

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-I, PAPER-1**

JURISPRUDENCE AND LEGAL LANGUAGE

Total Marks 100
Time: 3 hrs

PART I

Answer any ELEVEN questions. Each carries 5 marks.

1. Reformatory theory of punishment.
2. Briefly explain precedent.
3. Distinguish between public right and private right.
4. Distinguish between contracts and quasi contract.
5. What is meant by vicarious liability?
6. Briefly explain possession.
7. Subordinate legislation
8. Obiter dictum.
9. Natural Person and Legal Person
10. Quantum meruit
11. Explain the different kinds of legislation.
12. What is a prescriptive right?
13. Explain the doctrine of prospective overruling.
14. What do you mean by no fault liability?
15. What are the different kinds of subordinate legislation?

[11x5=55]

PART II

Answer any THREE questions. Each carries 15 marks

1. What are the sources of law? Explain with special reference to the importance of legislation as a source of law.
2. What are the functions of courts of law.
3. Distinguish between International Law and Private International Law.
4. Explain the concept 'person'. What are the different kinds of person?
5. Define obligation. What are the sources of obligation?

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-I, PAPER-II**

CONSTITUTIONAL LAW

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

[7x5=35]

1. What is meant by judicial review? Whether the economic policy of the Government is subject to judicial review?
2. Does the President of India exercise legislative powers? Explain the circumstances under which such power is exercised? What are the restrictions on such power?
3. How is the President of India elected?
4. Write short note on the supervisory jurisdiction of the High Court.
5. Write a short note on the right to property as laid down in the Indian Constitution.
6. Discuss the powers and functions of the Comptroller and Auditor General of India.
7. What is meant by a Court of record? Whether the Supreme Court is a Court of record? If so, why?
8. Describe the provisions of the Constitution of India on the subject of citizenship.
9. What is meant by reasonable restriction on the exercise of freedom?
10. Briefly explain the doctrine of ultra vires?

PART B

Answer any TWO questions. Give reasons. Each carries 10 marks.

[2x10=20]

1. 'X' came to India in 1938 with his wife. In 1945, she went to Jerusalem on a pilgrimage. On return he was registered as a foreigner. His stay in India was extended on several occasions. In 1957, his request for further extension was refused. He pleads that he is entitled to be regarded as a citizen of India under Article 5 of the Constitution. Decide.

2. A major political party in an Indian State called for a total Bundh from 6 a.m. to 6 p.m. claiming that it has the right to do so under Article 19 of the Constitution of India. This was challenged before the High Court under Article 226 of the Constitution of India- Decide a) On question of entertainability of the Writ b) the Constitutionality of the issue.

3. Cutting down a particular tree was an offence punishable with simple imprisonment for one year till 31st December, 1981. On 1.1.1982, an amendment was made making the offence punishable with simple imprisonment for 2 years. 'A' allegedly committed that offence on 1.11.1981. He was tried and convicted of the said offence and on 1.12.1982, he was sentenced to undergo simple imprisonment for one year and 6 months. He wants to file an appeal. On what ground can he challenge the sentence imposed on him?

4. A Government servant was awarded punishment by the head of department barring two increments following a departmental enquiry and charges framed against him. Having found that the punishment was too inadequate, the Government dismissed him from service after giving notice and opportunity of being heard. This was challenged before the High Court. Decide.

PART C

Answer any THREE questions. Each carries 15 marks.

[3x15=45]

1. Enumerate freedoms recognized as fundamental rights and examine how far they serve the cause of democracy.
2. Explain the provisions in the Constitution of India to secure the independence of the judiciary?
3. The Indian Constitution is quasi federal in nature-comment?
4. Analyse the concept of Rule of Law as a condition precedent for democracy.
5. Briefly narrate the scope and ambit of the power of taxation of the Union and the State under the Indian Constitution. Why the taxing power is not given in the concurrent list.

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-I, PAPER-III**

PENAL LAWS

Total Marks 100
Time: 3 hrs

PART I

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Dowry death.
2. Possession as offence under the Abkari Act.
3. Bigamy
4. Licenses under the Arms Act.
5. Leniency in punishment under N.D.P.S. Act.
6. Ingredients of grievous hurt.
7. Defences available to a child under I.P.C.
8. 'Unlawful assembly'
9. Legal insanity
10. Food adulteration

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. 'T' voluntarily puts sugar in the petrol tank of P's motorcycle. Decide whether he commits any offence.
2. 'A' picks up a cheque signed by 'B' payable to bearer but without any sum having been inserted in the cheque. 'A' fraudulently fills up the cheque by inserting a sum of ₹10,000/-. He is caught before the cheque is presented. Discuss the offence if any committed by A.
3. 'A' makes a complaint about 'C' to 'B', who is 'C's master regarding his conduct as servant. 'C' claims that it is defamation. Decide.
4. 'X' a patient was suffering from an incurable illness. He was surviving exclusively on certain costly medicines. The doctor told his relatives that there was no chance for his survival. They stopped giving medicines and within 2 days he died. The relatives were charged for murder. Decide.

[2x10=20]

P.T.O.

PART C

Answer any THREE questions. Each carries 15 marks.

1. Compare theft and extortion. When do they amount to robbery and dacoity?
2. Discuss kidnapping and abduction and their serious categories.
3. Write an essay on consent as a defence in criminal cases.
4. What do you understand by conspiracy? How is it different from common intention and common object, as defined in the Indian Penal Code?
5. How is attempt to commit offences dealt with by the Penal Code?

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-I, PAPER-IV**

LAW OF TORTS

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. What are the essential elements of defamation?
2. Duty of manufacturer to the consumer.
3. Give distinction between tort and contract.
4. Can negligent misstatement constitute a tort?
5. 'Inevitable accident' as a defence to tortious liability.
6. Private nuisance.
7. Damnum sine injuria
8. Joint tortfeasors
9. Liability for dangerous chattels.
10. Libel

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. Noby left his horse and cart on the road unguarded and some children started playing with the same. One of them jumped on the cart and then another set the horse in motion. A child on the cart was injured. Is the child entitled to get damages for the injury? Decide.
2. Harshan's dog was irritated by the red handkerchief which Gokul was wearing. The dog attacked Gokul while he was walking along the highway. This dog had shown similar tendencies on previous occasions also. Can Gokul succeed in a suit for compensation against Harshan.
3. Ramesh threw a lighted squib into a crowd and it fell upon Anwar. Anwar in order to prevent injury to himself threw it further and it fell on Yasin, who in turn did the same thing to prevent injury to himself and it fell on Sanju, who got injured. Sanju wants to claim damages from Yasin and Anwar. Advise Sanju.

P.T.O.

4. Mr. Johnson died due to coming in contact with a live high voltage electric wire of the Electricity Corporation lying in the field. The said electric line had fallen down due to the rain and wind which occurred on the day before which was not unusual. Mr. John's legal representatives sue Electricity Corporation. Decide.

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. Elucidate 'volenti non fit injuria'.
2. Elucidate the tort of trespass to land.
3. Explain the concept of "remoteness of damage" in tort.
4. Explain the law relating to the liability of the master for the acts of the servant?
5. Discuss the principles relating to public and private nuisance.

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-I, PAPER-V**

LAW OF CONTRACT

Total Marks 100

Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Contracts uberrimae fidei
2. Difference between indemnity and guarantee.
3. Penalty and liquidated damages.
4. Rule in *Hadley vs. Boxendale*.
5. Material alteration in a negotiable instrument?
6. Rights of unpaid seller.
7. Frustration of contracts
8. Contract opposed to public policy.
9. Caveat Emptor
10. Holder in due course.

[7x5=35]

PART B

**Answer any TWO questions. Give reasons for your answer.
Each carries 10 marks.**

1. 'P' borrowed an amount of ₹10,000/- from R on 1.12.2017 agreeing to repay the same on or before 1.1.2018. On 1.1.2018, P paid an amount of ₹7,000/- in full settlement of the entire debt. Later R brings an action for the balance amount. P takes the defence that payment of ₹7,000/- was in full settlement of the entire liability of ₹10,000/-. Decide.
2. Reddy & Co, manufacturers of Motor Tyres, sold to Glory & Co under a "Price Maintenance Contract". Glory & Co. agreed that they will not sell tyres at less than the retail price advertised by Reddy & Co. and they further agreed that they will obtain similar undertakings from retailers to whom they sell tyres. One of their agents Sakthi Tyres sold the tyres of Reddy & Co to M/s Mathew & Co,. Mathew & Co, had agreed with Sakthi Tyres that they will not sell the tyres at less than the listed price. M/s Mathew and Co sold tyres to a customer at less than the listed price. Reddy & Co brought an action against Mathew & Co for violation of the terms of the agreement. Can Reddy & Co. succeed? Illustrate with decided cases.

3. A is an owner of a building at Ernakulam. He made a contract with B that they would enter into a contract for lease of A's building after two years. Is it valid? Give reasons.

4. M/s Speed Motors entered into an agreement for sale with M/s Classic Travels to supply 15 numbers of Audi cars at its Head Office at Chennai. The agreement stipulates the time period for supply as 6 months from the date of agreement. During the transport of consignments of cars from Mumbai to Chennai, due to heavy rain and flood in Chennai, the entire consignments were damaged and destroyed and M/s Speed Motors could not supply the cars, as agreed. M/s Classic Travels filed a civil suit for compensation on the ground of breach. Whether the suit is maintainable?

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. What are the essential elements of a valid contract? Explain with reference to the relevant provisions of the Indian Contract Act.

2. Agreement in restraint of trade is void. Explain with reference to exceptions, if any.

3. What are the essential features of a Negotiable Instrument?

4. Discuss the difference between Discharge of Contract by performance and Discharge by Tender.

5. The Jurisdiction to grant injunctions is discretionary. Comment and illustrate the grounds provided in the Specific Relief Act, 1963 to refuse an injunction.

[3x15=45]

**HIGH COURT OF KERALA
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PART-II, PAPER-I**

ADMINISTRATIVE LAW

Total Marks 100
Time: 3 hrs

PART I

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. The concept of right to know.
2. Alternative remedy.
3. The difference between 'Court' and 'Tribunal'
4. 'Abuse of power' as a ground for questioning administrative action.
5. Writ of Mandamus.
6. Doctrine of rule of law and its contemporary relevance.
7. Promissory estoppel
8. Parliamentary sovereignty.
9. Resjudicata in writs
10. Contempt Proceedings.

[7x5=35]

PART II

Answer any TWO questions. Each carries 10 marks.

1. A domestic enquiry was conducted against a workman X. X desired to be defended by a lawyer, but this request was refused by the enquiry officer. X contents that the refusal is a violation of the principles of natural justice. Decide.
2. At an examination the students indulged in mass copying. The University cancelled the examination without giving notice to the students. One of the aggrieved candidates seeks issuance of a writ to quash the order. Decide.
3. The police arrested X on charge of theft and he was taken to police station for interrogation. The next day he was admitted in the hospital and later he succumbed to the injuries. The Doctors noted severe bruises in his body and also injuries to internal organs. When the wife of X approached for compensation in her application for writ before the High Court, sovereign function was pleaded as a defence. Decide.

4. A statutory provision gave unguided discretionary power to the police commissioners to grant or refuse permission for holding public meetings in public streets. The constitutional validity of the provision was challenged. Decide.

[2x10=20]

PART III

Answer any THREE questions. Each carries 15 marks.

1. Explain with the help of decided cases the role played by Public Interest Litigations (PIL) in matters relating to administrative adjudication.
2. What are the private law remedies available in cases of review of administrative action?
3. Discuss the doctrine of substantive ultravires in the field of delegated legislation.
4. Explain Rule against bias and various kinds of bias.
5. Comment on the case laws relating to the powers of High Court vis-a-vis Administrative Tribunals.

[3x15=45]

**HIGH COURT OF KERALA
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PART-II, PAPER-II**

COMPANY LAW

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Annual general meeting.
2. Appointment of first directors.
3. Different ways in which a person ceases to be a member of a company.
4. Bonus Shares.
5. Ordinary Business & Special Business
6. Authorised dealer under the FEMA.
7. Mergers and takeovers
8. Legal effects of incorporation of a company
9. Social responsibilities of corporations
10. The principles of Company Law discussed in *Salomon Vs. Salomon & Co.*

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. Mr.A is one of the Directors of XYZ Ltd. He did not receive notice of a Board meeting and he could not attend the same. Later, he challenges the validity of the Board meeting - Decide.
2. The Articles of Association of a company provided that X should be the legal officer of the company and that he shall not be removed unless there is misconduct. But the company appointed some other person, against the provisions in the articles. He sued the company relying on the terms of the articles. Decide.
3. The majority of members in a company agree to alter the objects clause to widen the scope of business of the company. The minority opposes. Discuss their respective remedies.
4. Who are the persons disqualified for being appointed as Managing Director of a Company? Discuss about post-appointment disqualifications that can be attracted by a Director of a Company?

[2x10=20]

P.T.O.

PART C

Answer any THREE questions. Each carries 15 marks.

1. The majority has its way but the minority also has its say in the affairs of the Company - Comment.
2. What you understand by restrictive trade practices. How are they regulated?
3. Examine the position of directors (1) as agents
(2) as trustees &
(3) as organs of the corporate body.
4. Explain the difference between winding up under the orders of the Court and winding up under the supervision of the Court.
5. What are the modes by which a company can raise a capital? What are their respective roles in controlling the company?

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-II, PAPER-III**

PROPERTY LAWS

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Stamping of impounded document
2. Equitable mortgage
3. Onerous Gifts and Universal Donee.
4. Spes Successionis
5. Subrogation
6. Will and requirements of a valid Will.
7. Part performance
8. Give 5 exemptions to Land Ceiling under the Kerala Land Reforms Act.
9. Rule against perpetuity
10. Purpose of Land Conservancy Act.

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. Sri.Gopal had filed a suit against Sri.Krishnan for declaration of his title over an item of property alleging that it is part of his property comprised in Sy.No.30. Sri.Krishnan the defendant in the suit sells the land to Sri.Mohan alleging that it is part of his property comprised in Sy.No.31 when the suit was pending. Will the purchaser Sri.Mohan get valid title to the property.
2. An acre of land in the heart of Ernakulam is leased out to a petroleum company for setting up a distribution outlet in the year 1960. By 1985, the land value has shot up and the land owner cancelled the lease and filed a suit for the recovery of the land. Can the company successfully defend the suit?

P.T.O.

3. Appu executed a Sale Deed in favour of Bhaskaran, transferring an extent of 25 cents of land for a sum of ₹25 lakhs. One month later, Appu executed a document styled as Cancellation deed, whereby he unilaterally cancels the sale that he has effected to Bhaskaran on the reason that Bhaskaran has not paid the full consideration for the sale and gets the document registered. What is the legal effect of the Cancellation Deed ? What is the remedy available to Appu if he has not received the entire sale consideration?
4. John enters into an agreement with Bobby to sell 40 cents of land and puts Bobby in possession of the property in part performance of the contract. Bobby has performed his part of the contract, but John is delaying the performance of his part. The agreement is however not registered. What are the rights available to Bobby? Can he claim the benefit of Section 53 A of the Transfer of Property Act? Can he sue for specific performance of the contract ?

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. What is a gift? What are the requirements for a valid gift?
2. What is holding out? Explain the legal implications of an agreement of sale made by a person who claimed himself to be the owner of the property but later becoming the owner thereof? Can lack of title at the time of entering into the agreement be raised as a ground for retracting from the contract on the ground of misstate?
3. What is adverse possession? What are the essential ingredients that have to be proved to claim title by adverse possession?
4. Define lease. State the essential elements of valid lease.
5. Who is a co-owner? What are the legal effects of a sale by a co-owner?

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-II, PAPER-IV**

SERVICE LAWS

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

1. State the circumstances under which provisional pension is sanctioned to a retired employee.
2. Which are the circumstances under which a Government servant can be placed under suspension?
3. Half Pay Leave, Commuted Leave and Leave not due as per the provisions of Part I K.S.R.
4. What are the consequences of resignation of a member from service.
5. What are the rights of 'Members absent from duty' on their reappointment in parent service?
6. Minor penalties and major penalties under Kerala High Court Service Rules.
7. Enumerate the selection categories for promotion as per Kerala High Court Service Rules, 2007?
8. Who are the competent authorities under the High Court Service Rules, 2007 to place an employee under suspension and to impose punishments?
9. State whether the candidates included in the ranked list prepared by the P.S.C for special recruitment under Rule 17A of the K.S. & S.S.R. can seek advice and appointment to vacancies that arise after the publication of the ranked list? - Explain?
10. State the provisions regarding commutation of pension?

[7x5=35]

P.T.O.

PART B

Answer any TWO questions. Each carries 10 marks.

1. An officer avails casual leave for five days. In continuation of that leave, he applies for earned leave for 30 days. Whether earned leave applied for can be granted?
2. A government servant is convicted by a criminal Court. The disciplinary authority without following the procedure for imposing punishment of dismissal, awards the punishment of dismissal to the government servant. Whether the punishment is valid?
3. A probationer in a category is promoted to a higher category. State whether his service in the higher category can be reckoned for probation in the lower category. What is the Rule applicable to the case?
4. An officer while in service avails himself of leave without allowance for 5 years for employment abroad or within India. On retirement, he is granted pension reckoning leave without allowance also as qualifying service. Decide whether the grant of such pension is correct.

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. What are the provisions governing exemption from obligatory departmental test in the matter of promotions to higher categories for different classes of government servants?
2. Explain the provisions of K.S. & S.R. governing temporary promotions.
3. Briefly explain the provisions of the Kerala High Court Service Rules 2007 regarding Appeals and Review against punishment orders.
4. Explain the provisions of Rule 8 Part II K.S & S.R governing reversion to parent service from which an officer is absent consequent on appointment to another category based on his own application. Cite the relevant judgment of the Supreme Court in the matter.
5. Refer to and explain the provisions of the Kerala High Court Service Rules governing compassionate appointments to the dependents of employees of the High Court dying while in service.

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-II, PAPER-V**

FAMILY LAW

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Effectiveness of counselling in resolving matrimonial disputes.
2. Effect of fraud in getting consent in a Christian marriage.
3. Cruelty as a ground for Muslim women to obtain divorce.
4. Concept of Talak
5. The essential conditions for a valid marriage under Hindu Marriage Act.
6. Probate
7. Powers and duties of Mutawalli
8. Rights of minors under the Hindu law with special reference to the child in the womb.
9. Jurisdiction of Family Court.
10. Living together illegal or immoral?

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. A Muslim creates a wakf in respect of his property for 15 years on condition that if he dies within that period, the wakf will cease to be in force. Is it a valid wakf? Give reasons.

P.T.O.

2. Mr.Ramakrishnan at the age of 39 years adopted a boy aged 10 years, called Balan. Mr.Ramakrishnan died when he was 49 years old. Can Balan's claim for succeeding the estate of Mr.Ramakrishnan be objected to by the brothers and sisters of Ramakrishnan claiming that Balan is not the biological son of Mr.Ramakrishnan?
3. Rajan used to make allegations regularly of adultery against his wife Remani. Recently he sent letters raising these allegations to the relatives of Remani. Remani now seeks divorce. Decide.
4. Beena and Balan are now living separately because of acute temperamental incompatibility. They have a minor girl child Shyama, aged 3 years. Balan claims custody of the child projecting his affluence. Can Beena resist the claim of Balan on any ground?

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. Explain the source of Hindu Law.
2. Explain gift (Hiba) under Mohammedan law. State the incidents of a Mohammedan gift.
3. Explain devolution of property as per Indian Succession Act.
4. Effect of abolition of Joint Family System in Kerala.
5. Impact of Family Courts Act on resolution of matrimonial disputes.

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-III, PAPER-I**

LAW OF ELECTIONS

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Registration of political parties.
2. Composition of the two houses of the Parliament.
3. Appeals against orders of the courts deciding election disputes under Kerala Panchayat Raj Act, 1994.
4. Recording of votes by electronic voting machines and counting of such votes.
5. Corrupt practices at an election
6. Provisions of the Constitution of India regarding settlement of disputes on election of a candidate as President of India.
7. State the provisions of R.P.Act, 1951 regarding appointment of observers for elections.
8. Procedure in elections where a candidate dies before poll.
9. The procedure for revocation of appointment of an Election Agent.
10. Can a person be registered more than once in any constituency?

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. A candidate for election from an Assembly Constituency promised to the voters that he will establish a hospital in the constituency if he is elected. The election is challenged on the ground of corrupt practice. Examine whether the election is liable to be void.

P.T.O.

2. In an Election Petition filed by a defeated candidate at an election to an Assembly Constituency, the petitioner pleaded that the Returned candidate and his Election Agents had committed certain corrupt practices, briefly described in the petition. The returned candidate raised objection against maintainability of the Election Petition on the ground of absence of details regarding the alleged corrupt practices. Examine and decide whether the Election Petition is liable to be rejected/dismissed. Refer to a decision of the Supreme Court on the point.
3. An agent of a candidate belonging to Hindu Community with the knowledge of the candidate appealed to the Hindu voters to vote for the candidate. The candidate is declared elected. Examine and decide whether the election of the candidate can be successfully challenged in an election petition by the defeated candidates or by any voter.
4. A Government servant tendered resignation from service and thereafter his assistance was secured by a candidate before the resignation was formally accepted by the competent authority. Examine whether the candidate has committed any corrupt practice.

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. What are the grounds for declaring an Election Petition void?
2. Voter's right to know the antecedents of the Candidates.
3. Explain the provisions of the Constitution of India governing the Election Commission of India and State Election Commissions.
4. State the provisions of the Constitution of India regarding election to the office of the President and Vice President of India.
5. Discuss about the reservation of seats for women in Local Self Government Institutions after the 73rd and 74th Constitutional Amendment with special reference to reservation of seats for women under the Kerala Panchayat Raj Act, 1994 (as amended by Act 31 of 2009).

[3x15=45]

**HIGH COURT OF KERALA
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PART-III, PAPER-II**

CIVIL PROCEDURE

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Caveat Application
2. Mesne profits
3. Substituted service of summons
4. Power of Court to amend judgments and decrees.
5. Rejection of plaint.
6. Requirement of notice before filing of suit against the Government.
7. Claim Petition.
8. Probate and letters of Administration.
9. Filing of suits by indigent person.
10. Restitution.

[7x5=35]

PART B

Answer any TWO questions. Give reasons. Each carries 10 marks.

1. Akbar files a suit against John for a decree of injunction against trespass into the property of Akbar. Akbar prayed for interim injunction in the suit which was not granted. Subsequently, the suit was dismissed for default. After two years Akbar again filed a suit against John alleging attempt for trespass seeking for a decree of injunction regarding the same subject matter. John resists the suit stating that suit is not maintainable. Decide.

P.T.O.

2. 'X' filed a suit against 'Y' who is the wife of 'Z' for recovery of ₹1 lakh with interest and cost. After obtaining the decree, 'X' filed execution petition and attached the property of 'Y'. 'B' entered appearance and contended that the property was purchased by him much earlier to the attachment. The contention was accepted by the Court and the attachment was lifted. Then 'X' sought the arrest of 'Y' and her detention in civil prison. Whether the prayer of 'X' is maintainable? Whether there is any difference if the judgment debtor was 'Z', the husband of 'Y' and the defences, if any, available to him?
3. State Bank of India, Palakkad had granted a loan of ₹3,00,000/- to Babu. By way of security for repayment of the loan, Babu had deposited with the Bank the title document of his property situated at Ernakulam. Babu is residing at Palakkad. Bank filed a suit in the Sub Court, Palakkad against Babu and got the mortgaged property attached. Later the Sub Court granted a decree in favour of State Bank of India making the attachment absolute. When the suit filed by the Bank was pending, another creditor of Babu by name John filed a suit before the Sub Court, Ernakulam for money and got the same property attached. Both filed execution petition. Bank claimed priority on the basis of mortgage and John claims rateable distribution. Decide.
4. Krishnan filed suit against Raman claiming right of easement over a pathway through the property of Raman. Raman filed suit for declaration and injunction against Krishnan regarding the same property. Both the suits were jointly tried and disposed off by a common judgment. Suit filed by Raman was decreed and the suit filed by Krishnan was dismissed. Krishnan filed appeal against the decree passed in the suit filed by Raman. But he did not file appeal against the dismissal of the suit filed by him. When the appeal was taken up for hearing, counsel for Raman raised the question of resjudicata contending that the finding in the suit filed by Krishnan will operate as resjudicata - Decide?

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. Explain with special reference to the Civil Rules of Practice, how costs in a suit is to be tabulated and the extent to which advocate fees could be claimed as costs.

2. Explain the importance of affidavits in interlocutory proceedings. Highlight the proceedings in which affidavits could be acted upon for passing orders.
3. What are the procedures to be followed in a sale in execution of a money decree. Can a sale conducted by the Court be set aside and if so on what grounds. What is the period of limitation for filing an application to set aside the sale and whether the Court has power to condone the delay in filing such application?
4. State the principles behind grant of temporary injunctions, appointment of Receivers and attachment before Judgment as interim measures in preserving the subject matter of the litigation in a Civil Court for the benefit of the plaintiffs/Decree Holders.
5. What do you mean by Counter Claim? Distinguish between set off and Counter Claim. State whether a Counter Claim can be proceeded with in the event of the suit being dismissed for default?

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-III, PAPER-III**

CRIMINAL PROCEDURE

Total Marks 100

Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Warrant cases and Summons cases.
2. Disposal of property
3. Plea bargaining
4. Search
5. Power of Court to release offenders on probation.
6. Discharge and acquittal
7. Bailable and non bailable offences
8. Set off
9. Remission
10. Classes of criminal courts

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. 'Z' was taken into custody, but no arrest was recorded to deny legal protection to him. On release, he approaches you to initiate appropriate proceedings. Advise him.
2. What would you suggest to a person who wants to have an FIR against him quashed for non existence of prima facie case.
3. The Sessions Court convicts D of certain offences. What steps should be taken by the court before sentencing him?

...2.

4. Police seized a vehicle on the allegation that it was used in the commission of a crime. The owner of the vehicle denies it. What is his remedy?

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. Compare the trial before a Court of sessions and the trial in a summons case.
2. Investigation is the prerogative of the investigating agency. Discuss the powers of the investigating agency and the scope of supervision by courts into investigation.
3. What is the scope of inherent powers under the Code of Criminal Procedure?
4. Discuss the powers of Executive Magistrates and the procedure to be adopted for issuing orders in urgent cases of nuisance and apprehended danger?
5. Explain the procedure for trial of warrant case and summons case?

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-III, PAPER-IV**

LAW OF EVIDENCE & LIMITATION

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Fact, fact in issue and relevant fact.
2. Saving of limitation by acknowledgment
3. Accomplice evidence
4. Presumption
5. Exceptions to Rule against hearsay
6. What is bar of limitation?
7. Legal disability under the Limitation Act
8. Burden of proof.
9. Public documents.
10. Exclusion of evidence of oral agreement.

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. 'A' a client says to 'B' his Advocate that he fabricated a promissory note to his advantage and the Advocate, based upon that instruction filed a case. Is the communication protected from disclosure? Give reasons.
2. 'A' files a suit against 'B' for recovery of possession of certain properties based on his title. 'B' contended that he has been in possession of the said properties for the past 30 years and his title is perfected by adverse possession. Decide the burden of proof and explain. ..2.

3. The accused was charged with murder and in the trial the defence was that the deceased committed suicide. While rushing out of the house, the deceased Omana shouted with her throat cut, "Oh Mamma see what Kuttan has done to me". She died subsequently. How far the statement could be admitted in evidence against the accused Kuttan?
4. On 1/1/2012, A entered into an agreement with B to purchase the property of B. The time stipulated for performance was 6 months from the date of agreement. B failed to honour his commitment even after repeated demands by A. Hence A sued B for specific performance of the said agreement after 5 years from the date of agreement. Whether A is entitled to get a decree of specific performance of the said agreement?

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. How is *mens rea* proved? Is *men rea* to be proved in a statutory offence?
2. Explain the provisions under the Indian Evidence Act relating to burden of proof.
3. Estoppels under the Evidence Act.
4. What are presumptions in law? How can a presumption be rebutted?
5. Once time has begun to run, no subsequent disability or inability can stop it. Discuss?

[3x15=45]

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2019
PART-III, PAPER-V**

INTERPRETATION OF STATUTES & GENERAL CLAUSES ACT

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Modifying statute
2. Expressio unius est exclusio alterius
3. Good faith
4. The rule governing repeal of statute.
5. Significance of marginal note.
6. Noscitur A Sociis
7. Codification of Statutes
8. Doctrine of waiver
9. Doctrine of Desuetude
10. Doctrine of pith and substance

[7x5=35]

PART B

Answer any TWO questions. Each carries 10 marks.

1. Union of India has passed a law for regulating the trial of cases of campus violence including ragging. The State of Kerala finding that the Union Law is insufficient to meet the requirements of the education institutions in the State enacted a law to curb the menace of ragging. Unlike the Union law, the state law casts the onus of proof on the accused. A, who allegedly ragged his juniors was charged under the provisions of the State law. Applying the principles of interpretation, write an opinion on the case.

...2.

2. An act provided that orders and judgments of Courts should be made in the open Court. However, an order of committal was not made in the Court room but in the chambers of the Judge next to it and in the presence of the parties of the case and their lawyers. Decide the validity of the order with reference to principles of interpretation of statute.
3. Breaking and escaping from prison is an offence as per the law governing prisons. A fire broke out in the prison causing fear of death. Some of the prisoners broke out the prison and escaped therefrom to save themselves. An offence was booked against them. Decide whether the offence is sustainable. Substantiate your view with reference to principles of statutory interpretation.
4. Draft a will for X, a Hindu male who has three children. He intends to give his four properties in favour of them equally. He however intends to give life interest to his wife in all of the properties and on whose death the properties are to be devolved on the three children.

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. What are the special rules of Constitutional interpretation?
2. Discuss with reference to decided cases the concept of ejusdem generis.
3. Explain the significance of the following rules in the interpretation of the Constitution: (a) doctrine of severability (b) colourable legislation (c) presumption of constitutionality.
4. What do you mean by statute? Explain the different parts of statutes and their importance in interpretation.
5. Explain the presumptions regarding jurisdiction.

[3x15=45]