

HIGH COURT OF KERALA  
JUDICIAL TEST HIGHER [2017]  
PART – I PAPER – I  
JURISPRUDENCE AND LEGAL LANGUAGE

Total marks: 100  
Time: 3 hours

PART – I

Answer any ELEVEN questions. Each carries 5 marks.

1. Briefly describe the contribution of John Austin
2. 'Law is what the judges say it is.' Explain
3. Supreme and subordinate legislation
4. Decisions *per incuriam*.
5. Precedent and courts of co-ordinate jurisdiction
6. Difference between custom and prescription
7. Distinguish adversarial method from inquisitorial method
8. What are the rights of an unborn person?
9. Explain the purposes of administration of criminal justice?
10. Explain the concept of contingent ownership with the help of illustrations
11. What is the importance of 'jurisdiction' and 'locus standi' in litigation?
12. Hierarchy of courts in Kerala
13. Explain the concept of current possession
14. Write a note on the concept of *Grundnorm*
15. Individual rights v. public interest

[11 x 5 = 55 marks]

PART - II

Answer any THREE questions. Each carries 15 marks.

1. Define liability. What are the different types of liability? Explain the various grounds on which liability is determined.
2. Examine the significance of precedent as a source of law. Compare precedent with legislation as a source of law.
3. What are the principles of the Natural Law theory? Examine its contribution to the Indian legal system.
4. Write notes on the following;
  - a) Fairness
  - b) Innominate obligation
  - c) Primary and sanctioning rights
5. Briefly explain the concept of 'Justice' and bring out the difference between 'Civil Justice' and 'Criminal Justice'.

[3 x 15 = 45 marks]

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**HIGH COURT OF KERALA**  
**JUDICIAL TEST (HIGHER) - 2017**  
**PART - I, PAPER - II**  
**CONSTITUTIONAL LAW**

Time : 3 Hours

Total Marks: 100

**Part - A**

(Answer any seven questions. Each correct answer carries 5 marks) (7 × 5 = 35)

1. Brief on the supervisory jurisdiction of the High Court.
2. Write shortly on the scope of judicial review under Constitution of India
3. How does our Constitution safeguard health and quality of life of its citizens?
4. Make a short note on the various prerogative writs mentioned in The Constitution of India.
5. Briefly examine the legislative powers of the President of India and Governor of a State
6. What are the special privileges and rights enjoyed by the minorities under the Constitution?
7. How is Council Of States constituted?
8. Write a short note regarding election of Lok Sabha Speaker and his duties
9. Make a short note on the powers of The President of India and Governor of State to tender pardon
10. Brief on Constitutional protection/privilege enjoyed by members of State Legislative Assembly and that of the Parliament in the respective houses.

**Part - B**

(Answer any two questions. Each correct answer carries 10 marks each)  
(2 × 10 = 20)

1. Mr. Rams application for building permit was rejected by the Local Authority, without hearing him. Even though Mr. Ram has a remedy by way of appeal to a statutorily constituted Tribunal, to be approached in 30 days time from the date of receipt of order of rejection, he chooses to invoke the jurisdiction of the High Court under Art. 226 of the Constitution of India. Decide.
2. M/s. Warren films challenges, the certification of their new movie, by the Board of Film Certification, under Category A ( restricting its exhibition for adults only), on the ground that other forms of theatre arts are not subjected to such certification procedure .Decide

**P.T.O .**

3. The State of Kerala in their Foreign Liquor Rules has imposed a ban on employing women in foreign liquor vending outlets and Bar Hotels. An association for women welfare challenges the constitutionality of the said Rule. Decide
4. Smt. X, a Government employee is denied pre and post maternity benefits for the only reason that she is a surrogate mother. She challenges such denial in the Hon. High Court under Art. 226 of the Constitution of India. Will she succeed? Decide this issue

**Part - C**

(Answer any three questions. Each correct answer carries 15 marks each)

( 3 x 15 = 45)

- 1 Discuss on the appointment of Election Commission of India and its functions
  - 2 Discuss in detail regarding amendment of the Constitution.
  3. Elaborate on the appointment and functions of Comptroller and Auditor General of India
  4. Emergency - a constitutional weapon sparingly used. Write exhaustively in this topic, highlighting judicial pronouncements in this subject.
  5. Article. 21 of the Constitution is the life line of the citizen, ensuring protection for his life and personal liberty .Elaborate in detail.
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**HIGH COURT OF KERALA**  
**JUDICIAL TEST (HIGHER) 2017**  
**PART – I, PAPER – III**  
**PENAL LAWS**

Time: 3 hrs

Total Marks: 100

**PART – A**

Answer any **SEVEN** questions. Each carries 5 marks

(7 x 5 = 35)

Write short notes on:

- |  |  |
|--|--|
| 1. Reformation of offenders                          | 6. Vicarious liability in criminal law               |
| 2. <i>Mens rea</i> in statutory offences             | 7. Offences against marriage                         |
| 3. Extent of application of Penal Code               | 8. Effectiveness of NDPS                             |
| 4. Responsibility for preparation to commit offences | 9. Relevance of Explosives Act to Kerala context     |
| 5. Sedition  | 10. Offences under the Police Act and the punishment |

**PART – B**

Answer any **TWO** questions. Give reasons. Each carries 10 marks (2 x 10 = 20)

11. A, a police-officer, without warrant, apprehends Z who appears to have committed murder. Z, who has not committed any offence, accuses A of wrongful confinement. Decide.
12. B and C agree to wrestle with each other for amusement. C is badly injured in the course of such wrestling. Decide if B, in causing hurt to C, has committed any offence.
13. T, under the influence of involuntary intoxication, attempts to kill S. S responds by causing T's death. Discuss his liability, if any.
14. M, knowing that P has murdered R, assists P to hide the body with the intention of screening P from punishment. Discuss the offences committed by M, if any.

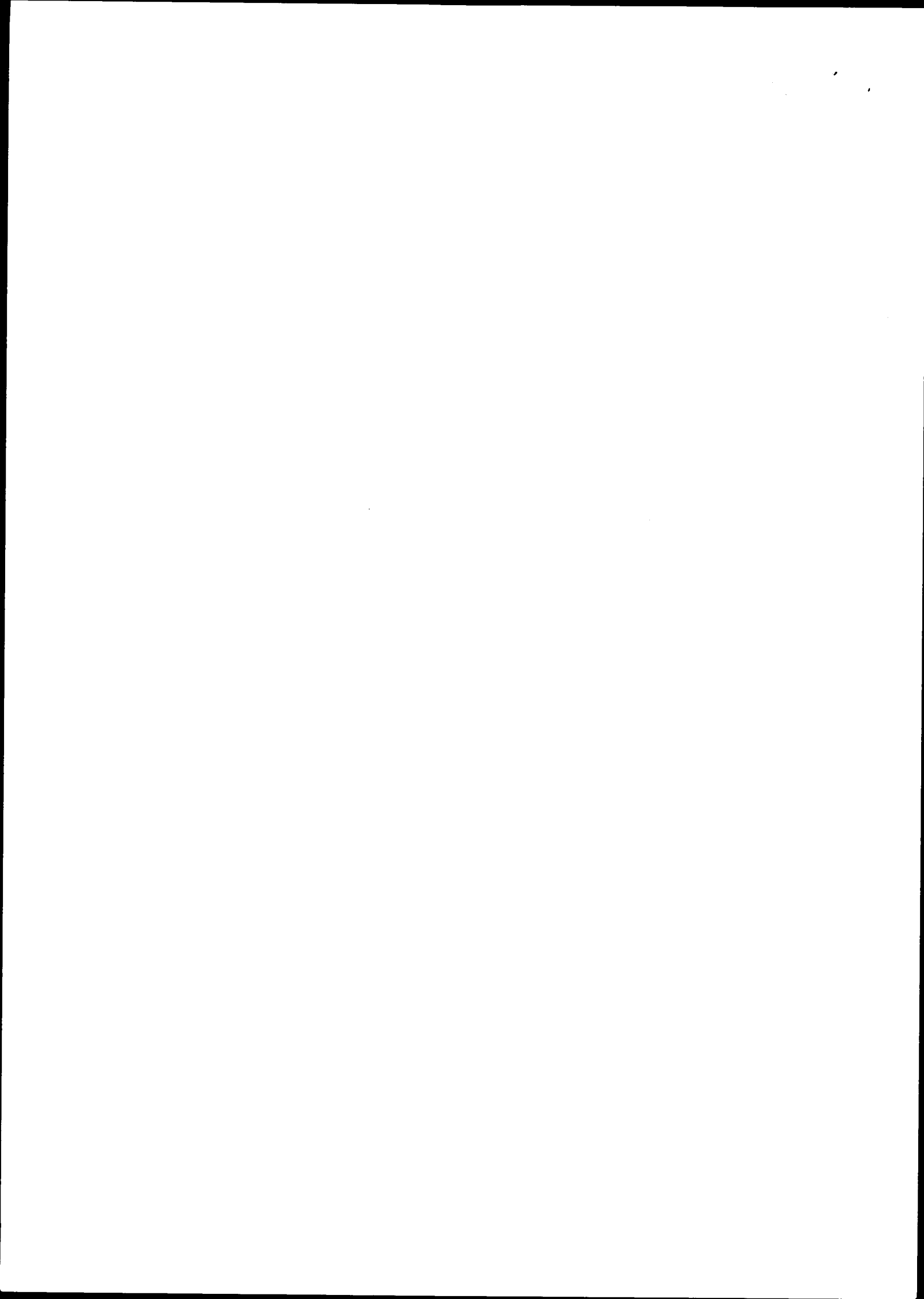
**PART – C**

Answer any **THREE** questions. Each carries 15 marks

(3 x 15 = 45)

15. Discuss the range of defences available under the Penal Code and their current scope.
16. Are the punishments under the Penal Code deterrent enough especially in the context of argument for abolition of death penalty?
17. Discuss the aggravated forms of property offences and their punishment.
18. Defamation is a misplaced offence under the Penal Code. Comment.
19. What impact have offences relating to cruelty and dowry death had on the society?

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**HIGH COURT OF KERALA**  
**JUDICIAL TEST (HIGHER) - 2017**  
**PART - I, PAPER - IV**  
**LAW OF TORTS**

Time : 3 Hours

Total Marks: 100

**PART - A**

Answer any **SEVEN** questions. Each carries 5 marks ( 7 X 5 = 35 )

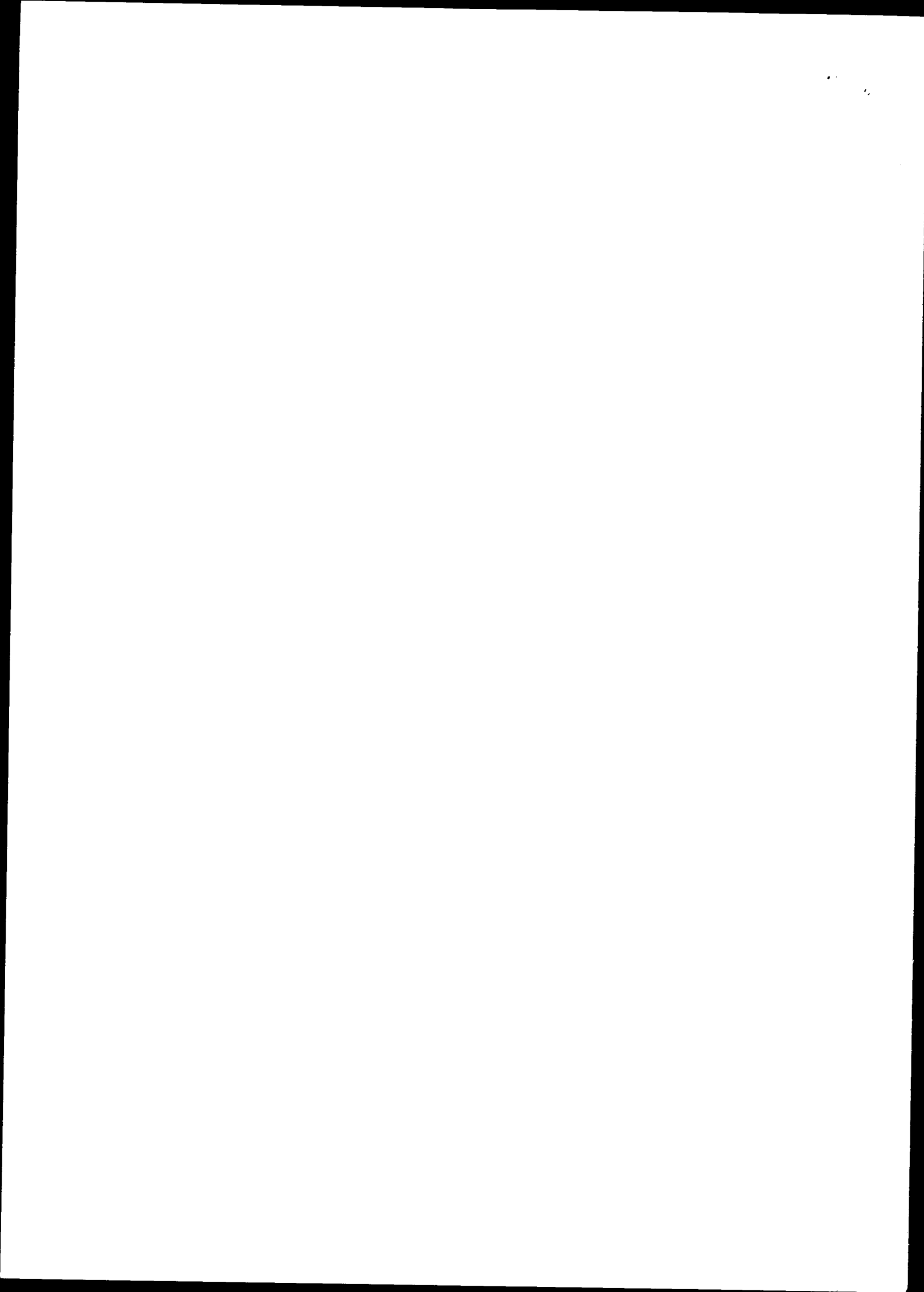
- 1) Distinguish between libel and slander.
- 2) Explain the doctrine, "*res ipsa loquitur*".
- 3) Examine the scope of contributory negligence as a defence in a suit for damages.
- 4) Explain the terms general damages and special damages.
- 5) "Only on proof of negligence a claim for damages succeeds" Examine.
- 6) What is meant by passing off? Give an illustration.
- 7) Write a short note on Bolam principle.
- 8) Examine relevance of polluter pays principle in an action in tort.
- 9) Explain "*volenti non fit injuria*".
- 10) Explain 'strict liability'.

**PART - B**

Answer any **TWO** questions. Give reasons. Each carries 10 marks ( 2 X 10 = 20 )

- 1) During a festival an elephant ran amok. In the incident several persons sustained injuries. In a suit for damages filed by one of the injured the owner of the elephant raised a contention that only on account of the disturbance caused by the public the incident had occurred and therefore he was not liable. Decide.

P.T.O





- 2) A public carrier bus had to be stopped on the driver finding an electric wire lying across the road. A passenger alighted from the bus and tried to remove the wire. He was electrocuted. In the suit for compensation by his legal heirs the authorities of the Electricity Board contended that it was an accident and the Board was not liable to pay compensation. Decide.
- 3) The accused was acquitted by the court giving him the benefit of doubt. Examine the scope of a suit for malicious prosecution. Will there be any difference if an appeal against the acquittal is pending?
- 4) The plaintiff in a suit initiated an action for defamation against the defendant on the ground that the defendant made defamatory statements in his written statement. The defendant claims that those are privileged communications and therefore no action for defamation could be initiated against him. Decide.

### PART - C

Answer any **THREE** questions. Each carries 15 marks (3 x 15 = 45)

- 1) Write notes on absolute privilege and qualified privilege.
- 2) "*Actio personalis moritur cum persona*". Elucidate.
- 3) Define vicarious liability. State the exceptions.
- 4) Discuss minor's liability in torts.
- 5) Elucidate the principles of strict liability. State the exceptions.

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# HIGH COURT OF KERALA

JUDICIAL TEST (HIGHER), 2017

PART -I, PAPER- V

## LAW OF CONTRACTS

Total Marks: 100

Time: 3 hours

### PART- A

Answer any SEVEN questions. Each carries 5 marks. (7 x 5 = 35)

Write short notes on:

1	Rule of Privity of Contract and Indian Law	6	<i>Mohari Bibee v. Dharmadas Ghose</i>
2	Quasi Contracts.	7	Performance of Contract
3	Material Alterations in Cheque	8	<i>Delegates non protest delegare</i>
4	<i>Non Est Factum</i> in contract	9	C.I.F. and F.O.B. Contracts
5	Pledge and Hypothecation	10	<i>Caveat Emptor</i>

### PART- B

Answer any TWO questions. Give reasons for your answer.

Each carries 10 marks. (2 x 10 = 20)

1. Mr. Subhash availed an amount of Rs 50 lakhs as housing loan from Kerala State Housing Board Ltd. He entered into an arrangement with Bank of India for payment of his monthly instalments towards repayment of housing loan, through Electronic Clearing System. However due to default in maintaining effective balance in the account with Bank of India, there was a continuous default in satisfying fund transfer from Bank of India to Housing Board and Mr Subhash defaulted 11 months instalments towards repayment of loan. Housing Board sent a lawyer notice to Mr. Subhash intimating initiation of proceeding under Negotiable Instruments Act, 1881? Whether such legal proceedings are maintainable and what are the remedies available to the Housing Board against the default committed by Mr Subhash.
2. M/s Speed Motors entered <sup>into</sup> 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 that 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?

# HIGH COURT OF KERALA

JUDICIAL TEST (HIGHER), 2017

PART -I, PAPER- V

## LAW OF CONTRACTS

Total Marks 100

Time: 3 hours

### PART- A

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PTO

3. M/s Trans India appointed an agent, M/s Essar Services at Cochin for handling its carriage booking with its customers in the Southern region for a period from 1<sup>st</sup> January, 2014 to 31<sup>st</sup> December, 2016. During the term of contract, on receiving complaints of mismanagement of goods entrusted with said agent, the agency agreement was terminated, unilaterally, by M/s Trans India on 15<sup>th</sup> November, 2016. However without noticing the termination of agency contract Mrs Sherly entrusted a consignment of textile goods to M/s Essar Services to transport the same to her customer at Delhi. The booking was on 2<sup>nd</sup> December, 2016 and M/s Essar Services did not supply the goods to the consignee at Delhi. Mrs Sherly filed suit against M/s Trans India for deficiency in service and claimed return of consignment along with compensation. Whether the suit is maintainable? What are the requirements for a valid termination of contract of agency? Discuss.
4. M/s Diana Builders is a reputed real estate and builder group in Kochi. Mr. Raj Mohan, an Officer working at the Institution CMFRI, on reading an advertisement published in the Malayala Manorama, contacted the Sale Officer of M/s Diana Builders and informed his intention to purchase an apartment constructed by M/s Diana Builders at Chittoor, Kochi. The Sale Office of M/s Diana Builders issued their offer letter dated 12-01-2015 to Mr. Raj Mohan, offering a Three Bed Room Apartment with a cost of Rs 70 lakhs, including the value of apartment and cost of registration. Mr. Raj Mohan received the offer letter on 15-01-2015 and sent a reply by post to the Sale Office of M/s Diana Builders on 18-01-2015, by accepting the proposal. However, noticing various complaints regarding the quality of construction, Mr. Raj Mohan sent an email to M/s Diana Builders on 20-01-2015 at 10.30 AM, informing his intention to revoke the acceptance. The email was delivered in to the mailbox of M/s Diana Builders at the moment of it's sending. On the same day at about 12.30 PM, the acceptance letter dated 18-01-2015 sent by Mr. Raj Mohan was delivered in the Office of M/s Diana Builders. M/s Diana Builders refused to act up on the basis of the revocation of acceptance sent by Mr. Raj Mohan, by email and filed a suit for compensation, at the Sub-ordinate Judge's Court, Ernakulam. Decide the dispute between Ms/ Diana Builders and Mr. Raj Mohan with reasoning.

#### PART- C

**Answer any THREE questions. Each carries 15 marks. (3 x 15 = 45)**

1. Explain the different kinds of endorsements in negotiable instrument. Discuss the remedy available to a holder in due course, when a cheque is dishonoured, while presenting to his bank.
2. What is bailment and what are the rights and liabilities of a bailee
3. Explain the "contract which can be specifically enforced" and "contracts which cannot be specifically enforced". Discuss the essential conditions for an enforceable contract.
4. Significance of valid consent and what are the circumstances constitute flaw in consent? Explain.
5. What is performance of a contract and what are the grounds for refusal of preventive relief

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**HIGH COURT OF KERALA  
JUDICIAL TEST (HIGHER) EXAMINATION, 2017  
Part II, Paper I  
Administrative Law**

**Time: 3 Hrs.**

**Max. Marks;100**

**PART I**

**Answer any SEVEN questions. Each question carries 5 marks**

**Write Short Notes on the following:**

1. Power to modify a statute
2. *Droit Administratif*
3. Speaking orders
4. Doctrine of necessity
5. Legitimate expectations
6. Powers of single Judge in High Court
7. Procedure for dispersing certified copies
8. Colourable exercise of power
9. Error apparent on the face of record
10. Sovereign Immunity

(7 x 5= 35)

**PART II**

**Answer any TWO questions. Each question carries 10 marks**

11. The new ruling dispensation in state of Gama after assuming power removed the State Police Chief summarily before completing the minimum tenure in that post as mandated in the Gama Police Act, 2011. When the same was challenged before the Supreme Court the state government defended the action stating that according to Section 92 (2) (e) it was empowered to do so says if there are situations that are relating to causing "serious dissatisfaction in the general public about efficiency of police in his jurisdiction" it can remove the incumbent without fulfilling tenure requirements. The government cites two incidents of which one was the rape and murder of a law student and a tragedy killing more than 100 persons which occurred during holding pyrotechnics in connection with a temple festival which allegedly manifested the inefficiency. On behalf of the police officer allegation of arbitrariness is alleged. Respond.
12. Drugs and Magical Remedies (Objectionable Advertisements) Act, 1954 was passed in order to check the mischief being done to innocent persons suffering from incurable diseases. Section 3 laid down a list of diseases for which advertisements were prohibited and

authorised Central Government to include any other disease in the list. The same is being challenged as excessive delegation of legislative powers. Decide

13. The question of title to the property was pending before the civil Court and meanwhile an application was filed before the Custodian of the evacuee property under the Goa, Daman and Diu Administration of Evacuee Property Act, 1962 for declaring property as non- evacuee and for restoration of the property. The Custodian eventually allowed the petition, but without hearing the person who was contesting for the title of the property in the civil court. The decision of the Custodian is being challenged as violation of natural justice by the third person who is contesting the suit in the civil court. Decide

14. The Employees Union of a Public Sector Undertaking through a PIL challenged the disinvestment policy and its implementation by the management of a public sector undertaking as violative of their fundamental rights and hence arbitrary. The counter argument before the Court is that it cannot intervene into economic policy decisions

(2x 10= 20)

### **PART III**

**Answer any THREE questions. Each question carries 15 marks**

15. Discuss the grounds for issuing a Writ of Mandamus with the help of case laws.

16. Explain judicial control of delegated legislation with the help of case laws.

17. Write short notes on the following:

- (a) Appointment of Senior Advocates and restrictions
- (b) Rules governing service of notice under the Kerala High Court Rules, 1971

18. Write short notes on the following:

- (a) Rules regarding keeping of Registers, Records and their destruction
- (b) Suit valuation under Courts and Suit Valuation Act.

19. Explain the categories of Bias with the help of case laws.

(3x 15= 45)

# HIGH COURT OF KERALA

## JUDICIAL TEST (HIGHER), 2017 PART -II, PAPER- II

### COMPANY LAW

Total Marks: 100

Time: 3 hours

#### PART- A

Answer any SEVEN questions. Each carries 5 marks. (7 x 5 = 35)

Write short notes on:

1	Unfair Trade Practices	6	Annual General Meeting
2	Depositories	7	Company and LLP
3	Mergers and Takeovers	8	Bonus Shares
4	Registration of a Company	9	<i>Catherine Lee v Lees Air Farming Ltd</i>
5	Official Liquidator	10	Competition Commission

#### PART- B

Answer any TWO questions. Give reasons for your answer.

Each carries 10 marks. (2 x 10 = 20)

1. Mr. Somanath, a share holder in India Cements Ltd dies intestate. Mrs Remya, his sister is the nominee and Mrs. Radhika, his wife and Mr. Rakesh his son are the legal heirs of Mr. Somanath, as per law. Mr. Rakesh makes an application to the Company for getting the shares transferred in the name of his mother and himself. Whether the application is maintainable? Discuss with reasoning.
2. M/s KRP Oil India limited is a company registered under the Companies Act, 1956. The company failed to convene its Annual General Meetings from the financial years 2010-11 to 2015-16 and did not send the annual reports and statements of accounts to the Registrar of Companies, Kochi. Registrar of Companies initiated prosecution for the default against the Company and its Directors and also issued notice for cancellation of registration. Discuss the legality of the actions of Registrar of Companies.

PTO

3. M/s Ramdas Films Pvt Ltd is a company incorporated under the Companies Act with registered office at Chennai and engaged in the business of film making. Now the Board of Directors of the Company has decided to enlarge its business by doing some activities of trading in consumer goods as well as constructing and operating multiplex theatres at different places in India, which are not provided in its Memorandum. Discuss the consequence of the decision of the Board of Directors and its validity.
4. M/s ABC India Pvt Ltd is a company incorporated by its share holders, Mr Jose and Mrs Sabitha Jose, husband and wife. Mr Jose and Mrs Sabitha, due to personal reasons have decided to dissolve their marriage and apply for a mutual divorce. They have also decided to apply for the winding up of the Company. However, M/s Calcutta Financing Company, a private financier, from whom M/s ABC India Pvt. Ltd has borrowed an amount of Rs 30 cores for its business purpose, filed an objection before the Registrar of Companies, Kochi, opposing the dissolution of the Company, M/s ABC India Pvt.Ltd. Please advice, with reasoning, Mr. Jose to file a statement of reply to the objection submitted by M/s Calcutta Financing Company, before the Registrar of Companies, Kochi.

### **PART- C**

**Answer any THREE questions. Each carries 15 marks. (3 x 15 = 45)**

1. Discuss oppression, mismanagement and its remedies in Company Law
2. What is Corporate Social Responsibility? Discuss the modalities under Companies Act to ensure the compliance of Corporate Social Reasonability of a registered company.
3. What is the role of SEBI in protecting the interest of investors? What are the dispute adjudicatory mechanisms under the SEBI Act.
4. What are the modalities for formation of a Company and transfer of shares in a Company?
5. What you mean by "private company" and "public company" Discuss the modes by which a Private Company gets converted into a Public Company.

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**HIGH COURT OF KERALA  
JUDICIAL TEST [HIGHER] 2017  
PART - II, PAPER - III  
PROPERTY LAWS**

**Time: 3 Hours**

**Total marks: 100**

**PART : A**

Answer any **SEVEN** questions. Each carries 5 marks.

( 7 x 5 = 35 )

Write short note on:

1. Lis pendens.
2. Charge.
3. Equitable mortgage.
4. What is the remedy if landowner is not satisfied with compensation granted by land acquisition officer?
5. Irrevocable license.
6. Can a document not duly stamped be admissible in evidence?
7. Doctrine of election.
8. Right of redemption.
9. Easement by prescription.
10. Actionable claim.

**PART : B**

Answer any **TWO** questions. Each carries 10 marks.

( 2 x 10 = 20 )

11. A transfers property to B on condition that he shall marry only with the consent of C, D and E. E dies. B marries with the consent of C and D. Is B entitled to an interest in the said property?
12. A transfers to B an estate of which C is the true owner. As a part of the same transaction A gives a coal mine to C. C takes possession of the mine and uses up the coal. C then lays claim to the estate transferred to B. Is C entitled to the estate?
13. A lets a farm to B for lifetime of C. C dies later, but B continues in possession of the farm and pays rent to A. What is the effect on the lease and is the lease still subsisting?
14. A is the owner of a certain house and he has right of easement of way over land owned by B. Due to heavy wind a tree falls across the land of B. Can A enter upon the property of B and clear the tree?

**P.T.O.**

**PART: C**

Answer any **THREE** questions. Each carries 15 marks.

15. Define Transfer of Property. What property may be transferred?
16. Distinguish between Sale and Gift.
17. What documents are compulsorily registerable? What is the effect of non-registration of documents required to be registered?
18. What are the rights and liabilities of seller and buyer of immovable property?
19. What is the purpose of Land Acquisition Act? When can land be acquired and what is the procedure for acquisition under Land Acquisition Act, 1894?

(3x15=45 marks)

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**HIGH COURT OF KERALA**  
**JUDICIAL TEST [HIGHER] 2017**

**PART II – PAPER IV**

**SERVICE LAWS**

**Total marks 100**

**Time 3 Hours**

**PART-I**

**Answer any Seven questions. Each carries 5 marks.**

1. Briefly explain compulsory retirement under Rule 60 Part I of SR.
2. Distinguish between appointment by promotion and appointment by selection.
3. What are the provisions for extension of probation?
4. What is increment? When does an increment fall due?
5. What is Last Grade Service?
6. Who are the Appointing authorities as per the provisions of Kerala Civil Services (Classification, Control and Appeal) Rules, 1960?
7. What is meant by "Probation" and what are the consequences of not satisfactorily completing the probation within the prescribed period of probation?
8. Explain the term compulsory retirement and Voluntary retirement.
9. State the circumstances under which provisional pension is sanctioned to a retired employee.
10. What are the consequences of resignation of a member from service?
11. Which are the three authorities who are competent to place a Government Servant under suspension under Rule 10 of the KCS(CC&A) Rules?

**[7x5=35 ]**

## PART II

**Answer any TWO questions. Each carries 10 marks.**

12. A Government Servant dismissed on the ground of conviction by a Criminal Court is reinstated in service, after the conviction is subsequently set aside in Appeal, is he entitled for service benefits during the period he was out of service?
13. An Officer avails casual leave for 5 days. In continuation of that leave he applies for earned leave for 30 days. Whether the earned leave applied for can be granted?
14. A punishment of barring increment with cumulative effect is awarded to a Government Servant without following the procedure prescribed for imposition of major penalties. Is the punishment valid?
15. A Government Servant is aggrieved by the rank assigned to him in the seniority list issued by the Appointing authority. What are the remedies available to him under the provisions of KS & SSR for redressal of his grievances in the matter of seniority.

**[2x10=20]**

## PART III

**Answer any three questions. Each carries 15 marks.**

16. Explain the provisions of KS & SSR governing temporary promotions.
17. Explain the provisions of Rule 8 Part II KS & SSR governing reversion to parent's 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.
18. What are the provisions of Part III of Kerala Service Rules providing for withholding or withdrawing a pension whether permanently or for a specified period and the right of the Government to recover from the Pensioner, the pecuniary loss caused by him to the Government while he was in service.
19. Refer to and explain the provisions of Kerala High Court Service Rules governing compassionate appointment to the dependents of employees of the High Court dying while in service.
20. Explain the extent of right available to a Government servant who is appointed in a service on the advice of the Public Service Commission and subsequently discharged from service for want of vacancy?

**[3x15=45]**

**HIGH COURT OF KERALA**  
**JUDICIAL TEST (HIGHER) - 2017**  
**PART - II, PAPER - V**  
**FAMILY LAW**

**Time : 3 Hours**

**Total Marks: 100**

**PART - A**

**Answer any SEVEN out of the Ten questions. Each answer carries 5 marks.**

**(7 X 5 = 35)**

**WRITE SHORT NOTES ON:**

1. Pious obligation of a Hindu.
2. The essential conditions for a valid marriage under the Hindu Marriage Act'
3. Comment on the judgment Mohammed Ahammed Khan v. Shah Banu Beegum.
4. Limits of testamentary power of Muslims.
5. Impact of abolition of joint family system in Kerala
6. Gifts under Muslim law.
7. Right of husband to get maintenance from the wife pendent lite
8. What are the conditions for adoption of a daughter by a Hindu male
9. Peculiarity of voidable marriages.
10. Protection of women from domestic violence.

**PART - B**

**Answer any TWO out of the Four questions. Give reasons for your answers. Each answer carries 10 marks.**

**(2 X10 = 20)**

1. Mrs. Soumya, a female Hindu, owner of 9 acres of Rubber plantation, died intestate; leaving behind her husband Manoj, two sons Rahul and Rajjesh, one daughter Deepika and mother' Sumithra. Distribute the property of late Soumya among her legal heirs.

2. Mrs. Annamma withdrew from the company of husband Mr. Thomas and went to her parents for the reason she is not interested in looking after the ailing grand mother Mary. She claims that it is beyond the duty of a wife to take care of the grand mother and her withdrawal from the matrimonial home is justified. She claims maintenance from Mr. Thomas. Can Thomas successfully resist the claim for maintenance by Mrs. Annamma.?
3. Mr. Leander and Ms. Pillai had living in relationship since the last 20 years. They had not undergone any form of marriage. All the household expenses were born by Mr. Leander. Their association came to an end by December 2014 and Mr. Leander asked Ms Pillai to vacate his apartment immediately. Can Ms Pillai successfully raise any claim for residence and maintenance against Mr. Leander?
4. Mr. Abdul Razzak, a Muslim creates a Wakf in respect of 2 acres of paddy field owned by him, on condition that if he dies within 100 days of execution of the Wakf, the Wakf will cease to be in force. Comment of the validity or otherwise of the Wakf created by Mr. Abdul Razzak?

### **PART- C**

**Answer any 3 out of the 5 questions. Each question carries 15 marks.**

**(3 x 15 = 45)**

1. Explain the devolution of property among Christians under the Indian Succession Act and comment on the decision Mary Roy v. State of Kerala and the impact it had among the Christians in Kerala.
2. Is right of succession of property of one's father an absolute right for a Hindu? Are there exceptions that vitiate the right of inheritance?
3. What are the grounds available for a Christian female to get divorce from her husband?
4. What is a will? Explain the difference between privileged wills and unprivileged wills and how a will is proved.

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**HIGH COURT OF KERALA  
JUDICIAL TEST [HIGHER] 2017  
PART III-PAPER I  
LAW OF ELECTIONS**

**Time 3 Hours**

**Total marks 100**

**PART – A**

**Answer any SEVEN questions. Each carries 5 marks.**

**[7 x 5 = 35]**

Write short notes on:

1. NOTA.
2. Office of profit.
3. Universal Adult Suffrage.
4. Panchayats at different levels.
5. Delimitation of constituencies.
6. Weighted Voting. For which election under the Constitution of India weighting of votes is provided for.
7. Difference between 'Registration of Political Parties' and 'Recognition of Political Parties'.
8. Electoral Photo Identity Card and Indelible Ink as safeguards against impersonation.
9. The Councillor of your ward in the Municipality has ceased to reside in that Municipality. What is the consequence and as a voter what is your remedy.
10. You on reaching the polling station find your vote has already been cast by some other person by impersonation. In such eventualities what are the procedures under which the presiding officer can permit you to vote.

**PART – B**

**Answer any TWO questions. Each carries 10 marks.**

**[2 x 10 = 20]**

1. 'K' a member of the Kerala Legislative Assembly was elected to Lok Sabha in a bye-election. He did not resign his seat in the Legislature of the State even after the expiration of the period provided for resignation under Article 101 of the Constitution of India and the Prohibition of Simultaneous Memberships Rules, 1950. Explain the consequences that follow as regards his memberships.

2. The Chief Justice of the High Court of Kerala in exercise of powers under Section 80 A (2) of the Representation of the People Act, 1951 nominated one Judge of the High Court to try election petitions. During adjournment of High Court for summer vacation, Chief Justice under Section 8 of the Kerala High Court Act nominated the same Judge as vacation Judge and the notification provided that the High Court will remain closed for summer vacation from 15-04-2017 to 20-05-2017 and only really urgent matters including company matters which are required to be immediately or promptly dealt with, will be received in the Registry. The period for filing Election Petition expired on 03-05-2017. The Election Petition was filed on the reopening day of the Court. Is the Election Petition time barred?
3. Sidharthan's nomination to contest election to Ettumanoor Assembly Constituency was rejected as he was rightly found disqualified under the Representation of the People Act, 1951 for the purposes of elections to the Legislative Assembly. Bye-election to ward No 3 of Aymanam Grama Panchayat was notified immediately thereafter and Sidharthan who is a voter of ward No. 4 of Aymanam Grama Panchayat submitted his nomination for the said election. You are the Returning officer for the said bye-election. Will you accept or reject Sidharthan's nomination. Give reasons for your decision.
4. Ramesh was arrested by police in suspicion of a crime and is remanded to police custody. Suresh is convicted and sentenced to imprisonment and is confined in prison. Ramu is arrested and detained pursuant to an order of detention under the Preventive Detention Act. On the date of poll to the Legislative Assembly all these three electors are thus confined in prison. Can Ramesh, Suresh, Ramu vote at the election? Give reasons for your answer.

### PART – C

**Answer any THREE questions. Each carries 15 marks.**

**[3 x 15 = 45]**

1. Describe the Electoral offences under the Representation of the People Act, 1951.
2. Discuss the reservation of seats for women in Panchayats and Municipalities in Kerala in comparison with reservation of seats for women in Lok Sabha.
3. Explain the administrative machinery to aid the Election Commission for the conduct of election to Assembly Constituencies and their respective duties.
4. What are the grounds for declaring an election to be void by the High Court?
5. Bar to interference by courts in electoral matters. Explain.

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**HIGH COURT OF KERALA**  
**JUDICIAL TEST (HIGHER) - 2017**  
**PART - III, PAPER - II**  
**CIVIL PROCEDURE**

Time : 3 Hours

Total Marks : 100

**Part-A**

Answer any **SEVEN** questions. Each carries 5 marks.

( 7 x 5 = 35 )

1. What you mean by mortgage suit and state the court before which the suit to enforce a mortgage can be filed?
2. What is the scope of the of revisional jurisdiction of the High Court after the amendment to section 115 of the Code of Civil Procedure? State whether there is any remedy for the aggrieved person where the revision is barred under Section 115 CPC ?
3. What do you mean by mesne profit ? Is there any restriction as regards granting of mesne profit by the Court?
4. Differences between temporary injunction and permanent injunction.
5. When can a plaint be rejected ?
6. Amendment of pleadings.
7. What you mean by constructive res-judicata
8. Obstructions to delivery of immovable property in execution of a decree and the remedies available against the obstructer.
9. When can a suit be dismissed for default and what is the remedy available to the aggrieved party?
10. Attachment of salary in execution of a money decree

**PART : B**

Answer any **TWO** questions. Each carries 10 marks.

( 2 x 10 = 20 )

- 1) Gopi filed a suit for declaration of title over plaint schedule property based on title Sasi filed written statement in which he has raised a Counter claim that the plaint schedule property in the suit filed by Gopi belong to him on the basis of his title document which is another sale deed. The suit was decreed and the Counter claim was dismissed. Sasi filed appeal challenging the decree passed in the suit. He did not challenge the dismissal of Counter claim and did not pay court fee as regards the counter claim valuation also. When the appeal was taken up for hearing Gopi raised the contention that the appeal is not maintainable since the dismissal of the counter claim is not challenged by Sasi. Decide based on reported decisions?

- 2) Jose filed a suit for injunction against the State Bank of India for restraining the bank from proceeding against the plaint schedule property which according to Jose, belongs to him on the basis of a sale Deed executed by John in his favour. The bank entered appearance and filed an application contending that the suit is not maintainable since it is barred by the provisions of the SARFAESI Act and that the bank is proceeding against the property under the said Act. The Bank contended that the property is mortgaged in their favour prior to the sale in favour of Jose and the SARFAESI Act bars jurisdiction of civil court. Written statement is not filed by the bank and only the Petition is filed. Jose filed objection to the Petition stating that the Petition is not maintainable since the question of jurisdiction is not properly raised. Decide as to whether the contention of Jose will lie with reference to the relevant provisions.
- 3) The Canara Bank filed a suit jointly against Thomas, Varghese and Joseph for recovery of money stated to be due to the Bank as borrowed by Thomas and guaranteed by Varghese and Joseph. Joseph had deposited the title document of his property as security and created equitable mortgage. The suit was filed, on Thomas committing default with respect to the repayment of the loan. Sri. Varghese also had created mortgage of his property as security for the same loan. All the defendants entered appearance and filed written statement. Before trial Joseph died. This was not reported before the court and the bank was also not informed. Later the suit was tried and decree is passed against defendants and also permitting the bank to recover the plaint amount by proceeding against the mortgaged property which are scheduled to the plaint and belonging to Varghese and Joseph. The Bank filed execution Petition for recovery of the amount by sale of decree schedule property belonging to Varghese and Joseph and also for personal execution against Thomas. Then one of the sons of deceased Joseph appeared before the execution court and objected to the execution against the property of Joseph stating that before passing the decree Joseph died and therefore decree cannot be executed against him and his assets. Decide: Is there any procedure in the CPC by which the trial court can permit the bank not to implead the legal representatives of the deceased Joseph without in any way affecting the validity of the decree against the deceased and his assets.
- 4) Baby had availed a loan from the H.D.F.C. Ernakulam, of Rs. 5 Lakhs. As security Baby had deposited the title document of the property with the H.D.F.C with intention to create equitable mortgage. Baby committed default and H.D.F.C filed a suit for recovery of the amount before the Sub Court, Ernakulam. The mortgaged property is situate at Kozhikode. H.D.F.C also filed application for attachment before Judgment before the Sub Court and obtained conditional order of attachment. The suit was later decreed and the attachment was made absolute also. Subsequently the H.D.F.C moved for execution of the decree by sale of the attached property. At that time one Tomy appeared before the Sub Court and claimed that he has also got attachment of the property and therefore he is entitled to rateable distribution. H.D.F.C claims prior charge on the basis of the mortgage which is objected by Tomy - Decide.

**PART – C**

Answer any **THREE** questions. Each carries 15 marks.

( 3 x 15 = 45 )

- 1) What you mean by resjudicata ?
- 2) What are the provisions in the CPC as regards sale of immovable property in the execution of money decree? Can a sale be set aside and is there any period of limitation prescribed for that ?
- 3) "All questions regarding execution, discharge and satisfaction of a decree shall be decided by the executing Court". Explain
- 4) State in detail the provisions contained in the Code of Civil Procedure as regards filing of suits against minors and persons of unsound mind ?
- 5) What you mean by claim Petition. Can a separate suit be filed as regards the issue covered by an order passed in a claim Petition ?

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**HIGH COURT OF KERALA**  
**JUDICIAL TEST (HIGHER) - 2017**  
**PART - III, PAPER - III**  
**CRIMINAL PROCEDURE**

Time : 3 Hours

Total Marks : 100

**Part-A**

Answer any **SEVEN** questions. Each carries 5 marks.

( 7 x 5 = 35 )

**Write short notes on:-**

- 1) Cognizance of offence
- 2) Trial of offences under Special laws
- 3) Special Judicial Magistrates and their powers
- 4) Investigation of non-cognizable cases
- 5) Arrest by Magistrate and private persons
- 6) Police custody and judicial custody
- 7) Hearing on question of sentence
- 8) Compensation to victims of crimes
- 9) Release of accused on self bond
- 10) First Information Report
- 11) Special vakalath

**PART : B**

Answer any **TWO** questions. Each carries 10 marks.

( 2 x 10 = 20 )

- 1) "A" made a statement at Ernakulam which is defamatory to "B". It was broadcast by TV channels across the State. "B" is residing at Kannur. "B" filed a complaint for offence punishable u/s 500 IPC before the Judicial First Class Magistrate, Kannur. Has the Magistrate got territorial jurisdiction to try the offence? Explain with relevant provisions.
- 2) Balan and Rohini are husband and wife. Balan is abroad. Rohini is residing with her father-in-law. Father-in-law came to know that Rohini committed adultery. Father-in-law filed a complaint against Rohini and the adulterer before a Magistrate. Is the complaint maintainable?

**P.T.O**

- 3) After a few prosecution witnesses in a case tried summarily were examined the Magistrate was transferred. The successor Magistrate completed the trial and convicted the accused. Examine the legality of the conviction with reference to the relevant provisions.
- 4) "A" gave an information to police regarding commission of a cognizable offence. The police officer informed "A" that he would conduct a preliminary inquiry regarding the truth of the information and register the FIR. Is it legal? Elucidate.

### PART - C

Answer any **THREE** questions. Each carries 15 marks.

( 3 x 15 = 45 )

- 1) "When a court imposes separate sentence for several offences at a trial, it is presumed that the terms of sentence shall be consecutive". Is the statement correct? Elucidate.
- 2) Describe the procedure for issue of a warrant of arrest against an accused person residing beyond the territorial jurisdiction of the Magistrate issuing the warrant and its execution.
- 3) Discuss the procedure to be followed while recording confession of an accused u/s. 164 of the Cr.P.C with special reference to the provisions in the Criminal Rules of Practice.
- 4) Explain powers of police to investigate cognizable and non-cognizable cases.
- 5) Explain the procedure for disposal of property by Magistrates.

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**HIGH COURT OF KERALA**  
**JUDICIAL TEST (HIGHER) - 2017**  
**PART - III, PAPER - IV**  
**LAW OF EVIDENCE & LIMITATION**

Time : 3 Hours

Total Marks: 100

**PART - A**

Answer any **SEVEN** questions. Each carries 5 marks.

( 7 x 5 = 35 )

Write short notes on:

- 1) "Proved"
- 2) "Conclusive proof"
- 3) Extra judicial confession
- 4) Relevancy of previous judgment
- 5) Proof of a document which requires attestation
- 6) Proof of public documents
- 7) Exclusion of evidence of oral agreement
- 8) Need for corroboration of evidence of an accomplice
- 9) Period of limitation and prescribed period
- 10) Legal disability
- 11) Acknowledgment of liability

**PART - B**

Answer any **TWO** questions. Each carries 10 marks.

( 2 x 10 = 20 )

- 1) "A" murdered "B". "A" went to the police station and gave a statement confessing that he murdered "B". The First Information Report was sent to the Magistrate on the basis of that confession. Examine the use of the confession and the FIR at the trial.
- 2) Finding that "X" was stealing jewellery from the shop "A", the manager in the shop chased "X". "A" fell in a trench and sustained serious injury. While he was undergoing treatment in the hospital, he gave a statement in police that "X" had stolen jewellery, based on which a crime was registered. "A" succumbed to the injuries. Can the aforesaid statement of "A" be used as a dying declaration? Explain.

- 3) Scribe who wrote a registered document requested the court to allow him to peruse the document in question while he was being examined as a witness in court with reference to that document. Counsel of the opposite party objected to it saying that the request was impermissible. Decide.
- 4) "A" lent Rs.5 lakhs to "B" on 01.01.2010. "B" on the same date executed a promissory note. "A" went abroad on 02.01.2010 and returned home on 03.01.2014 and filed a suit on the said promissory note on 05.01.2014. Is the suit barred by limitation? Explain.

### PART - C

Answer any THREE questions. Each carries 15 marks.

( 3 x 15 = 45 )

- 1) Explain fact and fact in issue.
- 2) Discuss the provisions in the Evidence Act concerning relevancy of confession.
- 3) Explain secondary evidence. When can secondary evidence relating to documents may be given?
- 4) What is estoppel? Discuss the application of the principles in a landlord and tenant relationship.
- 5) "The court shall dismiss the suit if the claim is barred by Law of Limitation even if the defendant does not plead limitation as a defence". Elucidate.

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**HIGH COURT OF KERALA  
JUDICIAL TEST HIGHER [2017]  
PART – III, PAPER – V**

**INTERPRETATION OF STATUTES AND GENERAL CLAUSES ACT**

Time 3 hours

Total Marks: 100

**PART A**

Answer any SEVEN questions. Each carries 5 marks

Write short notes on

1. Temporary Statutes
2. Interpretation of amending statutes
3. *Malafides*
4. *In pari materia*
5. Preliminary and Final decrees
6. Constitutional validity of statutes
7. Bailable and non-bailable offences
8. Doctrine of implied prohibition
9. Doctrine of Repugnancy
10. Harmonious construction
11. Conditions for amending the plaint

[7 × 5 = 35]

**PART B**

Answer any TWO questions. Each carries 10 marks

12. 'K', a Chief Minister was prosecuted under a State Law enacted for preventing corruption among public servants. He has challenged the prosecution on the ground that Ministers are not civil servants. Decide.
13. The Corporation has issued an order preventing "throwing of waste in public places". As his footwear strap was broken, Manu, a pedestrian left it by the road side. The corporation authorities charged Manu under the order. Decide applying the appropriate rules of interpretation.

14. On the death of Sankaran, his property (50 cent) devolved on his only successor Ram. He has three children. Kumar, Raju and Geetha. As he is 70 years old, he wishes to give away the property with house to his eldest son Kumar on condition that he will look after him for the rest of his life. Prepare a gift deed.
15. Minu was prosecuted for the offence of theft he committed in 1950. The prosecution continued till 1958. Before the conclusion of the trial, Parliament enacted the Probation of Offenders Act. On conviction, he claimed the benefit of the new enactment. The state opposed the claim. Explain and decide.

[2 x 10 = 20]

### PART C

Answer any THREE questions. Each carries 15 marks

16. What do you mean by statute? Explain the different parts of statutes and their importance in interpretation.
17. Discuss the different kinds of statutes
18. What are the principles for interpreting constitution?
19. Explain the presumptions regarding jurisdiction
20. Write notes on the following:
- (a) *Noscitur a sociis*
  - (b) Schedules in a statute
  - (c) General Clauses Act

[3 x 15 = 45]

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