

## EXAMINATION OF ARTICLED CLERKS

### Paper I

### PRACTICE AND PROCEDURE

Monday, 18th April 2016

Time : 3 Hours (1-00 p.m. to 4-00 p.m.)

(Total Marks—100)

- Notes.*— (1) Answers should be legible, precise and to the point.  
 (2) Answers to every question should be on a fresh sheet of paper.  
 (3) Do not reproduce the question.  
 (4) In case of Open Book Portion, you are not required to reproduce the entire section/rule / regulation.  
 (5) Cite case laws where relevant.  
 (6) Please write in neat and clear handwriting.  
 (7) Figures to the right indicate *full* marks.

- |  | <b>Marks</b> |
|--|--------------|
| 1. Briefly discuss any <i>three</i> :—   | 15           |
| (a) Amendment of pleadings   |              |
| (b) Interest   |              |
| (c) Suits by or against firms  |              |
| (d) Payment into court for satisfaction of a claim   |              |
| (e) Counterclaim by defendant.   |              |
| 2. (a) When would you advise your client to file a summary suit ?  | 10           |
| (b) What are the essential averments that a summary suit must contain ?  |              |
| (c) Within how much time should a Defendant in a summary suit file vakalatnama ?   |              |
| (d) What would you advise your client if there is a delay in filing vakalatnama ?  |              |
| 3. Explain any <i>four</i> :—  | 20           |
| (a) In what circumstances is a foreign judgement not conclusive ?  |              |
| (b) In what circumstances is leave under Clause XII of Letters Patent required to be taken ?   |              |
| (c) State three circumstances in which proceedings can be filed by way of :  |              |
| (i) a Notice of Motion   |              |
| (ii) a Chamber Summons.  |              |
| (d) What are the various circumstances for which the court can appoint a Commission ?  |              |
| (e) What are the circumstances in which a plaint can be rejected ?   |              |
| (f) What are the circumstances in which a temporary injunction can be granted ? When can a temporary injunction be granted ex-parte ?  |              |
| (g) In what circumstances should a caveat be filed under the provisions of the Code of Civil Procedure and in what circumstances is a caveat filed in testamentary proceedings ? |              |

4. (a) Briefly explain the Writs that a High Court can issue under Article 226 of the Constitution of India. 15
- (b) What are the salient features of Article 227 of the Constitution of India?
- (c) When is a Rule Nisi required to be served on the Respondent?
- (d) What are the limitations on the powers conferred on the High Court under Article 226 of the Constitution of India to entertain proceedings where there is (a) an alternate remedy available (b) the writ petition involves disputed questions of fact?
5. (a) What are the essential requirements that a Plaintiff is required to prove before an order for attachment before judgement is passed? 10
- (b) What is mode of attachment once an order for attachment before judgement is made?
- (c) When does an order for attachment before judgement stand withdrawn?
6. (a) Which contracts can be specifically enforced and which cannot be specifically enforced? 10
- (b) Draft prayers in a suit for specific performance of an agreement for sale of immoveable property on behalf of a purchaser.
7. Write short notes on any *four* :— 20
- (a) Inherent powers of the court
- (b) Review
- (c) Abatement
- (d) Res judicata
- (e) Appeal from Order
- (f) Precept.