

**EXAMINATION OF ARTICLED CLERKS****PAPER I****PRACTICE AND PROCEDURE****Monday, 14th October 2013**

TIME : 3 HOURS (1.00 P.M. TO 4.00 P.M.)

(Total Marks – 100)

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| 1. Explain the concepts relating to the enforceability of a foreign judgement, the procedure for enforcement of a foreign judgement in India and the circumstances in which a foreign judgement operates as res judicata.   | 6            |
| 2. Explain the concept of jurisdiction of a court. At what stage can an objection to jurisdiction of a court be taken in a suit and clarify whether and if so in what circumstances, the court has the right to adjudicate on such a manner in which there is a jurisdictional challenge.   | 4            |
| 3. In a suit between A as the Plaintiff and B as the Defendant, in the event B has an independent cause of action against A and a third party, is a counter claim sustainable. Also, please clarify, with reasons, if the right to file a counter claim is affected if the written statement by B. If so, what are the requirements to be mentioned in such a counter claim. If not, how would you advise B to pursue his remedy against A and the third party and why? | 4            |
| 4. In a suit for money, discuss in detail the various types of interest and the heads under which interest may be awarded to the Plaintiff.   | 4            |
| 5. Explain the conditions and limitations relating to awarding of costs by a court of law and the different types of costs that can be awarded.   | 6            |
| 6. Differentiate between arrest and attachment before judgement, temporary injunction and appointment of receiver.  | 6            |
| 7. Can a suit be filed in a High Court within whose jurisdiction only a part of the cause of action has arisen. If yes, under what provisions. Elaborate.   | 6            |
| 8. In light of the provisions of Section 115 of the Code of Civil Procedure, 1908, please discuss what is and what is not "Illegality or Material Irregularity".  | 6            |
| 9. Explain, with examples, the concept of restitution as contemplated under Section 144 of the Code of Civil Procedure, 1908.   | 6            |
| 10. Explain the concept of invoking the inherent jurisdiction of a court and cite ten examples of circumstances (a) when the inherent jurisdiction of a court has been invoked and (b) when the inherent power is not exercised.  | 6            |
| 11. Explain in details the concepts relating to service of summons, including with reference to refusal to accept service, service on persons in prison, on civil public officers, officers of foreign countries, armed forces personnel and on persons who reside out of India.  | 8            |

**Marks**

12. Explain the different kinds of amendment to pleadings and in what circumstances a court may permit amendment of pleadings. 8
  
13. Is attachment of a debt share and other property not in possession of the judgement debtor permissible in execution of a decree. Explain with examples. 6
  
14. In what circumstances can the supervisory jurisdiction of a High Court be invoked. Explain with examples. 6
  
15. Explain in detail, with examples, which contracts are not specifically enforceable. 6
  
16. Short questions (Answer any 3) :— 12
  - (a) Explain in brief the modes in which a decree holder may execute a decree.
  - (b) Explain in brief the power of a court to issue commissions.
  - (c) In what circumstances can a suit be filed in India against a foreign state.
  - (d) Can a court grant *ex parte* relief in a matter, despite the fact that a caveat has been filed. Explain.