

EXAMINATION OF ARTICLED CLERKS

Paper I

PRACTICE AND PROCEDURE

Monday, 15th October, 2018

Time: 3 Hours (1:00 PM to 4:00 PM)

Total Marks: 100

Notes:

1. *Read the question carefully.*
 2. *Please answer precisely and to the Point.*
 3. *Supplement your answers with the provision of law and caselaw.*
 4. *Answer to every question should be on a fresh sheet of paper.*
 5. *Figures to the right indicate full marks.*
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1. Distinguish between the doctrines of Res Sub-Judice and Res Judicata. **10 Marks**
 2. Write short notes on any five of the following: **20 Marks**
 - i. Enumerate 5 orders from which an appeal will lie under the Code of Civil Procedure, 1908.
 - ii. Misjoinder and non-joinder of parties.
 - iii. When can a court grant an ex-parte injunction?
 - iv. Denials under Order VIII.
 - v. When is a foreign judgment not conclusive?
 - vi. Procedure in a Summary Suit.
 - vii. Arrest before judgement.
 3.
 - i. Differentiate between the exercise of power by the High Court under a Writ of Certiorari vis-à-vis the power of superintendence under Article 227. **5 Marks**
 - ii. Describe the various Writs that can be issued by a High Court under Article 226. **5 Marks**
 4.
 - i. XYZ Pvt. Ltd. files a suit against M/s. ZZ for infringement of trade marks and passing-off before the Mumbai High Court. On failing to obtain any interim orders from the Court, XYZ **8 Marks**

Pvt.Ltd. institute a suit for unfair competition against M/s. ZZ before the Delhi High Court. On an application made to the Bombay High Court by M/s. ZZ, the Bombay High Court issues an anti-suit injunction against XYZ Pvt. Ltd.injuncting them from prosecuting the suit before the Delhi High Court. Is the Bombay High Court justified in granting such an injunction? What advice would you give XYZ Pvt. Ltd.?

7 Marks

- ii. Write a short note on contracts which can be specifically enforced.
5. i. What is meant by the term 'Commercial Dispute'? **4 Marks**
 ii. How is the 'Specified Value' of the subject matter of a commercial dispute determined? **4 Marks**
6. Having failed to obtain prior leave under Clause XII of the Letters Patent, is a Plaintiff entitled to seek return of the Plaint u/s. 151 r/w. O.VIIR.10 of the Code of Civil Procedure? Discuss in detail **10 Marks**
7. Draft the main prayer for anythree of the following: **12 Marks**
 i. Interpleader suit.
 ii. Future mesne profits
 iii. Accounts of profits in lieu of damages
 iv. Mareva injunction
8. Write short notes on any five of the following: **15 Marks**
 i. Third party procedure
 ii. Discovery and Inspection
 iii. Garnishee Notice
 iv. Caveat under Rule 401 of the High Court Rules
 v. Investment of Trust Moneys
 vi. Service of Writ of Summons
 vii. Appointment of Guardian-ad-Litem.
