Gujarat Civil Judge (Mains) 2023

PAPER – II (CIVIL) · compulsory paper

16.07.2023 · 3 Hours · 100 Marks

Note

(1) Answers to questions may be given either in English or Gujarati, if not instructed otherwise.

(2) If more questions are attempted than required, the best combination of the answers shall be taken into consideration.

(3) Kindly answer the questions bearing in mind the weightage of marks allotted to the questions.

Q.1 Explain the following: (Any Five) **[25 marks]**

(1) Difference between admission and estoppel.

(2) Essentials of a decree.

(3) Joinder of parties.

(4) Interpleader suits.

(5) Contingent contract.

(6) Adverse possession.

(7) Attachment before Judgement.

Q.2 Explain the following(Any three): **[15 marks]**

(1) Difference between void and voidable marriage under the Hindu Law.

(2) Novation of a contract.

(3) Difference between a contract of indemnity and a contract of guarantee.

(4) Actionable claim.

(5) Caveat Emptor.

Q.3 Discuss in detail: (Any Four) **[28 marks]**

(1) Proof of documents.

(2) Defences available in a suit for specific performance.

(3) Doctrine of Res judicata.

(4) Divorce under Muslim Law.

(5) Void agreements.

(6) Doctrine of part performance as per the Transfer of Property Act.

Q.4 Write an Essay in English only: (Any One) **[12 marks]**

(1) The art and craft of writing Judgements.

(2) Basic structure doctrine in Indian Constitution.

Q.5 State whether the given statements are true or false: (Any Five) **[5 marks]**

(1) As per the Indian Contract Act, an agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a voidable contract.

(2) Article 106 of the Schedule to the Limitation Act provides for limitation of three years from the date of the dissolution of partnership for filing a suit for an account and a share of the profits of a dissolved partnership.

(3) As per the Indian Partnership Act, where specific provision is made by contract between the partners for the specified duration of their partnership, or for the determination of their partnership, the partnership is 'partnership at will.'

(4) As per the definition in the Code of Civil Procedure, 'judge' means the presiding officer of a Court.

(5) On the basis of suit value, Second Appeal under the Code of Civil Procedure has to be preferred either before the District Court or the High Court.

(6) Order XV of the Code of Civil Procedure relates to execution of decrees and orders.

Q.6 Write an Order allowing or dismissing the objections lodged by son of the original defendant in the Execution Application preferred by the original plaintiff - decree holder and also incorporate consequential directions in the Execution Application on the below mentioned facts. **[15 marks]**

The plaintiff filed Special Civil Suit No. 1150 of 1983 for declaration and permanent injunction along with the relief of getting vacant possession of the suit property (land admeasuring 3 acres) from the defendant(father of the applicant) averring that the suit property was purchased by the plaintiff by a registered sale deed dated 22-3-1972. That, the case of the plaintiff was that since he was serving in another district than that of suit property, he had engaged defendant as a chowkidar on a monthly salary basis. Since, the defendant's intention changed and as he tried to transfer the suit property in his name in the revenue record, plaintiff terminated his services in the year 1981. Defendant was joined in the suit in individual capacity and in the capacity of representative of his family consisting of his sons as well as Karta of the family. Ld. Trial Judge after recording the evidence, allowed the Suit in the year 1991 directing the defendant to hand over the peaceful and vacant possession of the suit property within 60 days. Defendant unsuccessfully challenged the Judgement and Decree of the Ld. Trial Court before the Hon'ble High Court and Hon'ble Supreme Court, Original Plaintiff decree holder preferred an Execution Application being Regular Civil Darkhast Application Number no. 210 of 1993 before the Court of Ld. Additional Civil Judge.

Applicant(son of the original defendant) lodged objections under Order 21 Rule 97, 98, 99 and 101 of the Code of Civil Procedure in the Execution Application preferred by the decree holder contending mainly that he was the affected party and in possession of the suit property since long period and decree was passed against the defendant who was not having the possession of the suit property.