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**KPK Public Service Commission
Peshawar**

Competitive Examination for Civil Judges-com-Judicial Magistrates, 2015

Civil Law-II

Time Allowed: **3 Hours**

Maximum Marks: **100**

Please First Read These Instruction Carefully

- [A]. Answer any **FIVE** questions in all choosing two questions from Part-I and one question each from Parts II, III and IV. All the question carry equal marks. The questions may be answered in English or Urdu.
- [B]. In each of the following cases give your decision and explain in detail the legal principle that applies on the case. Your answer must correctly identify the relevant areas of law, accurately discover and apply the appropriate provision thereof. Your answer must also be well structured and well argued.
- [C]. Please refrain from: ① **Reproducing the facts of the cases;** ② **Unnecessary and irrelevant details;** ③ **Unreadable handwriting.**
- [D]. Possession or use of mobile phones or any other electronic devices in the examination hall is strictly forbidden. The use or possession of mobile phones or any other electronic devices during the examination may lead to the cancellation of paper as well as the examination.

Part-I The Mohammadan Law

- (1). Upon getting annoyed by the mistreatment of his wife, Kala Khan, said to his wife in the state of extreme anger while was holding the Holy Qur'an in his hand, "I swear by this Holy Book that I will never have marital relations with you". However, after few days he regretted for his oath and had marital relations with his wife. Has the separation taken place between the couple? If so is the separation a *Talaq* or *Faskh*? Can they re-marry without the intervening marriage?
- (2). Banaras Khan's wife was so pious, God-fearing and obedient that he loved her madly. After a year of their marriage, Ibrahim, out of his extreme love for his wife, not only paid her the dower which was mentioned in the *nikahnama* as "deferred dower" but also delegated her the power of divorce. However during the later years he realized his mistake of delegating the power of divorce to her. Can he revoke the power of divorce which he has delegated to his wife? Why or why not?
- (3). After the said demise of Badam Gul, his real brother, Janat Gul married his late brother's widow having 3 children under the age of 7 years. Janat Gul was not in good terms with his father and brothers and lived independently away from them. The father of late Badam Gul, Sanober Khan is planning to take his orphan grandchildren into his own custody. Is Sanober Khan legally entitled to take the custody of his grandchildren from Janat Gul under the Islamic law? Why or why not?
- (4). Sharafat Ullah had 5 sons and 3 daughters. He loved his youngest daughter, Ayisha a lot. After his death it was revealed that he had left a will through which he had gifted

one of his bungalows in Hayatabad to Ayisha. His eldest son, Quadrat Ullah, who was a God fearing and honest person, divided the property of his deceased father among all his brothers and sisters according to the rules of Shari'ah. Quadrat Ullah is of the opinion that giving his sister, Ayisha the bungalow which their father has gifted her beyond her share in the legacy is not valid according to the teachings of Shari'ah? Is Quadrat Ullah right in his opinion? Why or why not?

Part-II The Registration Act 1908

- (5). Can an instrument executed outside Pakistan be presented for registration in Pakistan after the expiry of time prescribed for its registration? If so what is the procedure?
- (6). Chanba Gul, Banaras Khan and Chinar Gul agreed to start a business of selling Chitralli caps. They have drafted the partnership contract on a stamp paper and have got the document attested by a notary public? A nephew of Chinar Gul who is a student of LL.B told him that their partnership contract was to be compulsorily got registered under the Registration Act 1908 or else their partnership contract was legally not valid. Is he right to say that? How the partners can rectify this defect of their partnership contract?

Part-III The Limitation Act 1908

- (7). Amjad Khan and Majid Khan, who are working in the United Kingdom are close friends. Amjad Khan breached a contract which he made with Majid Khan and caused him a loss of £. 2400/00. After 13 months when both of them came back to Pakistan on holiday, Majid Khan wanted to file a suit against Amjad Khan for breach of contract. The lawyer of Amjad Khan objected that the suit was time barred. Is the suit within the limitation period?
- (8). On 13 October, the last day of the limitation period a Chodhry Zamurad went to the High Court to file an appeal, however, because of some security issues the High Court was closed and remained closed for about 7 days. Has Chodhry Zamurad lost the right to appeal? Explain

Part-IV The Specific Relief Act 1877

- (9). Mr. Black agreed to sell Mr. White a cigar holder used by Sir Winston Churchill, the Prime Minister of the United Kingdom during 1940-45 and 1951-55. At the time of delivery Mr. Black refused to deliver the cigar holder. Mr. White filed a suit against him for the breach of contract. During the proceedings Mr. Black admitted his liability and showed his readiness and willingness to pay damages to Mr. White. However, Mr. White refused to accept damages and insists to get the cigar holder. Suppose you are the judge in the case, would you order specific performance of the contract by Mr. Black? Why or why not?
- (10). Under what circumstance the specific performance of a contract may, in the discretion of the Court, be enforced?

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