

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law of Civil Procedure
Semester-III (Batch: 2013-18)



End Term Examination: Oct-Nov. 2014

Date: 28th October, 2014

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

Answer all the questions	Marks
<p>Q.1 There is a difference in the opinion among various High Courts regarding the applicability of order XXXIX (39) of the Civil Procedure Code, 1908. One view oppose the issuance of order of temporary injunction if the circumstances do not fall with the provisions of order XXXIX (39), while the other view favours the contrary as well.</p> <p>Explain order XXXIX (39) and identify the correct legal proposition for the applicability of the aforementioned provision of the code with the help of relevant judicial precedents.</p>	(7.5)
<p>Q.2 As a general rule “an appellate court shall decide the appeal on the evidence tendered by the parties to the suit before the trial court (the Court of first instance) and should not admit additional evidence for the purpose of deciding the controversies at appeal.”</p> <p>Verify the validity of the statement with the relevant statutory provisions and the decided case laws.</p>	(7.5)
<p>Q.3 Discuss the scope of Reference, Review and Revision in civil procedure and also distinguish among them.</p>	(7.5)
<p>Q.4 The words “Might and Ought” used in the Explanation IV of Section 11 have the wider amplitude and the parties to the suit should raise all the conceivable pleas in the former suit to the same party from being vexed twice again on the same cause of actions. Discuss and explain the same in the light of relevant case laws and also explain how it is different from Order 2, Rule 2.</p>	(7.5)
<p>Q.5 Explain the circumstances under which court will allow and refuse amendment to the pleadings.</p>	(05)
<p>Q.6 ‘A’ residing at Gandhinagar, published a defamatory statement about ‘B’, a resident of Delhi in a newspaper having circulation in Bihar, U.P and Punjab. Advice B as to place of suing as per the provisions of the Civil Procedure Code.</p>	(05)

- Q.7 Explain in brief the provisions given under civil procedure code for transfer of decree for execution. Mention the mode of executing decrees for possession of immovable property. (05)
- Q.8 As a general rule, every appeal or application has to be made within the prescribed period else it will be barred by limitation, however the court may condone the delay if the party has sufficient cause for not preferring the appeal or application. (05)
- Explain the ambit of word 'Sufficient Cause' with the help of decided case.
