

**UTTARAKHAND HIGHER JUDICIAL SERVICE DIRECT RECRUITMENT
EXAMINATION – 2017**

PAPER NO. - 2

(Civil, Criminal and Constitutional Law)

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.

CIVIL LAW – (40 Marks)

1. (a) X filed a suit for injunction restraining the defendant from interfering in his possession over property-in-suit, of which, the plaintiff claims himself to be the owner. He also asserted his possession over it. He did not, however allege that the defendant disposed him from the property-in-suit. Would the plaintiff be entitled to the protection of Section 6 of Specific Relief Act? 5 Marks
- (b) Define "Hiba-bil-Iwaz" and "Hiba-ba-Shart-ul-Iwaz". What is the difference between the two? 5 Marks
- (c) Discuss the validity or otherwise of the following: 10 Marks
- (i) A Sunni male marries a Shia woman in desert, where there are no witnesses.
- (ii) Marriage of A, a Shia woman was dissolved on January 1, 1980 on account of death of her husband B. The marriage was not consummated. A married D on January 26, 1980.
- (iii) A, a Shia married B, a Shia female in the presence of a witness Q on January 12, 1980. In June, 1980, he married D, who was B's sister.
- (iv) A, a Sunni male marries B, a Sunni female but no Mehr was specified.
2. What do you mean by Mortgages as defined in Transfer of Property Act? What are its kind? What do you mean by 'Right of Redemption and 'Clog on Redemption'? 10 Marks

3. (a) Does the substitution or addition of a new plaintiff or defendant affect the period of limitation? 5 Marks

(b) "Easementary rights are restrictions on ownership rights", Discuss. 5 Marks

CRIMINAL LAW – 40 Marks

5. Explain 'Voyeurism'? What is the punishment for it? 5 Marks

6. Section 33(1) of the Protection of Children from Sexual Offences Act permits the Special Court to take cognizance of any offence punishable under that Act, without the accused being committed to it for trial, upon a complaint or a police report. A person was arrested alleging that he committed an offence punishable under Section 8 of the Act. After the arrest, he was produced before a Judicial Magistrate within 24 hours. The Magistrate refused to attend, and directed the police to produce him before the Special Court. Comment. 5 Marks

7. What is the difference between 'medical insanity' and 'legal insanity'? When the accused raised a plea that he was of unsound mind, what is the procedure to be adopted by the Sessions Judge as a Trial Court? When an accused is found entitled to the exception envisaged in Section 84 of the Indian Penal Code, what steps are required to be adopted by the Sessions Judge? 10 Marks

8. Define "Consent". Discuss in which situation defence of consent, can lawfully be raised? 10 Marks

9. Discuss the difference between: (5x2 = 10 Marks)

(a) 'Breach of Trust' and 'Criminal Mis-appropriation'.

(b) 'Petty Offences', 'Serious Offences' and 'Heinous Offences' as prescribed under the Juvenile Justice (Care and Protection of Children) Act, 2015.

CONSTITUTIONAL LAW – (20 Marks)

10. In case of conflict between Parliamentary privileges and Fundamental Rights, which shall prevail? Illustrate your answer with the help of decided case law. 10 Marks

11. What are the qualifications and disqualifications for membership of Parliament? How a seat of Member of Parliament would be vacated? 10 marks

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