

PAPER-IV
CIVIL PROCEDURE CODE AND LIMITATION ACT

PART-A

Answer any **Five** of the following:

(5x5=25)

1. Distinguish a *decree* and *judgment*.
2. Explain what is meant by *Res sub-judice*.
3. Explain what is meant by *mesne profits*?
4. Differentiate between *set-off* and *counter-claim*.
5. Explain *Garnishee Order*.
6. Explain in brief how suits may be instituted by *indigent person*.

PART-B

Answer any **Three** of the following:

(15x3=45)

7. An *ex parte* decree was passed and a petition to set aside the *ex parte* decree was dismissed. An appeal against the said order was also dismissed. Thereafter the defendant preferred an appeal against the *ex parte* decree. Is he entitled to invoke Section 14 of the Limitation Act in the above circumstances?
8. Is the acknowledgment of a debt due by a Joint Hindu family by its erstwhile karta after the disruption of the Joint Family status, sufficient to save a creditor's claim from being barred by limitation against the members? Will it make any difference if (a) the creditor was not informed about the disruption of the family; (b) the family is a trading family.
9. A advanced a loan to B on 1-1-1980. On 15-12 1982 B wrote a letter to C wherein he stated that he owed the said sum of Rs. 1000 to A. A filed a suit on 15-11-1984 and contended that though the suit has been filed three years after the advancing of the loan to B, the suit is in time in view of the admission of the liability in B's letter to C. Can A take advantage of the admission of the liability in the said letter to save limitation.
10. Direction was given in a decree. It was to the effect, that the decree-holder should in execution proceed in the first instance against a decree in his favour in another mortgage suit and if he was not in a position to realize anything, then it will be open to him to proceed against the assets of the judgment-holder and can be reckon the starting point for the purpose of computing the limitation from the date when he failed to secure the fruits of the decree in the mortgage suit?

11. PART-C

Answer any **One** of the following:

(30x1=30)

9. A suit was filed on 13-7-1972 for the recovery of Rs. 10000 in the sub-court and was partly decreed. On the date of suit an appeal lay to the High Court against the judgment and decree of the Sub-Court. But during the pendency of the suit the Civil Courts Act was amended with effect from 1-11-1972 increasing the pecuniary limit for entertaining appeals to the District Court from Rs. 7500 to Rs. 15000. The plaintiff preferred an appeal to the District Court. No objection was raised regarding the jurisdiction of the District Court to entertain the appeal. The District Court awarded a large amount. When the decree-holder sought to execute the decree, the Judgment-debtor objected to the execution of the decree for the amount over and above that which was decreed by the Sub-Court on the ground that the District Court had no jurisdiction to entertain the appeal and its decree was null and void. Consider the validity of the objection.
10. Two suits are tried together. The matter in issue in the two suits is the same. A common judgment is delivered, but two separate decrees are prepared. An appeal is preferred against only one of the decrees. In the appeal it is contended that the decree and judgment against which no appeal is preferred operate as *res judicata*. Discuss the validity of the contention.