

EXAMINATION OF ARTICLED CLERKS
Paper I
PRACTICE AND PROCEDURE
Monday, 28th March, 2022
Time: 3 Hours (1:00 PM to 4:00 PM)
(Total Marks: 100)

Notes:

1. *Read the question carefully.*
 2. *Supplement your answers with the provision of law and caselaw.*
 3. *Answer to every question should be on a fresh sheet of paper.*
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Question No.	Question	Marks
1.	<p>Advise your client(s).</p> <p>i. Three residents of a cessed building have a grievance that the Housing Board (a Statutory Authority) is not heeding their request to carry out repairs to their cessed building and show you correspondence in that regard?</p> <p>ii. A and B reside in a two bedroom flat. One Evening when B returns home from work he finds his belongings outside the main door and a security guard standing thereat. B tries to enter but is physically stopped. He phones A but A does not answer. B is distraught?</p> <p>iii. Jamie has filed a Caveat and an Affidavit in support of the caveat in your client's testamentary Petition. In the said Affidavit she states that the deceased did not have title to the family mansion and hence could not bequeath it under the Will. The Testamentary Petition is converted in to a Testamentary Suit.</p> <p>iv. You act for the Plaintiff. The Trial Court allowed the Defendant's Notice of Motion under Order VII Rule 11 of the CPC 1908. You sought a stay of 4 weeks which was granted. What next?</p> <p>v. In spite of repeated requests from Ramlal, Shyamlal kept deferring payment of Rs. 5,00,000/- [Rupees Five Lakhs only] which he took as a friendly loan. After a year Ramlal loses his patience and approaches you?</p>	15.

2. Simply answer true or False any ten of the following 10.
- i. Obiter Dicta in a Judgement of a Higher Court has no binding force.
 - ii. A Consent order disposing of a proceeding with a reservation that it should not be cited as a precedent has no binding force.
 - iii. The Executing Court will issue Notice if an Execution Application is made within 18 months of the Decree being passed.
 - iv. Complex issue of fact can be decided in an Originating Summons.
 - v. Delay in taking out Summons for Judgement beyond Six Months entitles the Defendant to seek an unconditional leave to defend.
 - vi. The Executing Court has the power to decide question of title raised by an obstructionist under Order XXII Rule 97 of the CPC
 - vii. Specific performance cannot be enforced against a person who has become incapable of performing his part of the contract.
 - viii. A party suffering from the breach of Contract has the option of getting the same performed through a third party or of his own volition
 - ix. In determining the amount of compensation for breach of contract, the Court is guided by the principles of Equity and the law on damages
 - x. A Court may impose costs on the Plaintiff even if the Plaintiffs suit is partly decreed
 - xi. A prayer for recession of contract cannot be made in the alternative to the suit for specific relief.
3. Write short notes on any five of the following: 30
- i. Supervisory and Original Jurisdiction exercised by the High Court under its Writ Jurisdiction.
 - ii. Temporary Injunction and Perpetual Injunction.
 - iii. Stay of Suit under Section 10 and Section 151 of the Code of Civil Procedure.

- iv. Recording of Evidence in a Writ Petition.
- v. Set off and Counter claim.
- vi. Petition under Clause XII of Letters Patent.
- vii. Special Provisions for Contracts relating to infrastructure projects.

4. Draft any five of the following: 15.
- i. Prayer for appointment of the Court Receiver.
 - ii. Statement of truth.
 - iii. Prayer for mesne Profits.
 - iv. Prayer in a summary suit.
 - v. Prayer for setting aside a registered document viz Gift Deed.
 - vi. Prayers in a Partition suit.
 - vii. Prayer to set aside a caveat in a testamentary suit.
 - viii. Prayer in an Administration Suit.
5. Explain briefly any five of the following: 20.
- i. Letter of request.
 - ii. Power of Supreme Court to transfer Suits.
 - iii. Grounds for setting aside consent decree.
 - iv. The process when a Writ Petition is circulated before a Writ Court.
 - v. Appealable orders.
 - vi. Mandamus.
 - vii. Reference and Review.

6. Explain the legalese of any two of the following to to your 10.
Client(s):

i. Your clients who are living in a Society wherefrom a flyover's construction has begun and they fear that their air light will be obstructed and they will be subject to a lot of inconvenience because of purported faulty planning of the Flyover and want an injunction.

ii. Your client who is tried of litigation and is looking for quick redressal / remedy of his legal rights.

iii. The concept of awarding costs under the The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.
