Madhya Pradesh Civil Judge (Mains) 2013

Judgment Writing · compulsory paper

Fourth Question Paper · Time Allowed – 1:30 Hours · Maximum Marks – 50

Instructions

1. This Question Paper consists of Two Questions. All questions have to be answered. Answer to the questions must be given in one language either in Hindi or in English.
2. In case there is any difference either of printing or of a factual nature, out of the Hindi and English versions of the question, the version in which the candidates has attempted his answer, will be treated as standard.
3. While answering a Question, do not use any word indicating a name. Where ever needed, use alphabets "A B C". Please do not mention your name, address, roll number or any specific mark or name under any circumstances. Otherwise it will be treated as disqualification and candidature shall be cancelled.
4. Write your Roll number in the space provided on the first page of Answer-Book or supplementary sheet. Any attempt to disclose identity, in any way by any means in any other part thereof shall disqualify the candidature.
5. Answers of this Question Paper must only be given in Answer-book provided for this Question Paper. Answers given on another Answer-book shall not be valued.
6. Writing of all answers must be clear & legible. If the writing of answer-book written by any candidate is not clear or is illegible in view of Valuer/Valuers then the valuation of such answer-sheet shall not be done.

Judgment/Order Writing (Civil)

1. Write a judgment on the basis of pleadings and evidence given here under after framing necessary issues and analyzing the evidence, keeping in mind the provisions of relevant Law/ Acts. [30 marks]

PLAINTIFF'S PLEADINGS 'A' filed a suit for declaration of relationship, eviction and recovery of rent against 'B' with pleadings that the suit house situated at Dhar was purchased by him some three years ago. 'A' is residing in a rental house and he needs bonafidely the suit house for residence of his family. He has no other suitable accommodation of his own in the town. Previously he had also filed a suit against 'B' for eviction on bona-fide requirement but the same was dismissed being filed within six months of the purchase of suit house by him. In the previous suit the defendant has also challenged the relationship hence a decree of declaration of relationship is also sought as the court has held that tenancy is not proved.

DEFENDANT'S PLEADINGS 'B' denied the plaint allegations substantially and pleaded in the written statement that there is no relationship of land lord and tenant among the parties. The plaintiff has no bona fide requirement and the suit is also barred by principle of res-judicata as the civil court has already dismissed the previous suit holding that the tenancy is not proved. During proceeding at evidence stage the W/S was amended by inserting a para that during pendency of suit the plaintiff has purchased and got vacated another house of his own and started living with his family.

Plaintiff's evidence- Plaintiff has produced original sale deed (Ex.P1) copy of judgment of previous suit (Ex.P2). he has also produced himself and two witnesses 'C' and 'D' in oral evidence. The plaintiff 'A'

has deposed the facts narrated in pleadings however he has admitted that during pendency of the suit he has purchased a house and he is residing in it however he has clarified that other family members are residing in rented house. He has also admitted that there is no pleading regarding purchase of another house and no notice was given to defendant regarding purchase of suit house. Other witnesses have proved the purchase of suit house by plaintiff and necessity of plaintiff. They have shown there ignorance from the purchase of another house.

Defendant's evidence Defendant has produced certified copy (Ex. D.1), the sale deed of the other house. Defendant has produced himself and one witness 'F' in evidence. Defendant has approved his pleading and deposed that with purchase of another house the requirement if any of plaintiff comes to end. Defendant had no notice regarding purchase of suit house by plaintiff and plaintiff has never realized the rent from defendant hence he can not be evicted on basis of disclaimer of title. The witness also supported the defendant's statement. Although defendant and his witness have admitted that they have not seen family of plaintiff residing in another house and they do not know whether the plaintiff has vacated/ left the rented house or not.

Arguments plaintiff Even after first suit the defendant has denied the title of plaintiff on suit house. Defendant has not proved that the plaintiff has shifted in other house with family. Thus he has failed to prove that bona fide requirement of plaintiff is not genuine or comes to end. Plaintiff and his witnesses have proved the bonafied requirement. Previous suit was not maintainable hence principle of res-judicata does not apply in this suit. Since the defendant has also denied the title of plaintiff, hence the plaintiff also deserves to get the decree of eviction on this ground.

Arguments defendant Disclaimer in a non-maintainable suit will not be treated as a ground against defendant. Since the plaintiff has admitted the purchase and taking possession of second/other house, he was under obligation to prove that this house is insufficient for the residence of his family. But the plaintiff has not prove this fact either by pleading or by evidence principle of res-judicata also applies in this case, because the civil court had inherent jurisdiction

Judgment/Order Writing (Criminal)

2. Frame the charge and write a judgment on the basis of the allegations and evidence given here under by analyzing the evidence, keeping in mind the relevant provisions of the concerning law. [20 marks]

PROSECUTION CASE - On 11-12-13 in the evening at about 7:25 PM, informant 'B' lodged a First Information Report with police station Kotwali, Mandsaur to the effect that he resides in House No. 10 , Station Road, Mandsaur. On 11-12-13 in evening about 6:30 PM, while he was talking in his drawing room with his friend 'C', suddenly accused A1 and A2 because of previous enmity with 'B' came in to the drawing room armed with Lathis. Both the accused person assaulted 'B' with their lathi. Because of assault 'B' sustained bleeding injuries over head and right arm. When 'C' tried to save 'B', accused A1 and A2 also gave lathi blows to 'C', who sustained bleeding injuries over left arm and right leg. When other family member of 'B' and neighbours came and shouted to save 'B' and 'C', both the accused persons intimidated 'B' by threatening to cause death and then fled away.

Thereafter 'B' and 'C' came to the police station Kotwali Mandsaur and 'B' lodged the report, thereby, police registered case under crime no. 350/13 and thana incharge firstly sent both the injured persons to district hospital Mandsaur, where Dr. 'D' medically examined both the injured persons. Injuries found over 'C' were simple in nature, whereas both the injuries found over 'B' were grievous in nature. All the injuries found on injured persons were caused by hard and blunt object. During investigation

site plan was prepared, accused A1 and A2 were arrested, lathis were also seized from them and after completion of investigation the chargesheet against A1 and A2 filed under Section 452, 323, 325, 506/34 of I.P.C.

DEFENCE PLEA- The accused persons have denied the charges and their defence plea is that they have been falsely implicated on account of enmity.

PROSECUTION EVIDENCE- In examination in chief 'B' (P.W.1) stated that on the date and time of incident the accused A1 and A2 entered into his house and assaulted him over right arm and right side on head with lathis and when his friend 'C' (P.W.2) tried to save him both the accused persons also gave lathi blow to 'C' (P.W.2). His family members and neighbours came and shouted over accused A1 and A2 and they fled away. Then he lodged report Exhibit P-1 in police station Kotwali, Mandsaur and doctor also medically examined him at district hospital Mandsaur. His right arm and right side of head were fractured and he was admitted in hospital for seven days. In cross examination 'B' (P.W.1) had denied the suggestion of the defence that he has received the injuries by fall.

Another injured witnessess 'C'(P.W.2) also supported the prosecution version to the extent as of the P.W.1.

Dr. 'D' (P.W.3) also corroborated the versions of 'B(P.W.1) and 'C' (P.W.2) by proving their MLC reports Exhibit P3 and P4, X-ray report of 'B' Exhibit P5 and X-ray plates Article X-1 and X-2.

DEFENCE EVIDENCE - The accused A1 and A2 in their examination U/s. 313 of Cr.P.C. denied the allegations against them and took a defence of false implication due to enmity. No further evidence in defence is given by the accused persons.

ARGUMENTS PROSECUTION - District Prosecution Officer has argued that the all charges against accused persons are proved beyond any reasonable doubt, hence the accused persons be convicted accordingly and rigours punishment be imposed.

ARGUMENTS DEFENCE - Accused persons have been falsely implicated due to enmity. Prosecution evidence is doubtful as no independent witnesses is produced and accused persons can not be convicted only with evidence of partisan witnesses. Hence, they be acquitted.