

THE GAUHATI HIGH COURT AT GUWAHATI
(The High Court Of Assam, Nagaland, Mizoram and Arunachal Pradesh)

Limited Departmental Competitive Examination, 2021 for Promotion from Grade-II to Grade-I of Assam Judicial Service

Date: 24.07.2021
Total Marks: 100

Time: 1 p.m. to 4 p.m.
Duration: 3 Hours

PAPER-II

GROUP – A

TRANSFER OF PROPERTY ACT

- Q.1. Define 'Transfer of Property' as envisaged in the T.P.Act. Whether a sale executed by court in pursuance of a decree for specific performance of contract falls within the scope of the definition?
1+1=2 Marks
- Q.2. What is the nature of interest acquired over a plot of land by an unborn person upon his birth, the interest being created before his birth? Whether the said interest shall be defeated by his death before he took possession of the property?
1+1=2 Marks
- Q.3. A mere contract of sale, though does not confer an interest in the subject matter of the contract, still creates an obligation annexed to the ownership of the property – Explain with a suitable example.
2 Marks
- Q.4. Whether the transferee of a share of a dwelling house, even if the co-owners are divided in status i.e. holding the possession of the property as tenants-in-common but undivided qua the property is entitled for joint possession or part enjoyment of the house ? Give reasons to your answer.
2 Marks
- Q.5. Define-
(a) Usufructuary mortgage
(b) Lease of immovable property.
1+1=2 Marks
- Q.6. (a) How the mortgagor's right of redemption is exercised?
(b) In what way the right of redemption is exhausted?
1+1=2 Marks

Q.7. Bring out the distinction between a 'tenancy at will' and 'tenancy on sufferance'.

2 Marks

Q.8. Give your answer stating 'True' or 'False':

(a) A surrender of lease is a transfer and requires to be in writing.

(b) A partition of joint family property is not an exchange and by law not required to be in writing.

(c) Oral partition is permissible, but when reduced to writing registration would be necessary.

(d) A valid charge for a sum in excess of Rs.100 can be created by a document which requires no registration.

$\frac{1}{2} + \frac{1}{2} + \frac{1}{2} + \frac{1}{2} = 2$ Marks

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**GROUP – B**

**CIVIL PROCEDURE CODE, 1908**

Q.1. (a) Under what circumstances Court can order substituted service of summons. How such service is effected?

1½ Marks

(b) Under what circumstances can an appellate Court permit additional evidence to be adduced in an appeal?

1½ Marks

(c) What are the distinguishing features of "Decree" and "Order"?

1½ Marks

(d) State the purport and salient features of Section 80 of the Code of Civil Procedure?

1½ Marks

Q.2. Discuss the mode of execution of "Personal Decree" as provided under the Code of Civil Procedure.

3Marks

Q.3. What are the remedies available to a defendant against whom an ex-parte decree in a suit has been passed? Are the remedies mutually exclusive?

3Marks

Q.4. Bring out the distinctive features of Rules 23, 23-A, 24 and 25 of Order 41 of the Code of Civil Procedure.

3 Marks

Q.5. Refer to the provision in the Code of Civil Procedure providing for settlement of dispute outside the Court and list out the steps in connection therewith.

3 Marks

Q.6. (a) Under what circumstances a Court under the Code of Civil Procedure issue Commissions? Does the Code contemplates Commission by one Court to another?

1½ Marks

(b) Define "interpleader-suit".

1½ Marks

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GROUP – C

CRIMINAL PROCEDURE CODE

Q.1. Where a Magistrate orders investigation by the police before taking cognizance u/s 156(3) Cr.P.C. and received the final report, whether the Magistrate has the power to issue process u/s 204 Cr.P.C. after recording statement of complainant and witnesses?

1 Mark

Q.2. Whether Section 164(1) Cr.P.C. empowered the Magistrate to record statement of a person unsponsored by investigating agency?

1 Mark

Q.3. Cognizance of offence taken by Magistrate on basis of police report. Accused appearing in pursuance of process. Whether at such stage Magistrate of his own order further investigation in the case?

1 Mark

Q.4. What is the effect of dismissal of complaint under Section 203 Cr.P.C. after hearing the complainant and his witnesses, if any ? Whether second complaint lie and if yes, what are the circumstances?

1+1=2 Marks

Q.5. Complaint case and FIR also filed relating to same incident. Magistrate taking cognizance in complaint case found reasons to proceed u/s 304-A I.P.C. Final report u/s 173 Cr.P.C. filed in police case. Whether the Magistrate can proceed with the complaint case? Give reasons.

1 Mark

Q.6. Identify from the following accusations when manner of committing offence must be stated and the one not required to be stated in the charge:-

(a) A is accused of the murder of B at a given time and place.

- (b) A is accused of disobeying a direction of the law with intent to save B from punishment.
- (c) A is accused of theft of a certain article at certain time and place.
- (d) A is accused of cheating B at a given time and place.

$\frac{1}{2} + \frac{1}{2} + \frac{1}{2} + \frac{1}{2} = 2$ Marks.

Q.7. What is the procedure in brief to be followed in case of person of unsound mind tried before Court ?

3 Marks

Q.8. What is the object behind in tender of pardon to accomplice and on what condition same may be allowed?

1+1=2 Marks

Q.9. What is the condition precedent for invoking the power of Magistrate to order person to give specimen signature or handwriting?

1 Mark

Q.10. State the conditions for application of 'plea bargaining' by an accused person and the offences which are beyond the purview of plea bargaining.

2+1=3 Marks

Q.11. Writ a short note on "Letter Rogatory".

2 Marks

Q.12. State the power of police officer to seize certain property. Whether the police officer is authorized to freeze bank account without prior intimation to the Magistrate having jurisdiction?

2 Marks

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**GROUP – D**

**INDIAN PENAL CODE**

Q.1. (a) One single conspiracy spread over a number of years, formed with only one object to cheat the members of the public. In course of time others joined the conspiracy, several cheating incidents took place. Does the single conspiracy split up into several conspiracies?

1 Mark

(b) Whether acquittal of some of co-accused from the charge of conspiracy affect the accusation of using as genuine a forged document?

1 Mark

Q.2. Distinguish Section 34 and Section 149 of the I.P.C. ?

2Marks

Q.3. (a) Whether it is necessary U/S 307 I.P.C. that the accused knew that the injury caused/ inflicted was capable of causing death to the victim. Give reasons to your answer.

1 Mark

(b) Victim received injuries caused by axes and spears including fracture of frontal bone in a case of assault by several persons. Victim stating in FIR that accused A had given him one blow with his (A's) stick on his head. In his evidence in trial court victim stated that he was hit with axe on forehead by accused A and another accused. Whether A can be convicted under Section 326 read with Section 34 I.P.C.?

1 Mark

Q.4. When would culpable homicide amount to murder ?

4 Marks

Q.5. Define 'Abduction'. When it amounts to an offence stipulated in the I.P.C.?

1+3= 4 Marks

Q.6. Define :

(a) Criminal breach of trust.

(b) Cheating.

1½ + 1½=3 Marks

Q.7. Define 'abetment of a thing' and 'instigate doing a thing'.

1+1=2 Marks

Q.8. What are the defence to a charge of forgery?

2 Marks

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GROUP – E

INDIAN EVIDENCE ACT, 1872

Q.1. When do facts not otherwise relevant become relevant?

1½Marks

Q.2. What are 'admissions'? Who can make admission?

1 + 1=2Marks

Q.3. When is evidence given by a witness in judicial proceeding relevant in a subsequent judicial proceeding?

1½ Mark

Q.4. How will you use in evidence a document required by law to be attested?

1 Mark

Q.5. State the nature of evidence which can be adduced to show that a person born during the continuance of a valid marriage between his parents is not legitimate.

1 Mark

Q.6. State the doctrine of estoppels.

1Mark

Q.7. What constitutes incompetence to give evidence?

1 Mark

Q.8. What are 'public document'? How the contents of public documents are proved?

1+1=2 Marks

Q.9. Who can call for a witness for re-examination and under what circumstance said witness is allowed to be cross examined by the adverse party?

1+1=2 Marks

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**GROUP – F**

**LIMITATION ACT, 1963**

Q.1. What are the considerations required to be circumscribed as per you, while assessing the sufficiency of cause for extension of prescribed period by the Limitation Act in certain cases.

2 Marks

Q.2. State the distinctions between Articles 64 and 65 of the Schedule of Limitation Act, 1963 stipulating the period of limitation for suit for possession of immoveable property.

2 Marks

Q.3. To enforce a right of pre-emption, period of limitation is stipulated as one year. Specify the time from which period begins to run.

2 Marks

Q.4. Give an example of continuing breach of contract and specify the period of limitation for filing a suit against such breach.

1+1=2 Marks.

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