Gujarat Civil Judge (Mains) 2019 (May)

PAPER - II (CIVIL) · compulsory paper

Held 07.07.2019 · Time: 2½ Hours · Total Marks: 75

1. Write short notes: (any five) **[30 marks]**

(1) Substituted Service

(2) Inter-pleader Suits

(3) Adverse possession

(4) Dissolution of partnership by Court

(5) Agreement in restraint of trade

(6) Contracts which cannot be specifically enforced

2. Discuss in detail: **[15 marks]**

(1) Abatement of suit and setting aside abatement

(2) Bailment and Pledge

(3) Rights and liabilities of incoming and outgoing partners

3. Write an essay only in English: (any one) **[15 marks]**

(1) Fundamental rights and fundamental duties.

(2) Corruption - a menace

(3) India – as a welfare state

4. State whether true or false: **[marks not printed]**

(1) An outgoing partner agrees with the partnership firm not to carry on any business similar to that of the lirm. Such an agreement is not valid.

(2) Section 5 of the Limitation Act applies to all proceedings under Civil Procedure Code.

(3) Where both the parties to an agreement are under at mistake as to a matter of fact essential to the agreement, the agreement is voidable.

(4) Before framing the issues, the court may examine the person who 4 is not before the court.

(5) An order or decree passed under Section 6 of the Specific Relief of Act is neither appealable nor reviewable.

5. Draw the order allowing or dismissing the application: **[marks not printed]**

The plaintiff has filed a Regular Civil Suit in the year 2010 before the Court seeking declaration to the eflect that the suit land is an ancestral property and that the plaintiff is in possession of the suit land and that the defendants have no right, title or interest therein. The trial of the said suit has already commenced and the plaintiff has already examined himself before the court. At this stage, in the year 2017, the plaintiff files an application under Order 6 Rule 17 and seeks to add the prayer for declaration that at the time of institution of the suit, the possession had been taken over by the defendants through high handedness and that the decree directing the defendant to handover peaceful and vacant possession of the suit land be passed in his favour. Learned advocate for the applicant/plaintiff submitted before the court that it was clear from the record that the defendants

had forcefully and illegally taken over the possession. That no harm is likely to be caused to the defendant if the application is allowed. That the nature of the suit is not going to be changed if the application is allowed. He submitted to allow the application. The learned advocate for the defendants opposes the application inter alia submitting that the application has been filed after considerable delay and at the stage when trial has commenced. He submits to dismiss the application.