

HIGH COURT OF KERALA
JUDICIAL TEST HIGHER [2016]
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. Write a note on Pure Theory of Law
2. Briefly explain the features of Common Law system
3. Define 'person' What are the pre-requisites for a legal person
4. Social Engineering
5. Distinguish strict liability from absolute liability
6. Explain the Material Facts Theory
7. What are Vestitive and Divestitive Facts?
8. What are the kinds of obligations?
9. Distinguish lease from license
10. What do you mean by prescription?
11. Co-ownership and Joint-ownership
12. Define jurisdiction. What are the different kinds of jurisdictions?
13. Mistake of law and fact
14. *Constitutum possessorium*
15. Distinguish intention from recklessness

[11 x 5 = 55 Marks]

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PART II

Answer any THREE questions. Each carries 15 marks

1. Define possession. What are the different kinds of possession? Distinguish possession from ownership
2. Discuss the principles of American Realism
3. Write a note on the Alternative Dispute Resolution Mechanisms and evaluate their importance in the modern context
4. What are the different kinds of property
5. Write notes on the following:
 - (a) Equitable mortgage
 - (b) Judicial legislation
 - (c) Primary and Secondary Rules

[3 x 15 = 45 Marks]

HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) - 2016
PART - I, PAPER - II
CONSTITUTIONAL LAW

Time : 3 Hours

Total Marks: 100

PART - A

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

(7 X 5 = 35)

1. How is the President of India elected?
2. Explain Doctrine of Pleasure.
3. Deliver a short note on the concept of writ of mandamus in the Constitution of India?
4. Differentiate between the original jurisdiction of the High Court and its supervisory jurisdiction.
5. How is the Rajya Sabha constituted?
6. Give a short note on Ordinances issued by Government
7. Brief on the doctrine of *Prospective overruling*
8. Which Constitutional Court is a *Court of Record* and what does it mean?
9. Briefly narrate on the concept of judicial review
10. Fundamental duties enshrined in the fabric of Constitution of India - give a short note.

PART - B

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

1. Patricia, a British citizen came to India in the year 1937 and continued her residence in India with her husband till they left for Jerusalem on a pilgrimage in the year 1945. On her return, she was registered as a foreigner and her stay in India was permitted by the authorities concerned on several occasions till 1957. Thereafter further extension was refused. Patricia pleaded for Constitutional protection against such refusal and claimed status of a citizen of India. Decide.
2. Justice Solomon was appointed by the President of India on 6.2.2005 as a High Court Judge. The Hon. Supreme Court of India declared his appointment as illegal, for want of required qualification by its judgement dt. 30.6.2007. What will be the fate of judgements already pronounced by the said Judge while holding office? Are those judgments non-est in the eye of Law? Decide.
3. Mr. X, a member of the legislative assembly makes a statement in the floor of the assembly. The statement was objected to by some members of the House. The speaker rules, the statement to be removed from the record of proceedings of the House. Later, it is found that the statement made by the member in the floor of the assembly is per se false. Can Mr. X be prosecuted for making false statement, knowing the same to be false, in a Court of Law? Discuss.

P.T.O.

4. Smt. Nargis was an employee of an Airline Company. She was terminated from service, on she conceiving her first baby, as the employment Rules insist so. She challenges the vires of the Rule. Decide

PART - C

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

(3 x 15 = 45)

1. Explain the **Basic structure** theory under the Constitution of India and its evolution through judicial pronouncements
2. Discuss in detail, the qualifications required for appointment as a Judge of the High Court and that of the Supreme Court, with the procedure regarding the same.
3. Write an essay on emergency provisions in the Constitution of India.
4. Detail the protection of rights and personal liberty guaranteed by the Constitution of India.
5. Discuss on doctrine/principle of **Double jeopardy**.

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HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) - 2016
PART - I, PAPER - III
PENAL LAWS

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. Theories of penology
2. *Mens rea*
3. Extra territorial jurisdiction
4. Abetment
5. Offences against State
6. Common object
7. Defamation as a crime
8. Enhanced punishment under NDPS
9. Enforceability of Explosive Act
10. Violations under Police Act

PART - B

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

11. A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. Has A committed any offence?
12. D voluntarily helps and thereby causes a woman, W, with child to miscarry at W's request. Discuss the offences committed, if any, and by whom.
13. T, knowing that his property is about to be taken in execution in order to satisfy a debt due from him to C, destroys the property with the intention of thereby preventing C from obtaining satisfaction of the debt. Has T committed any offence?
14. P is on the 3rd floor of a house which is on fire with N, a child. People below hold out a blanket. P drops N from the top, knowing it to be likely that the fall may kill the child. The child falls to his death. Discuss if P has committed any offence.

P.T.O.

PART - C

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

(3 x 15 = 45)

15. How far do you think the function of a Penal Law is performed by the Penal Code? Would you suggest any change?
16. What is culpable homicide? When does it amount to murder? Discuss with exceptions.
17. Distinguish theft from extortion? When do they amount to robbery and dacoity?
18. Write a note on theories to justify criminalizing attempts and not preparation.
19. Briefly discuss the changes brought into the Penal Code on Rape and similar offences.

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HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) EXAMINATION 2016
PART – I, PAPER-IV
LAW OF TORTS

Time: 3 hours

Total Marks: 100

PART I

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

Write short notes:

1. Distinction between Tort and Crime.
2. Essential conditions of liability in tort.
3. Test of directness.
4. False imprisonment.
5. Invitees and Licensees.
6. *Rylands v. Fletcher.*
7. Tort of Conversion
8. Animals *ferae naturae and mansuetae naturae.*
9. Absolute and Qualified privilege in defence to defamation.
10. Nervous shock.
11. Trespass to land.

PART II

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

1. The management committee of a temple conducted a religious festival using fire crackers in accordance with the permission granted by the revenue officials and police authorities. The fire crackers were busted by the independent contractor engaged by the management committee of the temple. Due to the negligent act of one of the workers of the independent contractor during the use of fire crackers, a huge explosion occurred resulting in the death of the father and mother of Miss. Revathi. Miss. Revathi

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intends to seek compensation from the worker responsible for the incident, independent contractor, temple management committee and its members and the Government and its officials. Advise her.

2. During a temple festival in a temple owned by the Devaswom Board, elephants belonging to the Board were used for procession, Mr. Ramu, a mischievous onlooker, with a needle pricked at the back of one of the elephants in the procession causing the said elephant to run amok and in the process the elephant destroyed a gift article shop belonging to Mr. Sudhakaran and attacked Mr. Dinesh, an employee of Mr. Sudhakaran and caused the death of Mr. Dinesh. Discuss the remedies available in tort to Mr. Sudhakaran and the legal heirs of Mr. Dinesh.

3. Mr. Ramachandran left his car in the road in front of his house without locking the car and he went inside his house to have breakfast. The said road was having a slop. In the meantime, his minor son, aged 12 years, got into the car and removed the hand brake and played with the gear resulting in the gear coming in the neutral position and the car moving down the slop of the road and consequently causing serious injuries to Mr. Abhilash who was passing by and damaging the compound wall of the nearby house belonging to Mr. Babychan and the right leg of Mr. Abhilash had to be amputated. Mr. Abhilash and Babychan seeks compensation. Advise them.

4. Mr. Sivaraman entrusted his scooter for repair to a workshop. While the scooter was being driven by the owner of the workshop there was an accident, which resulted in injuries to a pedestrian. Can the pedestrian succeed against Mr. Sivaraman? Decide.

PART III

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

1. Examine the liability of owners of dangerous chattels.
2. Examine the General defenses applicable to all torts.
3. Discuss the principle of vicarious liability.
4. Examine deficiency in service and unfair trade practices under the Consumer Protection Act.
5. Elucidate the remedies available in the realm of law of torts.

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HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER), 2016
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	Promissory Note and Cheque	6	Seller's lien
2	Privity of Contract	7	Contracts <i>Uberrimae Fidei</i>
3	Mandatory Injunction	8	Hadley vs. Boxendale
4	<i>Non Est Factum</i> in contract	9	C.I.F. and F.O.B. Contracts
5	Indemnity and Guarantee	10	Frustration of Contracts

PART- B

Answer any TWO questions. Give reasons for your answer.

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

1. Mr. Mohanan, 82 years old man has movable and immovable properties in different parts of the State of Kerala and also in Tamil Nadu. Mrs Jasmine is his younger daughter born out of his second marriage with Mrs Gracy. Mr. Mohanan gifted his entire properties to Mrs. Jasmine and accordingly executed a Gift Deed and refused to assign any of his properties to his elder son born out of in his first marriage with Mrs. Nirmala. The Gift deed contains a Schedule of properties with Five Hundred Acres of land, when in fact Mr. Mohanan holds about 20 acres of land only in the State of Kerala and 100 acres in Tamil Nadu. He prepared the Gift Deed at a time when he suffered from delusions that he is a rich person with hundreds of acres of land with him. The Gift deed executed by Mr. Mohanan was questioned by Mr. Rajan, his elder son on the ground of incapacity of Mr. Mohanan to enter into a Contract. Whether the execution of Gift Deed is sustainable or not? Discuss with reasoning and provisions of law.
2. A cheque dated 25-03-2016 for an amount of Rs 10 lakhs was issued by Mr Satheesh to Mr. Khalid and the same was presented by Mr Khalid to M/s Chartered Bank, Kochi Branch on 02-04-2016. The cheque is drawn in the account of Mr Satheesh, however on the date of presentation of cheque, only an amount of Rs 8 lakh was available in his account. It was due to a fact that an amount of Rs 3 lakh was adjusted by the Bank in the loan account of Mr Satheesh on 31-3-2016, due to annual adjustment of loan account. Mr. Khalid then corrected the cheque amount as Rs 8 lakhs and represented. Whether the Bank is bound to honour the said cheque? If dishonoured; whether Mr Satheesh is liable to be prosecuted for the offence of dishonour of cheque? Discuss with reasoning.

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3. Mr. Joseph, who is working at Mumbai, entrusted a bundle of cloths to M/s Kamadenu Transport, a parcel agency at Mumbai to deliver it at his residence at Cheruthoni, Idukki in Kerala. However after forwarding the consignment to Thrisur, at the Regional Office of the parcel agency, they realised that places in Idukki District are not within their service jurisdiction and entrusted the consignment to a local parcel service, namely M/s Kairali Parcel Service for delivery. M/s Kairali Parcel Service failed to deliver the goods and sent a letter to Mrs. Leelamma, wife of Joseph, asking her to collect the consignment from their Kothamangalam Office.
- What is the nature of contract between Mr. Joseph and M/s Kamadenu Transport?
 - Whether the arrangement between the transporter and M/s Kairali Parcel Service is legally sustainable and binding to Mr Joseph?
Discuss and give reasoning to your answer.

4. M/s New Dubai Fashion Footwear, a reputed footwear wholesale shop in Ernakulam published an advertisement in New Indian Express Daily, as follows,

"Pay for One and Get One Free: For the purchase of footwear items, two numbers of same item will be given, if the customer pays price for one, for the sales during the Vishu Festival Season only."

Reading the advertisement, Mr. Salim visited the show room of the dealer and selected a Bata shoe and claimed for the second piece as complimentary. There was no second piece of same brand of same size, in the stock in show room and thus the Shop Owner refused to sell the shoe to Mr Salim. Examine whether Mr. Salim can succeed in a suit filed against the shop owner on the ground of breach.

PART- C

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

1. What are the circumstances in which non payment of cheque amount constitute penal offence? Which court has the territorial jurisdiction to entertain such complaints?
2. What are the essential conditions for formation of a valid contract? Whether an oral contract is enforceable? Discuss with illustrations.
3. Explain the contract that can be specifically enforced and that cannot be specifically enforced.
4. Explain penalty and liquidated damages?
5. "Jurisdiction of a Court to grant injunction is discretionary" – Comment. What are the grounds available to the Court to refuse a relief for injunction, under the Specific Relief Act, 1963?

HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) EXAMINATION, 2016

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. Sub- delegation
2. Rule of Law
3. Doctrine of fairness
4. Pecuniary bias
5. Post-decisional hearing
6. Rules governing production of vakalath
7. Powers of vacation Judge
8. Fettering Discretion
9. Compensation in writ proceedings
10. Writ of quo warranto

(7 x 5= 35)

PART II

Answer any TWO questions. Each question carries 10 marks

11. The police seized some gold from a person on the suspicion that it was contraband gold. The gold was kept in the police station but was stolen by a police constable who then escaped to Pakistan. Later on investigation it was revealed that the gold belonged to the person from whom it was seized. He approached the Court for remedy claiming compensation from the state and the state took a defence that it is not liable because of sovereign immunity. Advise.

12. In the Regulations governing service conditions of a state controlled Airline Company, there is a provision which says that the service of an airhostess will

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be terminated on her first pregnancy. Ms X, an airhostess challenges the constitutionality of the Regulation. Decide.

13. In passing an Order of compulsory retirement of a civil servant in public interest, the authority took old confidential reports which were adverse to him but ignored the confidential reports for 5 years immediately before the issuing of the retirement order. The Order is challenged before the High Court of Kerala. Discuss the grounds on which the challenge can be sustained?

14. The petitioner, a public trust was running a science college having permanent affiliation to a University. Later a dispute arose between the teachers and the management of the college regarding the rates of wages that they are not being paid on par with other teachers in the University. Subsequently a settlement was reached at the behest of the Vice-chancellor. But the management shied away from honouring the settlements and the teachers approached the High Court praying for issue of writ of mandamus. The Trust authorities challenge that they are not amenable to the writ jurisdiction under Article 226 and hence no writ will lie against them. Decide.

(2x 10= 20)

PART III

Answer any THREE questions. Each question carries 15 marks

15. Discuss the grounds for issuing a writ of certiorari with the help of case laws.

16. What is substantive *ultra vires* in the matter of judicial control of delegated legislation. Explain the categories?

17. Write short notes on the following:

(a) The powers of a single judge under the Kerala High Court Act, 1958?

(b) Rules regarding keeping of Registers, Records and their destruction

18. Write short notes on the following:

(a) Rules governing service of notice under the Kerala High Court Rules, 1971

(b) Suit valuation under Courts and Suit Valuation Act.

19. Explain how the legal system combat maladministration and discuss the efficacy of the mechanisms developed for the same.

(3x 15= 45)

HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER), 2016
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	Lifting of Corporate Veil	6	Corporate Social Responsibility
2	Director's liability	7	Company and LLP
3	Mergers and Takeovers	8	Multi National Companies
4	Ordinary & Special Resolutions	9	Transfer of Shares in a Company
5	Holding Company	10	Foreign Investment

PART- B

Answer any TWO questions. Give reasons for your answer.

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

1. Mr. Rajesh is a director of a company M/s ENP Ltd which was incorporated as on 1-04-2008. He resigned from the Company with effect from 31-3-2014. M/s ENP is liable to pay an amount of Rs 20 lakhs to a supplier M/s RG Services; for the business completed during 2013-14 and 2014 -15. M/s RG Services filed a civil suit against M/s ENP Ltd and Mr Rajesh for the unpaid liability before the Civil Court. Whether the case against Mr. Rajesh is maintainable? What are the objections available for Mr Rajesh to contest the civil suit? 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 Body Meetings from the financial years 2011-12 to 2014-15 and did not send the annual reports and statements of accounts to the Registrar. Whether the company is liable for penal prosecution for the default. Discuss the consequences of such default by the company and its effect on its directors.

PTO

3. M/s PRS Associates, a partnership firm with 3 partners has decided to form a private limited company by associating with an individual businessman; Mr. Shibu John as it's another share holder. It is decided to earmark the share holding of the partnership firm and Mr Shibu in 70:30 proportions, in the company and Mr Shibu will be a permanent director in the newly formed company. Whether such a company can be registered? Discuss with reasoning.

4. A business man from United States of America, Mr. Wilfred plans to invest 10 lakhs Dollars in a food processing company in India M/s Marshel Mango Pvt Ltd. The Board of Directors of M/s Marshel Mango Pvt Ltd adopted a resolution permitting Mr. Wilfred to join as one its shareholders and also elected as a Director in the company. The company filed the resolution before the Registrar of Companies, who refused to accept the resolution.
Please advice Mr. Wilfred and M/s Marshel Mango Pvt Ltd on their legal remedies and scope of a challenge against the decision of the Registrar.

PART- C

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

1. Whether a company is a legal person independent from its share holders? What are the modalities for formation of a company and its registration? - Explain the characteristics of a public company.
2. Whether a company can be prosecuted for an offence in which mandatory punishment is provided in a statute? If so, how such punishment can be imposed and executed?
3. What is the significance of a Memorandum of Association in the formation of a company? Whether such a Memorandum is necessary for the formation of a Government Company?
4. What is the role of SEBI in protecting the interest of investor's protection? What are the SEBI (Disclosure and Investors Protection) Guidelines?
5. What you mean by "unfair trade practices" and "restrictive trade practices"

HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) - 2016

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 Notes:

1. Universal donee
2. Exchange
3. Impounding of insufficiently stamped documents.
4. Lease and Licence
5. Feeding the grant by estoppel.
6. Fraudulent Transfer
7. Effect of non-registration of documents required to be registered
8. Rule against perpetuity
9. Persons to whom and circumstances in which lands may be assigned under the Kerala Government Land Assignment Act.
10. Easement of necessity and quasi-easement

PART - B

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

11. A executed sale deed with respect to his property having an extent of 12,000 cents to his friend B on 10-01-2010 which is the subject matter of a suit pending consideration against A. What is the effect of the decree on the sale deed executed in favour of B?
12. A and B are married. C transfers his property to A on condition that A deserts B. Is the transfer valid?
13. A leases his land to B for commercial purpose at the rate of Rs.5,000-00 per month which B is paying regularly to A. A transfers this land to C without notice to B. B in good faith continues to pay the rent to A. Is B chargeable with the rent paid to A?

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14. A is the owner of 10.000 cents of property abutting a public road. Out of the said property he sold 5.000 cents abutting the said road to B. Later, A claims a right of way through the property sold to B alleging that he has no other way for the ingress and egress to the property retained by him. Whether A is entitled to get a right of way as claimed by him over the property sold to B? If so, justify.

PART - C

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

(3 x 15 = 45)

15. What is gift and how is it effected? When can a gift be suspended or revoked?
16. What is easement by prescription, explain? Can a person enjoy easement of necessity and prescriptive easement on the same servient tenement at the same time?
17. What are the matters to be considered in determining compensation for acquisition of land under Land Acquisition Act, 1994? What matters can be neglected? Explain concept of market value in land acquisition matters.
18. What is mortgage? Explain different kinds of mortgages.
19. How are leases made? What are the rights and liabilities of lessor and lessee?

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**HIGH COURT OF KERALA
JUDICIAL TEST [Higher] 2016
PART II-PAPER IV
SERVICE LAWS**

**Total Marks 100
Time 3 Hours**

PART-I

Answer any SEVEN questions. Each carries 5 Marks.

1. What is the distinction between direct recruitment and recruitment by transfer?
2. Can a vacancy reserved for a community in the Annexure to Rule 15, in their absence, be filled up by a candidate belonging to a different community?
3. Mention the statutory provision in the Kerala High Court Service Rules enabling an employee to relinquish any right or privilege to which he is entitled to.
4. Which provision under the KSR enables the teaching staff of an educational institution to continue in service till the end of the academic year beyond the age of superannuation?
5. Briefly explain whether a retired Government servant can claim DCRG after the expiry of 3 years from the date of his retirement notwithstanding the pendency of any judicial proceedings?
6. What will be legal consequences when there is no vacancy in a lower category to which a full member in the High Court service is reduced substantively?
7. What is the scope of the Special rules applicable to a service in relation to the provisions in the General Rules when there is inconsistency?
8. State the distinction between fixation of pay under Rule 28A and Rule 30 of Part I, KSR.
9. What is meant by lien? When is a lien lost?
10. Which provision in the KSR enables the Government to proceed against a retired employee before the Civil Court to recover the pecuniary loss caused to the Government when the recovery is otherwise rendered impossible due to the expiry of time limit prescribed for such action?
11. Explain Compulsory retirement and Voluntary retirement.

[7 x 5 = 35]

PART -II

Answer any TWO questions. Each carries 10 Marks.

12. 'A' was advised by the Public Service Commission for appointment to a post in a service. He applies for extension of time for two months. In such circumstances, can he claim seniority with effect from the date of advice by the P.S.C. ? Explain with reference to the statutory provision.

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13. What is the minimum period of the C.R. required to be considered by the Departmental Promotion Committee in the case of an officer who has been reinstated in service after suspension imposing a penalty of censure for appointment to a selection post?
14. 'A' on return from leave had to compulsorily wait for orders of posting after reporting for duty. Can the period 'A' was made to compulsorily wait for orders of posting after return from leave be treated as duty. Explain with reference to the statutory provision ?
15. Which is the provision in the KSR enabling persons recruited from the bar to Government service to count 10 years as qualifying service for superannuation pension. Is the above provision hinged with any condition ? Explain.

[2 x 10 = 20]

PART-III

Answer any THREE questions. Each carries 15 Marks.

16. Is there any provision in the KS & SSR which empowers the Government to extend the period of probation. If so, can the Government extend the probation after the period of probation prescribed in the Special Rules expires ?
17. Which is the statutory provision in the Kerala High Court Service Rules providing for appointment as full members. What are the conditions required to be satisfied by an employee in the High court service to get appointment as full member ? Explain.
18. Can the Chief Justice of the High Court impose a penalty in a disciplinary proceeding against an employee for which the competent authority is the Registrar ?
19. Which are the authorities competent to place a Government employee under suspension under Rule 10 of the Classification, Control and Appeal Rules ? Will the order of suspension of a Government employee revive in case the penalty of dismissal, removal or compulsory retirement of such employee is set aside in appeal ? Explain.
20. What are the different kinds of pension provided under the KSR ?

[3 x 15 = 45]

HIGH COURT OF KERALA

JUDICIAL TEST (HIGHER) - 2016

**PART - II, PAPER - V
FAMILY LAW**

Time : 3 Hours

Total Marks: 100

PART A

Answer any SEVEN questions. Each carries 5 marks. [7X5 = 35]

Write short notes on:

1. Sanctity of Talaq.
2. Essentials of a valid Hindu marriage.
3. Grounds available for a Christian female for divorce.
4. Source of Hindu law.
5. Alimony pendent lite.
6. Unsoundness of mind and marriage.
7. Hindu widow and 2nd marriage.
8. Legality of living together.
9. Gift under Muslim law.
10. Importance of free consent in marriage.
11. Marriage a sacrament or contract for Christians? Explain.

PART B

Answer any TWO questions. Each carries 10 marks. [10 X 2 = 20]

1. Sebastian aged 25 and Elizabeth aged 22, who are Christians, got married on 15/09/2011 according to the religious customs and were living under one roof happily. Unfortunately, Elizabeth became mentally sick in March 2012. In April 2012, Doctors declared that she has become of unsound mind incurably. Sebastian filed a petition for

divorce in June 2013. Is the petition for divorce maintainable? Can Sebastian succeed?

2. Mr. Bhaskaran, a Hindu male, having 2 daughters and 2 sons executed a will in 1999 bequeathing 30 cents of land and the house standing thereon in favour of his son Mr. Prasad reserving life interest in favour of his wife Gomathy. Mr. Prasad has married Suma and they have no issues. Mr. Bhaskaran passed away in 2009. Mr. Prasad died in 2010. Mother Mrs. Gomathy is alive. Who all will get share in the 30 cents of land and the house property?

3. Ranjini and Soman are highly educated and affluent couple. After marriage they were living in Dubai. Unfortunately because of matrimonial cruelty attributed to Soman, Ranjini is unable to reside with him and came back to India and sues for divorce. They have a girl aged 3 years. Soman, who is so fond of the child wants her custody. Can he succeed?

4. 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?

PART C

Answer any THREE questions. Each carries 15 marks [3x15 = 45]

1. Define and distinguish void and voidable marriages under Hindu Marriage Act.
 2. Explain the intestate succession in the case of a deceased Hindu male under the Hindu Succession Act?
 3. What is a Will? How can wills be validly executed and proved?
 4. Explain the sources of Muslim law and its binding effect.
 5. Who is a natural guardian? Explain the powers and functions of a natural guardian.
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**HIGH COURT OF KERALA
JUDICIAL TEST [HIGHER] 2016
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 note on:

1. 'Gerrymandering'.
2. 'Ordinarily resident' under the Representation of the People Act, 1950.
3. Which is the authority to determine the subsequent disqualification of a member of the Panchayat and how and by whom such dispute can be raised?
4. Right to vote of persons (i) confined in prison under sentence of imprisonment or transportation or otherwise, (ii) in the lawful custody of the Police, (iii) under preventive detention.
5. Under what circumstances an Election Petition can be continued by substitution of the Original Petitioner?
6. Explain the procedure to be adopted by the High Court, if during the trial of an election petition it appears that there is an equality of votes between any candidates at the election.
7. Can Returning Officer or Election Commission be joined as parties to the Election Petition?
8. What are the qualifications for election as President of India and eligibility for re-election?
9. Under what circumstance can an Assistant Returning Officer perform the functions of the Returning officer relating to scrutiny of nominations?
10. Grounds on which the Returning officer can reject a nomination paper.

PART – B

Answer any TWO questions. Each carries 10 marks.

[2 x 10 = 20]

1. 'X' is a candidate set up by a registered – unrecognized political party for election to the Kerala Legislative Assembly. 'X's' nomination was found valid on scrutiny and has not withdrawn his candidature. He dies the next day

P.T.O

after the last date for the withdrawal of candidature. The report of his death was received by the Returning Officer soon thereafter. Is the Returning Officer bound to announce adjournment of the poll? Give reasons.

2. A Writ Petition calling in question the election of the returned candidate to the Municipality was filed within 30 days from the date of election but was dismissed by the High Court as the Writ Petition under Article 226 is barred under Article 243 ZG (b) of the Constitution of India. Whether the period of pendency of the Writ Petition can be excluded for filing an election petition as per Section 14 of the Limitation Act, 1963? Give reasons.
3. 'Y' is a partnership firm. 'Y' has entered in to contract with the Government which is subsisting. 'M' is a partner of the said firm. 'M' wants to contest election to the Legislative Assembly. Is 'M' disqualified for being chosen as a member of the Legislative Assembly?
4. 'X' is disqualified under the Representation of the People Act, 1951 to contest election to the Legislative Assembly. Since the disqualification subsists 'X' was denied candidature by his political party. 'X' wants the candidate now set up by his political party to appoint 'X' as his election agent. Please advise the candidate.

PART – C

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

[3 x 15 = 45]

1. What are the powers and functions of Election Commission of India?
2. What are the Constitutional and Statutory disqualifications for being chosen as a member of Rajya Sabha.
3. Relevance of State Election Commission in the context of 73rd and 74th amendment to the Constitution of India.
4. Explain 'corrupt practices in election'.
5. Voter's right to know the antecedents of the Candidates.

HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) - 2016
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. Temporary injunction - Principles for grant of.
2. What do you mean by Restitution ?
3. When can a plaint filed before a Civil Court be rejected ?
4. What do you mean by abatement of proceedings in civil cases?
5. What do you mean by discovery by interrogatories?
6. What do you mean by suits of civil nature?
7. Appointment of Commissioners for local inspection and for examination of witnesses
8. Setting aside of exparte order and exparte decree
9. Attachment before judgment
10. Personal execution as part of execution of money decree.

PART - B

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

1. Ashokan participated in a sale of immovable property conducted by the Sub Court, Ernakulam in execution of a decree and purchased 15 cents of property belonging to the JD by name Gopalan which was in his possession. The Court auction was on 10.02.2014 and the sale was confirmed in his name on 12.04.2014 and sale became absolute on that day. Sale certificate is also issued in the name of Ashokan. Ashokan applied for delivery of the property by filing petition on 22.05.2015 Gopalan resists the delivery stating limitation. Advise Ashokan. If the delivery is barred by limitation, whether Ahokan has any other remedy ?
2. State Bank of India, Palakkad had granted a loan of Rs.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 situate 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.

P.T.O.

3. Thomas filed a suit before the Sub Court, Kozhikode for declaration of title and for recovery of possession of 10 cents of property valued Rs.20 Lakhs against Raju. The suit was decreed in favour of Thomas on 21.12.1992. Raju filed appeal before the High Court of Kerala but no stay was granted by the High Court against execution of the decree of the Sub Court. The appeal was dismissed for default by the High Court on 09.01.2006. Thomas filed execution petition for recovery. Raju objected the prayer raising the question of limitation. 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 ?

PART - C

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

(3 x 15 = 45)

1. What are the provisions in the Code of Civil Procedure regarding filing of suits by Indigent Persons? Can a petition filed seeking for leave to file a suit as indigent person be rejected for reasons other than inability to pay Court Fee?
2. What do you mean by counter claim ? Are there any differences between counter claim and set off ?
3. What are the questions which an execution court can determine? Can the executing Court go beyond the decree?
4. What do you mean by claim Petition? What is the remedy available to a person aggrieved by the order passed in a claim petition. Explain with reference to the relevant provisions in the Code of Civil Procedure.
5. What are the provisions in the Code of Civil Procedure regarding attachment and sale of immovable property in execution of money decree? When can sale be set aside ?

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**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2016
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 note on:

1. Cognizable and non-cognizable offences.
2. Magistrate's power to order further investigation.
3. Legal aid to the accused.
4. Plea bargaining.
5. Tender of pardon.
6. Execution, suspension, remission and commutation of sentences.
7. Payment of Batta to witnesses.
8. Investigation, inquiry and trial.
9. Summons and warrant cases.
10. Double jeopardy.
11. Discharge and acquittal.

PART-B

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

[2 x 10 = 20]

12. Ramu and Ravi are neighbours. Waste water from the houses of Ramu and Ravi flows into a public drainage. Due to his enmity with Ravi, Ramu diverted the public drain, thereby preventing flow of waste water from Ravi's house into the public drain. Can Ravi take recourse to the provisions of the Code of Criminal Procedure for redressal of his grievance? If so, in what manner?
13. 'A' is arrested on the allegation of having committed theft and is remanded to judicial custody. Police has not completed the investigation and filed final report even after 60 days. What right, if any, would accrue on 'A'? Explain with reasoning.

P.T.O.

14. Gopi and Geetha are husband and wife. Due to marital discord Geetha filed a complaint against Gopi and case was registered against Gopi alleging commission of offence under Section 498A of IPC. Subsequently the issues between Geetha and Gopi were compromised and Geetha does not want to proceed with her complaint. What is the course of action available to Geetha and Gopi?
15. 'A', a citizen of India, commits an offence outside India. In what manner can 'A' be proceeded against?

PART-C

Answer any **THREE** questions. Each carries 15 marks. [3 x 15 = 45]

16. What do you mean by framing of charge? What is the effect of error in framing charge? When can a court alter the charge? Can the Prosecutor or accused be permitted to recall witnesses when charge is altered?
17. What are the powers of the court with regard to the release of certain offenders under the Probation of Offenders Act, 1958? Explain the procedure to be followed against an offender who breaches the condition of probation.
18. What are the circumstances under which an accused would be justified in approaching the High Court to quash the criminal proceedings pending against him? State the limitations, if any, in exercising the power under Section 482.
19. Explain the term 'juvenile in conflict with law'. What is procedure to be followed when an accused raises the question of juvenility before the criminal court?
20. What do you mean by Proclamation and attachment? When and under what circumstances can order of Proclamation and Attachment be made?

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HIGH COURT OF KERALA
JUDICIAL TEST (Higher) 2016
PART III - PAPER IV
LAW OF EVIDENCE AND LIMITATION

Total Marks : 100
Time : 3 Hours

PART A

Answer any SEVEN questions. Each question carries 5 marks

Write Short Notes on :

1. Facts in Issue
2. Confession to police
3. When is entry in public record relevant ?
4. Primary Evidence and Secondary Evidence
5. Public Documents
6. Burden of Proof
7. Res gestae
8. Extension of period of limitation
9. Exclusion of time in legal proceedings
10. Limitation in case of continuing breach

(7 x 5 = 35)

PART B

Answer any TWO questions. Each question will carry 10 marks

1. A borrowed Rs. 1 lakh from B on 1.1.2010. On 30.3.2013 A executed a cheque in favour of B for an amount of Rs.20,000/- and acknowledged the liability. The cheque was dishonoured on 15.4.2013. A files a suit on 1.1.2016 for recovery of the dues. B contends the suit is time barred. Decide.
2. A is charged with murder of B and the trial is in progress. There is evidence to show B was murdered by A and C and C has stated " A and I killed B". Can C's statement be considered in the trial against A.

P.T.O.

3. Chacko is facing trial on charge that he murdered Agasthi. The defence put forward is that of suicide. There is evidence to the effect that Agasthi rushed out of his house with fatal injuries, shouting "Look what Chacko has done to me". Agasthi dies immediately thereafter. How far is the statement relevant against Chacko ?
4. Ram intentionally and falsely led Rahim to believe that a rubber estate belongs to him and induces Ram to buy the estate and pay for it. Subsequently, the estate came to vest in Ram. Ram sought to set aside the sale on ground that at the time of sale he did not have title. Advise Rahim.

(2 x 10 = 20)

PART C

Answer any THREE questions. Each question will carry 15 marks

1. Explain the role and importance of different presumptions under the Indian Evidence Act ?
2. Discuss Primary and Secondary Evidence. What are the circumstances in which Secondary Evidence is permissible ?
3. Discuss the legal disabilities under Limitation Act. When is a special exception available regarding the legal disabilities ?
4. Discuss the concept "Burden of Proof" ?
5. Discuss Chief examination and Cross examination ? In your opinion, is filing of proof affidavit a better option than chief examination ?

(3 x 15 = 45)

**HIGH COURT OF KERALA
JUDICIAL TEST HIGHER [2016]
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. Liberal Construction
2. Interpretation of directory statutes
3. Good faith
4. *In pari delicto potior est conditio possidentis*
5. Interlocutory Application
6. Agreement for sale
7. Presumption as to service by post
8. Doctrine of implied repeal
9. Amendment of plaint
10. Doctrine of occupied field
11. Conflicting provisions

[7 x 5 = 35]

PART B

Answer any TWO questions. Each carries 10 marks

12. Raju was charged for committing theft. While the prosecution was on, the Government passed the Probation of First Offenders Act. Raju was found guilty. He claimed the benefit of the Probation Act. The Government objected on the ground of *ex post facto* law. Decide

P.T.O.

13. The Prison Act provides punishment for offences committed by prisoners. Sunil, a life convict, jumped the prison as when fire broke out in the prison. He was caught outside and was charged under the Act. Decide applying the appropriate rules of interpretation.
14. The Government has issued order that provides punishment for "throwing of wastes of any kind to public places including public roads". 'X' was charged under the order on the ground that leaves from the trees in his property fell on the public road. He challenges the charge before the High Court. Decide.
15. Anil staying in Delhi, desires to entrust his brother Ram to dispose of a property he owns at Trivandrum. Prepare an appropriate document for the same and advice him about the procedure to be complied with.

[2 x 10 = 20]

PART C

Answer any THREE questions. Each carries 15 marks

16. Discuss the presumptions of statutory interpretation
17. Write a note on the importance of General Clauses Act in the interpretation of statutes
18. Explain the external aids to interpretation with the help of illustration
19. Discuss the various kinds of statutes
20. Write note on the following:
 - (a) *Ejusdem generis*
 - (d) *Salus populi suprema lex*
 - (e) *In bonum partem*

[3 x 15 = 45]
