



Previous Year Paper

MAHARASHTRA JUDICIAL MAINS 2014

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 the details from your imagination.
- give legal, logical and proper reasons for your findings.
- conclude the Judgement with a proper operative order.

Averments in the Pleint

Plaintiff and Defendant No. 1 start business in partnership investing 1/2 share each in the capital of the business. Defendant No. 2 is the brother of Defendant No. 1. He gives his premises for running the business without charging any rent. Subsequently Defendant No. 1 retires and his minor son is accepted as partner. After some period, plaintiff files a suit for dissolution of partnership firm claiming half share in capital and profit and requesting the court for settlement of accounts.

Averments in the written statement

Defendants request for dismissal of the suit on following the grounds :

- As partnership Firm is not registered, suit itself is not tenable.
- Plaintiff alone cannot take a decision of dissolution of partnership. Defendants want to continue with the business.
- Plaintiff does not have half the share in capital and profit. Defendant No. 2 is also a silent partner and entitled to share as the partnership premises belong to him.
- As the son of Defendant No. 1 a is minor a suit is not tenable against him and his share cannot be liable for the loss, if any, in the business.

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





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- (a) Discuss the statement "Exclusion of Civil Court's jurisdiction is not to be readily inferred".
 - (b) Discuss in detail provisions relating to execution of money decree from garnishee.
 - (c) "If one suit is disposed of, second suit in respect of the same property between the same parties cannot be tenable". Discuss this statement.
3. Write short notes on any four of the following:
- (a) Suits by or against corporations
 - (b) Rights and liabilities of mortgagee
 - (c) Execution of a decree for specific performance of contract
 - (d) Performance of Reciprocal Promises
 - (e) Suit for possession of immovable property based on previous possession
4. Answer any two of the following sub-questions :
- (a) Discuss the relevant provisions of Injunction under the code of Civil Procedure and Injunction under the Specific Relief Act..
 - (b) Elaborate the correctness of the statement, "lease and licence are two different transactions".
 - (c) Discuss under which circumstances specific performance cannot be granted ?
5. Answer any two of the following sub-questions :
- (a) Discuss the terms 'Ostensible owner and Fraudulent owner'.
 - (b) Discuss whether the powers of the Court Commissioner and the Court Receiver are the same or different ?
 - (c) "Once goods are sold, the seller ceases to have any rights and liabilities". Discuss the statement.
6. Answer any two of the following sub-questions :
- (a) Discuss the statement, "Once the trial starts, amendment in pleadings cannot be permitted".
 - (b) Discuss "onerous gifts" and "universal donee".
 - (c) Discuss provisions relating to cancellation of instruments.
 - (d) Free Consent

PAPER- II Criminal Law

1. Explain the difference between a warrant trial and a summons trial.

(Marks 10)

2. Write short notes on any two:

- (a) Facts of which a court must take a judicial notice.
- (b) Difference between an admission and a confession.
- (c) Impeaching credit of a witness.





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- (d) Competency of an accomplice to testify and precaution to be taken while appreciating his evidence. (Marks 20)
3. Explain in detail the right of private defence with special reference to the instances when it extends to causing death. (Marks 10)
4. Write the difference between any four :
(a) Common Intention and Common Object
(b) Theft and Extortion
(c) Preparation to commit dacoity and assembling for the purpose of dacoity
(d) Wrongful Restraint and Wrongful Confinement
(e) Kidnapping and Abduction
(f) Criminal trespass and House trespass (Marks 15)
5. Explain with illustrations when the charges can be joined ? (Marks 10)
6. Answer any two :
(a) What is the use of the diary to be maintained by an investigating officer during trial ?
(b) When unlawful compulsory labour constitutes 'untouchability' ?
(c) What are the presumptions as to the offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ?
(d) When police may arrest without warrant ? (Marks 20)
7. Write a detailed note on presumptions of facts and law with reference to their effect. (Marks 10)
8. Write short notes (any two):
(a) Stoppage of summons case trial
(b) Closure report of a case
(c) Levy of fine
(d) Further investigation by investigation officer (Marks 20)
9. Write an essay on any one topic (800 words) :
(a) Increasing participation of children in sexual offences - a challenge.
(b) Collegium system of appointment of Judges Versus Judges Appointment Commission.
(c) Witness protection - a challenge to judicial administration. (Marks 20)
10. Write a judgement on the following facts :





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A & B are ferry operators doing their business across the same creek. One night 'A' carries the boat of 'B' to the otherside of the creek clandestinely and leaves it there duly anchored. On the complaint of 'B' police carryout investigation. 'A' is arrested and chargesheeted in the court of JMFC Alibag. Boat is found intact and is seized during investigation.

During trial enough reliable evidence is led to attribute authorship of the incident to 'A'. Asstt. Govt. Prosecutor argues that theft by 'A' is duly established. According to the defence that 'A' had not retained the boat which is intact and there was no gain to him. Alternatively A claimed benefit of the probation of offenders Act.

(Marks 20)



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