

Roll No.

SAP ID



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, July 2020
Open Book – Through Blackboard Learning Management System

Course: Civil Procedure Code II and Law of Limitation (CLCC 3010)

Semester: VI

Programme: B.Com., LL.B. (Hons.) Taxation Laws 2017/ BBA., LL.B. (Hons.) BFIT 2017

Time: 03 hrs.

Max. Marks: 100

Instructions:

As this examination is in open-book format, the students are expected to demonstrate a very high degree of Academic Integrity and not copy contents from resources referred. Instructors would look for understanding of the concept by the students and any similarity found from resources online/ offline shall be penalized in terms of deduction of marks and even cancellation of paper in requisite cases. The online examination committee of the School would also look for similarity of two answer scripts and if answer scripts of two or more students are found similar, both the answer scripts shall be treated as copied and lead to cancellation of the paper. In view of the aforesaid points, the students are warned that they should desist from using any unfair means.

All Questions are Compulsory
Answer each question in not more than 500 words
SET A

S. No.		Marks	CO
1	Plaintiff is elder brother of defendant. When he acquired and constructed property, defendant was 17 years old. Plaintiff permitted defendant to stay on first floor after his marriage. Their relations turned sour as defendant obstructed plaintiff, when he wanted to construct two toilets on ground floor and raise construction on 2 nd floor. Plaintiff filed suit for possession of first floor, declaration and injunction against defendant and moved an application under Order 39, R 1 and 2 CPC for ad-interim injunction for removal of staircase constructed by defendant in front of property without consent of plaintiff or sanction of Municipal Corporation. It is alleged that there is staircase in the backside, which is properly sanctioned and is in use; the plaintiff cannot enjoy his property unless unauthorised construction is removed. Application is opposed on the ground that no notice for demolition has been received from Municipal Corporation and apprehension of plaintiff is without foundation; construction of staircase took place long time ago, by removing it, the plaintiff may not receive any particular benefit, but it would cause great inconvenience and hardship to defendant. Decide the application giving reasons.	20	CO3
Ans.			
2	'A' obtained a decree against 'B' for possession. 'B' filed an appeal against the decree, and obtained stay of delivery. The appeal was allowed and the suit dismissed. Against the dismissal, 'A' preferred a second appeal and that was allowed and the decree of trial court restored. 'A' applied restitution for mesne profits from the date of stay order of the first appellate court to the date of the decree of the second appellate court. Is 'A' entitled to the mesne profits so claimed?	20	CO2
Ans.			

3	<p>What are the remedies available to a party aggrieved by :</p> <ol style="list-style-type: none"> An order of rejection of plaint. An order rejecting an application for amendment of pleadings. An order rejecting an application for setting aside an ex-parte decree. An order for dismissal of suit for non-appearance of plaintiff. <p>Cite relevant provisions in support of your answers.</p>	20	CO2
Ans.			
4	<p>PLAINTIFF'S PLEADINGS Plaintiff Raman, instituted a suit for recovery of Rs. 54,450/- against the defendant based on a promissory note dated 6th May 2017. It was averred in the plaint that the defendant being in need of money requested the plaintiff in the month of April 2017 to give him a loan of Rs. 40,000/-. The plaintiff agreed and gave him a loan of Rs. 40,000/- on 6th May 2017. After receiving the said amount in cash, the defendant executed a promissory note on the same day with a stipulation to repay the same on demand along with interest at the rate of 10% p.a. However, the defendant failed to repay the amount despite several oral demands. A registered notice was sent by the plaintiff to the defendant demanding repayment of the said amount on 15th April 2020. Despite receipt of the said notice, the defendant did not return the amount. Therefore, the plaintiff filed the suit for recovery of the aforesaid amount along with interest at the rate of 10% p.a.</p> <p>DEFENDANT'S PLEADINGS: - The defendant (Raghav) in the written statement has denied that he had ever borrowed a sum of Rs. 40,000/- from the plaintiff and executed any promissory note on 6th May 2017. It was alleged by him that the promissory note is a forged document. It was also alleged by him that the suit is filed by the plaintiff in collusion with his brother Deepak who is attesting witness to the promissory note.</p> <p>Frame the issues based on given pleadings.</p>	20	CO 3
Ans.			
5	<p>The court passed decree in a land acquisition case on 17th July 2018. Application for certified copy was moved on 31st August 2019 copy obtained on 5th January 2020 and appeal was filed on 19th January 2020. It was barred by time. The Land Acquisition Officer filed application to have the delay excused under section 5 of the Limitation Act, 1963 alleging that the government pleader failed to apply for certified copy, obtain it and forward it with his opinion; there was utter confusion during his time and department did not know in which cases appeal were not filed; he played fraud and over a crore of rupees would be the loss to the government on account of such fraud; that correspondence exchanged with him, produced here, would show how negligent and uncooperative he was with the department. The respondent opposed it and contended that notice of the award was duly served by the Court on the department and the delay is not on account of bona fide mistake of the counsel and sufficient cause had not been shown for condonation of delay of over one year.</p> <p>Decide application under Section 5 of the Limitation Act.</p>	20	CO3
Ans.			

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