

PRACTICE TEST · LEGAL REASONING · CLASS 02

Restitution, Judicial Separation & Theories of Divorce

Restitution of conjugal rights (s.9)

Judicial separation (s.10)

Fault · Consent · Breakdown

DATE	TOTAL MARKS	DURATION	MARKING	TARGET
_____	14	35 minutes	+1 / -0.25	≥ 10 / 14

OBJECTIVES

Master the trigger and the defence under Section 9, the constitutional position after Saroj Rani, and the precise effect of a judicial-separation decree under Section 10. Distinguish the four matrimonial reliefs and slot every divorce ground into one of the three theories — fault, mutual consent, irretrievable breakdown.

INSTRUCTIONS

14 questions in three sections. Section A — direct concept MCQs. Section B — principle-application: apply ONLY the stated principle to the facts. Section C — a reliefs-and-theories cluster. Mark (A)/(B)/(C)/(D) in the right margin or on the OMR. No reference material or phones.

SECTION A · CONCEPT RECALL

Q 1-5 · 9 MIN

- Q1. A petition for restitution of conjugal rights under Section 9 succeeds only where the other spouse has withdrawn from the petitioner's society:**
- (A) With reasonable excuse
 (B) Without reasonable excuse
 (C) For more than two years
 (D) After a decree of nullity
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- Q2. The constitutional validity of Section 9 was upheld by the Supreme Court in:**
- (A) T. Sareetha v. T. Venkata Subbaiah
 (B) Saroj Rani v. Sudarshan Kumar
 (C) Lily Thomas v. Union of India
 (D) Naveen Kohli v. Neelu Kohli
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- Q3. After a decree of judicial separation under Section 10:**
- (A) The marriage is dissolved
 (B) The marriage subsists but the duty to cohabit is suspended
 (C) The parties may immediately remarry
 (D) The marriage becomes void
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- Q4. Which relief, once granted, allows a party to remarry?**
- (A) Restitution of conjugal rights (s.9)
 (B) Judicial separation (s.10)
 (C) A decree of divorce (s.13)
 (D) None of these
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- Q5. Divorce by mutual consent rests on which theory of divorce?**
- (A) Fault theory
 (B) Mutual consent theory
 (C) Irretrievable breakdown theory
 (D) Frustration theory

SECTION B · PRINCIPLE APPLICATION

Q 6-11 · 16 MIN

- Q6. [PRINCIPLE]** Restitution of conjugal rights is available only where a spouse has withdrawn from the other's society without reasonable excuse.
- [FACTS]** Priya leaves the matrimonial home after her husband's family makes repeated dowry demands and threatens her. The husband petitions under s.9.
- The petition will:**
- (A) Succeed, since she withdrew from his society (B) Fail, because her withdrawal has a reasonable excuse
(C) Succeed only if she has not filed for divorce (D) Fail because s.9 is unconstitutional
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- Q7. [PRINCIPLE]** Section 9 is constitutionally valid and does not amount to forced sexual cohabitation; it aims at cohabitation and consortium.
- [FACTS]** Rahul argues that any decree under s.9 must be refused because it violates the right to privacy.
- Rahul's argument is:**
- (A) Correct, following T. Sareetha (B) Incorrect; s.9 is valid following Saroj Rani
(C) Correct, as s.9 was repealed (D) Incorrect only if children exist
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- Q8. [PRINCIPLE]** Where parties have not resumed cohabitation for one year after a decree of judicial separation, that becomes a ground for divorce.
- [FACTS]** Sara and Tariq obtained judicial separation 14 months ago and have not lived together since.
- On these facts:**
- (A) No divorce ground arises from the separation (B) A ground for divorce under s.13(1A) has arisen
(C) They are automatically divorced (D) They must first seek restitution
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- Q9. [PRINCIPLE]** A decree of judicial separation does not dissolve the marriage; neither party may remarry while it subsists.
- [FACTS]** Holding a judicial-separation decree, Uday marries another person, believing he is free to do so.
- Uday's second marriage is:**
- (A) Valid, because of the separation decree (B) Not valid; the first marriage still subsists
(C) Voidable at his first wife's option (D) Valid after one year of separation
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- Q10. [PRINCIPLE]** A spouse withdrawing from cohabitation because of the other's cruelty is regarded as having a reasonable excuse.
- [FACTS]** Veena leaves home after sustained mental cruelty by her husband, who then files under s.9.
- The s.9 petition will:**
- (A) Succeed, as withdrawal is admitted (B) Fail, as cruelty is a reasonable excuse
(C) Succeed if she cannot prove cruelty in full (D) Be converted into a divorce decree
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- Q11. [PRINCIPLE]** Irretrievable breakdown of marriage is not a statutory ground of divorce, though the Supreme Court may dissolve such a marriage using its powers under Article 142.
- [FACTS]** Counsel argues a trial court must grant divorce purely on the ground that the marriage has irretrievably broken down.
- The argument before the trial court is:**
- (A) Sound; breakdown is a statutory ground (B) Unsound; breakdown is not a statutory ground under HMA
(C) Sound, because Article 142 binds trial courts (D) Unsound only if no children exist

