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5 SEM LLB 2 CPC

2008

(June–July)

CIVIL PROCEDURE CODE AND LIMITATION ACT

Paper : 502

Full Marks : 80

Time : Three hours

*The figures in the margin indicate full marks
of the questions.*

Answer *any five* questions.

1. The principle of Res Judicata can be invoked only in respect of separate proceedings and not in respect of subsequent stage of the same proceeding. Discuss. 16
2. (a) The jurisdiction of the executing court does not begin and end with merely looking at the decree as it is finally decreed. Justify. 8

(b) Discuss the procedure of sale of immovable property in execution of a decree. 8

3. Explain the scope and provision of Order 8 Rule 1 of the C.P.C. with reference to Order 8 Rule 10 of the C.P.C. What is the effect of non filing of written statement by the defendant in a suit ? 16

4. 'X' a tenant, filed a written statement in a suit which was filed against him by 'Y'. In the said written statement 'X' accepted 'Y' as his Landlord. Later on 'X' filed a petition for amending his written statement stating therein that some trustees are the owners of the property-in-question. Justify 'X's' claim in the light of the law on the subject with reference to the law on amendment. 16

5. (a) Is it correct to state that the provisions of Order 22 of the C.P.C. supplement the provisions of Order 1 Rule 10(2) of the C.P.C. ? Give reason. 8

(b) What do you mean by the term impleadment of a party in a suit ? What are the main factors which are taken into consideration by the Court for impleading a party in a suit ?

What is the difference between impleadment of a party and transposition of a party in a suit? 8

6. (a) A filed a suit in place C and it proceeded in the said place. However all the evidences necessary for establishing the suit are found in place D. What the court will do? What provisions are laid down in the Code to deal with the situation? Discuss. 8

(b) Discuss the principles for availing the powers U/S 24 of the C.P.C. by a party to the suit. 8

7. (a) A judgement is delivered on the last day before the closing of the court. A copy of application is filed on the re-opening day and copies are obtained with which appeal is filed. 8

(b) A judgement is delivered and several days thereafter the court closed for vacation. The limitation for the appeal expires during the holidays. A copy of application is filed on the re-opening day and on getting the copies the appeal is filed.

Are the appeals barred by limitation ?
Discuss the law on the subject. In case, the
appeals are barred, what course of action is
available to the appellant for filing the
appeals ? 8

8. Define the term easement. What are the different
types of easement ? How an easementary right is
acquired and by whom ? 16

9. What do you mean by the term fraud ? A fraud
was committed after the commencement of the
period of limitation. What will be its effect on
limitation ? Discuss. 16