

**EXAMINATION OF ARTICLED CLERKS**

**PAPER-I**

**PRACTICE AND PROCEDURE**

**Monday, 15<sup>th</sup> April, 2024**

**TIME : 3 HOURS [1-00 P.M. TO 4-00 P.M.]**

**TOTAL MARKS - 100**

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**Notes:**

- 1. Read the questions carefully.**
- 2. Answer the questions from a legal and practical approach.**
- 3. Begin every new question on a fresh sheet of paper.**
- 4. Cite case laws, provisions of laws and support answers with illustrations where applicable.**

**1. Write Short Notes on any three out of four: 15 Marks**

- i) Summoning and Attendance of Witness under CPC**
- ii) Substituted Performance under the Specific Relief Act**
- iii) Clause 12 of Letters Patent**
- iv) Order XXVII of CPC**

**2. Draft any three out of the four below: 12 Marks**

- i) Main prayers in a suit for specific performance**
- ii) Prayer for appointment of Court Receiver**
- iii) Prayers in a divorce by mutual consent**
- iv) Main prayers in Administration of Suit**

**3. Answer any four out of five 20 Marks**

**under the Bombay High Court (Original) Side Rules 1980 :**

- i) Garnishee Proceedings**
- ii) Originating Summons**
- iii) Summary Suits**
- iv) Suits by Indigent Persons**
- v) Minors and Persons of Unsound Mind**

4. Answer the following under the Commercial Courts Act, 2015: **15 Marks**

- i) Transfer of Pending Cases
- ii) Pre-institution Mediation and Settlement
- iii) Jurisdiction in respect of Arbitration Matters

5. Explain any two out of three : **10 Marks**

- i) Appellate Decree operating as *Res Judicata*
- ii) When cancellation of instruments may be ordered under the Specific Reliefs Act, 1963
- iii) Representative Suit

6. Explain the following: **8 Marks**

- i) Powers of High Court under Article 227 of the Constitution
- ii) Writ of Certiorari

7. A civil suit has been filed by the Plaintiff praying for partition of the residential house as well as the shop. The brief facts of the case are as follows:

The father of the plaintiff and defendant partitioned his residential house and shop on 25.10.1992. Under such partition the southern portion of the house came in the share of the plaintiff and the northern portion came to the share of the defendant. In confirmation thereof a memorandum of family settlement dated 09.09.1994 was executed by the plaintiff, the defendant and their sisters and mother.

Your answers below have to be in the context of advising in the defence of the suit for partition:

I) Under which provisions of CPC can the defendant make his case fit for dismissal of suit? Explain the provision in detail? **6 Marks**

II) Explain the procedure the defendant will adopt, and grounds for his defence for dismissal of the suit? **4 Marks**

8. A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise". Kindly explain Review in exercise of the jurisdiction under Order 47 Rule 1 of CPC?

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**10 Marks**