

FIVE YEAR LL.B. (HONOURS) DEGREE EXAMINATION, NOVEMBER 2023**Fifth Semester****FL 13—CIVIL PROCEDURE CODE AND LIMITATION ACT**

(Common to B.A., LL.B. (H), B.Com., LL.B. (H) and B.B.A., LL.B. (H))

(2020 Admissions—Regular/2018 and 2019 Admissions—Supplementary)

Time : Three Hours

Maximum : 75 Marks

Part A

Write short notes on any five of the following.

Each question carries 3 marks.

1. Representative suit.
2. Difference between “set off” and “counter claim”.
3. Framing of issues.
4. Inherent powers of a civil court.
5. Second appeal.
6. Legal disability” under the Limitation Act, 1963.

(5 × 3 = 15 marks)

Part B

Answer any three of the following problems.

Each question carries 10 marks.

7. ‘A’ filed a suit against ‘B’ for declaration that the religious rites performed by ‘B’ during the “Puja” of the deity were not proper. ‘B’ contends that he has been performing the Puja as per the Hindu religious rites. Is the suit maintainable before a civil Court ? Decide.
8. ‘X’ entered into a sale agreement with ‘Y’ for purchase of five cents of land belonging to ‘Y’ situated in Ernakulam district. ‘Y’ is currently carrying on his business in Kozhikode. The agreement was executed, and the advance sale consideration was paid at Thiruvananthapuram, where ‘X’ is residing. However, ‘Y’ failed to execute the sale deed in spite of ‘X’ being ready and willing to pay the balance sale consideration. Where should ‘X’ file a suit for specific performance against ‘Y’ ?

Turn over

9. 'P' deposits a box of jewels with 'Q', his agent. Later, 'R' alleges that the jewels were wrongfully obtained from him by 'P' and claims them from 'Q'. Can 'Q' institute an interpleader-suit against 'P' and 'R' so as to deliver the jewels to its rightful owner? Decide.
10. 'T' is a tenant in the house of 'S' for the last 30 years. 'S' is now in need of the house for his own occupation. He has filed a petition for eviction against 'T'. 'T' contends that he has become owner by adverse possession. Decide.

(3 x 10 = 30 marks)

Part C

Answer any **two** of the following questions.

Each question carries 15 marks.

11. "*Res judicata* is a rule of universal law pervading every well-regulated system of jurisprudence and is put upon two grounds, embodied in various maxims of the common law." - Elucidate. What are the essential ingredients for raising the plea of *Res Judicata*? Point out the distinctive factors that distinguish *Res Judicata* from *Res Subjudice* and Issue Estoppel.
12. Explain the provisions of the Code of Civil Procedure relating to "appearance of parties and consequence of non-appearance". Compare and contrast the consequences of non-appearance in an original suit and an execution proceeding under the CPC. What are the key differences, if any, in handling non-appearance in these two types of proceedings?
13. What are the various modes for execution of decrees? Explain in detail. Is there any provision in the Civil procedure Code for execution of orders? Is it true to state that only a court that passed a decree alone can execute the same? In this regard, enumerate the powers, functions and duties of executing courts.

(2 x 15 = 30 marks)