

1-Point out the correct sequence of the “Explanations” given in section 11 of the CPC —

(i) Any relief claimed in the plaint which is not expressly granted by the decree, shall for the purpose of section 11 CPC, be deemed to have been refused.

(ii) Where persons litigate bonafide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of section 11 CPC, be deemed to claim under the person litigating.

(iii) For the purpose of Section 11 CPC, the competence of court shall be determined irrespective of any provisions as to a right of appeal from the decision of such court.

(iv) The matter referred must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

(a) (i) - Explanation V, (ii) - Explanation VI, (iii) - Explanation II, (iv) - Explanation III

(b) (i) - Explanation VI, (ii) - Explanation I, (iii) - Explanation VII, (iv) - Explanation II

(c) (i) - Explanation III, (ii) - Explanation IV, (iii) - Explanation VI, (iv) - Explanation II

(d) (i) - Explanation III, (ii) - Explanation V, (iii) - Explanation VI, (iv) - Explanation II

2. As per Section 13 of the CPC, A foreign judgement shall be conclusive as to any matter thereby directly adjudicated upon between the same parties litigating under the same title —

(a) When it has been pronounced by the court of competent Jurisdiction

(b) When it has not given on the merits of the case.

(c) Where the proceedings in which the Judgment was obtained are opposed to the natural justice.

(d) Where it has been obtained by fraud.

3. Under Section 14 of the CPC, the court -

(a) May presume, upon the production of any document purporting to be certified copy of a foreign Judgment, that such judgment was pronounced by a court of competent Jurisdiction.

(b) Shall presume upon the production of any document purporting to be certified copy of a foreign judgment, that such Judgment was pronounced by a court of competent Jurisdiction.

(c) May not presume upon the production of any document purporting to be certified copy of a foreign judgment, that such Judgment was pronounced by a court of competent Jurisdiction.

(d) Shall conclusively presume upon the production of any document purporting to be certified copy of a foreign judgment, that such Judgment was pronounced by a court of competent Jurisdiction

4-Where a suit to obtain relief respecting, or compensation for wrong to immovable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted in the court within –

(a) The local limits of whose jurisdiction the property is situated only.

(b) The local limits of whose Jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gains.

(c) The local limits of whose Jurisdiction the plaintiff actually and voluntarily resides, or carries on business, or personally works for gains.

(d) Either A or B

5. Under what Section of the Code, the provisions relating to a suit for compensation for wrongs to person or movables may be instituted at the options of the plaintiff, is provided?

(a) 17

(b) 18

(c) 19

(d) 20

6. Arrange the following below given statements in correct sequence as given under Section 21 of the code —

I. No objection as to the competence of a Court with reference to the pecuniary limits of its Jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the court of first instance at the earliest possible opportunity, and, in all the cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of Justice.

II. No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been consequent failure of Justice.

III. No objection as to the competence of the executing Court with reference to the local limits of its Jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken

in the executing court at the earliest possible opportunity, and unless there has been a consequent failure of Justice.

(a) I – II - III

(b) II – I - III

(c) I – III - II

(d) II – III – I

7-Under the explanation given to Section 21A CPC, the expression ‘former suit’ means—

(a) A suit which has been decided prior to the decision in the suit in which the validity of the decree is questioned, whether or not the previously decided suit was instituted prior to the suit in which the validity of such decree is questioned.

(b) A former suit is a suit which has been decided first.

(c) A suit which has been decided prior to the decision of the suit in which the validity of the decree is questioned and it must also be instituted prior to the suit in which the validity of such decree is questioned.

(d) Either A or B or C.

8-Under Section 24(5) of the CPC, a suit or proceedings —

(a) May be transferred from a court which has the jurisdictions to try it only.

(b) May also be transferred from a court which has even no jurisdictions to try it.

(c) Shall be transferred from a court which has no jurisdictions to try it.

(d) Shall not be transferred from a court which has jurisdictions to try it.

9-Under Section 25 of the CPC, the Hon'ble Supreme Court may, at any stage, if satisfied that an order is expedient for the ends of Justice, direct that any suit, appeal or other proceeding be transferred from a High Court or other Civil Court in one state to a High Court or other civil Court in any other state —

- (a) On the application of the party only.
- (b) On the application of any court below to the Supreme court.
- (c) Suo-moto by the court.
- (d) Either suo-moto or on the application of the party.

10. By what amendment, clause (2) to Section 26 of the CPC was inserted /substituted?

- (a) Inserted by Act 46 of 1999
- (b) Substituted by Act 46 of 1999
- (c) Inserted by Act 22 of 2002
- (d) Substituted by Act 22 of 2002

11-Where a suit has been duly instituted, then the summon —

- (a) May be issued to the defendant to appear or answer the claim and may be served in the manner prescribed on such day not beyond thirty days from the date of the institution of the suit.
- (b) May be issued to the defendant to appear and answer the claim and may be served in the manner prescribed on such day not beyond thirty days from the date of the institution of the suit.
- (c) May be issued to the defendant to appear and answer the claim and may be served in the manner prescribed on such day not beyond ninety days from the date of the institution of the suit.

(d) Either A or C.

12-. Under what Section, the provision relating to the 'Summons to witnesses' is given?

(a) 27

(b) 29

(c) 31

(d) 32

13. Find out the incorrect answer — Under Section 32 of the CPC, the Court may compel the attendance of any person to whom a summon has been issued under Section 30 CPC and for that purpose the Court may —

(a) Issue a summon for his personnel appearance

(b) Issue a warrant for his arrest

(c) Attach and sell his property

(d) Order him to furnish security for his appearance and in default commit him to the civil prison.

14-. 'A' Claiming himself to be the owner of the property files a suit for eviction against the tenant 'B' and the sub-tenant 'C', which was decreed ex-parte by the Small Cause Court. Thereafter, the sub-tenant 'C' files a suit in the Civil Court on the basis of title. 'A' pleaded that the subsequent suit is barred by the res-judicata Find out the correct answer —

(a) The doctrine of Res-Judicata will apply

(b) The doctrine of Res-Judicata will not apply

(c) The finding regarding the ownership of 'A' will not operate res-judicata inasmuch as the title to the property was not directly and substantially in issue in the former suit.

(d) The finding regarding the ownership of 'A' will operate res-judicata inasmuch as the title to the property was directly and substantially in issue in the former suit.

15-'L' sues 'T' for rent for the year 2015-16 alleging that 'T' was liable to pay it.

'T' applied for time to file the written statement, which was refused. The suit was decreed and the only issue raised by the court was regarding the amount of rent. Thereafter, 'L' files another suit against 'T' for the rent for the year 2017-18. 'T' contended that suit is barred by Res-Judicata. Find out the correct answer –

(a) The matter was directly and substantially in issue in the previous suit.

(b) The matter was not directly and substantially in issue in the previous suit.

(c) The matter was directly and substantially in issue and, therefore, defence is barred by res-judicata.

(d) The matter was not directly and substantially in issue and, therefore, defence is not barred by res-judicata.

16-Distinction between the Res-judicata and stare decisis

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(i) Res-judicata is based upon conclusiveness of judgment and adjudication of prior findings whereas stare decisis rests on legal principles.

(ii) Res-Judicata binds the parties and privies while stare decisis operates between strangers also but does not bind courts from taking a contrary view on the point of law already decided.

(iii) Res-Judicata binds the parties and privies while stare decisis operates between strangers also and binds courts from taking a contrary view on the point of law already decided.

(iv) Res-judicata touches legal principles, stare decisis relate to a specific controversy.

(v) Stare decisis applies to the same principles of law to all parties, Res-judicata presupposes judicial finding upon the same facts as involved in subsequent litigation between the same parties.

(vi) Res-judicata relates to a specific controversy but Stare decisis touches the legal principles Select the wrong statements –

(a) (i), (ii), (iv), (v)

(b) (i), (iii), (v), (vi)

(c) (i), (ii), (iv)

(d) (ii), (iv)

17. The doctrine of res judicata being a fundamental concept based on public policy and private interest. It, therefore, applies to –

(a) Civil Suits, execution proceedings and writ petitions and not to the taxation matters, industrial adjudication and interim orders

(b) Civil Suits, execution proceedings, writ petitions, arbitration proceedings, industrial adjudication and not to the interim orders and criminal proceedings.

(c) Civil Suits, execution proceedings, writ petitions, taxation matters, industrial adjudication and not to the arbitration proceedings, administrative orders and criminal proceedings.

(d) Civil suits, execution proceedings, writ petitions, taxation matters, industrial adjudication including arbitration proceedings, administrative orders, interim orders and criminal proceedings.

18. Find out the correct statement regarding the plea of res judicata –

(a) The party may not waive the plea of res judicata because the provisions given under section 11 CPC are mandatory.

(b) The provisions of section 11 CPC are mandatory and it is well established that the doctrine of res-judicata codified in section 11 CPC is exhaustive and the party may not waive the plea of res judicata.

(c) The doctrine of res-judicata belongs to the domain of procedure and the party may waive the plea of res-judicata. The court may also decline to go into the question of res-judicata on the ground that it has not been properly raised in the proceeding or in issue.

(d) The doctrine of res-judicata belongs to the domain of procedure and therefore, the party may waive the plea of res-judicata but the court shall not decline to go into the question of res-judicata on the ground that it has not been properly raised in the proceedings or in issue.

19. The ‘Matter in issue’ means the rights litigated between the parties. These are the facts on which right is claimed and the law applicable to the determination of that issue.

- (a) Such issues are issue of fact only.
- (b) Such issues are issue of law only.
- (c) Such issues may be mixed issue of law and fact.
- (d) Such issues are issue of law only and not of fact.

20. 'P' sues 'D' for a declaration that he is entitled to certain property as an heir of 'H'. The suit is dismissed. 'P' files another suit for injunction on the ground that he had become an owner of the property by the adverse possession. The subsequent suit is –

- (a) Barred by the doctrine of direct Res-judicata
- (b) Not barred by the doctrine direct Res-judicata
- (c) Barred by the doctrine of constructive Res-judicata
- (d) Not barred by the doctrine of constructive Res-judicata

21. 'A' files a petition in Delhi High Court under Article 226 of the Constitution for reinstatement in service and consequential benefits contending that an order of dismissal passed against him was illegal. The petition filed by 'A' was dismissed by Delhi High Court. Whether, 'A' –

- (a) Can thereafter file a fresh petition in the Supreme Court under Article 32 of the Constitution of India.
- (b) Cannot file a fresh petition in the Supreme Court under Article 32 of the Constitution of India but can institute a suit in a civil court because such suit would not be barred by the Res-Judicata.
- (c) Can file either a fresh petition in the Supreme Court under Article 32 of the Constitution of India or can also institute a suit in

Civil Suit as such petition under Article 32 or suit is not barred by the doctrine of Res-Judicata.

(d) Cannot file a fresh petition in the Supreme Court under Article 32 of the Constitution nor can institute a suit in civil court as such petition or suit is barred by the Doctrine of Res-Judicata.

22. 'A' sues 'B' for a declaration that he is the owner of certain property. The Suit is dismissed holding that he is not the owner. At the time of the suit, 'A' is in adverse possession of the property but has not perfected title. After the statutory period, 'A' files another suit on the basis of his title by adverse possession –

(a) The suit is barred

(b) The suit is not barred

(c) The suit is barred but court may exercise its inherent power to do complete justice

(d) The suit is barred and court cannot exercise its inherent power

23. For the application of Res-judicata –

(i) The identity of the subject-matter involved in the two cases and not the identity of title in the two litigations.

(ii) The identity of title in the two litigations and not the identity of the subject-matter involved in the two cases.

(iii) The term 'same title' has nothing to do either with the cause of action or with the subject matter of two suits.

(iv) Where the right claimed in both the suits is the same, the subsequent suit will be barred even though the right in the subsequent suit is sought to be established on a ground different from the one in the former suit.

(v) Where the right claimed in both the suits is the same, the subsequent suit will not be barred if the right in the subsequent suit is sought to be established on a ground different from the one in the former suit.

(a) (i), (iii), (v)

(b) (ii), (iii), (v)

(c) (ii), (iii), (iv)

(d) (i), (ii), (v)

24. The word 'might' given under Explanation IV to Section 11 CPC, pre-supposes the party affected had knowledge of the ground of attack or defence at the time of the previous suit. Whereas, 'ought' compels the party to take such ground.

The word between the above two terms must be read as –

(a) Conjunctive (and)

(b) Disjunctive (or)

(c) Conjunctive (and) only and not Disjunctive

(d) Disjunctive (or) only and not Conjunctive

25. Whether a matter was directly and substantially in issue or merely collaterally or incidentally in issue has to be determined with reference to the –

(a) Complaint and written statement

(b) Complaint, written statement and issues.

(c) Complaint, written statement, issues and judgments

(d) All the above

26-. In order that a decision in a former suit may operate as res-judicata, the court which decided that suit must have been a court of –

- (a) Exclusive jurisdiction
- (b) Limited jurisdiction
- (c) Concurrent jurisdiction
- (d) Either of the above

27-. In order that a matter may be said to have been heard and finally decided, the decision in the former suit must have been on merits. Which of the following decisions are not on merits and res-judicata not operate in subsequent suit?

Where the –

- (a) Former suit was dismissed by a court for want of jurisdiction.
- (b) For the default of plaintiff's appearance.
- (c) On the ground of non-joinder or misjoinder of parties.
- (d) All of the above

28-. Select the right statements –

- (i) The doctrine of res-judicata applies whether the point involved in the earlier decision is one of fact, or of law, or mixed of fact and law.
- (ii) An incorrect decision is not the same as without the jurisdiction.
- (iii) A wrong decision by a court having jurisdiction is as much binding between the parties as a right one and may be set aside only in appeals or revisions to higher courts or tribunal if the law provides such remedy.

- (iv) A pure question of law does operate as res-judicata.
(v) A pure question of jurisdiction does operate as res-judicata.
(vi) A Pure question of law or of jurisdiction does not operate as res-judicata.

- (a) (i), (ii), (iii), (iv)
(b) (i), (ii), (iii), (v)
(c) (ii), (iv), (v)
(d) (i), (ii), (iii), (vi)

29. Every _____ is appealable—

- (a) Decree
(b) Order
(c) Both (a) and (b)
(d) Either (a) or (b)

30-A residing in Dehradun, beats B in Delhi. B may sue A under the Code—

- (a) Delhi
(b) Dehradun
(c) Either (a) or (b)
(d) Only (a) not (b)

1. A
2. A
3. B
4. D
5. C

6. B
7. A
8. B
9. A
10. A
11. B
12. C
13. A
14. C
15. D
16. D
17. D
18. C
19. C
20. C
21. D
22. B
23. C
24. C
25. D
26. D
27. D
28. D
29. A
30. C