Delhi Judicial Service (Mains) 2018

Paper 2: Civil Law I · compulsory paper

Time Allowed: 3 Hours. Max Marks: 200. Held on 10.02.2019.

Instructions: (i) Please read the questions carefully and answer them as directed. (ii) All questions are compulsory, unless specified. (iii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time. (iv) Support each of your answers with reasons, relevant legal provisions and legal principles. Length of the answer would not determine the marks. (v) Bare Acts will be provided by this Court in the examination hall for use by you. (vi) Even if you do not know the answer, it is advisable to attempt as much, as the test is not only of the knowledge of law but also of analytical reasoning.

Q. No. 1. Ramesh was the owner of several residential and commercial properties in Delhi. He inducted Harish as a tenant in one of his commercial properties. After the death of Ramesh, his married daughter Kavita filed an eviction petition against Harish on the ground of bonafide need for herself and also that of the members of her family. She pleaded in her petition filed under the provisions of the Delhi Rent Control Act 1958 that she holds a diploma in cooking and wants to run a restaurant in the shop under the tenancy of Harish; that her son, who is in the final year of Chartered Accountancy will need another shop to establish his office; that there are two vacant rooms in the said commercial property which could have been made available for her use, but the same were already occupied by her brothers who were using them as their guest rooms. 20 Marks

Harish filed an application seeking leave to defend the petition on several grounds. He denies that Kavita is the owner or land lady of the shop in his tenancy; that her two brothers are the joint owners of the property and he pays rent to them and therefore Kavita by herself cannot seek eviction of a tenant from the shop; that otherwise also being a married daughter of the late owner and landlord of the property, she cannot seek eviction of a tenant from the shop to meet her bonafide needs; that she can easily get a job in a hotel and earn good salary; that the two rooms on the ground floor of the building were lying vacant and that they open on to a 20 feet wide road and could easily be converted into shops for the use of the petitioner and her son.

Decide the application of Harish by referring to the applicable legal provisions and case law.

Q. No. 2. "H" is engaged in the business of trading and manufacture of cardboard boxes. He has business dealings with "M" for the last several years. After finalising the previous accounts, both of them started fresh transactions from 02.04.2010 and "H" supplied boxes to "M" till 05.11.2011 of a total value of Rs.50,000/- without receiving any complaint. "M" paid Rs.30,000/-, leaving behind the balance amount of Rs.20,000/-. The outstanding amount is not paid. "H" therefore institutes a suit for recovery of the outstanding amount from "M". 20 Marks

"M" denies his liability on the ground that "H" did not supply the boxes of agreed quality; that he wrote letters dated 02.12.2010 and 24.04.2011 asking "H" to compensate "M" as boxes worth Rs.20,000/- were of bad quality; that he wrote letter dated 15.12.2010 to "H" informing him about the goods being of bad quality. "M" makes a counter claim to the tune of Rs.25,000/- towards damages and states that he is not liable to pay any amount to "H".

Examine the respective contentions of "H" and "M" and decide applying the relevant legal principles.

Q. No. 3. A registered firm of five partners A, B, C, D and E was constituted w.e.f. 01.01.1990. Two partners i.e., A and B retired from the firm. The other three partners C, D and E, who were earlier partners in their individual capacity joined the firm as Kartas of their respective HUFs w.e.f. 01.01.1995. An application for recording the changes was filed with the Registrar of Firms on 12.01.1995. The firm entered into a contract with a third party on 18.01.1996 and later on filed a suit against that party for breach of contract. The suit was filed through partner D on 18.10.1996, who prior to the reconstitution of the firm was partner in his individual capacity and w.e.f. 01.01.1995 had joined as Karta of his HUF. The Registrar of Firms recorded the changes on 20.12.1996 with retrospective effect from the date of actual reconstitution of the firm. 15 Marks

Whether the suit is liable to be dismissed in view of the provisions of Section 69 of the Indian Partnership Act? Decide with case laws.

Q. No. 4. A young Hindu couple married for the past five years are living separately for the last one year and five months due to strained relations. Their family members and well wishers could not resolve their differences. Now both husband and wife want to bring a peaceful end to their relationship to enable them to settle down in their future life. The wife is expecting to get a job in a foreign country after about three months. 15 Marks

Advise them about the legal procedure which they may follow to get divorced before the wife goes abroad. Support your opinion with case law.

Q. No. 5. A, a well built boy of 17 years of age, by representing himself to be 20 years old, agreed to sell a house to B for Rs. 80 lakhs and took an advance of Rs. 30 lakhs from B. The rest of the amount was to be paid at the time of registration of the sale deed within 90 days of the agreement to sell. Later on A refused to execute and register the sale deed despite B showing readiness and willingness to pay the remaining sale consideration. 15 Marks

B files a suit for specific performance of the agreement to sell and in the alternative for refund of the advance amount paid to A along with interest.

Can B succeed? Decide with reference to statutory provisions and case law.

Q. No. 6. Choose any of the two topics given below and elucidate the distinction: 5 x 2 = 10 Marks

(a) Tort and Breach of Contract.

(b) Tort and Quasi Contract

(c) Tort and Bailment

Q. No. 7. Gopal entered into an agreement with the municipality to construct a road in the city. As per one of the two clauses of the agreement, Gopal deposited an amount as refundable security deposited with the municipality. This deposit was to secure the performance of the construction contract. On successful completion of the construction of the road, the authorities paid the entire contractual amount to Gopal. When the contractor asked for refund of his security amount, the authorities deducted the charges of Goods and Service Tax (GST) which was to be deducted against payment of the contractual amount. The balance amount from the security deposit was refunded to Gopal. 15 Marks

Gopal is not satisfied with the deduction of sum from the security amount. His objections are as follows:-

(a) There is no clause in the agreement for the deduction of GST from the contractual amount and as such the contractor is not liable to pay such tax.

(b) In the absence of any agreement that the contractor is liable to pay GST, it is only the municipality which is liable to pay tax from its funds, if it is payable.

Assume that GST was applicable in the facts of the case, decide the objections raised by Gopal by referring to legal provisions and case law.

Q. No. 8. Write short notes on any five of the following as applicable under Muslim Law:-

10 Marks - 2 marks each

(a) Iddat.

(b) Muta Marriage.

(c) Dower

(d) Puberty

(e) Ijab

(f) Qabool

Q. No. 9. Suresh and Karan are in dispute over an agreement of sale in respect of an immovable property which Karan agreed to sell to Suresh. Suresh argues that the terms "readiness and willingness" are synonymous. Do you find any merit in the averment of Suresh? Explain the provisions of law which deal with the above contention of Suresh. Support your finding with case law. 10 Marks

Q. No. 10. Both husband and wife are Hindus and their marriage was solemnized in accordance with Hindu rites and customs. They have a minor son and a minor daughter. The wife has filed a petition against the husband for the grant of custody of children along with maintenance for them. She is employed and earning a salary of Rs. 10,000/- per month. She claimed maintenance of Rs. 7,000/- per month for the children by pleading that her husband is earning a salary of Rs.9,000/- per month.

15 Marks

The family court grants custody of children to their mother.

The husband pleaded that he is to maintain his ailing old parents and that the wife is earning sufficiently to maintain herself and the children.

Describe the meaning of maintenance under the enactments applicable to Hindu Law. Can an employed wife get maintenance for children from their father? If yes, how much amount can be allowed in the facts and circumstances of this case?

Q. No. 11. An ordnance factory, owned by "X" manufactured explosives and ammunition for the Government of India. One day, a shell exploded in the premises of the factory. A workman who was working in the factory and "P" who had illegally entered into the factory were injured in the explosion.

10 Marks

The injured workman and "P" sued "X" for damages under the "Rylands vs. Fletcher" Rule.

Which of them is entitled to damages/compensation and how is the same to be calculated?

Q. No. 12. B and C are two partners in a firm. H, a minor, is inducted as a partner in the firm. What would be the legal rights and liability of H in respect of acts of B and C in relation to the firm's business in the following situations:- 15 Marks

(a) During his minority.

(b) After he attains majority when he opts to become a partner in a firm.

(c) When he opts not to become a partner.

Q. No. 13. On what grounds, can a decree of judicial separation granted under the Hindu Marriage Act 1955, be revoked by the Court? Does the resumption of cohabitation without intimation to the Court automatically rescind such decree? 10 Marks

Q. No. 14. A entered into a contract with a wholesaler for the purchase of crackers for use in Delhi on the occasion of the festival of Diwali. Before the arrival of the consignment, the Supreme Court imposed a ban on the sale of crackers in Delhi. A refused to take delivery of crackers and asked for refund of his advance money deposited with the wholesaler. 10 Marks

Can A succeed? Discuss the matter with the help of legal provisions and case law.

Q. No. 15. What is the meaning of earnest money deposit in a contract for sale of immovable property? What are the principles that govern forfeiture of earnest money deposit? Under what circumstances can earnest money deposit be forfeited? Explain with some case laws. 10 Marks

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