Part A

Answer any 2 of the following questions in about 600 words. Each question carries.


Ans: Gram Nyayalaya Act, 2009 is an Act of Parliament of India enacted for establishment of Gram Nyayalayas or village courts for speedy and easy access to justice system in the rural areas of India. The Act came into force from 2 October 2009. However, the Act has not been enforced properly, with only 194 functional Gram Nyayalayas in the country (as of 10 March 2015) against a target of 5000 such courts. The major reasons behind the non-enforcement includes financial constraints, reluctance of lawyers, police and other government officials.

Features

- Gram Nyayalaya are established generally at headquarter of every Panchayat at intermediate level or a group of contiguous panchayat in a district where there is no panchayat at intermediate level.
- The Gram Nyayalayas are presided over by a Nyayadhikari, who will have the same power, enjoy same salary and benefits of a Judicial Magistrate of First Class. Such Nyayadhikari are to be appointed by the State Government in consultation with the respective High Court.
- A Gram Nyayalaya have jurisdiction over an area specified by a notification by the State Government in consultation with the respective High Court. The Court can function as a mobile court at any place within the jurisdiction of such Gram Nyayalaya, after giving wide publicity to that regards.
- The Gram Nyayalayas have both civil and criminal jurisdiction over the offences and nature of suits specified in the First, Second and Third schedule of the Act. The pecuniary jurisdiction of the Nyayalayas are fixed by the respective High Courts.
- The fees charged in civil suits shall not exceed Rs.100 irrespective of the value of property in dispute.
- Both the Central and the State Government can add or remove items in the Schedule. While the Central Government can amend the list in Schedule I and II, by notifying them and thereafter laying it in the Parliament, the State Government can amend the items in Part III of Schedule I or II, in the areas of law which the state is competent to enact law after due consultation with the respective High Court and notifying it. Such notification has to be laid in the State Legislature.
- Offences are to be tried in a summary manner in accordance with Chapter XXI of Code of Criminal Procedure.
- The Act allows plea bargaining in accordance with Chapter XXIA of Code of Criminal Procedure.
- Gram Nyayalayas can follow special procedures in civil matters, in a manner it deem just and reasonable in the interest of justice.
- Civil suits are proceeded on a day-to-day basis, with limited adjournments and are to be disposed of within a period of six months from the date of institution of the suit.
- In execution of a decree, the Court can allow special procedures following rules of natural justice.
- Gram Nyayalayas allow for conciliation of the dispute and settlement of the same in the first instance.
- Gram Nyayalayas has been given power to accept certain evidences which would otherwise not be acceptable under Indian Evidence Act.
- Appeals in criminal matter can be made to the Sessions Court in the respective jurisdiction and in civil matters to the District Court within a period of one month from the date of judgment.

2. Right to Housing has been recognized as fundamental rights under Article 21. Discuss

Ans: Article 21 can only be claimed when a person is deprived of his “life” or “personal liberty” by the “State” as defined in Article 12. Violation of the right by private individuals is not within the preview of Article 21.

Article 21secures two rights:

1) Right to life

2) Right to personal liberty

The Article prohibits the deprivation of the above rights except according to a procedure established by law. Article 21 corresponds to the Magna Carta of 1215, the Fifth Amendment to the American Constitution, Article 40(4) of the Constitution of Eire 1937, and Article XXXI of the Constitution of Japan, 1946.

Article 21 applies to natural persons. The right is available to every person, citizen or alien. Thus, even a foreigner can claim this right. It, however, does not entitle a foreigner the right to reside and settle in India, as mentioned in Article 19 (1) (e).