

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
(APPELLATE SIDE)
COMPETITIVE/WRITTEN EXAMINATION
FOR THE POST OF DISTRICT JUDGE - 2008

PART-I

Code No.

Date: 20th September, 2009.

Total Marks 80

(Signature of Examiner)

NOTE:

Candidates are required to answer all questions in Part-I by tick-marking [✓] on appropriate choice of answer. Each right answer will be allotted four (4) marks and one (1) mark will be deducted for each wrong answer.

PART-I (Objective Questions)

1. Concept of "adverse possession" relates to:
 - (a) Indian Evidence Act
 - (b) Civil Procedure Code
 - (c) Law of Limitation
 - (d) Indian Penal Code.
2. Valuable security is defined in:
 - (a) Criminal Procedure Code
 - (b) Civil Procedure Code
 - (c) Evidence Act
 - (d) Indian Penal Code
3. Right of a citizen to carry on any occupation, trade or business is a
 - (a) Contractual right
 - (b) Right under Transfer of Property Act
 - (c) Constitutional right.
 - (d) right under Partnership Act.
4. Sale and exchange of immovable property is a concept under

- (a) Contract Act
 - (b) Partnership Act
 - (c) Transfer of Property Act
 - (d) Income-tax Act
- (5) Promissory note and cheque is a concept in
- (a) Civil Procedure Code
 - (b) Criminal Procedure Code
 - (c) The Evidence Act
 - (d) Negotiable Instruments Act.
- (6) Alternative Disputes Redressal (ADR) is a concept in
- (a) Evidence Act
 - (b) Civil Procedure Code
 - (c) Contract Act
 - (d) Motor Vehicles Act.
- (7) Mutta Marriage is a concept in
- (a) Hindu Law
 - (b) Mohammedan Law
 - (c) Contract Act
 - (d) Special Marriage Act
- (8) Protection of life and personal liberty is a
- (a) civil right
 - (b) contractual right
 - (c) fundamental right.
 - (d) None of the above
- (9) Lis pendens is a principle in
- (a) Sale of Goods Act
 - (b) Partnership Act
 - (c) Transfer of Property Act.
 - (d) Negotiable Instruments Act
- (10) Counter claim and set off is under
- (a) Criminal Procedure Code
 - (b) Evidence Act
 - (c) Civil Procedure Code
 - (d) Partnership Act.

(11) *Damnum Sine Injuria* is a maxim pertains to:

- (a) Contract Act
- (b) Partnership Act
- (c) Indian Penal Code
- (d) Law of Torts

(12) Right of equality of opportunity in the matters of public employment is under:

- (a) Industrial Dispute Act.
- (b) Contract Act
- (c) Constitutional right
- (d) Partnership Act.

(13) Testamentary succession relates to :

- (a) Hindu Succession Act
- (b) Indian Succession Act
- (c) Guardians and Wards Act
- (d) Mohammedan Law.

(14) Special Marriage Act, 1954 is applicable to:

- (a) Marriage between Hindus
- (b) Marriage between muslims
- (c) Special form of marriage in certain cases
- (d) Marriage between Christians

(15) Contract without consideration is void subject to the following exception:

- (a) If it is between two brothers
- (b) If it is between father and son
- (c) If it is between husband and wife
- (d) If it is by way of love and affection.

(16) Basic structure cannot be changed. This principle of law relates to:

- (a) Civil Procedure Code
- (b) Criminal Procedure Code
- (c) Constitution of India
- (d) Indian Contract Act.

(17) *Res Ipsa Loquitur* is referred to

- (a) Trade and Merchandise Act
- (b) Transfer of Property Act
- (c) Law of Torts

(d) Civil Procedure Code

(18) Rule of promissory estoppel is embodied in

- (a) Civil Procedure Code
- (b) Constitution of India
- (c) Evidence Act.
- (d) Indian Contract Act.

(19) Prevention of cruelty to animals comes under which of the following List in the Constitution

- (a) Union List
- (b) Concurrent List
- (c) State List.

(20) Article of Association is a concept in

- (a) Partnership Act
- (b) Negotiable Instruments Act
- (c) Companies Act
- (d) Indian Penal Code.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
(APPELLATE SIDE)
COMPETITIVE WRITTEN EXAMINATION TEST
FOR THE POST OF DISTRICT JUDGE - 2009

PART-II

Date: 20th September, 2009.

Total Marks: 120

Time: 11.00 a.m. to 2.00 p.m.

For both parts i.e. Part-I and Part-II

1. Write a judgment on the following facts.

30 marks

- Note:** (a) The facts should be stated in brief and not reproduced verbatim.
(b) It should be presumed that necessary witnesses have been examined to support the case.
(c) That necessary and relevant documents have been produced.

One trader Ashok Patel gave a loan of Rs. 15,000/- to Mohanlal Shah on 1-1-2005 at Nasik. In return Mohanlal Shah executed a promissory note. Ashok Patel is residing in Nasik and Mohanlal Shah is residing in Pune. When Ashok Patel demanded the money by writing a letter on 1-10-2007, Mohanlal Shah gave a reply assuring Ashok Patel that the amount in question will be paid by him within a period of two years as he is having financial difficulties. Subsequently Ashok Patel filed a suit on 1-1-2009 for recovering the amount in the Court of Civil Judge at Nasik. Mohanlal Shah took the plea that the Nasik Court has no territorial jurisdiction to decide the suit. Mohanlal Shah filed his written statement taking the point that the suit is filed after a period of three years from the date of transaction and, therefore, it is time barred. A plea was also taken in the written statement that he has not received any amount and that he had not signed the

promissory note. The trial Court framed necessary issues in the suit and found that the suit is within limitation and the Court at Nasik has also jurisdiction to entertain and ultimately decreed the suit. The said decree is challenged in appeal by the Appellant.

2. Write short notes on any three: 15 marks.

- (a) Dissolution of Partnership firm.
- (b) Requisites of valid contract
- (c) Constructive res judicata.
- (d) Directive Principles of State policy
- (e) Right of private defence.

3. Explain the difference between any three: 15 marks

- (a) easement of necessary and easement by way of prescription.
- (b) Sale and exchange of immovable property.
- (c) Valid contract and void contract.
- (d) Writ of mandamus and Writ of habeas corpus.
- (e) Libel and slander

4. (a) Whether the provision made in the Civil Procedure Code relating to Alternative Disputes Resolution is beneficial in expeditious disposal of civil cases? Discuss and comment in detail.

OR

(b) Elaborate fundamental rights and directive principles under the Constitution of India.

30 marks

5. Delay in disposing criminal cases in case of under-trial prisoners can be

said to be denial of fundamental right of an accused. What are the rights of the accused in such cases? Comment.

OR

Whether the provisions of Section 138 of the Negotiable Instruments Act can be misused in a given case by filing frivolous complaints?. Comment with suggestions.

30 marks.