



Previous Year Paper

MAHARASHTRA JUDICIAL MAINS 2012

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 Complaint

Plaintiff claims that he has agreed to purchase from defendant agricultural land bearing Survey No. 57 situated Haveli District, Pune for consideration of Rupees two lac fifty thousand by executing an agreement of sale dt. 6.3.2009. On the date of agreement he has given to defendant earnest amount of Rupees fifty thousand and he was put in possession of the land, Sale deed was to be executed within six months from the date of agreement. As defendant failed to do so, plaintiff has filed this suit for specific performance of contract and in the alternate for refund of earnest amount with interest and compensation.





Averments in the Written Statement

Defendant resisted the suit by contending that agreement is not enforceable as it was executed only as a security for loan amount of Rupees fifty thousand which he had borrowed from plaintiff for higher education of his daughter. He has repaid the loan amount of Rupees thirty thousand and was ready to repay the balance amount of Rupees twenty thousand. Plaintiff was never put in possession of the suit land. Plaintiff has suppressed these material facts. Plaintiff has also not pleaded his readiness and willingness to perform his part of the contract nor issued any notice to him before filing of this suit. Hence on all these grounds plaintiff's suit is liable to be dismissed with costs.

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

- (a) Discuss the statement "there is no difference between error within jurisdiction and error outside jurisdiction".
- (b) Discuss provisions relating to arrest and detention of Judgement debtor in civil prison in execution proceedings.
- (c) Discuss the statement "Judgement and Decree are one and the same".

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

- (a) Costs, compensatory costs and costs for causing delay.
- (b) Difference between Restitution and Restoration of suit.
- (c) Powers of Appellate Court.
- (d) Rights, duties and liabilities of partners inter se and to third parties.
- (e) Stoppage in transit.

4. Answer any two of the following sub-questions

- (a) Explain in detail the terms 'Subrogation', 'Redemption', 'Tacking and 'Foreclosure' with reference to mortgage of property.
- (b) Explain in detail "Transfer of property for the benefit of unborn person" with reference to 'Rule against perpetuity' and 'Vested interests'.
- (c) Elaborate the correctness of the statement "A lessor cannot determine the lease so long as the lessee pays the rent".





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

- (a) Discuss the statement "All contracts cannot be specifically enforceable"
- (b) Discuss the circumstances under which injunction can be granted and cannot be granted.
- (c) Explain the statement "A suit simpliciter for declaration is not legally maintainable".

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

- (a) Discuss the circumstances which render the Agreement void.
- (b) Discuss the relations resembling those created by contract.
- (c) Discuss the statement "Every breach of contract entails payment of compensation".

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 the difference between Summons trial and Summary trial.

(10 Marks)

2. Write notes on any two :

(5x5= 25 Marks)

- (a) Plea Bargaining.
- (b) Legal rights of arrestee.
- (c) Limitation for taking cognizance of offences.
- (d) Liability of a member of the Scheduled Castes for insulting another member of the Scheduled Castes on the ground of untouchability
- (e) Liability of a person not belonging to a Scheduled Castes/Tribes for intentionally insulting a member of a Scheduled Castes/Tribes any place within public view,





3. Write short notes. (any four)

(2.5x6= 15 Marks)

- First Information Report.
- Arrest to prevent commission of a cognizable offence.
- Magistrate's power to direct Police officer to investigate cognizable offence.
- Power of the court to proceed against persons not being the accused appearing to be guilty of offence in any enquiry or trial.
- Compounding of offences.
- Prosecutor's power to withdraw from prosecution.

4. Explain the concept of vicarious liability of offender in the light of relevant provisions with reference to "in furtherance of common intention", "in prosecution of common object of unlawful assembly" and "criminal conspiracy".

(10

Marks)

5. Distinguish the following topics. (any four)

(2.5x6= 15 Marks)

- Dowry death and harassment of a woman by husband or his relatives for illegal demands.
 - Insulting modesty of a woman and outraging her modesty.
 - Dishonest misappropriation of property and criminal breach of trust.
 - Forgery and making of a false document.
 - Robbery and dacoity.
 - Hurt and grievous hurt.
- 6. Explain the procedure for proving contents of electronic record and truth or falsehood of those contents.**

(10 Marks)

7. Write notes. (any two)

(5x4= 20 Marks)

- Concepts of contradiction, omission and subtraction.
- Nature of questions to be asked to the witness during three stages of his examination.
- Legality and evidential value of modern techniques of investigation such as Polygraph test, Narcoanalysis test and Brain fingerprinting test.
- Exceptions to general rule, "Hearsay evidence is not admissible".





8. Write short notes. (any four)

(2.5x6= 15 Marks)

- (a) Fact in issue.
- (b) Relevancy of facts and admissibility in evidence.
- (c) Use of dying declaration after survival of its maker recorded by (a) police and (b) other than police official.
- (d) Purpose and evidential value of test identity parade.
- (e) Refreshing of memory.
- (f) Res Gestae.

9. Write an essay on any one of the following topics.

(20 Marks)

- (a) Socio-legal aspects of female foeticide.
- (b) Hostility of witnesses a challenge.
- (c) Effect of declining rate of conviction on the safety of a society.

10. Write a judgment on the following facts.

(20 Marks)

Ram resides at Pune. He went to Nasik after locking his house. On his return he found that his lock and latch were broken. T.V. set & gold ornaments were stolen. He filed a report with the police. Investigation officer arrested Ravan and seized gold ornaments of Ram from Ravan's house under Panchanama in presence of two parichas, Ravan gave disclosure statement to Investigation officer that he would show a shop where he sold the T.V. set. He showed shop of Laxman but Ram's T.V. set was not found. Investigation officer submitted Charge Sheet.

On trial Panchas turned hostile. Ram and I.O. supported prosecution.

Asst. Prosecutor argued seizure of ornaments from house of Ravan and discovery of fact as to where he sold T.V. set are proved. Hence claims conviction. Defence lawyer submits that there is unexplained delay in filing FIR. On seizure of ornaments, independent witnesses have not supported. T.V. set is not recovered hence there is no use of showing the shop. He prays for acquittal. In alternate, he requests to extend the benefit of the Probation of Offenders Act.

