

**EXAMINATION OF ARTICLED CLERKS**

**Paper I**

**PRACTICE AND PROCEDURE**

**Monday, 27<sup>th</sup> September, 2021**

**Time: 3 Hours (1:00 PM to 4:00 PM)**

**(Total Marks: 100)**

Notes:

1. *Read the question carefully.*
2. *Please answer precisely and to the Point.*
3. *Supplement your answers with the provision of law and caselaw.*
4. *Answer to every question should be on a fresh sheet of paper.*

Question No.	Question	Marks
1.	What is an 'issue'? What are the different types of issues? When are issues framed? Who frames the issues in a Suit?	(3) 10. (4) (2) (1)
2.	What are the timelines to file Written Statement under the Civil Procedure Code and The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015?	5.
3.	Write short notes on any 3 of the following: i. Jurisdiction of Commercial Divisions of High Courts. ii. Determination of Specified Value of the subject-matter of the commercial dispute in a suit. iii. Summary judgment in a commercial dispute. iv. Discovery by interrogatories in a commercial dispute.	15.
4.	Write short notes on any 3 of the following: i. What are the material questions to be addressed by parties in a suit for specific performance? ii. When can specific performance of a contract be enforced? iii. What type of contracts cannot be enforced? iv. Is escalation in the price of the land ground to deny relief of specific performance?	12.
5.	Write a brief note on the maintainability of Appeal under Clause XV of the Letters Patent.	9.

6. Mr, A files an SLP before the Supreme Court which is rejected by a non-speaking order. Mr. A now seeks to move the High Court for Review of its order. Can Mr. A do so? Why? 5.
7. Write short notes on any 4 of the following: 16.
- i. Can a stranger be permitted to file a civil appeal in any proceedings?
  - ii. What is a second Appeal and when can it be entertained?
  - iii. When a plaint is returned under Order VII Rule 10 and 10A of the Code of Civil Procedure 1908, for presentation in the court in which it should have been instituted, will the suit continue from the stage where it was pending before the court at the time of returning of the plaint or proceed de novo?
  - iv. Res sub judice.
  - v. Precepts.
  - vi. Settlement of disputes outside the court.
  - vii. Power to order interim sale.
8. Article 32 affirms the right to move the Supreme Court if a fundamental right is violated. How has the Supreme Court interpreted this right? 12.
- OR
- Discuss the maintainability of Writ Petitions under article 226 where disputed questions of facts exist.
9. Draft any 4 of the following: 16.
- i. Statement of Truth.
  - ii. Prayer for appointment of a Court Receiver.
  - iii. Main prayer in a partition suit.
  - iv. Prayer to obtain an order for discovery.
  - v. Prayer for future mesne profits.
  - vi. Main payer in a suit for dissolution of a partnership firm.
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