BLOGS

Practice Questions on Civil Procedure Code- Part I

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1. A suit is filed in a court lacking subject matter jurisdiction. The defendant does not raise this objection at the earliest opportunity. What is the consequence?

a) The objection is deemed to have been waived.

b) The appellate court can still entertain the objection.

c) The suit is automatically dismissed.

d) The decree passed would be voidable.

Correct Answer: b) The appellate court can still entertain the objection.

Explanation: Subject matter jurisdiction is the authority of a court to hear cases of a particular kind. According to Section 21 of the CPC, an objection to subject matter jurisdiction can be raised at any stage, even in the appellate court, because a decree passed by a court lacking such jurisdiction is a nullity.

2. Which of the following conditions must be met for a court to issue a commission to examine a witness who resides beyond its jurisdiction?

a) The witness is essential for the trial.

b) The witness is evading appearance in court.

c) The State where the witness resides has a reciprocal agreement with the court's State.

d) The court must be satisfied that the witness's examination is necessary for the ends of justice and that there would be considerable delay or expense involved if the witness were required to attend the Court

Correct Answer: d) The court must be satisfied that the witness's examination is necessary for the ends of justice and that there would be considerable delay or expense involved if the witness were required to attend the Court

Explanation: Order 26 of the CPC deals with commissions. A commission may be issued to examine a witness who resides beyond the court's jurisdiction if the court finds it necessary for the ends of justice and that requiring the witness to attend court would cause undue delay or expense.

3. In which of the following situations can a court proceed with an ex parte decree against a defendant?

a) The defendant fails to file a written statement.

b) The defendant is absent on the date fixed for hearing after being duly served.

c) The defendant is declared insolvent during the pendency of the suit.

d) The defendant challenges the jurisdiction of the court.

Correct Answer: b) The defendant is absent on the date fixed for hearing after being duly served.

Explanation: An ex parte decree is passed when the defendant is absent on the day fixed for hearing, provided the defendant has been duly served with the summons. Order 9 of the CPC governs the procedure for the appearance of parties and consequences of non-appearance.

4. What is the primary purpose of res judicata?

a) To ensure speedy disposal of cases.

b) To prevent a multiplicity of suits and finality to judicial decisions.

c) To provide remedies for all types of grievances.

d) To promote alternative dispute resolution mechanisms.

Correct Answer: b) To prevent a multiplicity of suits and finality to judicial decisions.

Explanation: Res judicata, as enshrined in Section 11 of the CPC, prevents the same parties from relitigating issues that have already been decided by a competent court, thereby ensuring finality in litigation and preventing the waste of judicial resources through multiple suits on the same matter.

5. Under what circumstances can a court order arrest before judgment?

a) When the defendant is likely to abscond to delay the proceedings.

b) When the plaintiff requests it for security purposes.

c) When the defendant is about to leave the jurisdiction of the court with the intent to obstruct or delay the execution of any decree that may be passed against him.

d) When the defendant fails to appear in court on the first hearing.

Correct Answer: c) When the defendant is about to leave the jurisdiction of the court with the intent to obstruct or delay the execution of any decree that may be passed against him.

Explanation: Arrest before judgment, under Order 38 of the CPC, is a provisional remedy to prevent the defendant from frustrating the execution of a decree by absconding or disposing of property. The court must be satisfied that the defendant intends to obstruct or delay the execution of any decree that may be passed against them.

6. Which section of the CPC deals with the power of the court to amend a decree or order?

a) Section 114

b) Section 151

c) Section 152

d) Section 153

Correct Answer: c) Section 152

Explanation: Section 152 of the CPC empowers the court to correct clerical or arithmetical mistakes in judgments, decrees, or orders, or errors arising from any accidental slip or omission. This ensures that the record accurately reflects the court's intention.

7. A court can review its own order under which of the following circumstances?

a) Discovery of new and important evidence which, after the exercise of due diligence, was not within the party's knowledge.

b) An error apparent on the face of the record.

c) Any sufficient reason similar to the above grounds.

d) All of the above.

Correct Answer: d) All of the above.

Explanation: Section 114 read with Order 47 of the CPC allows a court to review its judgment if there is a discovery of new evidence, an error apparent on the face of the record, or any other sufficient reason. The grounds for review are similar to those for appeal but apply to the same court that issued the order.

8. What is the time limit for filing a caveat after the applicant becomes aware of an application being filed or expected to be filed?

a) 30 days

b) 60 days

c) 90 days

d) No time limit

Correct Answer: c) 90 days

Explanation: Section 148A of the CPC provides for the filing of a caveat, which is a notice to the court that no order should be passed without giving the caveator an opportunity to be heard. The caveat remains in force for 90 days from the date of filing.

9. In which of the following situations can a suit be dismissed under the CPC?

a) Where the plaintiff fails to appear on the date of hearing.

b) Where the suit is barred by limitation.

c) Where the plaintiff fails to pay court fees.

d) All of the above.

Correct Answer: d) All of the above.

Explanation: The CPC provides for the dismissal of a suit under various circumstances, including the plaintiff's non-appearance (Order 9), the suit being barred by limitation (Section 3), and the failure to pay court fees (Order 7, Rule 11). These provisions ensure procedural compliance and prevent abuse of the legal system.

10. What does the term 'mesne profits' refer to under the Civil Procedure Code?

a) Profits earned by a receiver appointed by the court.

b) Profits which the person in wrongful possession of property actually received or might with ordinary diligence have received therefrom, together with interest on such profits.

c) Rent collected from tenants on a property in dispute.

d) Profits ordered by the court to be paid to the plaintiff.

Correct Answer: b) Profits which the person in wrongful possession of property actually received or might with ordinary diligence have received therefrom, together with interest on such profits.

Explanation: Mesne profits, defined in Section 2(12) of the CPC, refer to the profits a person in wrongful possession of property actually received or could have received with ordinary diligence, plus interest. This aims to compensate the rightful owner for the deprivation of enjoyment and earnings from the property.