Chhattisgarh Civil Judge (Mains) 2014

Mains Paper: Judgment Writing and Translation · compulsory paper

Question No. 1 [40 Marks]

Read the following carefully and write judgement after framing necessary issues:

The plaintiff Ram Naresh Yadav filed a suit for eviction and damages against the defendant Surjeet Singh on 10/01/2013. According to the plaintiff, he is owner of the suit house situated at village Silyari, District Raipur and the defendant is his tenant on a monthly rent of Rs. 500/- (Rs. Five hundred only). However, despite notice under Section 106 of the Transfer of Property Act dated 07/09/2012, the defendant did not vacate the suit premises. The defendant, while admitting the factum of tenancy, denied the plaintiff's averments inter alia on the ground that plaintiff's son Somesh entered into an agreement to sell the suit premises with him for a sale consideration of Rs. 65,000/- (Rs. Sixty five thousand only) on 20/01/2001, out of which he has already paid him Rs. 59,000/- (Rs. Fifty nine thousand only) on different dates, and after execution of aforesaid agreement of sale, now he is in its possession as owner/prospective purchaser and not as tenant and the suit is liable to be dismissed.

The plaintiff produced and proved Rent Note Ex. P1 dated 20/10/1999, legal notice Ex. P-2 dated 07/09/2012 and its acknowledgement Ex. P-3, whereas the defendant produced the agreement of sale Ex. D1 dated 20/01/2001 said to be executed between plaintiff's son Somesh and him and one diary Ex. D2 showing payments received by Somesh. Defendant also filed a copy of legal notice sent by him through his lawyer to the plaintiff claiming the suit premises in his tenant, after execution of agreement of sale. Apart from document evidence plaintiff examined himself as PW-1 whereas defendant examined himself DW-1 as well as plaintiff's another son Rakesh as DW-2, in which he has given evidence corroborating the agreement between defendant and Somesh.

Question No. 2 [40 Marks]

Read the following carefully and write judgement after framing necessary charges.

On 10 March 2014, while returning back to his house sometime between 8 p.m. to 9 p.m. in the evening, after dropping his brother to Raipur Airport, A was stopped by accused 'B' with an unidentified person, who were armed with pistol, and asked him to handover his wristwatch valued at Rs. 2,000, one gold chain valued at Rs. 30,000 and his purse containing Rs. 2,000 by putting him to the fear of death at gunpoint. 'A' handed over the three items to 'B' and the accompanying person out of fear. 'A' reported the incident to 'C', the Station Officer, Civil Lines Police Station, Raipur around 10 p.m. An FIR (Ex-P1) was lodged accordingly. 'C' interrogated 'B' on 12 March 2014 after taking him in his custody as a suspect. A wrist watch (Article Q-1) was recovered from a box lying in the house of 'B' situated at Civil Lines, Raipur and gold chain (Article Q-2) from goldsmith 'D', on the basis of information given by 'B' to 'C' during interrogation. 'A' identified the wristwatch and the gold chain as his property in the identification proceedings before the Deputy Collector. 'B' was prosecuted for the offence under Section 392 of Indian Penal Code.

'A' (PW-1) supported the story of the prosecution and has stated that he identified the wristwatch and gold chain in the identification proceedings in the Collectorate. He has denied that the wristwatch and the gold chain were shown to him beforehand at the Police Station.

'C' (PW-2), the Station Officer, P.S. Civil Lines, Raipur, while supporting the story of the prosecution, has stated that a wristwatch (Article Q-1) was recovered from a box lying in the house of 'B' and a gold

chain (Article Q-2) was recovered from goldsmith 'D' on the basis of information given by B.

Goldsmith 'D' has stated that 'B', claiming himself owner of it, sold a gold chain (Article Q-2) to him on 11 March, 2014 for Rs. 20,000, which has been entered in Register P-2.

Deputy Collector 'K' (PW-4) has stated that he conducted identification proceedings in the Collectorate on 12 March, 2014 for identification of wristwatch (Article Q-1) and Goldchain (Article Q-2), in which 'A' identified both the items correctly.

The defence of accused 'B' is that he has not committed a robbery and the wristwatch and chain were shown to 'A' at the Police Station beforehand and the identification proceedings are nothing but farce. He has also stated that he did not sell any chain to goldsmith 'D' and that the police did not conduct any identification parade to get him identified by 'A' and 'D'.

Question No. 3 [40 Marks]

Translate the following English passage into Hindi.

"If there is any part of the Constitution which can be called a lawyer's paradise on the basis of the extent of litigation that it has caused so far, it is the chapter which embodies the Fundamental Rights. Even a casual glance over the pages of the Supreme Court reports will show that there have been more cases in this area than in any other. Critics of the Constitution were severe on the provisions at the time of their adoption and predicted that they would beat all records as a source of litigation. But it stands to the credit of the Constitution that even in this field, the number of cases has not been too large. Normally Fundamental Rights, by their very nature provide a continuously rich source of litigation. The conflict between man and the state is a perennial problem. As such, any Constitution that guarantees fundamental rights and makes the judiciary its protector makes also an invitation to litigation. The bill of rights under the American Constitution is the best example. The fact that the American Bill of Right is couched in the simplest language imaginable did not in any way reduce litigation. On the contrary, the American Supreme Court, again and again, in thousands of cases, was called upon to adjudicate the competing claims of individual freedom and social control. It is not a fact that in India, the litigation arising out of the provisions of the chapter on fundamental rights has been due to the detailed nature of the provisions or because of the numerous exceptions and qualifications. Such litigation is an inevitable expression of the democratic vigilance in regard to the freedom of the individual. It is a sign of health and not necessarily the result of any defects in the law."

Translation passage (Hindi into English): not available.