

HIGH COURT OF TRIPURA
MAIN WRITTEN EXAMINATION FOR RECRUITMENT TO GRADE-I OF THE
TRIPURA JUDICIAL SERVICE-2023

PAPER-II (100 marks)
TIME- 03(THREE) HOURS

Ques. 1. Answer the following question:

(10 marks)

'X', being the owner of a land measuring 1(one) kani, executed a registered Will on 01.01.1988 in favour of 'Y' excluding his 2(two) daughters. 'X' died in the year 2020. 'A' being the brother-in-law of 'X' disclosed the said Deed of Will in the year 2021 to 'Y' as well as the two daughters of 'X'. The two daughters disputed the execution of the Will forcing their brother 'Y' before the learned District Judge, West Tripura, Agartala praying for granting Probate certificate in terms of the Will dated 01.01.1988. The two daughters filed objection against the application for granting Probate filed by 'Y'. It is apparent that the Will is more than 30(thirty) years old.

In such a situation, what will be the duty of the propounder, that is, 'Y' to prove the Will? Whether the Will being more than thirty years old document will automatically be accepted in evidence or it requires further evidence? Discuss in detail with reference to appropriate provisions of law.

Ques. 2. Answer any one of the following questions:

(10 marks)

- A. "No length of time will run to protect screen or fraud." State briefly provisions of Indian Limitation Act regarding the same.
- B. What is law as regards to acknowledgement of right and claim in favor of the person entitled thereto. State exactly when an agent of a person makes valid act.
- C. Describe distinctive features of Article 64 and 65 of the Limitation Act.

Ques. 3. Answer the following questions:

(9 marks each)

- A. In a Title Suit, 'A' has introduced a certified copy of the sale deed No.I-1097 dated 01.01.1991.

What are the essential requirements to prove the said certified copy of the sale deed? Discuss in detail.

B. 'A' being the owner of a land measuring 2(two) kanies executed a registered Gift Deed in favour of his daughter 'X' for a land measuring 1(one) kani. Thereafter, 'X' mutated the land in her favour and constructed a building over the land under the gift Deed. 'A' died. Thereafter, two other sons of 'A' challenged the Gift Deed in the Court of learned Civil Judge (Sr. Division), West Tripura, Agartala on the ground that there was no express acceptance on behalf of 'X' which is apparent on the face of the Gift Deed. According to the two brothers, it is pre-condition that to execute a valid deed of gift, the donee, *i.e.* the beneficiary must put his signature on the deed itself as a mark of his acceptance. In course of trial, 'X' during her evidence had deposed that she accepted the Gift Deed and thereafter mutated the gifted land in her favour and constructed building where she is staying. The learned Civil Judge on appreciation of evidence decreed the sit in favour of the two brothers and declared the Gift Deed as void *ab initio*. Being aggrieved of the said decree, 'X' preferred first appeal before the Court of District Judge, West Tripura, Agartala. It comes to fore and as indicted by the Civil Judge that there is no express acceptance of the gift by the donee, *i.e.* 'X'. It is also equally true that 'X' mutated the land in her favour and constructed building where she is staying.

In such a situation, how the learned District Judge will appreciate this part of evidence, and what should be his ultimate finding?

Ques. 4. Select the correct option. Attempt both questions.

(1 marks each)

A. X is owner of a property and he owes some money to Y. X has not been able to pay the dues. Y forcibly took possession of his property against his will to pressurize him into paying up his debts.

- i. Y has all the authority to do so
- ii. X has no longer right on his property
- iii. Y is guilty of theft
- iv. None of the above

B. Mr. X was prosecuted for importing gold in India in contravention to section 8 (1) Foreign Exchange Regulation Act, 1947 read with notification dated 8 November 1962. It was argued that the accused could have no idea about it as it was published in gazette in India while the accused left the country on November 27, 1962.

- i. The contention must be upheld as plea of ignorance is valid

- ii. The contention must be repealed as the plea of ignorance is not valid
- iii. The case must be upheld as the accused is foreign national
- iv. None of the above.

Ques. 5. Answer any two of the following questions:

(10 marks each)

- A. How an arrest is made? Discuss the provisions regarding arrest of a woman.
- B. Describe powers of criminal courts regarding sentences which they may pass under Criminal Procedure Code.
- C. How long can accused be kept in custody by police? What is police taking on remand? Describe provisions of Cr.PC.
- D. Briefly describe the procedure prescribed of trial before court of sessions.

Ques. 6. Answer the following questions:

(9 marks each)

- A. Karuna, being the wife of Mr. Bagchi, one day had suffered severe burn injury (91%). She was screaming for help saying "save me", "save me". The neighbourers, namely 'X', 'Y' and 'Z' had rushed to her house. In the house, only Karuna and Mr. Bagchi used to stay. Having felt seriousness of the injury, 'X' informed the incident to the nearest police station and the police personnel had rushed to the spot along with ambulance. On the way of shifting the victim to the hospital, Karuna declared to 'X', 'Y', 'Z' and other police personnel that her husband, Mr. Bagchi poured kerosene upon her body and thereafter, through a match-stick set her on fire. Being admitted in the hospital, she was not in a condition to speak and the doctor and other officials could not record her dying declaration. On the basis of complain and the case being investigated, the police submitted charge-sheet against Mr. Bagchi. The learned Sessions Judge framed charge against Mr. Bagchi under Section 302 of the Indian Penal Code, 1860. During trial, evidence of 'X', 'Y', 'Z' were recorded and on the basis of their evidence that on the way to hospital Karuna declared that her husband Mr. Bagchi had set her on fire, learned Sessions Judge held that Mr. Bagchi is guilty of committing murder of his wife Karuna and sentenced him to suffer imprisonment for life.

Is it a correct finding? If not, then, discuss why it is not a correct finding, and if yes, then, discuss why it is a correct finding in the perspective of the relevant provisions of Indian Evidence Act.

By Mr. and Mrs. Thomas were sleeping under one roof at night. On the very next day morning, Mr. Thomas had rushed to the police station and lodged an information that Mrs. Thomas

committed suicide. Post-mortem report of Mrs. Thomas suggested that she was first killed and thereafter hanged. The elder brother of Mrs. Thomas lodged a complaint with the Officer-in-charge of the local police station stating, *inter alia*, that Mr. Thomas had committed murder to Mrs. Thomas. The learned Sessions Judge had framed charge against Mr. Thomas under Section 302 of the Indian Penal Code, 1860. Prosecution has discharged its initial burden that there was none other than Mr. Thomas, who stayed together with Mrs. Thomas during that fateful night.

In this situation, whether onus shifts upon Mr. Thomas to prove his innocence and if yes, how this onus will be discharged by him? State briefly.

Ques. 7. Select the correct option. Attempt both questions.

(1 marks each)

A. As per the Indian Evidence Act, who is competent to testify_____

- i. A lunatic
- ii. An accomplice
- iii. Husband/Wife
- iv. Parties to the suit
- v. All of the above

B. Burden of introduction of evidence under section 102 of Indian Evidence Act_____

- i. Never shifts
- ii. Occasionally shifts
- iii. Constantly shifts
- iv. Both i and ii
- v. All of the above

Ques. 8. Answer any two of the following questions:

(9 marks each)

- A. Explain an illustration to the principle of constructive Res Judicata. Can an Ex-parte decree operate as res judicata?
- B. Discuss the ground of rejection of a plaint. Can a plaintiff institute a suit on same cause of action on rejection of plaint?
- C. Who is a pauper, when can he institute a suit? When can the court reject an application to sue as a pauper?

- D. What do you mean by execution of decree under CPC. Who can execute a decree. Under what circumstances a decree is transferred to another court for execution. Discuss with reference to provisions of CPC.

Ques. 9. Choose the correct option. Attempt both questions.

(1 marks each)

A. Inherent powers of court can be exercised under code _____

- i. To help Plaintiff
- ii. To help defendant
- iii. For the ends of justice or prevent abuse of process of court
- iv. To grant interim relief

B. Objection as to place of suing shall be allowed in the court of first instance in the essence of

- _____
- i. Section 22
 - ii. Section 21A
 - iii. Section 21
 - iv. Section 20
