

**GUJARAT NATIONAL LAW UNIVERSITY**  
**GANDHINAGAR**  
 Course: **Law of Civil Procedure and Limitation**  
**Semester- III (Batch: 2021-26)**

**End Semester Examination: November 2022**

**Date: 09<sup>th</sup> Nov, 2022**

**Duration: 3 hours**

**Max. Marks: 50**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 500-700 words, 5 Marks: 300-400 words

- |  | <b>Marks</b> |
|--|--------------|
| <p>Q.1 There was a vacant space between the houses of two brothers to use it as a common way and to access the back side of the respective houses. However, the elder brother keeps on creating trouble for the younger brother from using that common space. Being aggrieved, the younger brother filed a suit in the court of law, alongwith an application for temporary injunction seeking status quo i.e., till the final disposal of the suit. Trial court granted the relief of the temporary injunction. However, the elder brother after having this order passed, erected a brick wall in the vacant space and prevented the younger brother from using the common space. Once again, the younger brother went to the court and reported the breach of the order of temporary injunction. The court arrested the elder brother for the breach of injunction. Briefly explain the concept of 'temporary injunction' and decide the validity of the 'arrest' ordered by the Court. Justify your answer with applicable provisions and decided case laws.</p>   | (10)         |
| <p>Q.2 'F' is the father of two sons S<sub>1</sub> and S<sub>2</sub>. 'F' owned two immovable properties P<sub>1</sub> and P<sub>2</sub>. 'F' sold one of his properties P<sub>2</sub> in the year 2011. In 2020, S<sub>2</sub> filed a suit seeking partition of the property P<sub>1</sub>. Issues were framed by the trial court in the suit. August 10, 2021 was fixed as the date for recording of evidence of S<sub>2</sub> by the trial court. S<sub>2</sub> prayed for more time to produce evidence. After providing several opportunities, on December 8, 2021 the trial court granted him the last opportunity to file his evidence by January 28, 2022. However, on January 17, 2022, S<sub>2</sub> filed an application praying for amendment in the plaint to add certain pleadings and a prayer claiming share in the sale proceeds received by 'F' from the sale of the property P<sub>2</sub>. It was objected by 'F' saying that the issues have already been framed and the case is at the stage of 'final recording of evidence'. Along with this, he also raised the contention that it is altogether a separate cause of action.</p> <p>Explain the procedure with provisions applicable for amendment in the pleadings. Should the court allow the application for amendment of plaint?</p> | (10)         |
| <p>Q.3 A, B and C are coparceners of a joint Hindu family. They jointly executed a mortgage deed in favor of X. X files a suit against all of them. Summon has been served to C but</p>  | (10)         |

not to A and B. None of them appeared and an *ex parte* decree was passed against all. A and B filed an application to set aside the *ex-parte* decree, and the order passed.

Explain the meaning of *ex parte* decree elaborating the remedies available to a person against whom an *ex parte* decree is passed. Whether the order of setting aside *ex parte* decree by the court is also applicable for C?

- Q.4 Explain the statutory requirements that need to be met before bringing a suit against the Government or public officers in respect of any act done by such public officers in their official capacity on the basis of relevant provisions prescribed under the Civil Procedure Code, 1908. Can a writ petition under Article 226 of the Constitution of India be filed against a government officer without sending any notice to the head of the department? (5)
- Q.5 Explain the concept and grounds for 'review'. Can 'review' and 'appeal' simultaneously be heard by respective courts? If so, which decision will prevail? Support your answer with decided case-laws and relevant provisions. (5)
- Q.6 What are the various modes of 'execution of decrees'? Explain on the basis of decided case-laws and relevant provisions; whether the executing court is free to select any of the modes, and more than one mode simultaneously or not? (5)
- Q.7 Write short notes on any of the two. (2.5x2 =5)
- Reference
  - First hearing
  - Interrogatories

\*\*\*\*