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# **Code of Civil Procedure MCQ Booklet**

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1. When did the Code of Civil Procedure come into force?
  - A. 1908
  - B. 1909
  - C. 1<sup>st</sup> January 1909
  - D. 21<sup>st</sup> March 1908
  
2. Which of the following is not true about a decree?
  - A. It conclusively determines the rights of parties
  - B. It is a formal expression of an adjudication
  - C. It may be preliminary and final but not partly preliminary and partly final
  - D. Defined in s.2 (2) of CPC
  
3. As per S.9 of CPC, courts should try all suits of a civil nature \_\_\_\_\_.
  - A. Excepting suits of which cognizance is either expressly or impliedly barred.
  - B. Excepting suits of which cognizance is expressly barred.
  - C. Excepting suits of which cognizance is impliedly barred.
  - D. Including suits of which cognizance is impliedly barred.
  
4. A suit to which right to property or office is contested \_\_\_\_\_
  - A. is a suit of civil nature even if it is dependent upon a religious right or a ceremony.
  - B. is a suit of civil nature only when it is not dependent upon a religious right or a ceremony.
  - C. Is a suit of civil nature only when it is dependant upon a religious right or a ceremony.
  - D. Is a suit of civil nature irrespective of whether it is dependant upon a religious right or a ceremony in another suit.
  
5. Res-Judicata is incorporated under which provision of CPC?
  - A. 11
  - B. 18
  - C. 20
  - D. 10
  
6. In order to apply the doctrine of Res-Judicata, which of the following is "former suit"?
  - A. suit filed earlier
  - B. suit filed earlier and also decided earlier.
  - C. in all cases suit filed earlier except Injunction suit.
  - D. suit decided earlier.

7. Bar to further suit to a plaintiff is expressly provided under which section of CPC?
- A. 10
  - B. 11
  - C. 12
  - D. 13
8. S. 13 of CPC provides that a Foreign Judgment shall \_\_\_\_\_?
- A. be conclusive
  - B. not be conclusive
  - C. be conclusive in certain situations
  - D. be conclusive except in 6 conditions as provided .
9. S.14 of CPC provides for presumption as
- A. To jurisdiction of court passing foreign judgment
  - B. To Genuineness of copy of foreign judgment
  - C. To Genuineness of certified copy of foreign judgment.
  - D. To Jurisdiction of court passing foreign judgment if certified copy of Judgment is produced.
10. When a suit for compensation has to be filed by A for wrong done to his movable property by B in Calcutta, A and B both reside in Delhi. Where can the plaintiff A file a suit?
- A. Calcutta
  - B. Delhi
  - C. Calcutta only as cause of action arose there.
  - D. Calcutta or Delhi at the option of A.
11. Suits other than for compensation for wrongs done to person or immovable property shall be filed at:
- A. Any place where defendant resides
  - B. The place where cause of action arises
  - C. Any place where the defendant resides, carries out business or works for gain.
  - D. b or c.
12. No objection as to Jurisdiction shall be allowed by \_\_\_\_\_ except when it was taken before the court of first instance at the earliest possible opportunity.
- A. Appellate court
  - B. Court of first instance
  - C. Revisional court
  - D. Appellate or Revisional Court.

13. A suit is duly instituted if filed as per \_\_\_\_ of CPC:
- A. S.26
  - B. Order V
  - C. S.21
  - D. Order VI
14. Every suit shall be instituted by \_\_\_\_\_?
- A. Presentation of a plaint.
  - B. Filing of plaint in duplicate.
  - C. Filing of plaint in duplicate along with affidavit.
  - D. Filing of pleading.
15. Once a suit has been instituted, summons may be issued to defendant on such day not beyond \_\_\_\_\_ from date of institution of suit.
- A. 30 days
  - B. 20 days
  - C. 60 days
  - D. 90 days
16. As per s. 31 summons can be issued to a \_\_\_\_\_?
- A. Witness.
  - B. convict.
  - C. person in civil prison.
  - D. witness for discover only.
17. The Court may compel the attendance of a person by imposing a fine of not more than-
- A. 2000
  - B. 5000
  - C. 3000
  - D. 7000
18. The Court, after the case has been heard, shall pronounce judgment, and \_\_\_\_\_.
- A. it shall be executed
  - B. it shall be operative
  - C. on such judgment a decree shall follow.
  - D. on such judgment decree is prepared.
19. A decree may be executed by \_\_\_\_\_.
- A. The court which passed it
  - B. The court to which it is sent for execution
  - C. Only those court which can execute decrees
  - D. a or b.

20. The executing court shall certify execution of decree to:
- A. Principle District Judge
  - B. A District Judge of competent Jurisdiction
  - C. Court which passed the decree.
  - D. Collector in the form of precept
21. Which Section of CPC provides for Questions to be determined by a Court Executing a decree?
- A. 45
  - B. 46
  - C. 47
  - D. 48
22. All the questions arising while executing a decree are to be determined by the executing court \_\_\_\_\_.
- A. By a separate suit.
  - B. In Same proceeding for execution.
  - C. By issuing a precept to another court.
  - D. By issuing a precept to another court of competent Jurisdiction.
23. If the Judgment Debtor dies \_\_\_\_\_.
- A. Decree shall stand abated.
  - B. Decree shall be executed against receiver of Judgment Debtor' s property.
  - C. Decree shall be executed against the Legal Representative of the Judgment debtor.
  - D. Decree Holder shall make an application to the Court for execution of decree against Legal Representative of Judgment debtor.
24. In case Judgment debtor dies, the decree shall be executed against the legal representative of Judgment debtor, the Judgment debtor \_\_\_\_\_.
- A. May be personally liable.
  - B. May be personally liable or his liability may be subjected only to his personal assets.
  - C. Shall be liable personally.
  - D. Shall be liable to the extent of property of deceased received by him and not disposed off.
25. Court may order execution \_\_\_\_\_.
- A. Suo moto
  - B. On application of decree holder only
  - C. On application of decree holder or on the request of court passing decree.
  - D. On application of decree holder or suo motu
26. Which of the following is not a valid mode of execution of decree?
- A. by delivery of any property specifically decreed;
  - B. by attachment and sale or by the sale without attachment of any property;

- C. by arrest and detention in prison for such period not exceeding 3 months in case of any decree
- D. by appointing a receiver;

27. In execution of decree of money-

- A. Women cannot be arrested.
- B. Judgment debtor can be arrested for a period not exceeding 3 months
- C. Judgment debtor can be a woman, but she cannot be detained for a period more than 1 month.
- D. Judgment debtor can be a woman but she cannot be detained for more than 15 days.

28. Which section of CPC provides for attachment of property and sale in execution of decree?

- A. 60
- B. 61
- C. 62.
- D. 65

30. When an immovable property has been sold in execution of a decree and sale has become absolute, property shall be deemed to have vested in the purchaser from\_\_\_\_\_.

- A. the time when sale has become absolute.
- B. the time when property is sold.
- C. the time when both property is sold and has become absolute.
- D. the time when court has passed the decree.

31. If obstruction is caused by Judgment debtor while possession of property is delivered to the decree holder or purchaser of property, court may order detention of Judgment debtor at the instance of-

- A. purchaser
- B. Judgment debtor.
- C. decree holder.
- D. decree holder or purchaser

32. A Civil Court has power to issue Commissions for?

- A. local investigation
- B. scientific investigation.
- C. to perform any ministerial act
- D. A,B and C.

33. For the purpose of examination of a person, a court can issue commission to-
- A. another court
  - B. another court in another state where the person to be examined resides, except a High Court.
  - C. another court where the person to be examined resides except High Court.
  - D. another court in another state where the person to be examined resides
34. For a witness to be examined residing in Jurisdiction of a court situated outside India\_\_\_\_\_.
- A. a commission is not issued for his examination.
  - B. a Letter of request to that court is issued in Lieu of a commission.
  - C. a Letter of request is issued to the Ambassadors of that foreign country
  - D. a Letter of request is issued to the Ambassadors of India in that foreign country.
35. In a case against Public servant he shall be exempted\_\_\_\_\_.
- A. from personal appearance
  - B. from personal appearance if the court is satisfied.
  - C. from personal appearance if the court is satisfied and the Suit is instituted for an act done in his official capacity.
  - D. from arrest only and not personal appearance.
36. Precept is defined under which section of CPC?
- A. 46.
  - B. 45.
  - C. 47.
  - D. 48.
37. No attachment of property under a precept shall continue for more than \_\_\_\_\_ unless extended by the Court issuing precept.
- A. 2 months.
  - B. 6 months
  - C. 3 months
  - D. 12 months.
38. Can a decree be transferred to another court for Execution?
- A. yes
  - B. no.
  - C. Yes in some cases
  - D. Yes if the decree holder makes an application in that respect.

39. When a property liable to be attached is subjected to execution of decree in 2 courts the court which shall realise it first shall be\_\_\_\_\_.
- A. court of highest grade
  - B. court which has attached first
  - C. court of lower grade
  - D. both a and b are correct.
40. Which Part of Code of Civil Procedure deals with Suits by or against the Government?
- A. Part I
  - B. Part II.
  - C. Part III.
  - D. Part IV
41. Before a suit is instituted against the Government a notice has to be issued to the government as per which section of CPC?
- A. 80
  - B. 80 A.
  - C. 81.
  - D. 85.
42. What is the notice period given to Government as per s. 80 of CPC?
- A. 2 months
  - B. 3 months.
  - C. 4 months.
  - D. 6 months
43. What is the notice period given to a Public servant before instituting a suit against him as per s. 80 of CPC?
- A. 2 months
  - B. 3 months.
  - C. 4 months.
  - D. 6 months
44. In case of execution of decree against the Union of India, it shall \_\_\_\_\_.
- A. remain unsatisfied
  - B. be executed like any other decree
  - C. remain unsatisfied for a period of 3 months.
  - D. remain unsatisfied for a period of 2 months.



45. Execution of decree against a public officer for suit instituted against him for his action in public capacity shall remain unsatisfied for a period of \_\_\_\_\_.
- A. 3 months from the date of decree.
  - B. 2 months from the date of decree.
  - C. 3 months from the date of cause of action.
  - D. 2 months from the date of cause of action.
46. Where the Court orders service by an advertisement in a newspaper, a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided, this is \_\_\_\_\_.
- A. Substituted service
  - B. Personal service
  - C. Residuary service.
  - D. Service on the defendant's agent.
47. Service of summons by affixation on some conspicuous part of the house when the defendant, refuses to accept the service of summons is provided under which Rule of Order V of CPC?
- A. Rule 15
  - B. Rule 20.
  - C. Rule 17
  - D. Rule 19
48. When there are several defendants, service of summons shall be made \_\_\_\_\_.
- A. on each defendant
  - B. on any 2 of the defendants personally.
  - C. on each defendant or all of them Jointly
  - D. on all of the defendants jointly.
49. When service of summons has to be made on defendant and he is absent from his residence and not likely to return in a reasonable time, which of the following service is valid:
- A. service on adult male member of the family
  - B. Adult member of the family
  - C. any member of the family including servant.
  - D. any member of the family excluding servant.
50. Plaint shall state precisely the amount claimed in all money suits except amount for \_\_\_\_\_.
- A. mesne profits
  - B. amount due from unsettled accounts

- C. movables in possession of defendant
- D. A, B and C.

51. If the suit was not instituted in proper court\_\_\_\_\_

- A. Plaint can be rejected.
- B. Plant can be returned to plaintiff with endorsement
- C. Plaint shall be returned to the Appellate court for forwarding it to the proper court.
- D. Plaint shall be returned to the Proper Court with endorsement and reasons recorded.

52. Return of plaint can be done \_\_\_\_\_

- A. only before issues are framed
- B. at any stage of the suit.
- C. before evidence is recorded.
- D. after Judgment is passed.

53. Which provision of Code of Civil Procedure provides for reference of disputes to Alternate Dispute Resolution Mechanisms?

- A. S. 89.
- B. S. 90.
- C. S. 100
- D. S. 101.

54. Which of the following modes is not a mode of ADR provided under s.89 of CPC?

- A. Arbitration
- B. Mediation
- C. Conciliation
- D. Negotiation

55. Amendment of pleading can be permitted\_\_\_\_\_.

- A. At any stage of pleadings.
- B. At any time before trial commences except if the Court comes to conclusion that parties could not raise it earlier with due diligence.
- C. At any time before issues are framed.
- D. At any time before Judgment is passed

56. Subsistence allowance has to be paid by decree holder, if not paid\_\_\_\_\_

- A. Judgment debtor shall be released.
- B. Judgment debtor shall not be arrested.
- C. Judgment debtor shall not be provided food in civil prison.
- D. Decree shall stand abated.

57. In case of a decree for execution of a document, draft of document shall be prepared by\_\_\_\_.
- A. Judgment debtor
  - B. Decree holder
  - C. Court
  - D. A or B.
58. Adjournment cannot be granted for more than \_\_\_\_\_ to a party during hearing of a suit
- A. three times
  - B. two times.
  - C. six times
  - D. five times.
59. In case of a female defendant after her marriage\_\_\_\_\_.
- A. suit shall stand abated.
  - B. decree shall be executed against her alone
  - C. decree shall be executed against her husband also with permission of the court.
  - D. both B and C.
60. A plaintiff while withdrawing the suit\_\_\_\_\_
- A. may abandon the claim.
  - B. may abandon the part of claim.
  - C. may abandon the claim except when plaintiff is a minor.
  - D. may abandon the claim and when plaintiff is a minor with leave of court.
61. A transferee of a decree holds\_\_\_\_\_.
- A. same rights as decree holder.
  - B. partial rights as the original decree-holder.
  - C. same rights as the original decree holder subjected to equity.
  - D. partial rights as the original decree holder subjected to equity.
62. Order for dismissal in default is\_\_\_\_\_?
- A. not a decree
  - B. a preliminary decree
  - C. partly preliminary partly final decree
  - D. a final decree.

63. Pecuniary Jurisdiction for civil courts is decided as per\_\_\_\_\_.
- A. the territorial jurisdiction
  - B. value of subject matter of dispute
  - C. type of subject matter of dispute.
  - D. category of dispute.
64. Jurisdiction to try all suits of civil nature has been provided to Civil Court under which section of CPC?
- A. S. 8
  - B. S. 6
  - C. S. 9
  - D. S. 10.
65. Which of the following is not true about suits of civil nature?
- A. it may include right to office
  - B. it may include right to office only if fees is attached to it
  - C. it may include right to office irrespective of fees or place attached to it
  - D. it may include right to office irrespective of it being attached to a particular place.
66. Stay of suit is covered under which section of CPC?
- A. S.9
  - B. S.10
  - C. S.11
  - D. S. 8
67. If a suit is pending in a foreign court on same cause of action\_\_\_\_\_.
- A. it cannot be filed in India.
  - B. it can still be filed in India
  - C. it can be transferred only and not filed in India
  - D. it can be filed only if the foreign court consents in writing.
68. For the applicability of Res judicata former suit is:
- A. Suit which is filed prior
  - B. Suit which is decided prior
  - C. Suit which is stayed prior.
  - D. Suit which is not stayed prior.
69. Foreign Judgment shall be conclusive except when:
- A. when it has been obtained by fraud.
  - B. when it was obtained opposed to natural justice.
  - C. where it has not been given on merits of case.
  - D. All of the above cases.

70. Suits for compensation for wrongs done to person or movable property is filed in:
- A. the Court in jurisdiction of which wrong was done.
  - B. Court in jurisdiction of which defendant resides.
  - C. Court in jurisdiction of which defendant carries out business.
  - D. All of the above.
71. Objections as to Jurisdiction shall be allowed by Appellate Court \_\_\_\_\_:
- A. only if such objection was taken at the earliest possible opportunity in Court of first instance
  - B. irrespective of such objection was taken at the earliest possible opportunity in Court of first instance.
  - C. even if the objection was missed in first opportunity
  - D. None of the above condition applies.
72. Institution of suits is defined under which section of CPC?
- A. S. 12
  - B. S. 11
  - C. S. 26
  - D. S. 30
73. In every plaint \_\_\_\_\_ shall be proved by affidavit.
- A. Facts
  - B. Evidence
  - C. cause of action
  - D. pleadings
74. Summons shall be issued to the defendant within \_\_\_\_\_ days from institution of suit.
- A. 30
  - B. 45
  - C. 90
  - D. 60
75. Summons can be issued to a witness to \_\_\_\_\_.
- A. give evidence
  - B. produce documents
  - C. produce material objects
  - D. All of the above.
76. The Court may compel the attendance of a witness and for that purpose may \_\_\_\_\_.
- A. issue a warrant for arrest
  - B. attach and sell his property
  - C. impose a fine not exceeding 5000 rupees
  - D. all of the above.

77. Judgment and decree is covered under which section of CPC?  
A. S. 32  
B. S. 33  
C. S.34  
D. S.35
78. A decree can be transferred to another court of competent jurisdiction\_\_\_\_\_.  
A. on an application of decree holder  
B. on it's own motion  
C. on application of Judgment debtor  
D. All of the above.
79. Questions to be determined by the Court executing a decree include\_\_\_\_\_.  
A. questions arising while executing a decree  
B. questions arising between parties to the suit  
C. A and B  
D. A, B and questions arising between representatives of parties to suit while satisfaction of the decree.
80. When Judgment debtor dies before the decree has been satisfied\_\_\_\_\_.  
A. decree stands abeted  
B. decree automatically trasfers to Legal representative of deceased  
C. holder of decree may apply to Court to execute the same against Legal representative of deceased.  
D. Half of the amount of decree can be claimed from Legal representative of deceased.
81. Partition of estate is covered under which section of CPC?  
A. S. 80  
B. S. 55  
C. S. 53  
D. S. 54.
82. Arrest and detention is covered under which section of CPC?  
A. S. 55  
B. S. 60  
C. S. 57  
D. S.58
83. Arrest and detention can be made subject to following conditions. Which of the following condition is not true?  
A. while making arrest dwelling house cannot be broken of judgment debtor unless he refuses or prevents access.  
B. dwelling house shall be entered at any time even after sunset

- C. decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest, such officer shall at once release him.
- D. both B and C.

84. What is the limit on detention period in case of arrest for payment of money with amount not exceeding 5000 ?
- A. 3 months
  - B. 6 weeks
  - C. 2 months
  - D. 2 weeks

85. Which of the following is liable for attachment and sale under execution of decree?
- A. right to sue for damages
  - B. goods
  - C. Shares and debts
  - D. B and C.

86. Purchaser acquires title to the property sold in execution of decree from:
- A. the date when sale becomes absolute
  - B. the date when sale occurred
  - C. the date of agreement to sell
  - D. the date of transfer of possession.

87. Proceeds of execution of sale are \_\_\_\_\_.
- A. Rateably distributed among all decree holders
  - B. distributed as per application of decree holders
  - C. Rateably distributed among all decree holders minimizing costs of realization.
  - D. Distributed only among one of the decree holders.

88. Court has power to issue Commission under which section of CPC?
- A. S.88
  - B. S. 74
  - C. S. 76
  - D. S. 75.

89. When a person, who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other person may \_\_\_\_\_ against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made and of obtaining indemnity for himself.
- A. institute a suit of interpleader
  - B. issue a precept
  - C. send a letter of request
  - D. File a Cross objection

90. When the court feels that there are possibilities of settlement between parties, Court shall form terms of settlement and refer the matter for:

- A. Mediation
- B. Arbitration and Conciliation
- C. Judicial Settlement
- D. A, B and C.

91. An appeal from original decree shall lie under which section of Code of Civil Procedure?

- A.S.95
- B.S.96
- C.S.98
- D.S.100

92. In an appeal from Final decree\_\_\_\_\_.

- A. preliminary decree cannot be disputed for it's correctness
- B. a preliminary decree can be disputed for it's correctness.
- C. preliminary decree can be disputed only when it was objected to in the earlier stages.
- D. B and C are correct.

93. Second appeal is filed as per which section of CPC?

- A. 100
- B. 101
- C. 99
- D. 102.

94. A second appeal shall lie to ?

- A. District Judge
- B. High Court
- C. Supreme Court
- D. High Court and Supreme Court.

95. Second appeal can lie\_\_\_\_\_.

- A. from appellate decree
- B. from exparte appellate decree
- C. on substantial question of law only.
- D. All of the above are correct.

96. No second appeal shall lie when the amount of money in subject matter does not exceed\_\_\_\_\_.

- A. ten thousand rupees
- B. fifteen thousand rupees
- C. twenty-five thousand rupees
- D. fifty thousand rupees.



97. What are the powers of Appellate court as per CPC?
- A. to determine a case finally;
  - B. to frame issues and refer them for trial;
  - C. to take additional evidence or to require such evidence to be taken
  - D. All of the above.
98. Appeals to Supreme Court is covered under which section of CPC?
- A. 100
  - B. 101
  - C. 109
  - D. not covered under CPC.
99. Appeals lie to Supreme Court from the Judgment, decree or order of \_\_\_\_\_?
- A. High Court
  - B. District Court
  - C. District and High Court
  - D. High Court division bench and above.
100. A High Court shall certify for an appeal to be filed in Supreme Court that \_\_\_\_\_.
- A. case involves a substantial question of law
  - B. case involves a substantial question of law of general importance
  - C. in opinion of High Court such question needs to be decided by Supreme Court
  - D. B and C.
101. Power of Court to order separate trials in case it appears to the Court that any joinder of plaintiffs \_\_\_\_\_.
- A. may delay the trial.
  - B. may prejudice the trial.
  - C. may expedite the trial.
  - D. may elaborate the trial.
102. When there are numerous persons having interest in same suit \_\_\_\_\_.
- A. they still need to file a separate suit.
  - B. they can file suit in representative capacity.
  - C. they can defend themselves in representative capacity.
  - D. Both B and C are correct.
103. No suit shall be defeated due to Mis-joinder or Non-joinder of parties to the suit \_\_\_\_\_.
- A. and there are no exceptions to this.
  - B. except Non-joinder of necessary parties.
  - C. except Mis-joinder of necessary parties.
  - D. except Non-joinder or Mis-joinder of proper parties.

104. When plaintiff relinquishes any part of his claim\_\_\_\_\_.

- A. he can still reclaim it.
- B. he can still reclaim it afterwards by paying requisite court fees.
- C. he cannot claim it afterwards.
- D. he can claim it to bring suit within jurisdiction afterwards.

105. Every suit shall commence by\_\_\_\_\_.

- A. filing of draft of plaint
- B. filing of plaint
- C. service of summons
- D. presentation of plaint.

106. When a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and to file the written statement of his defence within \_\_\_\_\_ from the date of service of summons.

- A. 30 days
- B. 60 days
- C. 90 days
- D. 120 days

107. Every plaint shall be accompanied by\_\_\_\_\_.

- A. a copy of plaint.
- B. 2 copies of plaint.
- C. 3 copies of Plaint.
- D. as many copies of plaint as there are parties.

108. Acknowledgment of service of summons on the original has to be made\_\_\_\_\_.

- A. by signature of person receiving summons.
- B. by signature of defendant only.
- C. by signature of any agent of defendant.
- D. by signature of any neighbour of defendant and bailiff.

109. When the defendant refuses to accept service of summons\_\_\_\_\_.

- A. summons returns back
- B. summons is sent through RPAD.
- C. summons can be stuck on outer part or conspicuous part of his residence.
- D. summons is delivered to neighbour in that locality of defendant's residence.

110. When court orders publishing summons in an advertisement in local newspaper it is\_\_\_\_\_.

- A. effective service
- B. substituted service.
- C. actual service

D. Public service.

111. The substituted service carried out by paper publication is effectual as \_\_\_\_\_.

- A. a public service.
- B. service to agent of defendant.
- C. service to defendant personally.
- D. service to defendant but not personally.

112. In case subject matter of a suit is immovable property, Plaint shall contain:

- A. description of property
- B. description of property sufficient to identify it.
- C. boundaries or numbers in record of settlement or survey in case property can be identified by boundaries or numbers.
- D. All of the above.

113. Return of plaint can be ordered \_\_\_\_\_.

- A. at any stage of suit.
- B. at any stage before settlement of issues
- C. before the parties appear.
- D. before summons is issued to defendant.

114. Which of the following is a ground for rejection of plaint?

- A. where it does not disclose a cause of action;
- B. where the relief claimed is undervalued and the plaintiff, on being required by the Court to correct the valuation, fails to do so
- C. where it is not filed in duplicate
- D. All of the above.

115. Suits on lost negotiable instruments:

- A. cannot be filed.
- B. can be filed on xerox copy of the instrument
- C. can be filed if it is proved instrument is lost and indemnity is given by plaintiff
- D. present the scanned copy of instrument atleast.

116. The defendant shall file a WS \_\_\_\_\_.

- A. within 30 days of service of summons
- B. within 30 days of date of appearance
- C. within 30 days of date of service of summons and can be extended upto 90 days with permission of Court.
- D. within 90 days of date of service of summons.

117. Denial made under Written Statement:

- A. shall be specific
- B. shall be evasive

- C. shall be specific and evasive
- D. shall be specific and not evasive.

118. Set off can be made in \_\_\_\_\_.

- A. Money suits only
- B. Suits relating to movable property.
- C. Suits relating to immovable property.
- D. All suits matching pecuniary value of subject matter.

119. Can execution be carried out by oral application?

- A. no
- B. yes in case of money decree only.
- C. yes in case of suits involving movable property.
- D. yes in case of suits of values less than R.s 5000.

120. Decree for restitution of conjugal rights can be executed by?

- A. attachment of JD's property.
- B. Detention of JD in prison.
- C. Detention of JD in civil prison.
- D. A and C are correct.

Answer Key

1.

Ans. C.

As per CPC. S.1 (2) It shall come into force on the first day of January, 1909.

2.

Ans. C.

As per CPC S. 2. (2) “decree” means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 144, but shall not include—

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

Explanation.—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;

3.

Ans. A.

As per CPC S. 9 —The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

4.

Ans. A. As per CPC S. 9. Courts to try all civil suits unless barred.—The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

[Explanation I].—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

5.

Ans. A. S.11. Res judicata.—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

6.

Ans. D

S.11. Explanation I.—The expression “former suit” shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

7.

Ans. C.. S.12. Bar to further suit —Where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action in any Court to which this Code applies.

8.

Ans. D. S. 13. When foreign judgment not conclusive.—A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except—  
(a) where it has not been pronounced by a Court of competent jurisdiction;  
(b) where it has not been given on the merits of the case;  
(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of [India] in cases in which such law is applicable;  
(d) where the proceedings in which the judgment was obtained are opposed to natural justice;  
(e) where it has been obtained by fraud;  
(f) where it sustains a claim founded on a breach of any law in force in [India].

9.

Ans. D.

S. 14. Presumption as to foreign Judgments.—The Court shall presume upon the production of any document purporting to be a certified copy of a foreign judgment, that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the record; but such presumption may be displaced by proving want of jurisdiction.

10.

Ans. D.

S.19. Suits for compensation for wrongs to person or movables.—

Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

11.

Ans. D.

S. 20. Other suits to be instituted where defendants reside or cause of action arises.—Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction (a) the defendant, or each of the defendants where there are more than one, at the

time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or (b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally works for gain, as aforesaid, acquiesce in such institution; or (c) The cause of action, wholly or in part, arises.

12.

Ans. D.

As per CPC. S. 21 No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

13.

Ans. A.

S. 26. Institution of suits. —(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) In every plaint, facts shall be proved by affidavit . Provided that such an affidavit shall be in the form and manner as prescribed under Order VI of rule 15A.

14.

Ans. A. S. 26. Institution of suits. —

(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) In every plaint, facts shall be proved by affidavit:

Provided that such an affidavit shall be in the form and manner as prescribed under Order VI of rule

15A.

15.

Ans. A. S. 27. Summons to defendants.—Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed on such day not beyond thirty days from date of the institution of the suit.

16.

Ans. A. S. 31. Summons to witness.—The provisions in sections 27, 28 and 29 shall apply to summonses to give evidence or to produce documents or other material objects.

17.

Ans. B.

As per CPC S. 32 Penalty for default

(c) impose a fine upon him [not exceeding five thousand rupees];

18.

Ans. C.

As per CPC. S. 33. Judgment and decree.—The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

19.

Ans. D.

As per CPC, S. 38. Court by which decree may be executed.—A decree may be executed either by the Court which passed it, or by the Court to which it is sent for execution.

20.

Ans. C.

As per CPC, S. 41. Result of execution proceedings to be certified.—The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution, or where the former Court fails to execute the same the circumstances attending such failure.

21.

Ans. C.

As per CPC S. 47. Questions to be determined by the Court executing decree.—(1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

22.

Ans. B.

S. 47. Questions to be determined by the Court executing decree.—(1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

23.

Ans. D.

S. 50. Legal representative.—(1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

24.

Ans. D.

As per S. 51 of CPC-

S. 50. Legal representative.—(1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly



disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.

25.

Ans. B.

As per S. 51 of CPC-

S.51. Powers of Court to enforce execution.—Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree

26.

Ans. C.

S. 51. Powers of Court to enforce execution.—Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree—

(a) by delivery of any property specifically decreed;

(b) by attachment and sale or by the sale without attachment of any property;

(c) by arrest and detention in prison [for such period not exceeding the period specified in section 58, where arrest and detention is permissible under that section];

(d) by appointing a receiver; or

(e) in such other manner as the nature of the relief granted may require :

S.58. Detention and release.—(1) Every person detained in the civil prison in execution of a decree shall be so detained,— (a) where the decree is for the payment of a sum of money exceeding [five thousand rupees], for a period not exceeding three months, and,

(b) where the decree is for the payment of a sum of money exceeding two thousand rupees, but not exceeding five thousand rupees, for a period not exceeding six weeks.

(1A) For the removal of doubts, it is hereby declared that no order for detention of the judgment debtor in civil prison in execution of a decree for the payment of money shall be made, where the total amount of the decree does not exceed [two thousand rupees.]

(2) A judgment-debtor released from detention under this section shall not merely by reason of his release be discharged from his debt, but he shall not be liable to be re-arrested under the decree in execution of which he was detained in the civil prison.

27.

Ans. A.

As per S. 56. Prohibition of arrest or detention of women in execution of decree for money.—Notwithstanding anything in this Part, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for the payment of money.

28.

Ans. A.

As per CPC S. 60. Property liable to attachment and sale in execution of decree.

29.

Ans. D.

As per S. 60 of CPC books of accounts are not liable for attachment.

30.

Ans. B.

S. 65. Purchaser's title.—Where immovable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

31.

Ans. D.

As per CPC S. 74. Resistance to execution.— Where the Court is satisfied that the holder of a decree for the possession of immovable property or that the purchaser of immovable property sold in execution of a decree has been resisted or obstructed in obtaining possession of the property by the judgment-debtor or some person on his behalf and that such resistance or obstruction was without any just cause, the Court may, at the instance of the decree-holder or purchaser, order the judgment-debtor or such other person to be detained in the civil prison for a term which may extend to thirty days and may further direct that the decree-holder or purchaser be put into possession of the property.

32.

Ans. D.

S. 75. Power of Court to issue commissions.—Subject to such conditions and limitations as may be prescribed, the Court may issue a commission—

- (a) to examine any person;
- (b) to make a local investigation;
- (c) to examine or adjust accounts; or
- (d) to make a partition,
- (e) to hold a scientific, technical, or expert investigation;
- (f) to conduct sale of property which is subject to speedy and natural decay and which is in the custody of the Court pending the determination of the suit;
- (g) to perform any ministerial act.

33.

Ans. B.

As per S. 76. Commission to another Court.—(1) A commission for the examination of any person may be issued to any Court (not being a High Court) situate in a State other than the State in which the Court of issue is situate and having jurisdiction in the place in which the person to be examined resides.

34.

Ans. B.

As per CPC, S. 77. Letter of request.—In lieu of issuing a commission the Court may issue a letter of request to examine a witness residing at any place not within India.

35.

Ans. C.

S. 81. Exemption from arrest and personal appearance.—In a suit instituted against a public officer in respect of any act purporting to be done by him in his official capacity—

(a) the defendant shall not be liable to arrest nor his property to attachment otherwise than in execution of a decree, and, (b) where the Court is satisfied that the defendant cannot absent himself from his duty without detriment to the public service, it shall exempt him from appearing in person.

36.

Ans. A.

S. 46. Precepts.—(1) Upon the application of the decree-holder the Court which passed the decree may whenever it thinks fit, issue a precept to any other Court which would be competent to execute such decree to attach any property belonging to the judgment-debtor and specified in the precept.

37.

Ans. A.

As per CPC S. 46. Precepts.—(1) Upon the application of the decree-holder the Court which passed the decree may whenever it thinks fit, issue a precept to any other Court which would be competent to execute such decree to attach any property belonging to the judgment-debtor and specified in the precept.

(2) The Court to which a precept is sent shall proceed to attach the property in the manner prescribed in regard to the attachment of property in execution of a decree:

Provided that no attachment under a precept shall continue for more than two months unless the period of attachment is extended by an order of the Court which passed the decree or unless before the determination of such attachment the decree has been transferred to the Court by which the attachment has been made and the decree-holder has applied for an order for the sale of such property.

38.

Ans. D.

As per CPC S. 39. Transfer of decree.—(1) The Court which passed a decree may, on the application of the decree holder, send it for execution to another Court [of competent jurisdiction]

39.

Ans. E.

As per CPC S. 63. Property attached in execution of decrees of several Courts.—(1) Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached. (2) Nothing in this section shall be deemed to invalidate any proceeding taken by a Court executing one of such decrees.

40.

Ans. D.

As per CPC -PART IV

SUITS IN PARTICULAR CASES

SUITS BY OR AGAINST THE GOVERNMENT OR PUBLIC OFFICERS IN THEIR OFFICIAL CAPACITY

41.

Ans. A.

As per CPC S. 80. Notice.—

42.

Ans. A.

S. 80 of CPC. S 80. Notice.—[(1)] [ Save as otherwise provided in sub-section (2), no suits [shall be instituted] against the Government (including the Government of the State of Jammu and Kashmir)] or against a public officer in respect of any act purporting to be done by such public officer in his official capacity, until the expiration of two months next after notice in writing has been [delivered to, or left at the office of—

43.

Ans. A.

S. 80 of CPC.S 80. Notice.—[(1)] [ Save as otherwise provided in sub-section (2), no suits [shall be instituted] against the Government (including the Government of the State of Jammu and Kashmir)] or against a public officer in respect of any act purporting to be done by such public officer in his official capacity, until the expiration of two months next after notice in writing has been [delivered to, or left at the office of—

44.

Ans. C.

As per CPC, S. 82 (2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of [such decree].

45.

Ans. A.

As per S. 82 (2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of [such decree].

This provision is applicable to public servant also.

46.

Ans. A.

As per CPC Order V Rule. 20. Substituted service.—(1) Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court thinks fit

[(1A) Where the Court acting under sub-rule (1) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain.]

47.

Ans. C.

Order V. Rule. 17. Procedure when defendant refuses to accept service, or cannot be found.— Where the defendant or his agent or such other person as aforesaid refuses to sign the acknowledgment, or where the serving officer, after using all due and reasonable diligence, cannot find the defendant, [who is absent from his residence at the time when service is sought to be effected on him at his residence and there is no likelihood of his being found at the residence within a reasonable time] and there is no agent empowered to accept service of the summons on his behalf, nor any other person on whom service can be made, the serving officer shall affix a copy of the summons on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or personally works for gain, and shall then return the original to the Court from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed.

48.

Ans. A.

Order V Rule. 11. Service on several defendants.—Save as otherwise prescribed, where there are more defendants than one, service of the summons shall be made on each defendant.

49.

Ans. B.

Order V Rule. 15. Where service may be on an adult member of defendant's family.— Where in any suit the defendant is absent from his residence at the time when the service of summons is sought to be effected on his at his residence and there is no likelihood of his being found at the residence within a reasonable time and he has no agent empowered to accept service of the

summons on his behalf, service may be made on any adult member of the family, whether male or female, who is residing with him.

Explanation. —A servant is not a member of the family within the meaning of this rule.]

50.

Ans. D.

Order VII Rule. 2. In money suits.—Where the plaintiff seeks the recovery of money, the plaintiff shall state the precise amount claimed : But where the plaintiff sues for mesne profits, or for an amount which will be found due to him on taking unsettled accounts between him and the defendant, [or for movables in the possession of the defendant, or for debts of which the value he cannot, after the exercise of reasonable diligence, estimate, the plaintiff shall state approximately the amount or value sued for.

51.

Ans. D.

Order VII Rule. 10. Return of plaint.—(1) [ Subject to the provisions of rule 10A, the plaintiff shall] at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted. [Explanation.— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaintiff under this sub-rule. (2) Procedure on returning plaint. —On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.

52.

Ans.B.

As per CPC Order VII Rule. 10. Return of plaint.—(1) [ Subject to the provisions of rule 10A, the plaintiff shall] at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted. [Explanation.— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaintiff under this sub-rule.

(2) Procedure on returning plaint. —On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.

53.

Ans. A.

As per CPC, S. 89.

S. 89. Settlement of disputes outside the Court.

54.

Ans. D

S.89. Settlement of disputes outside the Court.—(1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the

observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for :— (a) arbitration; (b) conciliation; (c) judicial settlement including settlement through Lok Adalat: or (d) mediation.

55.

Ans. B.

As per CPC Order VI. Rule. 17. Amendment of pleadings.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties : Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

56.

Ans.B. Order XXI Execution Rule. 39. Subsistence allowance.—(1) No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as the Judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court.

57.

Ans. B. Order XXI Execution

Rule 34. Decree for execution of document, or endorsement of negotiable instrument.—(1) Where a decree is for the execution of a document or for the endorsement of a negotiable instrument and the judgment-debtor neglects or refuses to obey the decree, the decree-holder may prepare a draft of the document or endorsement in accordance with the terms of the decree and deliver the same to the Court.

58.

Ans. A.

As per Order XVII Adjournments Rule 1. Court may grant time and adjourn hearing.—

(1) The court may, if sufficient cause is shown, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing: Provided that no such adjournment shall be granted more than three time to a party during hearing of the suit.

59.

Ans. D.

As per Order XXII Rule 7. Suit not abated by marriage of female party.—(1) The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with the judgment, and, where the decree is against a female defendant, it may be executed against her alone.

(2) Where the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and, in case of judgment for the

wife, execution of the decree may, with such permission, be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

60.

Ans. D.

Order XXIII Rule 1. Withdrawal of suit or abandonment of part of claim.—(1) At any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim: Provided that where the plaintiff is a minor or other person to whom the provisions contained in rules 1 to 14 of Order XXXII extend, neither the suit nor any part of the claim shall be abandoned without the leave of the Court.

61.

Ans. C. As per CPC, S. 49. Transferee.—Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

62.

Ans. A.

S. 2. Definitions.

In this Act, unless there is anything repugnant in the subject or context,

(1) "Code" includes rules;

(2) "decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 144, but shall not include

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

63.

Ans. B.

S. 6. Pecuniary Jurisdiction.

Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

64.

Ans. C.

S.9. Courts to try all civil suits unless barred.

The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.



[Explanation I].--A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

[Explanation II].--For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place.

65.

Ans. B.

S. 9. Courts to try all civil suits unless barred.

The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

[Explanation I].--A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

[Explanation II].--For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place.

66.

Ans. B.

S.10. Stay of suit.

No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in [India] have jurisdiction to grant the relief claimed, or in any Court beyond the limits of [India] established or continued by [the Central Government.] and having like jurisdiction, or before [the Supreme Court].

Explanation.--The pendency of a suit in a foreign Court does not preclude the Courts in 1[India] from trying a suit founded on the same cause of action.

67.

Ans. B.

S. 10. Stay of suit.

No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in [India] have jurisdiction to grant the relief claimed, or in any Court beyond the limits of [India] established or continued by [the Central Government.] and having like jurisdiction, or before [the Supreme Court].

Explanation.--The pendency of a suit in a foreign Court does not preclude the Courts in India from trying a suit founded on the same cause of action.

68.

Ans. B.

S.11. Res judicata.

No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.-- The expression former suit shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

69.

Ans. D.

S. 13. When foreign judgment not conclusive.

A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except--

- (a) where it has not been pronounced by a Court of competent jurisdiction;
- (b) where it has not been given on the merits of the case;
- (c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of India in cases in which such law is applicable;
- (d) where the proceedings in which the judgment was obtained are opposed to natural justice;
- (e) where it has been obtained by fraud;
- (f) where it sustains a claim founded on a breach of any law in force in India.

70.

Ans. D.

S.19. Suits for compensation for wrongs to person or movables.

Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

71.

Ans. A.

S. 21. Objections to jurisdiction.

No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

72

Ans. C.

S. 26. Institution of suits.

(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) In every plaint, facts shall be proved by affidavit.

Provided that such an affidavit shall be in the form and manner as prescribed under Order VI of Rule 15A.

73.

Ans. A.

S. 26. Institution of suits.

(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) In every plaint, facts shall be proved by affidavit.

Provided that such an affidavit shall be in the form and manner as prescribed under Order VI of Rule 15A.

74.

Ans. A.

S. 27. Summons to defendants.

Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed on such day not beyond thirty days from date of the institution of the suit.

75.

Ans. D.

S.31. Summons to witness.

The provisions in sections 27, 28 and 29 shall apply to summonses to give evidence or to produce documents or other material objects.

76.

Ans. D.

S.32. Penalty for default.

The Court may compel the attendance of any person to whom a summons has been issued under section 30 and for that purpose may

(a) issue a warrant for his arrest;

(b) attach and sell his property;

(c) impose a fine upon him not exceeding five thousand rupees;

(d) order him to furnish security for his appearance and in default commit him to the civil prison.

77.

Ans. B.

S. 33. Judgment and decree.

The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

78.

Ans. A.

S. 39. Transfer of decree.

(1) The Court which passed a decree may, on the application of the decreeholder, send it for execution to another Court of competent jurisdiction,

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale or delivery of immovable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

79.

Ans. D.

S.47. Questions to be determined by the Court executing decree.

(1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

80.

Ans. C.

S. 50. Legal representative.

(1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

81.

Ans. D.

S. 54. Partition of estate or separation of share.

Where the decree is for the partition of an undivided estate assessed to the payment of revenue to the Government, or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share shall be made by the Collector or any gazetted subordinate of the Collector deputed by him in this behalf, in accordance with the law (if any) for the time being in force relating to the partition, or the separate possession of shares, of such estates.

82.

Ans. A.

S.55. Arrest and detention.

83.

Ans. B.

S.55. Arrest and detention.

(1) A judgment-debtor may be arrested in execution of a decree at, any hour and on any day, and shall, as soon as practicable, be brought before the Court, and his detention may be in the civil prison of the district in which the Court ordering the detention is situate, or, where such civil prison does not afford suitable accommodation, in any other place which the State Government may appoint for the detention of persons ordered by the Courts of such district to be detained:

Provided, firstly that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset and before sunrise:

Provided, secondly, that no outer door of a dwelling-house shall be broken open unless such dwellinghouse is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found:

Provided, thirdly that, if the room is in the actual occupancy of a woman who is not the judgment-debtor and who according to the customs of the country does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest:

Provided, fourthly, that, where the decree in execution of which a judgment-debtor is arrested, is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

84.

Ans. A.

S. 58. Detention and release.

(1) Every person detained in the civil prison in execution of a decree shall be so detained,

(a) where the decree is for the payment of a sum of money exceeding 1 [2 [five thousand rupees], for a period not exceeding three months, and,]

3[(b) where the decree is for the payment of a sum of money exceeding two thousand rupees, but not exceeding five thousand rupees, for a period not exceeding six weeks.

85.

Ans. D.

S.60. Property liable to attachment and sale in execution of decree.

(1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale, namely:

- (a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;
- (b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;
- (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to 2 [an agriculturist or a labourer of a domestic servant] and occupied by him ;
- (d) books of account ;
- (e) a mere right to sue for damages ;

86.

Ans. B.

S. 65. Purchaser's title.

Where immovable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

87.

Ans. A.

S.73. Proceeds of execution sale to be rateably distributed among decree-holders.

(1) Where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons :

88.

Ans. D.

S. 75. Power of Court to issue commissions.

Subject to such conditions and limitations as may be prescribed, the Court may issue a commission

- (a) to examine any person;
- (b) to make a local investigation;
- (c) to examine or adjust accounts; or
- (d) to make a partition;
- 1[(e) to hold a scientific, technical, or expert investigation;
- (f) to conduct sale of property which is subject to speedy and natural decay and which is in the custody of the Court pending the determination of the suit;
- (g) to perform any ministerial act.

89.

Ans. A.

S.88. Where interpleader-suit may be instituted.

Where two or more persons claim adversely to one another the same debts, sum of money or other property, movable or immovable, from another person, who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made and of obtaining indemnity for himself :

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

90.

Ans. D.

S. 89. Settlement of disputes outside the Court.—

(1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for:--

- (a) arbitration;
- (b) conciliation;
- (c) judicial settlement including settlement through Lok Adalat: or
- (d) mediation.

91.

Ans. B.

S.96. Appeal from original decree.

(1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from an original decree passed ex parte.

(3) No appeal shall lie from a decree passed by the Court with the consent of parties.

(4) No appeal shall lie, except on a question of law, from a decree in any suit of the nature cognizable by Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed ten thousand rupees.

92.

Ans. A.

S.97. Appeal from final decree where no appeal from preliminary decree.

Where any party aggrieved by a preliminary decree passed after the commencement of this Code does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree.

93.

Ans. A.

S. 100. Second appeal.—

(1) Save as otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court, if the High Court is satisfied that the case involves a substantial question of law.

94.

Ans. B.

S. 100. Second appeal.—

(1) Save as otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court, if the High Court is satisfied that the case involves a substantial question of law.

95.

Ans. D.

S.100. Second appeal.

(1) Save as otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court, if the High Court is satisfied that the case involves a substantial question of law.

(2) An appeal may lie under this section from an appellate decree passed ex parte.

96.

Ans. C.

S.102. No second appeal in certain cases.--No second appeal shall lie from any decree, when the subject matter of the original suit is for recovery of money not exceeding twenty-five thousand rupees.

97.

Ans. D.

S.107. Powers of Appellate Court.

(1) Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power—

- (a) to determine a case finally;
- (b) to remand a case;
- (c) to frame issues and refer them for trial;
- (d) to take additional evidence or to require such evidence to be taken.

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.



98.

Ans. C.

S. 109. When appeals lie to the Supreme Court.—

Subject to the provisions in Chapter IV of Part V of the Constitution and such rules as may, from time to time, be made by the Supreme Court regarding appeals from the Courts of India, and to the provisions hereinafter contained, an appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court, if the High Court certifies

- (i) that the case involves a substantial question of law of general importance; and
- (ii) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.

99.

Ans. A.

S. 109. When appeals lie to the Supreme Court.-- Subject to the provisions in Chapter IV of Part V of the Constitution and such rules as may, from time to time, be made by the Supreme Court regarding appeals from the Courts of India, and to the provisions hereinafter contained, an appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court, if the High Court certifies

- (i) that the case involves a substantial question of law of general importance; and
- (ii) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.

100.

Ans. D.

S. 109. When appeals lie to the Supreme Court.-- Subject to the provisions in Chapter IV of Part V of the Constitution and such rules as may, from time to time, be made by the Supreme Court regarding appeals from the Courts of India, and to the provisions hereinafter contained, an appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court, if the High Court certifies

- (i) that the case involves a substantial question of law of general importance; and
- (ii) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.

101.

Ans. A.

Order I Rule 2. Power of Court to order separate trial.—Where it appears to the Court that any joinder of plaintiffs may embarrass or delay the trial of the suit, the Court may put the plaintiffs to the election or order separate trials or make such other order as may be expedient.

102.

Ans. D.

Order I Rule 8. One person may sue or defend on behalf of all in same interest.—(1) Where there are numerous persons having the same interest in one suit,—

- (a) one or more of such persons may, with the permission of the Court, sue or be sued, or may

defend such suit, on behalf of, or for the benefit of, all persons so interested;  
(b) the Court may direct that one or more of such persons may sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested.

103.

Ans. B.

Order I Rule 9. Misjoinder and non-joinder.—No suit shall be defeated by reason of the misjoinder or non-joinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it:

Provided that nothing in this rule shall apply to non-joinder of a necessary party.

104.

Ans. C.

Order II Rule 2. Suit to include the whole claim.—

(1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

(2) Relinquishment of part of claim.—Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

105.

Ans. D.

Order IV Rule 1. Suit to be commenced by plaint.—

(1) Every suit shall be instituted by presenting plaint in duplicate to the Court or such officer as it appoints in this behalf.

(2) Every plaint shall comply with the rules contained in Orders VI and VII, so far as they are applicable.

(3) The plaint shall not be deemed to be duly instituted unless it complies with the requirements specified in sub-rules (1) and (2).

106.

Ans. A.

Order V Rule 1. Summons.—

(1) When a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and to file the written statement of his defence, if any, within thirty days from the date of service of summons on that defendant:

107.

Ans. A. One summons is given individually to one party and therefore, shall carry one copy of plaint for that party.

Order V Rule 2. Copy of plaint annexed to summons.—Every summons shall be accompanied by a copy of the plaint.

108.

Ans. A.

Order V Rule 16. Person served to sign acknowledgment.—Where the serving officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

109.

Ans. C.

Order V Rule 17. Procedure when defendant refuses to accept service, or cannot be found.—Where the defendant or his agent or such other person as aforesaid refuses to sign the acknowledgment, or where the serving officer, after using all due and reasonable diligence, cannot find the defendant, who is absent from his residence at the time when service is sought to be effected on him at his residence and there is no likelihood of his being found at the residence within a reasonable time] and there is no agent empowered to accept service of the summons on his behalf, nor any other person on whom service can be made, the serving officer shall affix a copy of the summons on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or personally works for gain, and shall then return the original to the Court from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed.

110.

Ans. B.

Order V Rule 20. Substituted service.—(1) Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court thinks fit.

(1A) Where the Court acting under sub-rule (1) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain.

111.

Ans. C.

Order V Rule 20 Substituted service.

(2) Effect of substituted service.—Service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

112.

Ans. D.

Order VII Rule 3. Where the subject-matter of the suit is immovable property.—Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers.

113.

Ans. A.

Order VII Rule 10. Return of plaint.—(1) Subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.

114.

Ans. D.

Order VII Rule 11. Rejection of plaint.— The plaint shall be rejected in the following cases:—  
(a) where it does not disclose a cause of action; (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;  
(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;  
(d) where the suit appears from the statement in the plaint to be barred by any law;  
(e) where it is not filed in duplicate;  
(f) where the plaintiff fails to comply with the provisions of rule 9:  
Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

115.

Ans. C.

Order VII Rule 16. Suits on lost negotiable instruments.—Where the suit is founded upon a negotiable instrument, and it is proved that the instrument is lost, and an indemnity is given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may pass such decree as it would have passed if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

116.

Ans. C.

Order VIII Rule 1. Written Statement.—The Defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.

117.

Ans. D.

Order VIII. Rule 3, 4 and 5 .

Rule 3. Denial to be specific.—It shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must deal specifically with each allegation of fact of which he does not admit the truth, except damages.

Rule 4. Evasive-denial.—Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance. Thus, if it is alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation is made with diverse circumstances, it shall not be sufficient to deny it along with those circumstances.

Rule 5. Specific denial.—(1) Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability:

118.

Ans. A.

Order VIII Rule. 6. Particulars of set-off to be given in written statement.—(1) Where in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, not exceeding the pecuniary limits of the jurisdiction of the Court, and both parties fill the same character as they fill in the plaintiff's suit, the defendant may, at the first hearing of the suit, but not afterwards unless permitted by the Court, presents a written statement containing the particulars of the debt sought to be set-off.

119.

Ans. B.

Order VIII Rule. 11. Oral application.—(1) Where a decree is for the payment of money the Court may, on the oral application of the decree-holder at the time of the passing of the decree, order immediate execution thereof by the arrest of the judgment-debtor, prior to the preparation of a warrant if he is within the precincts of the Court.

120.

Ans. A.

Order VIII Rule 32. Decree for specific performance for restitution of conjugal rights, or for an injunction.—

(1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction by his detention in the civil prison, or by the attachment of his property, or by both.

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