Madhya Pradesh Civil Judge (Mains) 2015

Judgment Writing · compulsory paper

Fourth Question Paper · Time Allowed – 3:00 Hours · Maximum Marks – 100

Instructions

1. All questions are compulsory. Answer to all Questions must be given in one language either in Hindi or in English. In case of any ambiguity between English and Hindi version of the question, the English version shall prevail.
2. Write your Roll No. in the space provided on the first page of Answer-Book or Supplementary Sheet. Writing of his/her own Name or Roll No. or any Number or any mark of identification in any form in any place of the Answer Book not provided for, by which the Answer Book of a candidate may be distinguished/identified from others, is strictly prohibited and shall, in addition to other grounds, entail cancellation of his/her candidature.
3. 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 Book may not be done.

Settlement of Issues

1. Settle the issues on the basis of the pleadings given here under - [10 marks]

PLAINTIFF'S PLEADINGS :- The plaintiff has filed a suit for eviction and consequential relief against the defendant under the provisions of M.P. Accommodation Control Act 1961. The grounds are that he is the owner and landlord of the suit accommodation in which the defendant is his tenant @ Rs.3000/- per month. He and his family members reside in a house bearing Municipal House No.20, Sanjeevani Nagar, Jabalpur. The House consists of four small rooms measuring 10 feet x 12 feet in addition to a small kitchen and a living room cum dining room. His family comprises his wife, two sons aged 24 & 20 years and one daughter aged 22 years. His children require separate rooms for their studies. His elder son is marriageable and very soon he will marry him, then he would require a separate room exclusively for him. In the circumstances, his present accommodation is insufficient to fulfill his residential requirements. Therefore, he 'bonafidely needs the suit accommodation. He has no alternative suitable accommodation of his ownership in Jabalpur city. The defendant has purchased a flat in a posh colony of the city in which he and his family members has been residing for a year. Ever since, the defendant has locked the suit accommodation.

WRITTEN STATEMENT :- The defendant has admitted that he is the tenant of the plaintiff in the suit accommodation @ Rs. 3000/- per month. However, he has denied all the remaining averments made by the plaintiff in the plaint. He has pleaded that the plaintiff's present accommodation consists of 6 big rooms in addition to a kitchen and a living room cum dining room. The plaintiff's eldest son has recently completed his graduation in the engineering stream and he is already got a job in the campus selection in a company based at Bangaluru. Therefore, after his joining the job his requirement for a separate room will come to an end. His wife has purchased a flat with her own income in her name in which their married son and his family reside. They occasionally stay with them. He and his four family members still reside in the suit accommodation. The plaintiff also possesses a house of his ownership in the city which is suitable for his present residential needs. In fact, the plaintiff want to let

out the suit accommodation on higher rent after getting him evicted. For this reason, he has filed the suit on false averments. Therefore, the suit be dismissed with compensatory cost.

Framing of Charges

2. Frame a charge/charges on the basis of allegations given here under.- [10 marks]

PROSECUTION CASE / ALLEGATIONS - Surendra Singh was a driver of a truck with registration no. HR 55 R7750. On 20.10.2015 he was carrying the truck from Gwalior to Shivpuri. On the way before his truck, Ram Singh was driving a truck bearing registration no. MH 31- 7851 in a rash and negligent manner causing endanger to human life and injury to any other person and he was not allowing Surendra Singh to take his truck forward. Ram Singh stopped his truck near a Dhaba which falls under the territorial jurisdiction of Police Station Satnawad. Seeing that, Surendra Singh also stopped his truck. Thereafter, he took strong objections to the said acts of Ram Singh. Thereupon an altercation broke out between them. In the course of which Ram Singh committed marpeet with Surendra Singh with an iron rod. As a result, he suffered fracture in his right Tibia bone. He also damaged his truck and thus caused him a loss of 8000/- rupees in terms of money.

Judgment/Order (Civil) Writing (CJ-II)

3. 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 :- [40 marks]

Plaintiff's Pleadings :-

Plaintiff Om Pal Singh, instituted a suit for recovery of Rs. 54,450/- against the defendant on the basis of a promissory note dated 6th May, 1982. It was averred in the plaint that the defendant being in need of money requested the plaintiff in the month of April, 1982 to give him a loan of Rs. 40,000/-. The plaintiff agreed and gave him a loan of Rs. 40,000/- on 6th May, 1982. After receiving the said amount in cash, the defendant executed a promissory note on the same day with a stipulation to repay the same on demand along with interest at the rate of 12% p.a. However, the defendant failed to repay the amount despite several oral demands. A registered notice dated 15th April, 1985 was sent by' the plaintiff to the defendant demanding repayment of the said amount. Despite receipt of the said notice, the defendant did not return the amount. Therefore, the plaintiff filed the suit for recovery of the aforesaid amount along with interest at the rate of 12% p.a.

Defendant's Pleadings :-

The defendant in the written statement has denied that he had ever borrowed a sum of Rs. 40,000/- from the plaintiff and executed any promissory note on 6th May, 1982. Tt was alleged by him that the promissory note is a forged document. It was also alleged by him that the suit is filed by the plaintiff in collusion with his brother Netra Pal Singh, who is an attesting witness to the promissory note.

Plaintiff's Evidence :-

In support of the case, plaintiff Om Pal Singh examined himself as PW-1 and also examined two witnesses, namely, his brother Netra Pal Singh, PW-2 and Malkhan Singh, as PW-3.

P.W. 1 Om Pal Singh, the plaintiff, stated that the defendant took a loan of Rs. 40,000/- on interest at the rate of 12% per annum from him on 6th May, 1982 in the presence of his brother Netra Pal Singh, Gurvinder Singh and Malkhan Singh executing the promissory note Ex. P1. He also stated that the

defendant signed the promissory note at points A and B. Malkhan Singh signed at point C and Netra Pal Singh at point D.

In his cross-examination he denied the suggestion that no loan was advanced to the defendant and that he had forged the promissory note. He denied the suggestion that Malkhan Singh was not present at that time. He stated that he had sold his vehicle HRP-2128 at the relevant time and, therefore, he had the money with him. He admitted that his brother had also advanced a loan to the defendant.

Netra Pal Singh P.W. 2 stated that Om Pal Singh, the plaintiff, advanced a loan of Rs. 40,000/- on interest at the rate of 12% per annum to the defendant in his presence and that of Malkhan Singh whereupon the defendant executed the promissory note Ex. P1. He also stated that the plaintiffs had sold his vehicle for Rs. 1,80,000/- and he paid the loan amount out of the amount.

In cross-examination, P.W. 2 admitted that the suit which he had filed against the defendant was dismissed by the Court of Additional District Judge and that as against the said judgement he filed an appeal which is pending in the High Court.

Malkhan Singh P.W. 3 deposed that he knows the plaintiff and the defendant, that he borrowed Rs. 40,000/ from the plaintiff on 6th May, 1982 and that at that time he, the plaintiff, Netra Pal Singh and others were present. According to him, the defendant himself brought the typed promissory note and Om Pal Singh gave Rs. 40,000/- to him whereupon the defendant executed the promissory note Ex. P1. He had also proved signature of him and those of the defendant and Netra Pal Singh on the promissory note Ex.P1.

In cross-examination he denied the suggestion that the plaintiff did not pay Rs. 40,000/- in cash to the defendant. He also denied the suggestion that he was not present when the promissory note was executed by the defendant.

Defendant's Evidence :-

The defendant examined himself as DW1 and closed his evidence. He denied having executed any promissory note on the said date. He also denied his signature at points A and B on the promissory note and asserted that those were not his signatures. He admitted his signatures on the vakalatnama executed by him in favour of his Advocate. He also stated that except signing at point PA on the vakalatnama, he had not signed any other document. He further stated that he had not even signed the written statement at point PB. He also denied his signature on the application moved by him under Section 151 of the Code of Civil Procedure.

Arguments Plaintiff :-

The counsel appearing for the plaintiff contended that execution of the promissory note dated 6th May, 1982 is duly proved by the plaintiff and his witnesses. Malkhan singh P.W. 3, who is an independent witness.

Arguments Defendant :-

The learned counsel appearing for the defendant contended that the promissory note was a forged and fabricated document and, therefore, no reliance should be placed on it. It was also submitted by him that the court is not competent to compare the signatures given by the defendant in the Court on 13th March, 1991 with disputed signatures allegedly made by the defendant at point AB on the promissory note Ex.P1.

Judgment/Order (Criminal) Writing (JMFC)

4. Frame the charge and write a judgement on the basis of the allegations and evidence given hereunder by analysing the evidence, keeping in mind the relevant provisions on the concerning law. [40 marks]

Prosecution Case :- The Prosecution case is that complainant Kuldeepak on 29-08-2007 submitted a written application at city Kotwali in which it is mentioned that he has got a shop of motor parts in the name of Ganga Automobiles situated at Jagatdev Talab. On 24-08-2007 at about 9:00 PM he went to his house after closing the shop. On 25-08-2007 at 9:00 AM, when he opened the shop, he found that the motor parts were scattered. Two crown of GNA Company used in TATA vehicles costing Rs. 7,000/- were not found. On the basis of this report the crime No. 587/2007 under sections 457, 380 of IPC was registered. Site map was prepared. The disclosure statement of the accused was recorded on 08.09.2007 and pursuant to it, two crowns were seized from the house of the accused. The statements of the witnesses were recorded. After completing the investigation the charge sheet was filed in the Court of Judicial Magistrate First Class.

Defence Plea :- The accused denied the charges and his defence is that he has been falsely implicated.

Evidence for prosecution :- The Prosecution examined as many as five witnesses in support of its case. Complainant Kuldeepak (PW-1) proved the FIR Ex.P/1 lodged by him. He deposed the fact of breaking the lock of his shop and theft of aforesaid articles therefrom and deposed the fact of identification of articles. Investigating officer (PW-2) deposed the fact regarding the memo and seizure of stolen property. Rajaram (PW-3) and Gopal (PW-4) were examined to prove memo and seizure but they have not supported the prosecution case. They are declared hostile. Nayab Tahsildar (PW-5) deposed the fact of identification of articles.

Evidence for defence :- Accused examined himself in defence and denied the allegations against him and took a defence of false implication due to enmity.

Arguments of Prosecutor :- The Prosecutor has argued that the prosecution has proved the case beyond reasonable doubt against the accused. Hence, the accused be convicted and sentenced suitably.

Arguments of Defence Counsel :- Learned Counsel for the accused submitted that the complainant lodged FIR with inordinate delay of 04 days and no reason for delay has been given. The recording of disclosure statement on 08-09-2007 of the accused at Ganga Auto Mobile, is also not true and the police has not seized the stolen articles from his possession. The police has made the concocted story in this regard. The identification of the stolen articles has not been done properly, therefore, the prosecution has not proved the case beyond reasonable doubt against the accused. Therefore, accused be acquitted of the charges.