

UTTARAKHAND HIGHER JUDICIAL SERVICE EXAMINATION, 2008

Paper No. 1

Time Allowed: 2 Hours

Max. Marks: 100

Note:

All questions are **COMPULSORY** and carry equal marks.

Part-I

50 Marks

1. Trace the legal history leading to the enactments of Indian Penal Code, Code of Criminal Procedure, Code of Civil Procedure and Indian Evidence Act.
2. Recently dissensions erupted between PML(N) and PPP, the coalition partners in the Federal Government of Pakistan. Can you pinpoint the main reason for this estrangement of relationship and the consequences of the rift? Also what is the full description of abbreviations PML(N) and PPP?
3. What is the meaning of the following legal maxims? (Minimum 15 words each).
 - i. A fortiori
 - ii. Ab initio
 - iii. Contra
 - iv. De facto
 - v. De hors
 - vi. Lis pendens
 - vii. Quasi judicial
 - viii. Quid pro quo
4. What is the meaning and concept of the term "exhumation" used in the context of forensic science and medical jurisprudence? How does it help in the investigation of a criminal case and to what relevance the result of exhumation can be put in a criminal trial?
5. What is an Operating System in the field of Computer Technology? What are its functions?
6. What are the different types of networks in the field of Information Technology?

Part-II (Language)

50 Marks

1. Write an Essay for or against, containing about 250 words, on the following Topic:
"Judges of the High Courts and the Supreme Court should fall and be within the purview of the Right to Information Act and, being public servants, they should declare their assets like other public servants."
2. Write a Precis of the following paragraph:

"This hypothetical discussion is meant to emphasise that where a demised 'building' is identified merely as 'shop', then the same can be used only as a 'shop', although various kinds of trade could be carried on therein, but if the same demised 'building' came to be used later on exclusively as 'residential building', then that would tantamount to the change of user. Similarly, if such a demised 'building' was put to use exclusively as a 'godown' (for the moment assuming that the expression 'godown' connotes a 'building' that is used for the

purposes of only stocking provisions therein), then that would tantamount to the change of user. The reason being that when the demised 'building' is used as a 'shop', it is being put to constant use by the lessee which, by implication, ensures its proper upkeep like timely repair, timely white-washing etc., but when a building is used as a 'godown', which is merely used for dumping goods therein, such an upkeep may neither be possible nor, by implication, envisaged as such. A 'godown' remains mostly closed, while a 'shop' remains mostly open. The premises used as a 'godown' are bound to deteriorate and a landlord, if had been informed at the time of entering into the lease transaction that the lessee intended to use the demised premises described as 'shop', he might not have agreed to enter into the said lease transaction. Hence, when the demised premises are used for a purpose to which, having regard to its description as 'shop', 'house' etc. the landlord may not have intended, had the said different purpose, which the lessee had in mind, been made known by the lessee to him, then the landlord may not have agreed to lease the said building for that purpose. Hence putting to use the demised premises to a purpose, which the given description or identification of the demised building in the rent note did not warrant, would tantamount to the change of user."

- 3. (i) Translate the following paragraph in English:

"यह सुप्रतिष्ठित है कि जो वसीयत का आश्रय लेता है उसे साबित करना होगा कि वसीयतकर्ता उसके निष्पादन के समय वसीयत करने के लिए सक्षम था। वसीयत का आश्रय लेने वाले व्यक्ति द्वारा अपने दायित्व का निर्वहन प्रथमदृष्ट्या साक्ष्य देकर हो जाता है जो साबित करे कि वसीयतकर्ता सक्षम था और वसीयत विधि द्वारा अनुमत ढंग से लिखी गई। वसीयत का विरोध करने वाला पक्ष उस प्रथमदृष्ट्या साक्ष्य का सामना करने के लिए सामग्री अभिलेख में ला सकता है, जिस दशा में सबूत का भार पुनः वसीयत का आश्रय लेने वाले पर आ जाएगा कि न्यायालय का संकारात्मक रूप से समाधान करे कि वसीयतकर्ता वसीयत की अन्तर्वस्तु भतीभाति जानता था और वह उसके निष्पादन के लिए स्वस्थ मरितक का था। यह तथ्य महत्वपूर्ण हो जाते हैं कि वसीयत स्वामाधिक है या रजिस्ट्रीकृत है या ऐसी परिस्थितियों में लिखी गई जिनमें आशंका करने का कोई स्थान नहीं है। यदि संयवहार में कोई अस्वामाधिकता नहीं है और दिए गए साक्ष्य से वसीयत साबित करने की अपेक्षाएँ पूरी हो जाती हैं तो न्यायालय साबित न होने का निष्कर्ष केवल इस आधार पर नहीं निकालेगा कि कोई काल्पनिक आशंका या मान्यता है। यह भी सुसंगत और महत्वपूर्ण है कि वसीयत का आश्रय लेने वाले और उसका समर्थन करने वाले व्यक्ति उन व्यक्तियों की तुलना में कौन हैं जो वसीयत पर विवाद करते हैं तथा पक्षकारों के अभिवचन क्या हैं।"

- (ii) Translate the following paragraph in Hindi:

"We wish to point out that the question as to whether a person is mentally ill or not although may be a subject-matter of litigation, the court having regard to the provisions contained in Order 32 Rule 15 of the Code of Civil Procedure, Section 41 of the Indian Lunacy Act as also for the purpose of judging his competence to examine as a witness may issue requisite directions. It is, therefore, not correct to contend that for the aforementioned purposes the court has no power at all. The prime concern of the court is to find out as to whether a person who is said to be mentally ill could defend himself properly or not. Determination of such an issue although may have some relevance with the determination of the issue in the lis, nonetheless, the court cannot be said to be wholly powerless in this behalf. Furthermore, it is one thing to say that a person would be subjected to a test which would invade his right of privacy and may in some case amount to battery; but it is another thing to say that a party may be asked to submit himself to a psychiatrist or a psychoanalyst so as to enable the court to arrive at a just conclusion. Whether the party to the marriage requires a treatment or not can be found out only in the event, he is examined by a properly qualified psychiatrist. For the said purpose, it may not be necessary to submit himself to any blood test or other pathological tests."
