



Previous Year Paper

MAHARASHTRA JUDICIAL MAINS 2017

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 and evidence given below :

While writing judgement :

- Judgement should be written as required by the provisions of the Code of Civil Procedure.
- Frame proper issues and give findings..
- Facts and evidence given here may not be complete. Consider missing details by imagination.
- Give legal, logical and appropriate reasons for your findings.
- Conclude the judgement with appropriate operative order.

Facts for writing Judgement:

Plaintiff's Case :

Plaintiff Mira instituted RCS no. 172 of 1987 against Gopal in the Court of Civil Judge J.D. Nagpur praying for a declaration of her title in the suit property and also for recovery of possession thereof. She claimed to have purchased the same vide registered sale deed dated 26/6/1982 for the consideration of * 35,000 from the sons of Rahim, the original owner. She was registered as registered owner in municipal records of the suit property. She averred that at the time of sale, defendant Gopal was in possession of the suit property as tenant. Gopal did neither accept her as his landlord nor paid the rent when demand was raised.

Defendant's Case :

The defendant in his written statement, while reiterating that Rahim was the owner of the suit property stoutly denied the transaction of sale by his sons in favour of the plaintiff. Defendant Gopal claimed to be in occupation thereof on the strength of an agreement of for sale executed between him and the original owner Rahim. He contended that vendors of the plaintiff had no subsisting title in the suit property to convey to her. He claims that Rahim





executed Registered Agreement for sale on 20/5/1975 and he had by installments in all paid * 26,000 by 12/4/1976 which formed major part of the price. He claims to have paid municipal tax of suit property since he is in possession. He also contended that inspite of repeated insistences, the original owner did not execute the sale deed and after his death his sons also avoided to do so.

Evidence :

PW1 Subhash, the husband of the plaintiff in his testimony has stated that at the time of purchase, when he enquired about the possession of the defendant over suit property, his vendors told him that the defendant was in occupation of the premises as a tenant. The witness categorically denied about his knowledge of such agreement for sale at the time of purchase.

PW2 Sultan, one of the sons of the original owner on oath affirmed the execution of the sale deed dated 26/6/1982 in favour of the plaintiff for a consideration of * 35,000. Though, this witness admitted the agreement for sale between the defendant and his father, he mentioned that on inquiry, his father has told him that the agreement has lapsed as the purchase was not made within time. This witness has categorically stated that he did not disclose about the agreement for sale to the plaintiff and instead had disclosed to her husband that defendant was only a tenant in possession of the suit property.

As against this, the defendant amongst others sought to rely on his testimony to the effect that he had always been ready and willing to perform the contract and also in the reply to the notice sent by the vendors of the plaintiff conveying him cancellation of agreement for sale he reiterated his readiness and willingness to get the sale deed, on the basis of the agreement for sale executed. He claimed that he cannot be dispossessed suit property - House no. 44, Ravinagar, Nagpur.

2. Answer any two of the following subquestions :

- Define the "rule against perpetuity under the Transfer of Property Act. Enumerate the exceptions to this rule.
- Define "transfer of property." "Transferability is the most inherent quality of property" state the exceptions to this rule.
- Explain right of the mortgagor to redeem. Who can exercise this right apart from the mortgagor?

3. Answer any two of the following subquestions :

- In what circumstances the court may grant and may refuse temporary injunction ? What are the consequences of disobedience of injunction order ?
- What is the procedure given in the Code of Civil Procedure for production, impounding and return of documents ?
- What is the procedure followed for attachment of movable property under the execution proceeding?





4. **Answer any two of the following subquestions :**
- (a) What is void agreement ? Explain the various instances of void agreement given in the Indian Contract Act.
 - (b) Explain the provisions regarding time and place of performance of contract under the Indian Contract Act.
 - (c) What are the consequences of breach of contract under the Indian Contract Act ?
5. **Answer any two of the following subquestions :**
- (a) What is the liability of a person in possession of property of which he is not the a owner under the Specific Relief Act ? Fortify your answer with suitable illustrations.
 - (b) What is a declaratory decree ? State the general principles on which the court grants such decree and explain effect of such decree.
 - (c) "The jurisdiction to decree specific performance is discretionary." Explain. Which reliefs may be granted in a suit for specific performance in addition to or in substitution of such performance ?
6. **Write short notes on any four of the following:**
- (a) Define goods, existing goods and future goods.
 - (b) What are the implied conditions as to quality and fitness under the Sales of Goods Act?
 - (c) Requirements for auction sale of goods under the Sales of Goods Act.
 - (d) What are the modes of determining
 - (e) Implied authority of partner as agent of the firm as described in the Indian Partnership Act.
 - (f) partnership in the Indian Partnership Act ?

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. **Discuss the constitution and powers of various criminal courts constituted under the Code of Criminal Procedure, 1973.** (10 Marks)
2. **Write notes (any two):** (10 Marks)
- (a) Bar to take cognizance of certain offence after lapse of the period of limitations
 - (b) Security for good behaviour from habitual offenders
 - (c) When fact not otherwise relevant becomes relevant
 - (d) Stoppage of summons case
3. **Discuss critically the exceptions enumerated to Section 300 of the Indian Penal Code.** (10 Marks)





4. **Write difference between (any four):** (10 Marks)
- (a) Bail and Anticipatory Bail
 - (b) Discharge and Acquittal
 - (c) Police custody and Magisterial custody
 - (d) Dowry death and Harassment of a woman by husband or his relatives for illegal demands
 - (e) Forgery and Making of false document
 - (f) Criminal trespass and House trespass
5. **Discuss law of hearsay evidence and also explain the rationale behind exclusion of hearsay evidence.** (10 Marks)
6. (a) Discuss limitation or jurisdiction of civil courts under the Protection of Civil Rights Act, 1955.
(b) Define 'Economic boycott under the SC and ST (Prevention of Atrocities) Act, 1989. (10 Marks)
7. **Write short notes (on any four):** (10 Marks)
- (a) Electronic Records
 - (b) Cross Examination of a Witness
 - (c) Refreshing Memory
 - (d) Judge's Power under Section 165 of the Indian Evidence Act
 - (e) Impeaching Credit of Witness
 - (f) Who May Testify
8. **Discuss critically the maxim "actus non facit reum, nisi mens sit rea." How far is this maxim reflected in the Indian Penal Code?** (10 Marks)
9. **Write an essay on any one of the following:** (20 Marks)
- (a) Cow Slaughter Ban
 - (b) Digital India
 - (c) Demonetisation
10. **Write judgement on the following facts :** (20 Marks)
- A and B were friends. They were having fun in the house of A. Suddenly a quarrel occurred between the two. A assaulted B with a stick on his leg resulting into fracture injury. A assaulted B in the presence of his parents C and D. B went to a hospital and got treatment. Doctor E issued injury certificate showing fracture in right leg.
- During trial, B supported prosecution version. However, parents of A i.e., C and D turned hostile. Injury certificate was proved through the Doctor. He also deposed that B was admitted in the hospital with history of assault. B identified the stick by which he was assaulted. There is no independent eye witness to the incident. A took a plea that B himself fell down while running. A also said that he has admitted B in the hospital and argued that had he assaulted B, he would not have admitted B in the hospital.

