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PRESIDENCY UNIVERSITY BENGALURU

 **SET-A**

SCHOOL OF LAW

**END TERM EXAMINATION – MAY/JUNE 2024**

**Semester :** Semester VIII - 2020

**Course Code :** LAW116

**Course Name :**  CPC and Limitation Act

**Program :** BA LLB Honors

**Date :** June 10, 2024

**Time :** 1:00 PM - 4:00 PM

**Max Marks :** 100

**Weightage :** 50%

**Instructions:**

1. *Read all questions carefully and answer accordingly.*
2. *Question paper consists of 3 parts.*
3. *Scientific and non-programmable calculator are permitted.*
4. *Do not write any information on the question paper other than Roll Number.*

**PART A**

**ANSWER ANY FOUR QUESTIONS 4Q X 5M = 20 MARKS**

* 1. Explain the meaning of the term Res Sub Judice.

(CO1) [Knowledge]

* 1. 'A' filed a suit against 'B'. 'B' raised plea of limitation and suit being barred by principle of res judicata, court framed an issue and decided against defendant. Is said decision a decree or order? Discuss.

(CO2) [Knowledge]

* 1. A files a suit against B. On the date of hearing, A remains absent and the suit is dismissed for default. Advice A.

(CO3) [Knowledge]

* 1. Discuss provisions relating to suit by or against Government and requirement of issuance of notice under section 80, CPC. What are consequences of non-issuance of notice?

(CO4) [Knowledge]

* 1. Give brief description of rules contained in Order 33 of the Code of Civil Procedure, 1908.

(CO5) [Knowledge]

* 1. “Limitation bar the remedy but does not extinguish the right”. Elaborate in the light of relevant provisions.

(CO6, CO5) [Knowledge]

**PART B**

**ANSWER ANY FOUR QUESTIONS 4Q X 10M = 40 MARKS**

* 1. Illustrate the principle of 'res judicata' that applies to prevent the opposing parties from re-litigating the same issue. How does it differ from 'stay of suit? Also state whether 'res judicata' applies to execution proceedings.

(CO1) [Application]

* 1. How would you advise your client regarding the powers to transfer suits? Can a party apply for such transfer? If so, describe the procedure to be adopted in the matter.

(CO2) [Application]

* 1. Whether it is mandatory for court to frame issue regarding maintainability of suit? Explain by citing relevant legal provisions and judicial decisions.

(CO3) [Application]

* 1. How would you explain the rules regarding the temporary injunction? When an order for an injunction may be discharged, varied, or set aside? Examine the consequences of disobedience or breach of injunction.

(CO4) [Application]

* 1. As a municipal lawyer, you are approached by a group of residents who are effected by factory emitting harmful pollutants in their neighborhood. How would you explain the provision of public nuisance under CPC, 1908 to these residence? Summarize the steps that you can recommend them to take to file a suit to abate the public nuisance.

(CO5) [Application]

* 1. Critically examine the guiding principles for condonation of delay under section 5 of the Limitation Act. Is the position of government and private individuals same under section 5 of The Limitation Act, 1963? Discuss.

(CO6) [Application]

**PART C**

**ANSWER ANY TWO QUESTIONS 2Q X 20M = 40 MARKS**

* 1. Explain the provisions relating to the issuance of a commission under Civil Procedure Code 1908. Discuss the circumstances under which a court may exercise its power to appoint a commission, the procedure to be followed for issuing a commission, and the role of a commission in aiding the court during trial. In your answer, analyze the objectives behind empowering courts to issue commissions and evaluate the practical utility of this procedure in ensuring efficient and fair adjudication of disputes. Refer relevant case laws to illustrate the application of these provisions and highlight the judicial interpretations that have shaped the understanding of commission proceedings in contemporary legal practice.

(CO1, CO2) [Analysis]

* 1. Mr. R, the plaintiff, files a civil suit in the District Court against Mr. S, claiming damages for breach of contract. After a full trial, the District Court delivers a judgment in favor of Mr. S, dismissing Mr. R's claim. Mr. R, dissatisfied with the decision, intends to file a First Appeal before the appropriate appellate court under the Civil Procedure Code, 1908. Discuss the grounds on which Mr. R can file a First Appeal against the judgment of the District Court. What are the permissible grounds for challenging the decision, and what legal principles govern the appellate court's review of the lower court's judgment? Explain the procedural steps that Mr. R needs to follow in filing and pursuing a First Appeal under the CPC. Outline the timeframe within which the appeal must be filed, the documents required, and the general procedure for the hearing and disposal of the appeal. Analyze the role and powers of the appellate court in deciding Mr. R's First Appeal. What factors will the appellate court consider while reviewing the judgment of the District Court? Discuss the extent to which findings of fact and law can be challenged in the First Appeal. Evaluate the potential outcomes of Mr. R's First Appeal. What remedies can the appellate court grant if it upholds Mr. R's appeal? Conversely, what are Mr. R's options if the appellate court dismisses the appeal and affirms the judgment of the District Court? In your answers, provide a detailed explanation of the appellate process under the CPC, focusing specifically on First Appeals. Support your analysis with relevant legal provisions and case law, demonstrating a comprehensive understanding of the principles governing appeals in civil matters.

(CO4,CO3) [Analysis]

* 1. Analyze the concept of "Substantial Question of Law" on which the second appeal is filed before the High Court under Section 100 of the Civil Procedure Code. Whether the second appeal can lie in the following cases? Give descriptive answers with reasons:
		1. Ex parte decree.
		2. Decision being contrary to law.
		3. Legal inferences drawn from finding of fact.
		4. Usages having the force of law.

(CO5,CO6) [Analysis]