

EXAMINATION OF ARTICLED CLERKS

PAPER I

PRACTICE AND PROCEDURE

Date: Monday, 28th April 2014

Time: 3 hours (1.00 pm to 4.00 pm)

(Total Marks -100)

- Q1**
- (a) Who may apply for the issue of originating summons and in respect of what matters? **8**
- (b) What are the documents which are required to be produced by a party seeking to enforce a foreign award. **4**
- Q2**
- (a) What are the powers of the Court to enforce execution of the decree? **8**
- (b) (i) When does a court order the plaintiff to furnish security for payment of all costs incurred or likely to be incurred by the defendant? **2**
- (ii) What is the effect of failure to furnish such security? **2**
- Q3**
- (a) Enumerate three instances where a Court may grant temporary injunction. **6**
- (b) Please give two instances each which necessitate proceedings by way of:
- (i) Notice of Motion **2**
- (ii) Chamber Summons **2**
- Q4**
- (a) When does an appeal lie to the Supreme Court? **2**
- (b) What are the powers of Appellate Court? **2**
- (c) What are Commercial Causes? **4**
- Q5**
- Please discuss any four of the following: **20**
- (a) Framing Issues
- (b) Substituted Service
- (c) Notice under Section 80 of the Civil Procedure Code, 1908
- (d) Ex parte Decree
- (e) Revision
- (f) Suits by Indigent Persons

Q6

- (a) What are the circumstances under which a court shall pass an order appointing a Court Receiver? **6**
- (b) Please draft a prayer for appointment of Court Receiver. **4**

Q7

- (a) When should leave under Clause XII of the Letters Patent be applied for and at what stage? **4**
- (b) Please draft a Petition for obtaining leave under Clause XII of the Letters Patent. **6**

- Q8** There are some contracts which can be specifically enforced and some which cannot be specifically enforced. Please discuss. **10**

- Q9** Are the following true or false: **8**

- (i) No compromise can be entered in a representative suit without leave of Court.
- (ii) Any party to the suit may, without applying for summons under Order XVI Rule 1 of the CPC, 1908 bring any witness to give evidence.
- (iii) The pendency of a suit in a Foreign Court does not preclude the Courts in India from trying a suit founded on the same cause of action.
- (iv) Copy of the order appealed from need not accompany the Memorandum of Appeal.
- (v) A Writ of Habeas Corpus can be issued in favour of a foreigner.
- (vi) Will does not include a Codicil.
- (vii) Writ of Summons can be served at the office of the Advocate upto 6.00 pm. on week days.
- (viii) Any person intending to oppose the grant of probate has to normally file a caveat within 14 days from the service of the citation upon him.