Delhi Judicial Service (Mains) 2019

Paper 2: Civil Law I · compulsory paper

Time allowed: 3 hours · Maximum marks: 200

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 Pushpa was the owner of five acres of agricultural land. In the year 1980, she agreed to sell that land to Karan for a sum of Rs. 50,000/-. Karan paid a sum of Rs. 10,000/- to Pushpa as earnest money. The rest of the sale consideration was to be paid at the time of registration of sale deed in the name of purchaser. A civil appeal was pending in respect to the land and Pushpa was expecting that it would be decided by the Court in one year. A written agreement of sale in respect to the land was executed between the parties. It contained various terms, including the following: 20 Marks

a) The possession of the sold land would be handed over to Karan at the time of the execution of the agreement of sale in the year 1980.
b) The registered sale deed of the land would be executed within one month of the disposal of the Civil Appeal.
c) In case the Civil Appeal would be decided after one year of the agreement of sale, then Karan would pay annual rent of Rs. 500/- to Pushpa.
d) The balance sale consideration would be paid by the purchaser to the seller at the time of the execution of the sale deed.

The Civil Appeal was decided by the Court in the Year 1990. Thereafter, Karan issued a notice to Pushpa to execute the sale deed on receipt of the balance sale consideration. However, Pushpa declined to execute the sale deed of the land in favour of Karan stating that he did not pay the fixed rent of the land at any time.

Karan has filed a civil suit for specific performance of the agreement to sale of the land with the request to the court to direct Pushpa to execute the registered sale deed in his favour, in the alternative the seller may be directed to refund the earnest money and also to pay damages. Pushpa has opposed the case of Karan by stating that he did not comply with the terms of the agreement.

The parties have raised the following pleas in support of their respective stands:

Pushpa:
a) Karan failed to pay or offer to pay rent of the land. The payment of rent was essential to get the sale deed executed.

Karan:
a) The agreement to sell the land was against the payment of sale consideration. Earnest money

was paid and that he was ready and willing to pay the balance sale consideration at the time of the execution of the sale deed and its registration.

b) The payment of rent was not a part of the agreement to sell the land. He is willing to pay the entire due rent to Pushpa in the Court.

Examine the pleas of the parties and decide the case as per provisions of law and also support your decision with case law.

Q. No. 2 Anil is the owner of a shop and he let it out to Naresh at a monthly rent of Rs. 3000/- for doing business. Naresh has another shop in the interior of the same locality and is carrying on business from there also. 20 Marks

Anil has filed an eviction petition against Naresh alleging that Naresh illegally and without his permission sub-let tenanted shop to Hari. Naresh is no more in possession of the shop and that Hari is carrying out his own business from the tenanted shop.

Naresh has denied that he has sub-let the shop to Hari and asserts that he is in possession of the tenanted shop. He has taken the following pleas:

a) Hari is his friend and Hari has been looking after his (Naresh's) business in the tenanted shop.
b) Hari is working on commission basis to send customers to the shop of the tenant, situated in the interior of the locality.
c) Hari opens the tenanted shop in the morning and closes it in the evening and hands over the key of the lock to him (Naresh).
d) He, the tenant has changed the name on the Bill-board hanging at the tenanted shop to make it more attractive to get more customers.

Anil has averred that:

a) Naresh has not produced any document to show that he has ever paid commission or salary to Hari.
b) Hari has got printed visiting cards in his own name with address of the tenanted shop.
c) There is a Bill-board hanging on the tenanted shop with the name M/s Hari & Sons, whereas at the inception of the tenancy of the shop the Bill-board was in the name of M/s Naresh & Sons.
d) On visiting cards of Hari, the name of the business of M/s Hari & Sons is printed.

Examine if Anil can succeed to evict his tenant Naresh under the provisions of the Delhi Rent Control Act, 1958 from the shop along with reasons for the same.

Q. No. 3 A, B & C formed a partnership in the year 1987 to do the business of sale of garments. 'B' was entrusted with the responsibility of keeping accounts of the firm. The firm took a loan from the bank. The firm suffered heavy losses and it caused mistrust among the partners. 15 Marks

Thereafter, 'A' served notice upon the remaining partners for the dissolution of the firm and asked 'B' to render the accounts of the firm. 'B' did not comply with the notice. 'A' has filed a civil suit against B & C for declaration of the dissolution of the partnership firm and 'B' to render accounts.

B & C have opposed the suit.

The partnership-deed has the following terms for the dissolution of the firm:

1) If any party dies then in that event the partnership shall not be dissolved, but the sons of the deceased will become partners of his share.

2) If any party wants to separate from the business of the firm, he can do so by giving a month's notice to other partners.
3) No partner can retire from the firm until the loan of the bank is paid off.

'A' says that he could have retired from the firm by serving notice of one month. Such notice was served upon B & C and the firm stood dissolved.

B & C have pleaded that loan of the bank has still not been paid off as such partnership firm has not been dissolved and that suit of 'A' is not maintainable.

Is the partnership firm alive or has been dissolved and that 'B' is liable to render the accounts of the firm?

Q. No. 4 Sunil married Reena in the year 2013 and a daughter was born to them in the year 2014. Reena discovered in the year 2015 that Sunil was already married to Maria and that a daughter born out of that marriage, was alive. 10 Marks

In the year 2016, Sunil obtained a decree of divorce of his marriage with Maria.

What is the legal status of the marriage of Sunil and Reena and of two daughters born out of the above referred two marriages.

Would it make any difference to the legal status of the marriage of Sunil and Reena if Sunil obtained a decree of nullity of his marriage with Maria in the year 2016? Also find out the legal status of the two daughters born out of the two marriages after the decree of nullity of marriage.

Q. No. 5 D.D.A. engaged a contractor to carry out repairs in its fifteen flats, which were occupied by its employees and their families. The contractual period was six months to carry out the repairs. Two of the occupants of the flats did not permit the contractor to do the work of repairs in their flats by stating that it was not required. The rest of the work was completed in ten months against the agreed period of six months. 15 Marks

D.D.A. deducted a part of due payment to the contractor by stating that he did not start the work in the first month of the contract period and the work was completed in ten months against the contract period of six months.

The contractor pleaded that there were difficulties in the start of the work but he could have completed the work within the contract period of six months. He could not do so as site was not made clear to him to do the work. The occupants of the flats permitted him to do the work as per their convenience and that two occupants did not permit to do the job in their flats.

The contractor has filed a suit against D.D.A. for the recovery of deducted amount with interest.

Decide the case with the help of relevant provisions and the case law.

Q. No. 6 Attempt any two of the following with due reasons: 20 Marks

a) "All contracts are agreements but all agreements are not contracts." Elaborate it.
b) Why should a partnership firm be registered under the Partnership Act, 1932? Consequences of a complaint filed under Section 138 of the Negotiable Instruments Act, 1881 by an unregistered partnership firm.
c) The general rule of 'caveat emptor' with its exceptions under law has become virtually a rule of 'caveat venditor'. Do you agree with the statement. Give reasons.

Q. No. 7 "H", an ordinary person was returning to his home on a bicycle in the night. There was little light on the road and visibility was poor. When he was pedalling his bicycle, its front wheel slipped into an open manhole on the road and he fell down and received head injuries. He brought an action for damages against the Municipality of the city claiming that it was duty bound to keep the manhole covered. 15 Marks

The Municipality denied its liability by stating that in the night somebody must have stolen the cover of the manhole though it was covered in the day time. The officials would have got covered the manhole in the day time.

Distinguish between absolute and strict liability. Is the principle of strict liability applicable in this case? Is the Municipality liable to pay damages to "H"?

Q. No. 8 "A", the seller and "B", the buyer entered into a contract for the supply of goods. The goods were to be dispatched by the seller from Kanpur to Patna by road. "A" sent the goods through a transport company and got the receipt drawn in his own name. The freight and the insurance were to be paid by the buyer. The goods were to be delivered to "B" at Patna through the seller's bank against payment. The truck which was carrying the sold goods met with an accident on its way to Patna and the goods were destroyed. 10 Marks

"A", the seller asks "B", the buyer to pay for the sold goods. The buyer has denied his liability.

Find out who will bear the risk of loss of goods.

Q. No. 9 Write a short note on any five of the following, as applicable under Muslim Law: 10 Marks

a) The Maher.
b) Talaq-ul-biddat
c) The Wasiyat
d) The Hiba
e) Wakf
f) Formalities / Ceremonies of a valid 'Nikah'
g) The Muttawalli

Q. No. 10 Irfan entered into a contract with company "X" to purchase 2000 quintal of coal at a fixed price to sell it in the market. The coal was to be lifted in two months against payment. Prem, a selling agent of "X" stood guarantor that Irfan would lift the coal in two months. 15 Marks

Irfan took delivery of 1000 quintal of coal in one month against payment. He declined to take delivery of the rest of the coal by stating that the market price of the coal had fallen and that he would suffer losses if he would lift the balance quantity of coal. "X" threatened Irfan that if he would not lift the balance quantity of coal against payment, it would sell it at the risk of Irfan.

Prem, the agent suggested to Irfan that he should take delivery of the remaining quantity of contractual coal from "X" and that he (Prem) would purchase from him 500 quintal of coal out of the lifted 1000 quintal of coal; otherwise, he would pay him Rs. 50,000/-.

Accordingly, Irfan took delivery of 1000 quintal of coal from "X". However, Prem refused to purchase 500 quintal of coal or to pay Rs. 50,000/- to Irfan.

Irfan has filed a suit for recovery of Rs. 50,000/- with interest against Prem. Can Irfan succeed? Give reasons.

Q. No. 11 Attempt any two of the following: 20 Marks

a) Discuss in brief maintenance 'Pendente Lite' and permanent maintenance and their objects under the Hindu Marriage Act, 1955.
b) Discuss rights of a Hindu female to take a son in adoption under the Hindu Adoptions and Maintenance Act, 1955. Does the law permit adoption of two sons by a Hindu female.
c) What is the effect of the Hindu Succession (Amendment) Act, 2005 on the rights of Hindu women?

Q. No. 12 Meera let out a residential house to Shyam and he with his family started living there. After five years of the tenancy, wife of Shyam was allotted a flat by DDA as it was applied much earlier.

10 Marks

Meera came to know about such allotment of flat to the wife of the tenant after about one year of its allotment. Then, the landlady filed an eviction petition against her tenant to get him evicted on the ground that the tenant through his wife, acquired / was allotted a residence in the locality of the tenanted premises.

Shyam has opposed the eviction petition on the ground that Meera is not the owner of the tenanted house and as such she cannot file eviction petition. Secondly that the allotted house is no more available for the residence of tenant and his family as it was sold out to meet the expenses to perform marriage of his daughter.

Can Meera succeed to evict Shyam from the tenanted house under the provisions of the Delhi Rent Control Act, 1958?

Q. No. 13 'A', is the buyer of rice under a 'cost, insurance and freight' (C.I.F.) contract. Immediately after taking the delivery of the goods, he sold a part of rice and dispatched the same to sub-buyer. Later on, 'A' came to know that the quality of purchased rice was not in accordance with the contract and wants to reject the same. 10 Marks

Is "A" entitled for any relief under the law? Give reasons.

Q. No. 14 Four persons, A, B, C & D purchased a piece of land jointly. Subsequently, a cinema hall was constructed on that land with their joint money. Then, they formed a firm to exhibit films to earn profit. 10 Marks

Dispute arose between the partners. A & B claim that the piece of land and the cinema hall are properties of partnership but C & D dispute the same.

Find out if the properties or any one of them form part of the property of partnership firm.