

TIME: Three Hours

Marks: 100

Instructions:

1. *Attempt any Five questions.*
2. *Assume the facts wherever necessary. Brevity will be appreciated.*
3. *Marks for the Answers are indicated at the end of each question.*
4. *No bare acts and/or study materials are allowed.*
5. *No clarification will be sort during examination.*

Q.1. Draft the requisite for following cases:

- a. Claim for infringement of copyright in literary work (Plaint and a written statement)
- b. Application for maintenance of wife under section 125 Criminal Procedure Code,1973.

(Marks 10+10=20)

Q.2. a. An appeal is a proceeding by which the defeated party in law suit applies to higher court to have the judgement reversed because of error committed in the court below. Is appeal a fundamental right? Explain with different kinds of appeal under the Criminal Procedure Code,1973.

b. Draft an appeal under section 373 of the Criminal Procedure Code,1973. (Marks 10+10=20)

Q.3. While deciding a matter a judge can make an error in the course of his duties as well. There is yet to be born a man who has not made a mistake. The provisions of appeal review and revision have been a part of the law. These provisions are some important steps in the attempt to remove or reduce the errors by the judges. Explain the concept of revision, how does it differ from appeal. Draft a revision petition on the imaginary facts. (Marks 20)

Q.4. 'Drafting is one of the most intellectually demanding of all lawyering skills. It requires a knowledge of the law, the ability to deal with abstract concepts, investigative instincts, an extraordinary degree of prescience, and organizational skills.' Justify the statement by emphasizing on importance of drafting and also discuss the general principles of drafting.

b. Discuss the following concepts along with suitable examples:

i. Parties to Suit

ii. Rejection of Pleint.

(Marks 10+7+3=20)

Q.5. The word conveyancing means an instrument or deed through which one or more living person transfer his or their interest in present or in future in or upon an immovable property to one or more living persons. In other words, conveyance means an act by which property is conveyed or voluntarily transferred from one person to another by means of a written instrument and other formalities. Discuss the history of conveyancing along with its basic fundamentals.

b. Draft a conveyance of lease-deed of a house to run a mill.

(Marks 7+13=20)

Q.6. One 'A' who owns a Jewellery shop in Jai Nagar, Jodhpur lives in Jhalamand. He gave rupees Twenty lakhs to 'Y' on loan in 2020 during pandemic to save his business at the rate of 10% per annum which 'Y' was supposed to return back after two years. On January 1st 2023 'A' requested him to return back the amount, he asserted the same but failed to return. After many reminders 'A' warned him to sue. One fine morning of April 15th 'A's', son who was studying in class VI of nearby school went to the school and did not return back till late evening. He ('A') got panic and searched for him everywhere, he also went to police station for filing complaint. Even after going to police station number of times the report was not filed. He approached an advocate and narrated the entire story. The advocate approaches you to draft a writ petition, help the advocate in drafting the same. (Marks 20)

Relevant sections of Criminal Procedure Code for reference:

Section 125: Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain--

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate 1* * * as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

2[Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.]

Explanation.--For the purposes of this Chapter,

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

3[(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.]

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month 4[allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.--If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an 5[allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

Section 373: Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.

Any person,-

(i) who has been ordered under section 117 to give security for keeping the peace or for good behaviour, or

(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 121,

may appeal against such order to the Court of Session:

Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 122.

