C) Suit is barred by limitation since the suit was not filed within three years
- (D) Suit is not barred by limitation since the law of Limitation will not apply to state

**24. The limitation for the execution of final decree for partition would start –**

- (A) From the date when the decree is engrossed on stamp paper
- (B) From the date when the parties came to know about the final decree
- (C) There is no limitation for execution of final decree for partition
- (D) From the date of final decree

**25. Good faith as per the definition of IPC means**

- (A) An act, in fact done honestly
- (B) An act done under bona fide belief
- (C) An act done with due care and attention
- (D) None of the above

**26. The correct understanding of the offence of theft as defined in section 378 Indian Penal Code is**

- (A) The offence of theft is committed the moment one takes into possession another's property
- (B) Moving of property out of the possession of another without his consent
- (C) Dishonest taking of any movable property out of the possession of another
- (D) None of the above

**27. In which judgment, the Supreme court has held that statements admissible under Indian Evidence Act are not within the prohibition of Article 20(3) of the Constitution of India**

- (A) State of Bombay Vs Kathi Kalu Oghad
- (B) State of Madras Vs A.K. Goplan
- (C) Varadarajan Vs State of Madras
- (D) Nanavathi Vs State of Maharashtra

**28. In which judgment, the Hon'ble Supreme Court has laid down the procedure to deal with the objections raised during admission of documents**

- (A) Sunderbhal Ambalal Desai Vs State of Gujarat
- (B) Bipin Shantital Panchal Vs State of Gujarat
- (C) Gulzar Khan Vs State
- (D) Bhagwan Singh Vs State of Punjab

29. A, B and C brothers were born on 12.03.1993, 4.05.1995 and 08.09.1997 respectively. They had each 1/4 share in the undivided joint family property. Their father being one of the co-parcener sold the entire property for himself and as guardian of the above minors on 14.02.2009. A, B and C filed a suit, on 03.06.2015, against their father and purchaser to declare/cancel the sale deed challenging its validity on the ground that the property was sold not for the welfare of the minors. The purchaser raised a plea that the suit is barred by limitation. Which of the following statements is correct.

- (A) The suit ought to have been filed before 12.03.2014
- (B) The suit ought to have been filed before 04.05.2016
- (C) The suit ought to have been filed before 08.09.2018
- (D) The suit filed by B and C alone is within the limitation and the suit filed by A is barred by limitation

30. Statements :

- I. The word used in section 88 of Criminal Procedure Code, is not mandatory
- II. The word used in section 88 of Criminal Procedure Code, is mandatory
- III. The word "any person" in section 88 of Criminal Procedure Code would denotify only the accused
- IV. Section 88 of Criminal Procedure Code is not an independent section and it is subject to Section 437 of Criminal Procedure Code

**Which of the above statements are correct?**

- (A) Statements I and III alone are correct
- (B) Statements I, III and IV alone are correct
- (C) Statements III and IV alone are correct
- (D) Statements II and IV alone are correct

**PART B**

**Write short notes on any ten among the following questions.** (10x2=20 marks)

31. What is chance witness and what is the evidentiary value of such witness?
32. How do you assess the multiple Dying Declarations?
33. State the effect of evidence of accomplice in the absence of grant of pardon by the court?
34. What is the difference between taking cognizance by Magistrate under section 190 and taking cognizance by Court of Sessions under section 193 of Cr.P.C?
35. A complaint was dismissed under section 203 Cr.P.C. What is the legality of reversal of dismissal order in revision in absence of the accused?
36. State as to maintainability of application by the informant for addition of charges under section 216 of Cr.P.C?
37. Write short notes on execution of Foreign award which awarded interest on cost?
38. What is the evidentiary value of evidence of witness recorded prior to passing of ex parte decree, after the ex parte decree was set aside? Explain with relevant provisions.
39. Whether assignee is bound by permanent prohibitory injunction decree passed against his assignor? Explain with relevant provision.
40. Whether the transfer of property in breach of injunction order is valid?
41. What is the distinction between the mortgage by conditional sale or sale with condition of repurchase?
42. When a Special Law is silent about the exclusion of Limitation Act, what is the role of Court in examining the applicability of Limitation Act to the Special Law?

**PART C**

(5x10=50 marks)

**Answer any five among the following questions. Each question carries 10 marks and answer preferably not exceeding 200 words.**

43. Discuss the necessary conditions for drawing presumption under Section 90 of Evidence Act and its applicability to the Gift deed and Will and the date up to which the period shall be reckoned?

44. Whether sentence of life imprisonment can be awarded consecutively to a convict on being found guilty of series of murders in a single trial? Give reasons with relevant provisions.

45. What are the factors to be taken into account while imposing cost in civil proceedings?

46. What are the classes of possession? Answer based on the principles enumerated in Maria Margarida Sequeira Fernandes Vs Erasmo Jack de Sequeira case.

47. Explain about 'power of attorney sale' with leading case law.

48. Differentiate Criminal Conspiracy and Abetment by Conspiracy.

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# Manipur Judicial Service, Grade – I Examination

Question Booklet No:3000100

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Paper III-2019

Time : 3 Hours

[Maximum Marks: 100]

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**PART - A**

**Answer any three of the following questions. (3x10=30 marks)**

1. Doctrine of Prospective overruling
2. Advantages and Disadvantages of precedents and the circumstances weakening or destroying the binding force of precedents
3. Legal status of Dead person and legal status of Unborn person
4. Differentiate title from ownership

**PART - B**

**Answer any two questions - each question carries 10 marks. (2x10=20 marks)**

5. Write Short notes on :
  - a. Doctrine of Territorial Nexus
  - b. Instrumentalities within the meaning of Article 12
  - c. Amendment of Constitution and its basic Structure doctrine
  - d. Doctrine of Harmonious Construction
6. Discuss about the types of Right to Privacy
7. Whether on account of marriage of a lady belonging to SC/ST category to a person of Unreserved category, she loses her status as SC/ST person for the purpose of grant of employment or contesting election to reserved seats, and what consideration would prevail in determining the caste status of a child born out of their wed lock?
8. An Ordinance was promulgated by the President and lapsed with the passage of time or ceased since it could not be repealed by an Act of Parliament or disapproved by Parliament. Ordinance had abolished certain posts in Government Service, as a result whereof holders of such posts stood terminated. Whether such posts shall stand restored and

persons who were terminated would be entitled for restoration of their service since Ordinance has lapsed/ceased and not replaced by an Act of Parliament or Disapproved? Give your answer with reasons, relevant statutory proviso and case law if any.

**PART - C**

**Judgment writing- Each judgment carries 25 marks.**

**(25x2=50  
marks)**

9. Frame necessary issues and write judgment on the available evidence, documents and pleadings. The candidates are required need not reproduce the facts given below and it is suffice for them to proceed with discussion on each issue/point and arrive at the conclusion. The candidates shall not reveal their identity by specifying any name, address, name of Court or any other details other than the facts given below.

**O.S.No.24/2017**

Suit for permanent injunction restraining the defendants 1 and 2 from interfering with the plaintiffs usage of the plaint D schedule property, as a way to reach A schedule property, from constructing compound wall or making any construction in the plaint B and C schedule property causing hindrance to the usage of D schedule property and for cost of the suit.

**The case of the plaintiff**

'A' schedule property was purchased by the plaintiff Jayaraman by virtue of a sale deed dated 31.01.2006 from one Subash and since then he has been in absolute possession and enjoyment of the same. The B Schedule property belongs to the first defendant Rabi as per the partition deed dated

01.04.1999 and ever since from the date of acquisition he has been in the possession and enjoyment of the said property. C schedule property abutting the main road belongs to second defendant Rasheedha, the daughter of first defendant and the same is in her possession and enjoyment. Both defendants 1 and 2 are residing in the ancestral house situated in Item No.2 of the plaint B schedule property. D schedule property is a path way being used by the plaintiff to reach the A schedule property situated behind B and C schedule property from the road situated on the northern side of item 2 of B schedule property. The Plaintiff has no other way to reach the plaint A schedule property except through the D schedule path way. The plaintiff and his predecessors in title have right to use the D schedule property to reach the A schedule property which has been specifically mentioned in the title deed of the plaintiff. Originally A to D schedule properties were lying as a single plot belonging to P.Ausumma, the mother of parties to the partition deed. After her death, the properties A to D schedule were partitioned among the legal heirs by a partition deed dated 18.02.1991 by Document No.182/1991. The path way mentioned in the D schedule starts from the road situated on the northern side of item No.2 of D schedule and passes through B and C schedule properties to reach plaint A schedule property. The plaint schedules A, B and C properties are corresponding to the properties G, E and F schedule

respectively in the partition deed. Plot No. I and E shown in the plaint are item No.1 and 2 of the plaint B schedule property. In the partition deed, it is specifically stated that the way to plot D, F, G and H from the road situated on the north of entire property through item No.2 of the plot E. It is recited that the parties to the partition deed, their assignors or successors have no right to obstruct the enjoyment of the path way to reach the plaint A schedule property from the road. When the defendants obstruct the plaintiffs enjoyment over the path way, the suit is filed for injunction. The covenants are binding on the parties, their assignees and successors.

### **The Written Statement filed by Defendant 1 and 2**

The averments are denied and put to strict proof. The C schedule property is not in possession of the second defendant and it belongs to first defendant. The first defendant is in the possession and enjoyment of C schedule property and the second defendant is in abroad. The plaintiff has no right to use the D schedule property. The defendants are not parties or signatories to the title deed of the plaintiff conferring right to use the way and the partition deed would not bind the assignors or successor. The plaintiff has no right of ingress or egress from the road situated on the northern side of B and C schedule properties. The plaintiff has an alternative way to reach the

main road through the foot path in the Government land from A schedule property to the main road. The plaintiff is not entitled for permanent injunction. The suit is filed only to harass the defendants.

### **Evidence of the parties**

The plaintiff examined as PW1. Ex.A1 sale deed infavour of the plaintiff dt: 30.01.2006 is marked, Ex.A2 is the certified copy of the registered partition deed dated 01.04.1991. On the side of the defendant, the defendants 1 and 2 were examined. The photograph to show the existence of alternative path way is marked as Ex.B1. The plaintiff deposed evidence in support of his plaint and the defendants deposed evidence in tune with the defence taken in the written statement.

### **Argument of the plaintiff's counsel**

G, F and I schedule properties shown in the plan appended to Ex A2 Partition deed are A, B and C schedule properties respectively in the plaint schedule. The plaintiff is claiming right of way through F and I schedule property shown in the partition deed. The plaintiff is claiming easement by grant through partition deed and not claimed easement by necessity. The defendant failed to prove the alternative path way available for the plaintiff and even assuming for a moment that there is an alternative path way, the

same would not extinguish the right of the plaintiff in terms of the partition deed. The plaintiff and his vendors have got right to path way through D schedule property and the defendants have no right to obstruct such right.

### **Argument of Defendant's Counsel**

The C schedule property is not now owned by the second defendant and now it is in possession and enjoyment of the first defendant. The plaintiff failed to prove the enjoyment of the path way by his vendor. There is an alternative path way from the A schedule property to reach the main road and D schedule property is not the only path way to reach the suit property. The plaintiff cannot claim easement of necessity. No advocate commissioner was appointed ascertain the availability of alternative path way for the plaint A schedule property.

**10.** Frame necessary charges and write judgment on the available evidence and document. The candidates need not reproduce the facts given below and it is suffice for them to proceed with the discussion on each charge/point and arrive at the conclusion. The candidates shall not reveal their identity by specifying any name, address, name of Court or any other details other than the facts given below.

**The gist of the Final Report laid against the Accused in S.C. No. 15/2019.**

On 25.04.2019 between 9.00 to 10.00 a.m when Kanagaraj, a Judicial Officer, Civil Judge of Tis Hazari District Court Complex, Delhi was travelling in a Metro Train to reach his work spot, on the way at Kashmere Gate Metro Station, the accused namely Balaraman, due to his prior enmity with the complainant had trespassed into the first class compartment of the metro train, where the complainant Kanagaraj was seated and Balaraman attacked Kanakaraj with a long knife by chasing him. The complainant managed to get down from the first class compartment and got into the second class compartment of the same train to escape from the wrath of the accused. The accused followed him and attacked the complainant with the long knife on the back of the head three or four times. The complainant got down from the train and was running in the platform of the said Metro Station. The accused chased the complainant, assaulted on the right hand of PW1 between the thumb and the index finger. The complainant sustained grievous injury due to the cut injuries inflicted by the accused, due to prior enmity with the complainant, who had decided a case against the accused, and prevented him from discharging his duties as public servant. The Inspector of Police, Central Railway Police station had laid final report against the accused for the offences u/s 452, 333, 326 & 307 IPC.

**FACTS:**

The complainant Kanagaraj (PW1) was working as a Civil Judge in Tis Hazari District Court Complex, Delhi. On every working day, he used to his leave his residence at Rajiv Chowk, New Delhi, on his car and reach Rajiv Chowk Metro Station. After parking his car at the Metro Station, he used to

take the Metro Train to reach Tis Hazari District Court Complex, Delhi. On 25.04.2019, after parking his car, he took the Metro Train at 9.05 a.m. and boarded the first class compartment. One Ravichandran (PW2), an Engineer working in a private company and one Police Man (PW12) also travelled in the same compartment sitting opposite to complainant and were acquainted with the complainant earlier.

The accused Balaraman filed a re-delivery petition in E.A.No.384 /2018 in the Rent Control Petition No.34/2016 on the file of the Civil Court, Tis Hazari District Court Complex, Delhi, related to the eviction of the accused Balaraman from the rented building filed by the Land lord. The predecessor of the complainant ordered eviction of the accused and directed execution as well. In pursuance of the eviction ordered in Rent Control Petition No.34/2016, the Court Amin (PW8) Raj had put the landlord of the premises in possession, after evicting the accused. The accused filed E.A.No.384/2018 for re-delivery, which petition was taken up for hearing by the complainant (PW1), who after examining the witnesses dismissed the application on 07.02.2019.

On 25.04.2019 when the train reached Kashmere Gate Metro station at about 9.35 a.m. the accused Balaraman got into the first class compartment, where the complainant PW1 was seated and suddenly opened a gray colour bag and took a long knife MO2 by stating that " You have written a Judgment against me, I will make you write no more Judgments", forcibly aimed a cut on PW1 complainant. The cut fell on the back of the head of PW1. When PW2 Ravichandran and PW12 Police Constable, who were sitting opposite to PW1, attempted to prevent the accused, he threatened them with the long knife. Frightened by his gesture, they were keeping quiet. The complainant PW1

taking advantage of this little interregnum, got down from the first class compartment to save himself and run towards the adjacent second class compartment and got in. The accused, who followed PW1 also got into the second class compartment and again attacked PW1 with his long knife. PW1 when attempted to ward off the cuts and process, sustained injuries in the left and right hands. The right ring finger and half of the little finger were precariously hanging due to the cut injuries inflicted by the accused. The complainant got down from the train and was crying for help. By seeing the incident the guard of the train (PW13) stopped the train. The public gathered and one of them threw a blue colour water drum at the accused and another beat him with an Iron Rod. Due to beat with an Iron Rod, the long knife held by the accused fell down.

PW3-Jayabalan, the Judicial Magistrate of Tis Hazari District Court Complex, Delhi, PW4-Rasish, staff of the Judicial Magistrate Court, Tis Hazari District Court Complex, Delhi, PW5-Munirathnam, the Assistant Public Prosecutor, Tis Hazari District Court Complex, Delhi, PW6 Soosai Raj, an Advocate practicing in Tis Hazari District Court Complex, Delhi who came to the rescue of PW1 helped him to board a taxi to take him to the Police Station. On the way, the Sub Inspector of Police PW14, came in the opposite direction on hearing the incident and stopped the car and went along with the PW3, 4 and 5 with complainant to the Government General Hospital for treatment.

PW9-Rathinasamy, Casualty, Medical Hospital of General Hospital, Delhi, examined the injured at 10.30 a.m. on 25.04.2019. During his examination, the injured told the Doctor that he was alleged to have been attacked by a known person in the Metro train on the same day. He expressed his opinion after noticing the injuries that all the injuries found on PW1 could have been

caused at the time and in the manner alleged, by a single sharp edged weapon, like M.O.2 (long knife). He has also opined that the head injuries noticed by him, would have endangered the life of the person, if immediate and proper treatment had not been given.

PW10 Doctor Kannan, arranged for a blood transfusion and opined that the complainant was listed as dangerously ill patient and was referred to various specialists for further treatment.

PW2 and PW12 had corroborated the version of PW1. PW3 the Judicial Magistrate, PW4 the staff of the Judicial Magistrate Court, PW5 the Assistant Public Prosecutor of Judicial Magistrate court, PW6 Advocate have uniformly deposed about hearing the noise of PW1 and found the complainant bleeding on his face, head and neck and also found the accused running towards the complainant with a long knife measuring one and half feet length. They witnessed the accused attacking the complainant, when PW1 took a refuge in the second class compartment.

PW13, the guard of the train in which PW1 was travelling on 25.04.2019 had deposed that he saw the complainant in the platform and the accused assaulting him with knife. He stopped the train in Kashmere Gate station. He saw PW1 with injuries on his head, hands and neck. He further noticed the bloodstained PW1 being taken outside the railway station.

PW15, Chinnasamy, the Inspector, Railway Protection Force, Metro Station received information about the occurrence and he sent PW16, the Sub-Inspector of Police to accompany PW1 for treatment to the Hospital. He proceeded to the Government Hospital and found the injured PW1 undergoing treatment in ICU ward and he was found conscious. His statement was recorded in the presence of Kannan(PW10) who certified the statement of

PW1 having been recorded in his presence. The statement was registered at Railway Police Station in Cr.No.90/2019 for offences u/s 324, 326 and 307 IPC and seized the bloodstained pants, Banian, Shirt of PW1 under Mahazar. Thereafter, he proceeded for investigation. He came to the Metro Station and prepared observation Mahazar in the presence of Mohan (PW7) and another, the scene sketch in the presence of same witnesses. He seized the bloodstained long knife, the Ash Colour bag containing a cooling glass and Hacksaw Blade and also ID card issued in favour of Balaraman. These articles were seized under Mahazar attested by PW7 Mohan and another.

PW8 Raj, the Amin attached to the Civil Court, Tis Hazari District Court Complex, Delhi had deposed about his having evicted the accused in pursuance of the orders in Rent control petition No.34/2016. PW10, deposed that PW1 was admitted in Government Hospital on 25.04.2019 and was treated as an inpatient till 02.07.2019. At the time of discharge PW11 Dr. Dhanraj issued discharge summary.

### **Sec. 313 Cr.P.C. Statement of the accused**

The prosecution witnesses had uttered falsehood. The motor cycle and the articles seized by the Police along with the bag belonged to him, but they were taken away from his house. He was beaten under the wrong assumption by the public. He denied his complicity and proclaimed total innocence.

### **The argument by the accused's counsel.**

1. The compartment in the Metro Train can never be construed as a building used as a human dwelling or a place of worship or a place for custody

of property and it cannot be deemed to be the property in possession of PW1 to attract the ingredients of Section 452 IPC.

2. At the time of occurrence, the PW1 was not in discharge of his official duty and therefore, offence u/s 333 IPC will not get attracted.

3. The prosecution has suppressed material evidence and truth has not been placed before the court and indulged in exaggerated versions at every stage, casting suspicion. The injuries on the accused were not explained by the prosecution.

4. PW2, the Engineer, who is said to have travelled in the compartment along with PW12 had not produced his tickets. So it is improbable for him for being an eye-witness to this incident especially when PW2 has not been mentioned by PW1 in the First Information Report.

5. The General Diary of the Railway Police Station had been purposely suppressed inspite of repeated orders.

**The contention of learned Public Prosecutor**

The Public Prosecutor contended that the prosecution had proved the case through the witnesses.

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8. The facts and particulars given in the Question paper i.e. Name of Court, Place, Name of Parties etc. are fictional and may not be true in real and legal sense. Yet the candidates have to conclusively assume them to be true for the purpose of answering the paper or solving the questions without interpreting them in any other manner.
9. The candidates shall answer on the given facts alone. They shall not assume or presume any additional facts.
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