

**UTTARAKHAND HIGHER JUDICIAL SERVICE DIRECT RECRUITMENT**  
**EXAMINATION – 2018**

**PAPER NO. - 3**

**Maximum Marks: 100**

**Time: 2 Hours**

**Note:**

- (i) All questions are compulsory.
  - (ii) Marks allotted to each question are indicated against the same. Credit will be given, if correct citations, wherever necessary, are mentioned.
  - (iii) Candidates can answer the questions either in English or in Hindi.
  - (iv) Candidates are required to clearly mention the question number, which is being answered.
  - (v) Candidates are directed that they should not write his/her name, roll number or any such identification/mark anywhere in the Answer Booklet, except the cover page, which tend to disclose their identity. If at any stage, it is found that any candidate has violated this direction, his/her candidature shall be liable to be rejected.
- **Note:** Credit will only be given, when there is mentioning of clear provision of law and citation. No marks will be given on general & casual answers.

**EVIDENCE ACT (30 Marks)**

**Q. 1:** When is evidence given by a witness in judicial proceeding relevant for the purpose of proving in a subsequent judicial proceeding the truth of the facts stated therein? (5 Marks)

**Q. 2:** State the exceptions to the rule that no evidence of any oral agreement or statement shall be admitted for the purpose of contradicting, varying, adding to, or subtracting from the term of a written instrument. (10 Marks)

**Q. 3:** Can a witness be excused from answering any question in civil or criminal proceedings on the ground that the answer will criminate him. (10 Marks)

**Q. 4: (a)** A witness is asked whether he was not dismissed from an institution for dishonesty. He denies it. Evidence is offered to show that he was dismissed for dishonesty. Is such evidence legally admissible?

**(b)** A affirms that on a certain day, he saw B at Lahore. A is asked whether he was himself not on that day in Calcutta. He denies it. Evidence is offered to show that A was on that day at Calcutta. Is such evidence admissible?

Give reasons for your answers, stating briefly the rules in the Indian Evidence Act regarding admissibility of evidence to contradict answer to questions testing veracity of a witness. (5 Marks)

**CODE OF CIVIL PROCEDURE (30 Marks)**

**Q. 5:** State briefly the rules in regard to the <sup>execution</sup>~~conclusion~~ of decrees for: (a) Specific Performance (b) Restitution of Conjugal Rights.

(10 Marks)

**Q. 6: (a)** Does a suit abate if after the conclusion of the hearing but before the pronouncement of the judgment, one of the party dies and his legal representatives are not brought to record? (3 Marks)

**(b)** What is the effect of abatement of suit on an appeal and how can it be set aside? (2 Marks)

**(c)** Does the rule of abatement apply equally to execution proceedings and appeals? (2 Marks)

**(d)** Can a legal representative of a deceased defendant be allowed to take up a defence other than the one taken by the previous

defendant, and in what circumstances the legal representative can depart from the original pleadings? (3 Marks)

**Q. 7: (a)** In what class of cases, is a preliminary decree passed? What is the difference between preliminary decree and a final decree? State giving reasons whether the following are preliminary or final decrees:

(i) A sues B for cancellation of a document and a decree is passed.

(ii) A suit is brought by one partner against another for a dissolution of partnership and for taking of partnership account.

(iii) A sues B for recovery of possession of certain immovable property and for mesne profits. (4+1+1+1=7 Marks)

**(b)** Give the procedure by which a decree can be transferred to another Court for execution. A had a decree for money against B which he got transferred from Nainital to Dehradun for execution. Can the Dehradun Court grant B instalment? (3 Marks)

**CODE OF CRIMINAL PROCEDURE (30 Marks)**

**Q. 8:** State the general provisions regarding execution of sentence under the Code of Criminal Procedure? (10 Marks)

**Q. 9:** Does appeal lie against the order of acquittal? If so, to what Court? Explain with the relevant provisions. Also state powers of Appellate Court. (10 Marks)

**Q. 10: (a)** State clearly the powers of the Court to summarily proceed against a person giving false evidence in any judicial proceeding. (5 Marks)

**(b)** State the powers of Court to proceed against other persons to be guilty of offence. (3 Marks)



(c) When can the accused be examined by the Court? What is his liability for refusing to answer questions put to him? (2 Marks)

**LEGAL DRAFTING (10 Marks)**

**Q. 11:** Draft a 'charge' of an offence punishable under Section 379 of Indian Penal Code, 1860 with 'charge' of previous conviction.

(10 Marks)

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