

**EXAMINATION OF ARTICLED CLERKS
PAPER I
PRACTICE AND PROCEDURE**

**Monday, 30th October, 2023
Time: 3 Hours (1:00 PM to 4:00 PM)
(Total Marks: 100)**

- Notes:**
- 1. Read The Questions Carefully.**
 - 2. Answer the Questions like you would expect to give advice to a client.**
 - 3. Begin every New Question on a Fresh Sheet of Paper.**
 - 4. If you go blank at the beginning start with the question you know the answer to first, the rest will follow, the mind is a wonderful thing. you have put in the hard work.**
 - 5. Good Luck!!**
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1. What are, the timelines for filing a written statement for the following matters filed before the High Court in Mumbai. Please give reasons for your answer: **10 Marks**
 - i. Suit for a monetary claim of Rs. 10 Crore arising under a Fire Insurance Policy.
 - ii. Partnership Suit for Accounts from an Agent.
 - iii. Suit in relation to a claim for damages for conversion of movable property being Shares in a Company listed on the BSE.
 - iv. A Summary Suit where leave to defend is granted.
 - v. A Suit for Fraud.

2. Write short notes on any 6 of the following: **30 Marks**
 - i. Discovery of documents in a commercial suit.
 - ii. Misjoinder and Nonjoinder of Parties.
 - iii. Doctrine of cypress.
 - iv. Issues.
 - v. Third Party Procedure.
 - vi. Attachment before Judgement.
 - vii. Procedure in a Summary Suit.
 - viii. Denials under Order VIII of the CPC.
 - ix. Caveat.

3. Answer the Following: **10 Marks**
- i. In what circumstances should Leave under Clause XII of the Letters Patent be applied for?
 - ii. At what stage and why?
 - iii. What stage would you advise a client to file for revocation of Clause XII leave that has been granted and why?
 - iv. Kindly draft a Petition for leave under Clause XII.
4. Distinguish between the doctrines of *Subjudice* and *Resjudicata*. **10 Marks**
5. Draft **5** of the following: **15 Marks**
- i. Statement of Truth.
 - ii. Main Prayer in an Interpleader Suit.
 - iii. Main Prayer for Suit for Accounts from an Agent.
 - iv. Main Prayer in a suit for a Mareva Injunction.
 - v. Prayer for appointment of a Court Receiver.
 - vi. Prayer Suit for mesne profits.
 - vii. Prayer for Garnishee Proceedings.
6. Explain the any **3** of the following: **15 Marks**
- i. Conditions for exercise of power under Article 134 (1) (c).
 - ii. Writ of Prohibition.
 - iii. Power of the High Court under Article 227.
 - iv. The process when a Writ Petition is circulated before a Writ Court.
 - v. Writ of Certiorari.
7. Answer the following as True or False. **10 Marks**
- i. A contract to lend money may be specifically enforced.
 - ii. A contract for employment may be specifically enforced against an employer.
 - iii. A suit to enforce an register a conveyance of immovable property cannot be specifically enforced.

- iv. A partnership agreement that may be dissolved.
- v. A contract entered into for sale of shares of a company, that has subsequently gone into liquidation cannot be enforced.
- vi. A complex question of fact can be decided in an Originating Summons
- vii. Delay in taking out Summons for Judgement beyond Six months entitles the Defendant to see an unconditional leave to defend.
- viii. A plaintiff may relinquish any portion of his claim to bring a suit within the jurisdiction of a court.
- ix. Where causes of action are united, the jurisdiction of the Court regards the suit shall depend on the amount or value of the aggregate subject matters at the date of instituting the suit.
- x. In a suit relating to any business against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons is issued, service on the manager who carries on work for such person within the jurisdiction of the Court shall not be valid service.
