

EXAMINATION OF ARTICLED CLERKS
Paper I
PRACTICE AND PROCEDURE
Monday, 7th November, 2022
Time: 3 Hours (1:00 PM to 4:00 PM)
(Total Marks: 100)

Notes: i. Read the questions carefully and answer to the point.
 ii. Cite relevant provisions of law and case law in support of your answers.

1. Is the bar to proceed with the trial of subsequently instituted suit, contained in Section 10 of C.P.C. applicable to summary suits filed under Order 37 of C.P.C.? Discuss in detail. 10 Marks

2. Discuss the maintainability of Letters Patent Appeal Under Clause XV Of The Letters Patent. 10 Marks

3. Draft the main prayers in any three of the following: 12 Marks
 - i. Partition suit.
 - ii. Declaratory suit.
 - iii. Application to ammend a Summary Suit.
 - iv. Application to obtain an order for discovery.

4. Can a Court allow amendment of a Plaint just before pronouncement of a decree? Critically examine the scope and stage of pleadings when amendments may be allowed. 10 Marks

5. What is meant by the term 'rescission of contract's? Under what circumstances will the Court adjudge rescission of a contract? 6 Marks

6. What must a Plaintiff necessarily aver and prove to seek sepecific performance of a contract? 3 Marks

7. Is Article 32 a Fundamental Right? Is the Supreme Court's jurisdiction under article 32 mandatory or discretionary? 10 Marks
- OR
7. i. Can High Courts entertain writ petitions involving "disputed questions of fact"? 6 Marks
- ii. Discuss the powers of the High Court under Article 227. 4 Marks
8. i. Can a civil revision application be entertained against an interlocutory order of a Commercial Court? 12 Marks
- ii. Is mediation compulsory before initiating litigation under the The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 ?
- iii. Write a brief note on the jurisdiction of the commercial court.
9. When an ex parte decree is passed, the defendant has two clear options, one to file an appeal and another to file an application for setting aside the order in terms of Order 9 Rule 13 of the Code. Can the defendant take recourse to both the proceedings simultaneously ? 4 Marks
10. Mr. Greedy, an employee of the Brihanumbai Municipal Corporation is dismissed from service on corruption charges. He challenged the said decision by filing a writ petition in the High Court. The writ petition is dismissed. He then files a civil suit seeking similar reliefs. To the plea of res judicata taken by the Brihanumbai Municipal Corporation, Mr. Greedy contends that res judicata does not apply to writ petitions. Is the suit maintainable? 6 Marks

11. Write short notes on any 3 of the following: 12 Marks
- i. Power of the Supreme Court to transfer Suits under section 25 of CPC
 - ii. Notice under Section 80 of the CPC
 - iii. Order 2 Rule 2 CPC
 - iv. Suits by or Against Government
12. Differentiate between order, decree and judgement. 5 Marks