Goa Civil Judge (Mains) 2019

Paper I · Civil and Constitutional Law · compulsory paper

High Court of Bombay at Goa · 8 December 2019 · 3 hours · 100 marks

Instructions: All questions are compulsory. Question No.1 carry 20 marks. All other questions carry equal marks i.e. 16 marks each. Your answers must be to the point, wherever possible quote the specific provisions of law. Do not reproduce any question. Write only question's number against the answer. Number of optional question up to the prescribed number in the order in which questions have been solved, will only be assessed and excess answers of the question/s will not be assessed. Other than cited cases, candidate should not write roll number, any names (including his/her own), signature, address or any indication of his/her identity anywhere inside the answer book otherwise he/she will be penalised.

Q.1. Draft judgment on the following facts: Marks: 20. (i) Adhere to the contents of Judgment as required under the Code of Civil Procedure. (ii) Frame and answer the issues properly. (iii) Give legal, logical and proper reasons for your findings. (iv) Conclude the judgment with a proper order.

1. Averments in the plaint: Plaintiff is the owner of a plot admeasuring 1000 sq.mtr. situated at Mapusa, Goa. Since last 30 years the plaintiff is working at Mumbai in a Private firm. When the plaintiff had been to Goa in the month of March 2019, he found defendant has encroached upon his plot and has unauthorisedly made constructed thereon. Plaintiff issued notice to the defendant to hand over peaceful and vacant possession of the suit plot. As the defendant fail to do so, he preferred suit for eviction of the defendant and peaceful possession of the suit plot. Averments in the Written statement: Defendant has claimed that the plaintiff has permitted him to occupy the plot and to make construction thereon since more than 25 years ago and he is paying the occupation charges of Rs. 1000/- per month to the plaintiff. Alternatively, defendant has pleaded that he is in peaceful, uninterrupted and continuous possession of the suit plot since more than 20 years and has become owner of the suit plot by virtue of adverse possession.

Q.2. Write short notes on any two of the following (8 marks each).

2(a). Resistance of delivery of possession to the decree holder or purchaser under the Code of Civil Procedure.

2(b). Place of institution of suits and objections to jurisdiction under the Code of Civil Procedure.

2(c). Provisions under the Specific Relief Act for cancellation of instruments.

2(d). Provisions with regard to Licitation of gifted assets, licitation of bequeathed assets and licitation of assets which is not acceptable to division without detriment, under the Goa Succession Special Notaries and Inventory Proceedings Act, 2012.

Q.3. Discuss any four of the followings (4 marks each).

3(a). Mundkar's right to alienate under the Goa, Daman and Diu Mundkars (Protection from Eviction) Act 1975.

3(b). Determination of fair rent and cases wherein increase in fair rent is admissible under the Goa, Daman and Diu Buildings (Lease Rent & Eviction) Control Act, 1968.

3(c). Tenants right of first purchase under the Goa, Daman and Diu Agricultural Tenancy Act, 1964.

3(d). Impediments to the marriage under Portuguese Civil Code.

3(e). Instrument of Declaration of Heirship under the Goa Succession Special Notaries and Inventory Proceedings Act, 2012.

3(f). As per the provisions of the Goa Succession Special Notaries and Inventory Proceedings Act, 2012, to whom the office of head of the family belongs and when the guardian can be appointed as head of the family.

3(g). Provisions relating to recovery of possession by landlord for repairs, alterations or additions or reconstruction under The Goa, Daman and Diu Buildings (Lease Rent & Eviction) Control Act, 1968.

3(h). Provisions as to inventory upon divorce or separation or annulment of marriage and inventory in the event of dissolution of joint family under the Goa Succession Special Notaries and Inventory Proceedings Act, 2012.

Q.4. Answer any two of the followings (8 marks each).

4(a). Provisions as to the disposal of the Civil suit at the first hearing under the Code of Civil Procedure.

4(b). Provisions as to Contingent contracts and its enforcement under the Indian Contract Act 1872.

4(c). Explain Rights and liabilities of buyer and seller under the Transfer of Property Act, 1882.

4(d). Annulment of Catholic and Civil marriage and its effects under Portuguese Civil Code.

Q.5. Write short notes on any four of the followings (4 marks each).

5(a). Procedure for sale of agricultural produce, growing crops and negotiable instruments in execution proceedings under the Code of Civil Procedure.

5(b). Rectification of Instruments under the Specific Relief Act.

5(c). Dissolution of partnership firm.

5(d). With reference to Limitation Act - Legal disability and disability of one of several persons.

5(e). Transfer by ostensible owner under the Transfer of Property Act.

5(f). Duration of transit, Right of stoppage in transit and its effect under the Sale of Goods Act.

5(g). Landlords rights to obtain possession under the Goa, Daman and Diu Buildings (Lease Rent & Eviction) Control Act, 1968.

5(h). Bar to eviction of a mundkar from a dwelling house and procedure for restoration of possession under the Goa, Daman and Diu Mundkars (Protection from Eviction) Act 1975.

Q.6. Write short notes on any two of the followings (8 marks each).

6(a). Effect of death, marriage and insolvency of parties on a civil suit and the procedural aspects in this regard under the Code of Civil Procedure.

6(b). Constitutional provisions with regard to protection in respect of conviction for offences and protection against arrest and detention in certain cases.

6(c). Extinction of Easements.

6(d). General rights and duties of the spouses and marital authorisation under Portuguese Civil Code.