

**HIGH COURT OF KERALA
JUDICIAL TEST (HIGHER) 2020
PART-III, PAPER-II**

CIVIL PROCEDURE

Total Marks 100
Time: 3 hrs

PART A

Answer any SEVEN questions. Each carries 5 marks.

Write short notes on the following:

1. Amendment of pleadings? Explain with reference to the provisions in the Code of Civil Procedure.
2. Suits of civil nature
3. Discovery by interrogatories
4. Garnishee proceedings.
5. Court fee payable in a suit for setting aside a Sale Deed. Explain with reference to decided cases.
6. Cause title of plaint
7. Distinction between ex parte decree and ex parte order. Can it be set aside?
8. Impleading of 3rd parties and impleading of legal representatives in the Suit. Explain with reference to the provisions in the Code of Civil Procedure.
9. Attachment of salary in execution of a money decree.
10. Foreign judgment, its conclusiveness and presumptions attached thereto.

[7x5=35]

PART B

Answer any TWO questions. Give reasons. Each carries 10 marks.

1. In a suit for partition of immovable property a preliminary decree was passed. No appeal was filed against it. Later, a final decree also was passed. One of the defendants filed an appeal challenging the preliminary decree and the final decree. Decide.

...2.

2. Ashokan participated in a sale of immovable property conducted by the Sub Court, Ernakulam in execution of a decree and purchased 15 cents of property belonging to the JD by name Gopalan which was in his possession. The Court auction was on 10/2/2018 and the sale was confirmed in his name on 12/4/2018 and sale became absolute on that day. Sale certificate is also issued in the name of Ashokan. Ashokan applied for delivery of the property by filing petition on 22/5/2018. Gopalan resists the delivery stating limitation. Advise Ashokan. If the delivery is barred by limitation, whether Ashokan has any other remedy?
3. A filed a suit for declaration that B has no right over a pathway scheduled in the suit and also seeking for an injunction against B. B filed another suit against A for declaration of his easementary right over the same pathway. Both suits are jointly tried and disposed of by a common judgment dated 22.12.2018. The suit filed by A was dismissed and the suit filed by B was decreed. A filed appeal against the decree and judgment passed in the suit filed by him. He did not file any appeal against the judgment and decree passed in the suit filed by B. When the appeal was taken up for hearing, B has taken up the contention that the claim of A is not maintainable for not filing appeal against the decree in the suit filed by B – Decide.

[2x10=20]

PART C

Answer any THREE questions. Each carries 15 marks.

1. What do you mean by Claim Petition? What is the remedy available to a person aggrieved by the order passed in a claim petition. Explain with reference to the relevant provision in the Code of Civil Procedure.

....3.

2. What are the special provisions for filing suit against Government, Railway Administration etc.?
3. Explain the provisions regarding refund of Court fee under the Kèrala Court Fees and Suits Valuation Act? Is there any provision for refund of complete Court fee when cases are settled outside the Court?
4. What are the questions which an execution court can determine? Can the executing court go beyond the decree?
5. What are the provisions in Order 21 of the Code of Civil Procedure regarding resistance of delivery of possession of property to the Decree holder/auction purchaser? Explain with reference to the provisions regarding consideration of such obstructions.

[3x15=45]