

Odisha Judiciary - Mains 2013

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Jurisprudence And Constitution of India

- Q1. "Like should be treated alike and not that unlike should be treated like." Elaborate the concept of equality in the background of the statement.
- Q2. Examine different facets of right to life and liberty. Cite recent case laws.
- Q3. How independent is Indian Judiciary ? Examine the factors which seek to protect the independence of judiciary.
- Q4. Trace the development of 'basic structure' theory. Is it a limitation on the amending power of the Parliament ? Examine.
- Q5. The emergency provisions are the merit of the Constitution for strict application of federal principles of the Constitution.' Discuss.
- Q6. Discuss the pardoning powers of the President. Is it subject to judicial review ? Cite cases.
- Q7. Make a comparison of precedent and legislation as sources of Law. Which, according to you, is the effective source and why ?
- Q8. Evaluate the contributions of HLA Hart to Analytical Jurisprudence.
- Q9. Examine the concept of 'Rights' in its wider sense of the term as propounded by Hofeld.
- Q10. Who are Legal Persons ? Examine the legal status of 'Dead Person' and 'Animal'.
- Q11. Define 'Property'. Discuss various kinds of property.
- Q12. Examine the characteristics of 'Ownership'. Add a critical note on difference between 'Ownership' and 'Possession'.

Law of Contract

- Q1. A agrees to sell a car worth Rs. 5,00,000 for Rs. 50. A's consent to the agreement was freely given. Explain this problem with reference to the rules of consideration.
- Q2. A is an employee in a government corporation, B. Entered into a contract of service with A which says that A can be terminated from employment just by three month's notice or pay in lieu of notice and without any ground. A is terminated from employment on payment of three month's salary. A challenged it on the ground that the contract of service which he had with B is opposed to public policy and he entered into the contract out of necessity. Explain the validity of contract with reference to the provisions of Indian Contract Act.
- Q3. "The principle of frustration of contract or of impossibility of performance is applicable to a great variety of contracts". - explain. Section - B

- Q4. "Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment", there is no implied condition or warranty under a contract of sale. Explain the above statement with reference to decided cases.
- Q5. "Risk prima facie passes with the passing of the property from the seller to buyer" - Explain.
- Q6. Explain the unpaid seller's right of stoppage in transit.
- Q7. "The relation of partnership arises from contract and not from status"-explain.
- Q8. (a) Explain the right of a partner to sue for the dissolution of a firm. (b) A and B are the partners of a firm. A is in the habit of attending the firm's business in a drunken state all the time. B seeks the dissolution of the firm on the ground that it affects firm's reputation and it also amounts to A's misconduct. A pleads that it is purely a personal matter which cannot be a ground for dissolution of a firm. Advise.
- Q9. (a) Explain the liability of a firm for its partners' acts. (b) X and Y are the partners of a firm. X without the knowledge of Y bribed the clerk of Z's firm, a competitor in the trade and induced the clerk, in breach of his duty to his employer Z, to disclose the confidential information with regard to Z's business. After knowing this Z sued both X and Y for liability. Y pleaded that neither he nor firm is liable for X's act. X contended that he acted in the ordinary course of firm to obtain such information and in the best interests of the firm. Decide. Section - D
- Q10. (a) Explain different presumptions related to Negotiable Instruments under Negotiable Instruments Act. (b) X issued cheques on his account to a woman with whom he was liking and the money was credited to her account. Subsequently it was known that X had by fraud obtained cheques from his employer and paid them into his account from where the money was collected into the woman's account. When questioned, it was contended that there is a presumption in favour of woman as holder-in-due course. Decide.
- Q11. (a) What is negotiation and explain different kinds of negotiation. (d) A indorses an instrument to another and keeps it in his papers where it is found after his death and then delivered to the indorsee. What are the rights of indorsee on the instrument?
- Q12. (a) Explain the ways in which the liability on an instrument is discharged. (b) A draws a cheque in favour of B for Rs. 10,000 and when the cheque ought to be presented, A has the funds in his account to meet it. The Bank fails before the cheque is presented. Explain the liability of drawer to the holder of the cheque.

Law of Crime And Law of Torts

- Q1. When does an act amount to an attempt to commit a Crime? Is there any difference in this respect between General Section 511 of the IPC on the one hand and Section 307 IPC and Section 308 IPC on the other? If so explain with reasons.
- Q2. A, a girl student with an age around 18 years and a month developed intimacy with B, a senior student aged about 20 years from the same college. B on the condition of total secrecy promised to marry her but persuaded her for abortion. Again on the second occasion, B impregnated A and got the child aborted. B however did not marry A even thereafter. A approaches you for your expert advice. Advise.

- Q3. How under IPC 'mistake of law' is no defence but 'mistake of fact' is a good defence? What exemptions have been given by IPC to minors for an offence under General Exceptions?
- Q4. What is culpable homicide? When does culpable homicide become murder? When culpable homicide not amounting to murder?
- Q5. Define and explain Theft. How is Theft different from Extortion? Under what circumstances Theft becomes Robbery? Distinguish Theft from Dacoity.
- Q6. Write brief notes on the following : (a) Self Defence (b) Sedition (c) Conspiracy (d) Extortion (e) Mens rea Section - B (Law of Torts)
- Q7. Tort is a civil wrong different from breach of contract and crime. Explain.
- Q8. What constitutes false imprisonment? Explain various defences available to a defendant in case of false imprisonment.
- Q9. Who are joint-tortfeasors? Discuss the nature of joint-tortfeasors of liability with the help of decided cases. What is the law regarding contribution amongst joint-tortfeasors?
- Q10. What is the ratio decidendi of Rylands v. Fletcher and M. C. Mehta v. Union of India (Oleum gas leakage) cases? How both cases are different from each other?
- Q11. Is there any civil remedy available to the Client against Advocate under Consumer Protection Act, 1986, if the Advocate committed negligence, breach of trust, misappropriation and fraud? Discuss.
- Q12. Write brief notes on the following : (a) Ubi Jus Ibi Remedium (b) Volenti Non Fit Injuria (c) Defences to an action for Nuisance (d) Defences to an action for Defamation (e) Caveat Emptor to Caveat Vendor

Personal Law

- Q1. Explain the conditions recognised by Dharma Sastras as necessary for a valid Hindu Marriage. The Hindu Marriage Act, 1955 has no doubt made inroad into the domain preserve of that ancient law. But the concept of a sacrament still goes strong. Comment.
- Q2. Adultery in itself should not to my mind be a ground of divorce. - BERTRAND RUSSELL. Marriage and Morals (1968). Discuss Adultery as a ground of divorce under Hindu Marriage Act, 1955.
- Q3. Husband's obligation to maintain wife is absolute and personal. Discuss. Refer to decided cases.
- Q4. What do you understand by the Doctrine of Relation Back? Does the Hindu Adoption and Maintenance Act, 1956 recognise this doctrine? Examine with reference to decided cases to what extent the doctrine has been revived.
- Q5. In the appointment of guardian the welfare of the child shall be the paramount consideration - Comment. State the different kinds of guardians recognized under the Hindu Minority and Guardianship Act.
- Q6. Briefly explain the changes brought by Hindu Succession (Amendment) Act, 2005. Do you approve the position of Father as class II heir even after 2005 Amendment?
- Q7. The basis of the Islamic Law as understood all over the world is fourfold: Koran, Sunnah, Ijma, Qiyas - Elucidate. State the rules relating to interpretation of Koran.

Q8. Examine the various forms of Talaq recognized under Muslim Law. What is the position of a divorced Muslim wife to get maintenance from her husband under Sec 125 of the Criminal Procedure Code?

Q9. Dower though a real settlement in favour of the wife, is a provision for a rainy day and socially it became a check on the capricious exercise by the husband of his almost unlimited power of divorce - Comment. How is Dower classified?

Q10. The law of wakf is interwoven with the entire religious life and social economy of Muslims - Elucidate. What are the essentials of a wakf?

Q11. Discuss the main points of difference between the Hanafi and Shiya law of marriage and inheritance.

Q12. Write short notes on the following: a. Doctrine of Awl and Radd b. Uniform Civil Code

Law of Property

Q1. (a) Mr. Sanjay, a political pensioner, was the grantee from the Government of the plot building site at Jaipur, Orissa state- In 2012 he entered into an agreement with Mr. Vivek undertaking to sell the plot to the latter if he, should be given permission, by the Government to live in Bangladesh. Mr. Sanjay, did in fact obtain such permission, but failed to execute conveyance in favour of Mr. Vivek. The Collector, thereupon cancelled the grant and put Mr. Vivek in possession of the said plot. Then Mr. Vivek brought the action for a declaration of his title and for ejection. The Collector's order cancelling the grant was found to be invalid, but the defendant Mr. Sanjay contended that the ejection action should fail since he could rely upon the doctrine of part-performance. Decide. (b) Write short notes on the following: (i) Onerous gift (ii) Unpaid Vendor's lien (iii) Actionable claim

Q2. (a) Mrs. Lakshmi, a widow of Praveen, executes a will where under she gives to Mr. Vijay a sum of Rs. 20 lakhs belonging to herself and to Mr. Siva an item of land belonging to her late husband. Vijay and Siva are the nearest reversioners to her husband's estate. On Mrs. Lakshmi's death Vijay seeks to recover the legacy as also a moiety of the item settled on Mr. Siva. Can he succeed? (b) Write short notes on the following: (i) Doctrine of holding out (ii) Notice (iii) Subrogation

Q3. (a) 'A' makes a gift to 'B' with a proviso that if he marries without the consent of 'C' and 'D', it shall go to 'E'. 'D' dies. 'B' marries without the consent of 'C'. Can 'E' claim the property? (b) 'A' mortgaged his land to 'B' with possession for five years, the rent and profits to be set off against the interest. The mortgage further provided-that if the mortgage was not redeemed within a period of 20 years from the date, the mortgagee should treat the land as sold to him absolutely. 'A' has period of 20 years from the date, the mortgagee should treat the land as sold to him absolutely. 'A' has not redeemed the mortgage within a period of 20 years. Can 'B' become the owner of the land? (c) Write short notes on the following: (i) Tenancy by holding over (ii) Equitable Mortgage (iii) Vested interest (iv) Exchange

Q4. (a) Once a mortgage and always a mortgage and nothing but a mortgage." Explain the statement with the help of decided cases. (b) What are the ways in which the lease can be determined? (c) 'A' mortgaged property to 'B'. 'B' sued on the mortgage and obtained a decree 'nisi' for foreclosure. Before the decree was made absolute, 'A' sold property to 'C'. The decree for foreclosure was made absolute. 'B' wants to enforce the decree against 'C' for foreclosure. Can 'C' be entitled to redeem the property being a purchaser for valuable consideration?

Q5. (a) What do you understand by the expression "Specific relief"? In what cases may the specific performance of a contract be enforced? (b) 'A' proceeds to U. K. leaving his furniture in charge of 'B', as his agent during his absence. 'B' without A's authority, pledges the furniture to 'C'. 'C' knows that 'B' is not the owner of the furniture. 'C' advertises it for sale. 'A' returns in the meantime and demands the furniture back from 'C'. 'C' does not comply with A's demand. Advise A'. What would be your answer if 'C' believed in good faith that 'B' was the owner of the furniture?

Q6. (a) What are the rights and remedies under the Specific Relief Act of a purchaser or lessee against vendor or lessor with imperfect title? (b) 'A' proposed to sell to 'B' a freehold estate free from all encumbrances. 'B' discovers that the estate is mortgaged to 'C' for the full amount of purchase money. What right, if any, has 'B' against A'?

Q7. (a) Will the Courts specifically enforce the following contracts ? Give reasons for your answer: (i) A contract to marry (ii) A contract to give money or loan (iii) A contract to build or repair a house (iv) A contract to refer a dispute to arbitration (b) Distinguish between a temporary or interlocutory injunction and perpetual injunction. (c) Distinguish between a 'mistake of fact' and a 'mistake of law'.

Q8. (a) What is the summary and speedy remedy provided by the Specific Relief Act for a party dispossessed of immovable property to recover possession? Can title also be determined along this remedy? (b) The Collector of Adilabad under the order of the Government of Andhra Pradesh forcibly dispossessed 'A' from his house at Adilabad on the 1st January, 2013. Can he recover possession under Sec. 9 of the Specific Relief Act by a summary procedure if he brings a suit against the Government within a period of six months from the date of his dispossession? What would be your answer if 'A' was dispossessed by a private individual?

Q9. (a) Explain the object of the Law of Limitation and salient features of the Limitation Act, 1963. (b) How the period of limitation is extended in certain cases by showing 'sufficient cause' by the appellant or applicant to satisfy the court and how the sufficient cause is to be determined? What are the guidelines for it?

Q10. (a) Explain the law relating to effect of the following factors on the computation of period of limitation: (i) Effect of death on or before the accrual of the right to use (ii) Effect of Fraud or Mistake (iii) Effect of Acknowledgement in Writing (b) A, B and C inherited property from their father. C is minor aged 15 years. A on 2nd August, 2002 sold his share of the property without offering it to C. C wants to file a suit to challenge the sale. What is the last date of limitation for filing a suit by C?

Q11. (a) Explain the Law relating to Exclusions in computation of the period of limitation under Sections 12,13,14 and 15 of the Limitation Act. (b) Explain the following: (i) Legal disability (ii) Acquisition of Easement by Prescription (iii) Exclusion in favour of reversioner of servient tenement (iv) Extinguishment of right to property

Q12. (a) "The general principle that the Law of Limitation only bars the remedy but not the right itself." Explain the statement. (b) Mr. 'P' a subscriber in chit fund executed two promissory notes as security for regular payment on interest for a sum of Rs. 2,00,000 consisting of 40 instalments payable @ Rs. 5,000 per month. The subscriber 'P' paid regular instalments up to 25th instalment. He committed default from the 26th instalment which fell due on 28th February, 2012. The chit terminated on 2nd May, 2013 calling upon the subscriber to pay the arrears from the 26th instalment and finding no response filed the suit in June, 2013 for recovery of arrears from the 26th instalment. Mr. 'P' resisted the suit contending, that it was barred by limitation. Decide.

Procedural Laws

Q1. (a) It is one of the cardinal principles of criminal jurisprudence that a criminal trial should be completed without delay. Discuss the provision of the Criminal Procedure Code, 1973 where this principle has been incorporated. (b) Can the time limit be a ground for terminating criminal proceedings? Please, support your answer with the help of the decided case law.

Q2. (a) Sabeena was working at a call centre. One day her boss Ranjit offered her lift. On the way, they stopped at a restaurant for having cold drink. Ranjit mixed some sedative in the drink of Sabeena and took her to a room where he raped her. He also clicked some objectionable photographs of Sabeena and threatened her not to disclose that incident failing which he would paste her photographs in the office. Thereafter, he raped her several times. However, two months later, when Sabeena learnt that she was pregnant, she disclosed the matter to her mother who got a First Information Report (FIR) registered against Ranjit. Ranjit was arrested and was charge-sheeted under Sections 376 and 507 respectively of the Indian Penal Code, 1860. The Trial Court found Ranjit guilty of both the offences and accordingly convicted him. The High Court, however, reversed the decision and acquitted him on ground of delay in lodging the FIR. The State is to go in appeal against the aforesaid decision. Please advise. (b) In the proposition enlisted above, can Sabeena as a victim also go individually in appeal? (c) Can a police officer refuse to register an FIR on the ground that the said police station where he is posted did not have the territorial jurisdiction over the place of crime? (d) Can an anonymous telephonic call be treated as an FIR?

Q3. (a) What is the authenticity and relevance of a "Case Diary" to be kept under Section 172 of the Code of Criminal Procedure, 1973? (b) Can a police officer seize the bank account of a person while conducting investigation in a case relating to corruption? (c) Whether a detailed speaking order is required to be passed before framing of charges by a Court of Sessions? (d) Rahman was charged under Section 337 of the Indian Penal Code, 1860 for causing grievous hurt to Rahim by doing an act so rashly and negligently as to endanger human life. After the evidence had been recorded, both Rahman and Rahim moved the Court for permission to compound the said offence. The magistrate refused permission on ground that the compensation paid by Rahman to Rahim was meagre. Discuss the legality of the order.

Q4. (a) Vinni and Anand are married to each other. After seven years of marriage Anand leaves Vinni and starts staying with Sunita in a rented accommodation. After five years, he leaves Sunita and moves back to his house to take care of his family business as his father dies in a road accident. Sunita has a son, Sumit, aged 3 years. Sunita files an application under Section 125 of the Code of Criminal Procedure, 1973 and claims maintenance for herself and for her son. Will she succeed? (b) Can a Muslim married woman who has been deserted by her husband claim maintenance under Section 125 of the Code of Criminal Procedure? Also discuss the provision in a case where she has been divorced. (CODE OF CIVIL PROCEDURE, 1908)

Q5. (a) What is the public policy behind the principle Of 'Res-Judicata'? (b) Whether the provisions contained in the Code of Civil Procedure, 1908 on Res-Judicata are exhaustive ? (c) Whether a judgment operates as Res- Judicata between co-defendants? (d) Whether the principle of Res-Judicata applies to an execution proceedings? (e) A plaintiff who is entitled to sue for possession and damages files a suit for possession only. The suit is decreed. Can he file a suit for recovery of damages? Give reasons in support of your answer.

Q6. (a) Discuss the statement that an executing court cannot go behind the decree. What are the .questions that may be determined by the court executing the decree? (b) After the arbitration proceedings were over, an execution application was filed before the competent executing Court. A dispute arose as to the requirement of stamping and registration of the arbitration award. Whether this falls within the scope of executing Court?

Q7. (a) Discuss the scope of the rule relating to amendment of a plaint. Can there be an amendment after remand? (b) A filed a suit for recovery of rent against B on the ground that B was his tenant and has not paid rent for the past two years. In his written statement filed, B admitted that he was the tenant of A, but he pleaded that he had paid, the rent without any receipt being issued to him. During the trial, B filed an application seeking permission to amend the written statement and instead pleaded that he was not a tenant of A. Decide after assigning reasons.

Q8. (a) Discuss the nature and scope of 'Foreign Judgments'. (b) A and B got married at Delhi. Thereafter, they got work permit and shifted to Atlanta in the USA. A daughter, C was born to them within one year of their stay. Shortly thereafter, A found that his wife had developed illicit relationship with Z who was holding a green card. B got pregnant through When A found out all this, she aborted the child. By now A had ample evidence of B's misdemeanor. Thereafter, A came back to India with his daughter who is three years old now. A has filed a suit for being appointed the guardian of C before the Guardian Court at Delhi. Meanwhile, having learnt that A had fled with her daughter to India, B filed a criminal case against A in the USA. B also filed a custody petition in the USA wherein the court granted an ex-parte decree in her favour. B has come to Delhi and has applied for the execution of ex-parte custody decree in the court of civil judge. B has also raised the said decree in defense to the guardian proceedings initiated by A. Examine the case. (THE INDIAN EVIDENCE ACT, 1872)

Q9. Write short notes on the following: (a) Injured Witness (b) Chance Witness (c) Child Witness (d) Hostile Witness (e) Rustic Witness OR Discuss the credibility of witness in the following circumstances. (a) Delay in Examination of Witness (b) Murder Cases (c) Other Criminal Cases (d) Civil Cases (e) Accident Claim Cases

Q10. (a) Explain the term 'Explanatory Facts' with special reference to facts establishing identity of persons. (b) Mr. Rakesh and Mr. Salim were two police constables attached with police station of Area A. They were involved in identification parade to be held by investigation agency of Area B. To avoid any criticism, the identification parade took place at Area C which was around hundred kilo meters away from Area A and B. However, photographs of accused persons were shown to both the constable-witnesses before such identification parade and such parade took place in lock up at Area C. Discuss the legitimacy of such an identification parade.

Q11. (a) Explain the facts of which court must take judicial notice. (b) Mr. Ram Prakash (Member of Parliament) made a speech in the Lok Sabha about a crime in a certain part of India and desired that the ruling party must take action. Later on when a case was brought in the court of competent jurisdiction, the crime was desired to be proved by relying on the speech made by Mr. Ram Prakash. The prosecution laid stress on the fact that the court is bound to take judicial notice of the proceedings of the Legislature but the court refused to admit the speech as an evidence for the commission of crime. Examine the evidence. Support your answer with the examples from the decided case law.

Q12. (a) The difference between direct evidence and circumstantial evidence is that in case of former, the proof goes directly to establish the culpability of the accused person in the commission of offence, however the latter brings the guilt home to him by placing certain circumstances from which the inference is absolutely irresistible that the accused has committed the offence. Examine this statement while discussing difference between Direct evidence and Circumstantial evidence. (b) Whether failure of an advocate to object to the admission of evidence, which otherwise is capable of rejection as hearsay, makes it binding?