

TEST

CPC (Test 4)

QUESTIONS

SECTIONS

1. Code of Civil Procedure - 50 Questions

Section 1 : Code of Civil Procedure - 50 Questions

1 A person can be appointed as a guardian under Order XXXII Rule 4 of CPC

- ☐ on his oral consent
- ☐ on his consent in writing
- ☐ neither (a) or (b)
- ☐ neither (a) nor (b)



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Correct: +1

2 The Court is required to appoint a guardian ad litem:

- ☐ For a minor plaintiff only
- ☐ For a minor defendant only
- ☐ for plaintiff and defendant both
- ☐ None of these

3 Under Order 32, Rule 10 of the Code of Civil Procedure on the death of 'next friend', the suit shall be

- ☐ dismissed
- ☐ stayed
- ☐ rejected
- ☐ dismissed or rejected

Correct: +1

4 After withdrawal of the suit, a plaintiff

- ☐ Can institute a fresh suit in respect of the same subject matter
- ☐ Can institute a fresh suit in respect of the same subject matter only with the leave of the Court
- ☐ Can institute a fresh suit in respect of the same subject matter only with the leave of the High Court
- ☐ Cannot institute a fresh suit in respect of the same subject matter, unless liberty is given at the time of withdrawal of the suit

Correct: +1

5 When a court desires that its decree shall be executed by another court, it shall send to the other court

- ☐ a decree and certificate of non-satisfaction
- ☐ judgment and decree

- ☐ judgment and execution petition
- ☐ execution petition and certificate of non-satisfaction

Correct: +1

6 Whether a minor on attaining majority may, if a sole plaintiff, apply that a suit instituted in his name by his next friend be dismissed on the ground that it was unreasonable or improper:

- ☐ No
- ☐ With the consent of next friend
- ☐ Yes
- ☐ Joint application will be with next friend

Correct: +1

7 An agreement or compromise entered in a 'representative suit' without the leave of the court is

- ☐ void
- ☐ voidable
- ☐ valid
- ☐ either valid or voidable

Correct: +1

8 Which one of the following statement is incorrect regarding the compromise under Order 23 Rule 3 of Civil Procedure Code?

- ☐ Must be in writing and signed by the party.
- ☐ Must be in writing and need to be lawful agreement
- ☐ It is required that subject matter of the compromise is the same as the subject matter of the Suit
- ☐ A compromise which is voidable under the Indian Contract Act shall also voidable within the meaning of this Rule.

Correct: +1

9 Under Civil Procedure Code, a Court may not issue a commission—

- ☐ For elucidating any matter in dispute
- ☐ For ascertaining the market value of any property
- ☐ For assessing the amount of any mesne profits or damages
- ☐ For framing of issue

Correct: +1

10 Which of the following person may not file an application for execution under Civil Procedure Code, 1908 namely?

- ☐ A decree holder
- ☐ Legal representative, if the decree holder is dead

☐ A person claiming under decree holder

☐ Judgment debtor

Correct: +1

11 The maxim "Invito beneficium non datur" (The law confers upon a man no rights or benefits which he does not desire) relates to which of the provision under the Code of Civil Procedure, 1908?

☐ Section 26

☐ Order 6, Rule 1

☐ Section 148-A

☐ Order 23, Rule 1

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Correct: +1

12 Suit for recovery of money in promissory notes can be filed

☐ under normal procedure

☐ under summary procedure as laid down in Order 37, CPC

☐ in the High Court

☐ as a writ petition

Correct: +1

13 Where the plaintiff dies after hearing and before pronouncement of judgment the suit

- ☐ shall not abate
- ☐ shall abate
- ☐ shall abate if the right to sue not survive
- ☐ none of the above

Correct: +1

14 Pauper appeals have been provided under:

- ☐ Order XLII of CPC
- ☐ Order XLIII of CPC
- ☐ Order XLIV of CPC
- ☐ Order XLV of CPC

Correct: +1

15 A person is an indigent person within the meaning of Order 33, Rule 1 of CPC, if he is not possessed of

- ☐ sufficient means to pay the fee payable on the plaint
- ☐ any means to pay the fee payable on the plaint
- ☐ sufficient means for his livelihood

16 Right to withdraw the suit, is:

- ☐ an absolute right of the plaintiff
- ☐ a qualified right of the plaintiff
- ☐ fettered by certain conditions
- ☐ Both (b) and (c)

Correct: +1

17 The death of a plaintiff or defendant shall not cause the suit to abate, if

- ☐ the cause of action survives
- ☐ the relief survives
- ☐ the right to sue survives
- ☐ all of the above

Correct: +1

18 Rejection of an application for permission to sue as a pauper

- ☐ Bars a fresh application on the same cause of action
- ☐ Does not bar a fresh application on the same cause of action if moved along with amended schedule of property

- ☐ Does not bar a fresh application on the same cause of action with the leave of the Court
- ☐ Does not bar a fresh application at all

Correct: +1

19 In connection with a suit by an indigent person, the suit is deemed to be instituted on the date

- ☐ when the application for leave to sue as a pauper is made
- ☐ when such application is admitted
- ☐ when such application is rejected
- ☐ none of the above

Correct: +1

20 The period of limitation for filing leave to defend in a Suit under Order XXXVII of the Code of Civil Procedure is within

- ☐ 10 days of the receipt of summons for judgment.
- ☐ 30 days of the receipt of summons for judgment
- ☐ 90 days of the receipt of summons for judgment
- ☐ 120 days of the receipt of summons for judgment

Correct: +1

21 In cases of withdrawal of suit by the plaintiff, under Order 23, Rule IA of CPC

- ☐ Defendants cannot be transported as plaintiffs
- ☐ Defendants can be transported as plaintiffs under all circumstances
- ☐ Defendants can be transported as plaintiff if substantial question is to be decided against any of the defendants
- ☐ Either (a) or (b)

Correct: +1

22 Where a decree of compromise which was not lawful, there—

- ☐ Suit shall lie to set aside such decree
- ☐ Complaint has to made to High Court
- ☐ No suit shall lie to set aside such decree
- ☐ Suit may lie to set aside such decree with the Leave of District Judge

Correct: +1

23 Order 21 C.P.C. dealing with execution of decree and orders contains:

- ☐ 100 Rules
- ☐ 102 Rules
- ☐ 103 Rules

24 A court to which decree has been transferred for execution cannot, while executing

- ☐ order attachment
- ☐ execute the decree against the legal representatives of the deceased judgment debtor
- ☐ send the decree for execution to another court
- ☐ order execution at the instance of the transferee of the decree

Correct: +1

25 Where a judgment-debtor has been committed to the civil prison, he may be released therefrom:

- ☐ By the State Government on the ground of the existence of any infectious disease
- ☐ By the committing Court or any Court to which that Court is subordinate on ground of serious illness
- ☐ By the State Government on the ground of the existence of any contagious disease
- ☐ All the above

Correct: +1

26 Precepts are issued under section 46 of CPC for;

- ☐ Serving summons on persons residing beyond local jurisdiction
- ☐ Serving a warrant on the judgment-debtor

- ☐ Attaching the property of the judgment -debtor
- ☐ None of the above

Correct: +1

27 During the proceeding of execution of a decree, a question arises as to whether any person is or not the representative of a party, such question shall be determined by—

- ☐ The Court which passed the decree
- ☐ The Court executing the decree
- ☐ The appellate Court
- ☐ A Separate Suit

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Correct: +1

28 In which of the following ways can the Court not order execution, of a decree as per Section 51 of the Code? *An Institute for Judiciary and APO*

- ☐ By delivery of any property specifically decreed
- ☐ By attachment and sale of property
- ☐ By serving summons on the party
- ☐ By appointing a receiver

Correct: +1

- ☐ A person who in law represents the estate of a deceased person

Any person who intermeddles with the estate of the deceased and where a party sues in a

- ☐ representative character the person on whom the estate devolves on the death of a party so suing.

Any person who intermeddles with the estate of the deceased and where a party is sued in

- ☐ a representative character the person on whom the estate devolves on the death of a party so sued.

- ☐ All of the above

Correct: +1

30 Point out incorrect answer—

A decree passed by a civil court can be executed by—

- ☐ The court which passed that decree

- ☐ The court to which the decree is transferred for execution by the court passing the decree

- ☐ Either a or b

- ☐ None of the above

Correct: +1

31 Where a judgment-debtor dies before the decree has been fully satisfied:

- ☐ the same cannot be executed against the legal representatives

- ☐ the same can be executed against anyone of the legal representatives of the judgment debtor in its entirety

- ☐ the same can be executed against all the legal representatives
- ☐ the same can be executed against any number of the legal representatives as the decree holder wants

Correct: +1

32 Arrest of a person in execution of a decree has been provided

- ☐ under Section 53 of the Code of Civil Procedure
- ☐ under Section 54 of the Code of Civil Procedure
- ☐ under Section 56 of the Code of Civil Procedure
- ☐ under Section 55 of the Code of Civil Procedure

Correct: +1

33 Private alienation of property after attachment of the same is—

- ☐ Voidable at the option of the decree holder
- ☐ Voidable at the option of the judgement debtor
- ☐ Void ab initio
- ☐ Void as against all claims enforceable under the attachment

Correct: +1

34 Under section 60 of Civil Procedure Code which of the following properties is not liable to attachment and sale in execution of a decree?

- ☐ Negotiable instruments
- ☐ Houses or other buildings
- ☐ Government Securities
- ☐ Any right of personal services

Correct: +1

35 No order for detention of the judgment debtor in civil prison in execution of a decree for the payment of money shall be made where the total amount of the decree does not exceed

- ☐ Five hundred rupees
- ☐ One hundred rupees
- ☐ Two thousand rupees
- ☐ Five thousand rupees



Correct: +1

36 Which section of Civil Procedure Code prohibits arrest or detention of women in the execution of decree for money?

- ☐ Section 55
- ☐ Section 56
- ☐ Section 59

☐ Section 60

Correct: +1

37 Which section provides for rateable distribution of assets?

☐ Section 90

☐ Section 73

☐ Section 77

☐ Section 56

Correct: +1

38 An order or direction given by the court which passed the decree to a court which would be competent to execute the decree, to attach any property belonging to the judgement debtor, is called:

☐ precept

☐ garnishee order

☐ interlocutory order

☐ simultaneous execution

Correct: +1

39 Which provision of C.P.C. deals with enforcement of a decree against legal representative?

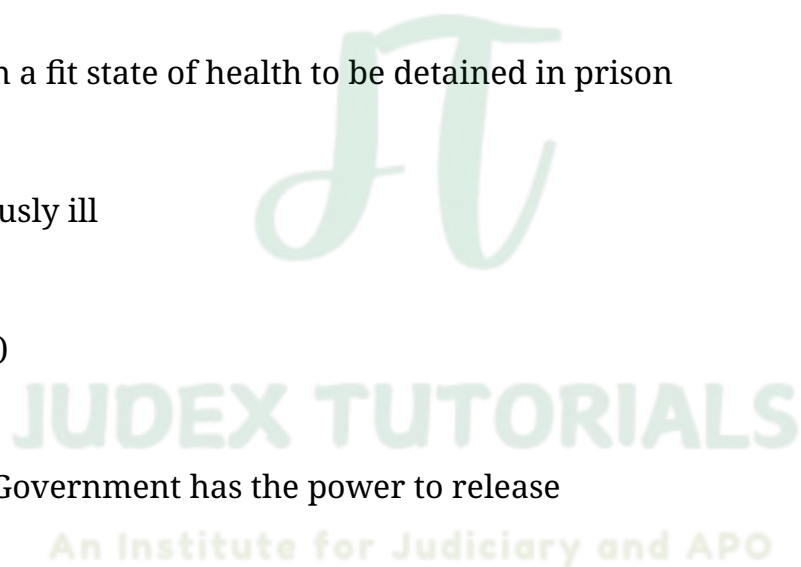
☐ Section 50

- ☐ Section 51
- ☐ Section 55
- ☐ None of the above

Correct: +1

40 At any time after a warrant for the arrest of a judgment debtor has been issued, the court may cancel it on the ground:

- ☐ that he is not in a fit state of health to be detained in prison
- ☐ that he is seriously ill
- ☐ both (a) and (b)
- ☐ only the State Government has the power to release



Correct: +1

41 A court may issue a commission to:

- ☐ Make local investigation
- ☐ Make partition
- ☐ Adjust accounts
- ☐ All of the above

Correct: +1

42 Which of the following statements is correct?

The court which passed the decree may transfer it to another competent court if the

- ☐ judgment debtor carries on business within the jurisdiction of the latter court.
- ☐ judgment debtor has no property within the jurisdiction of the former court sufficient to satisfy such decree but has property within the jurisdiction of the latter court.
- ☐ decree directs the sale of immovable property situated outside the local jurisdiction of the former court.
- ☐ All these.

Correct: +1

43 Court may not issue a commission:

- ☐ to examine any person
- ☐ to examine accounts
- ☐ to perform any ministerial act
- ☐ to arrest a person

Correct: +1

44 The property which is not liable to attachment and sale in execution of decree:

- ☐ Government securities
- ☐ Promissory Note

☐ Books of Account

☐ Bond

Correct: +1

45 Under Section 75 of Civil Procedure Code, the court cannot issue commission:—

☐ to examine any person

☐ to make a partition

☐ to conduct sale of property which is not in the custody of the court

☐ to hold a scientific, technical or expert investigation

Correct: +1

46 Which of the following questions is not to be determined by an executing court?

☐ Discharge of decree

☐ Execution of decree

☐ Modification of decree

☐ Satisfaction of decree

Correct: +1

47 A civil court cannot issue commission in the following case—

- ☐ for examining a person
- ☐ For examining accounts
- ☐ to execute partition
- ☐ To execute a decree

Correct: +1

48 During proceedings for execution of a decree, if question arises as whether any person is or is not the representative of a party, such question must be determined by

- ☐ The court which passed the decree
- ☐ The court executing the decree
- ☐ The appellate court
- ☐ None of the above

Correct: +1

49 In execution of a decree for the maintenance, salary of a person can be attached to the extent of

- ☐ one-fourth
- ☐ one-third
- ☐ two-third

☐ one-half

Correct: +1

50 Under Civil Procedure Code, a Court may not issue a commission —

- ☐ For elucidating any matter in dispute
- ☐ For ascertaining the market value of any property
- ☐ For assessing the amount of any mesne profits or damages
- ☐ For framing of issue

Correct: +1



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ANSWERS

SECTIONS

1. Code of Civil Procedure - 50 Questions

Section 1 : Code of Civil Procedure - 50 Questions

- 1 on his consent in writing
- 2 For a minor defendant only
- 3 stayed
- 4 Cannot institute a fresh suit in respect of the same subject matter, unless liberty is given at the time of withdrawal of the suit
- 5 a decree and certificate of non-satisfaction
- 6 Yes
- 7 void
- 8 It is required that subject matter of the compromise is the same as the subject matter of the Suit
- 9 For framing of issue
- 10 Judgment debtor
- 11 Order 23, Rule 1

12 under summary procedure as laid down in Order 37, CPC

13 shall not abate

14 Order XLIV of CPC

15 sufficient means to pay the fee payable on the plaint

16 an absolute right of the plaintiff

17 the right to sue survives

18 Bars a fresh application on the same cause of action

19 when the application for leave to sue as a pauper is made

20 10 days of the receipt of summons for judgment.

21 Defendants can be transported as plaintiff if substantial question is to be decided against any of the defendants

22 No suit shall lie to set aside such decree

23 106 Rules

24 order execution at the instance of the transferee of the decree

25 All the above

26 Attaching the property of the judgment -debtor



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- 27 The Court executing the decree
- 28 By serving summons on the party
- 29 All of the above
- 30 Either a or b
- 31 the same can be executed against all the legal representatives
- 32 under Section 55 of the Code of Civil Procedure
- 33 Void as against all claims enforceable under the attachment
- 34 Any right of personal services
- 35 Two thousand rupees
- 36 Section 56
- 37 Section 73
- 38 precept
- 39 None of the above
- 40 that he is seriously ill
- 41 All of the above

42 All these.

43 to arrest a person

44 Books of Account

45 to conduct sale of property which is not in the custody of the court

46 Modification of decree

47 To execute a decree

48 The court executing the decree

49 two-third

50 For framing of issue



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SOLUTIONS

SECTIONS

1. Code of Civil Procedure - 50 Questions

Section 1 : Code of Civil Procedure - 50 Questions

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This is the solution

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Section 73 of Code of Civil Procedure

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