

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 4

NOTE : Answer SIX questions including Question No.1 which is compulsory.

1. (a) The Government of India promulgated an ordinance declaring existing unregistered associations dealing in foreign exchange (FOREX) as illegal without registration. The ordinance was published in Official Gazette dated 22nd August, 2015, which was its effective date.

One, Raman Associates located at Shop No. 444, Khan Market, New Delhi, was carrying on FOREX business since 1990. It was unregistered. Its five members procured business from nearby four-star, five-star hotels. Other three members processed the transactions in liaison with banks. One member, Manish looked after office paper work and the premises only. In fact, he was just a clerk and *daftri* but shown as a dummy member. After 24th August, 2015, Raman Associates wound-up their business. Its members disappeared leaving the premises behind, in charge of Manish.

On 26th September, 2015, Delhi Police raided the shop and arrested Manish on charges of dealing in FOREX. The order of District Magistrate, Delhi, was served on him. All his pleas that he never dealt in FOREX and was unaware of the ordinance or whereabouts of other members, fell flat. He was put in judicial custody as under trial in Tihar Jail.

Suresh, his elder brother, contacted the Delhi State Legal Services Authority office in the Delhi High Court complex. Their consultant, a mediation judge, advised him to move Delhi High Court, for Manish's release from unconstitutional detention.

Draft appropriate writ petition with the above facts. Assume any supplementary data.

(12 marks)

- (b) Draft a specimen outsourcing agreement. Assume facts.

(8 marks)

2. (a) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

(i) _____ means that both the accused and the complainant have amicably settled their dispute and, so, the complainant agrees not to prosecute the _____.

(ii) Every person or place in the affidavit should be correctly and fully described, so that he or it can be _____ and _____ identified.

: 2 :

(iii) *Del credere* agency is a special form of agency that combines _____ with _____.

(iv) If a power of attorney is _____ in a foreign country, it should be stamped within a period of _____ days of its being brought in India.

(2 marks each)

(b) Select the odd term out and briefly justify your answer :

- (i) (a) Amalgamation
- (b) Acquisition
- (c) Merger
- (d) Liquidation
- (ii) (a) Cheque
- (b) *Hundi*
- (c) Promissory note
- (d) Equitable mortgage
- (iii) (a) Easement rights
- (b) Surety
- (c) Pledge
- (d) English mortgage
- (iv) (a) Offer
- (b) Warranty
- (c) Consideration
- (d) Acceptance.

(2 marks each)

3. (a) State, with reasons in brief, whether the following statements are true or false :

- (i) Profit sharing is the true test of partnership.
- (ii) An affidavit should be drawn in first person.
- (iii) An insurable interest cannot be assigned.
- (iv) A memorandum of appeal need not be signed by the appellant himself; only his advocate's signatures would suffice.

(2 marks each)

: 3 :

- (b) Smith (Pvt.) Ltd., a salt manufacturing company at Mithapur (Kutch) with a paid-up share capital of ₹70 lakh, intends to appoint John Ltd., a marketing company of repute, as its selling agent for whole of India. The Managing Director called a Board meeting despite Company Secretary's insistence that it is not necessary to obtain Board's sanction for appointing selling agent; or even the Central Government's approval. The Board unanimously approved but the Central Government returned the proposal on the ground that it is not required.

Advise whether both the Managing Director and Company Secretary are right in their approach as per the provisions of the Companies Act, 2013.

(8 marks)

4. Write notes on the following. Attempt *any four* :

- (i) Dilatory pleas
- (ii) Deed escrow
- (iii) Requisites of a valid award
- (iv) Rejoinder
- (v) Patent of an innovation.

(4 marks each)

5. (a) Match the following :

List-A

- (i) Advocacy
- (ii) Appeal
- (iii) Writ
- (iv) Dissolution

List-B

- (a) *Code of Civil Procedure, 1908*
- (b) *Indian Partnership Act, 1932*
- (c) *Court craft*
- (d) *Constitution of India*

(1 mark each)

- (b) Swati Technologies Ltd. filed a suit against one of its customers, Amar Electronics Ltd. The plaint and verification was signed by its General Manager. He had no authority to sign it. The defendants raised preliminary objection to this effect. Should the court dismiss the suit ? Cite case law, if any.

(4 marks)

- (c) Lion Industries Ltd. is a manufacturer of moulded plastic products. The company is entering into a collaboration agreement with Regina Industries Plc., United Kingdom. Prepare a note to the Managing Director of Lion Industries Ltd. listing out the guidelines for entering into a foreign collaboration agreement.

(8 marks)

6. (a) Enumerate the important conditions that should be kept in mind while drafting a sale deed of an immoveable property.

(10 marks)

- (b) Discuss the pre-requisites for arbitration.

(6 marks)

7. (a) Distinguish between the following :

- (i) 'Fidelity guarantee' and 'continuing guarantee'.
(ii) 'Retirement of partner' and 'expulsion of partner'.

(4 marks each)

- (b) In court proceedings, evidence is not confined to mere affidavits. Then, how is an affidavit-in-evidence used in pleadings ?

(8 marks)

8. (a) In order to determine whether a document created a licence or a lease, the real test is to ascertain the intention of the parties, *i.e.*, whether they intended to create a licence or a lease. Elucidate.

(8 marks)

- (b) Explain the rule of adverse inference in the light of case law, if any.

(8 marks)