



Previous Year Paper

MAHARASHTRA JUDICIAL MAINS 2011

PAPER- I

Civil Law

Civil Procedure Code, Transfer of Property Act, Specific Relief Act, Law of Contracts, Sale of Goods Act and Partnership Act

Time: 3 Hours

Max. Marks: 100

1. Write a Judgement on the basis of the facts narrated below :

While writing Judgement:

- Adhere to the contents of Judgement as required under the code of civil procedure.
- Frame and answer the issues properly.
- Wherever necessary, fill up details from your imagination.
- Give legal, logical and proper reasons for your findings.
- Conclude the Judgement with a proper operative order.

Averments in the Plaint

Plaintiff claims that he is the owner and possessor of the agricultural land bearing Survey no. 66 admeasuring 5 Acres and 20 Ares situated at Thane. It is his ancestral property. Defendant's land bearing Survey no. 65 adm. 3 Acres and 5 Ares is situated on western side of his land. Defendant has no concern of whatsoever nature in the suit land. However, recently when Plaintiff got the suit land measured, it was noticed that Defendant has committed encroachment in the suit land to the extent of 1 Acre and 5 Ares from western side. Plaintiff called upon the Defendant to remove the encroachment but defendant refused to do so. Hence Plaintiff is constrained to file this suit for removal of encroachment and delivery of possession of encroached portion.

Averments in the Written Statement

Defendant denied Plaintiff's suit in toto and contended inter alia that the alleged encroached portion is the part and parcel of his land bearing Survey no. 65. He is the lawful owner and in possession of the same for the last more than 50 years. There is no question of his committing encroachment on Plaintiff's suit land. Hence Plaintiff cannot be entitled to its possession.

In the alternate, defendant states that for the last more than 50 years he is in continuous, open and peaceful possession of the alleged encroached portion in the suit land, to the knowledge of the plaintiff he has become owner by way of adverse possession. Plaintiff's suit is thus barred by limitation. Hence on this ground also Plaintiff's suit is liable to be dismissed with costs.

2. Answer any two of the following sub-questions :

- Discuss the statement "courts shall have jurisdiction to try all suits of a civil nature".





- b) Discuss provisions relating to suits by or against minors.
- c) Discuss whether Rejection and Return of Plaint is one and same. If yes, in which ways? If not, in which ways?

3. Write short notes on any four of the following:

- a) Foreign Judgements - presumptions and conclusiveness.
- b) Difference between Reference, Review and Revision.
- c) Execution of Decree for Partition.
- d) Relations of partners interse.
- e) Conditions and warranties.

4. Answer any two of the following sub-questions.

- a) Discuss the statement "Jurisdiction to decree specific performance of contract is discretionary".
- b) Discuss provisions relating to temporary and perpetual Injunctions.
- c) Discuss difference between suit for possession of immoveable property based on title and based on previous possession.

5. Answer any two of the following sub-questions :

- a) Discuss the statement "All agreements are not contracts but all contracts are agreements".
- b) Discuss difference between "Indemnity and Guarantee" and "Bailment and Pledge".
- c) Discuss provisions relating to performance of Reciprocal promises.

6. Answer any two of the following sub-questions :

- a) Discuss the modes by which transfer of property takes place by acts of the parties.
- b) Elaborate on your understanding of the statement, "Once a mortgage always a mortgage".
- c) Discuss the various modes in which the lease stands determined.

PAPER- II (Criminal Law)

Indian Penal code, Evidence Act, Code of Criminal Procedure, Essay on Current Legal Topic

Time: 3 Hours

Max. Marks: 100

1. Explain procedure regarding trial of a warrant case on police report and otherwise than on police report by magistrates. (10 Marks)

2. Explain provisions regarding disposal of property in a criminal case right from investigation into a crime till conclusion trial. (10 Marks)

3. Write notes on any two :

(5x4= 20 Marks)

- (a) Forfeiture of maintenance right by a wife.
- (b) Police custody and magisterial custody.
- (c) First information report and complaint.
- (d) Bailable and Non-bailable offences under the Indian Penal Code and other laws.





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4. Explain Theft, Extortion and Robbery. When is Theft a Robbery? When is Extortion a Robbery? (10 Marks)

5. Write notes on any two:

(5x4=20 Marks)

- (a) Mischief..
- (b) Wrongful restraint and Wrongful confinement.
- (c) Hurt and Grievous hurt.
- (d) Criminal trespass and House trespass.

6. Write notes on any two:

(5x4=20 Marks)

- (a) Proved, Disproved and Not Proved.
- (b) Opinion of experts.
- (c) Direct oral evidence.
- (d) Fact-in-issue and relevant fact.

7. Explain "contradiction" and "corroboration" and their use in evidence.

(10 Marks)

8. Explain order of examinations of witnesses and whether a witness not examined in-chief is allowed to be cross-examined by an adverse party.

(10 Marks)

9. Write an essay on any one :

(20 Marks)

- (a) Mediation.
- (b) Right to Information.
- (c) Human Rights.

10. Write judgement on following alleged facts :

(20 Marks)

Accused No. 1 to 3 are husband, father-in-law and mother-in-law respectively of Archana. Two years after her marriage, they all started taunting her alleging that she was of evil luck as one year after her marriage, her husband's unmarried younger brother died of heart-attack; her husband lost his job and she was incapable to conceive a child. This led her to frustration and mental agony. She, therefore, thought to end her life. She narrated all incidents to her parents. On her report police registered crime and recorded statements of her parents and neighbour of the accused. Police presented chargesheet against all the accused. At the trial, Archana and her parents were examined. They deposed the incidents as they were. However a neighbour of the accused turned hostile. Defence of all the accused is of total denial.

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