Madhya Pradesh Civil Judge (Mains) 2016

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 :- Plaintiff Ramraj, instituted a suit for recovery of Rs. 54,450/- against the defendant on the basis of a promissory note dated 6th May, 2012. It was averred in the plaint that the defendant being in need of money requested the plaintiff in the month of April, 2012 to give him a loan of Rs. 40,000/-. The plaintiff agreed and gave him a loan of Rs. 40,000/- on 6th May, 2012. 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 10% p.a. However the defendant failed to repay the amount despite several oral demands. A registered notice dated 15th April, 2015 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 10% 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, 2012. It 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 attesting witness to the promissory note.

FRAMING OF CHARGES

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

PROSECUTION CASE / ALLEGATIONS :– The Prosecution case is that complainant Amarsingh on 29-08-2016 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 Thakkar Automobiles situated at Jagdev Talab. On 24-08-2016 at about 9:00 PM he went to his house after closing the shop. On 25-08-2016 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. 10,000/- were not found. On the basis of this report the crime No. 115/2016

under sections 457, 380 of IPC was registered. Site map was prepared. The disclosure statement of the accused was recorded on 08-09-2016 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.

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 :- Plaintiffs have filed a civil suit for declaration of ownership of the land survey no. 1946 area 5.266 hectares (hereinafter referred to as land under dispute or suit land) and also for permanent injunction against the defendant the Government of Madhya Pradesh, for restraining it from interfering with their possession. As per the pleadings of plaintiff Late 'A' was the owner as well as in possession of the suit land which was under his possession. Plaintiff no. 1 'A1' is the son and plaintiff no. 2 Mrs. 'A2' is the wife of late 'A'. 'A' died around 10 years back. After the death of 'A' his heirs became the owner of the land but the Patwari did not mutate the name of plaintiffs in revenue records. Land under dispute was wrongly recorded as Reserved Forest. Plaintiffs have also pleaded that they have filed an application for mutation in their favour but the same was rejected by the Tehsildar of Hamidganj. A notice under section 80 C.P.C. has been served with the collector but the State Government did not give the any reply. Therefore, this civil suit is filed. Plaintiffs are the owner as well as in possession of the suit land. Therefore, they be declared as the owner of the suit land and a permanent injunction be granted in their favour to restraining the defendants from interfering with their peaceful possession.

Defendant's Pleadings :- As per the written statement of defendant, plaintiffs are not the owner of the land under dispute. The suit land was declared as Reserved Forest by the notification no. 8894-408-Ten-68 dated 30-10-1968 and also notification published in the Gazette on 31-01-1969. Plaintiffs have no right over the suit land, therefore, suit shall be rejected. Defendant has not challenged the fact that plaintiffs are the heirs of late 'A'.

Plaintiff's Evidence :- As per oral evidence of Plaintiff Witness- 1 Mrs. 'A2' and Plaintiff Witness-2 'A1' the land under dispute survey no. 1946 area 5.266 hectares situated at village Hamidganj District Satna was the property of late 'A' and his name was also recorded in revenue records. Plaintiffs have also filed documents Ex.P-1 to P-7 which are certified copies of Khasra Panchsala to support their case in which name of late 'A' was recorded. But they have failed to explain in their pleadings that how 'A' has got the ownership and possession over the suit land. In the cross- examination PW-2 'A1', who is the son of late 'A', Patta of the suit land was granted to his father but plaintiffs have not produced the said Patta. Plaintiffs have also not produced any other documents to show the ownership of late 'A'. They have also not produced any document to show their possession over the suit land after the death of 'A'.

Defendant's Evidence :- Defendant Witness 'B', who is a State Government officer has supported the case of defendants in his oral evidence and also proved the documents filed by the defendants. Land under dispute was recorded as Government land in Khasra Panchsala of the year 2011-2012. He has also proved the Gazette notification and map of Forest Department to show that the land under dispute is already notified as Reserved Forest.

Arguments Plaintiff :- As per the arguments of plaintiffs Late 'A' was the owner as well as in possession of the suit land. Plaintiff no. 1 'A1' is the son and plaintiff no. 2 Mrs. 'A2' is the wife of late 'A'. 'A' died around 10 years back. Because plaintiffs are the heirs of late 'A', therefore, they became the owner of the land after the death of 'A'. Plaintiffs are in the possession of the suit land.

Arguments Defendant :- Plaintiffs are not the owner of the land under dispute. The suit land was declared as Reserved Forest by the notification no. 8894-408-Ten-68 dated 30-10-1968 and also notification published in the Gazette on 31-01-1969. Plaintiffs have no right and possession over the suit land.

JUDGMENT/ORDER (CRIMINAL) WRITING (JMFC)

4. 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 on the concerning law. [40 marks]

Prosecution Case :- On 15-05-2007 at about 11.00 p.m. Complainant "A" was sleeping in his open varanda at vinoba Nagar under police staion, Tar Bahar, Bilaspur. Suddenly some one struck on his head. He got up and saw that "B" was running with a knife in his hand. A raised an alarm and his neighbor “C” came running.They chased “B” and caught him. At about 11.30 p.m. complainant "A" lodged a report in Police station Tar Bahar, that on account of old enmity, "B" had attacked "A". Blood stains were found on the clothes of "B". Knife and blood stained clothes were seized from him. On medical examination of "A" incised wound was found over his forehead. Injury was caused by a sharp edged weapon and was simple in nature. On Chemical examination presence of humun blood was confirmed on the clothes and knife recovered from "B". Statements under Section 161 Cr.P.C. Were recorded. After completion of investigation charge sheet was filed.

Defence Plea :- Accused "B" on being charged, abjured his guilt and pleaded innocence.

Evidence for prosecution :- Evidence was adduced on behalf of the prosecution, which substantially supported the prosecution case. In court "A" Stated that On 15-05-2007 at about 11.00 p.m. he was sleeping in his open varanda suddenly some one struck on his head. He got up and saw that "B" was running with a knife in his hand. He raised an alarm, and his neighbor “C” came running. They chased “B” and caught him. On account of old enmity "B" assaulted him with knife. In cross examination "A" admitted that he had not seen accused inflicting injury. And also admitted that accused is his younger brother. “C" stated that he saw "B" running with knife and caught him. There was an injury on the forehead of "A". He also saw bloodstains in the clothes of "B". Doctor who had examined "A" gave details of injuries sustained by "A" but denied the possibility that the injury may be caused by fall. The investigating officer gave details of first information report lodged by "A". He also gave details of knife and clothes recovered from "B". On being examined under Section 313 Cr.P.C. the accused stated that he was innocent and had been falsely implicated on account of old enmity. Accused did not give any explanation regarding the presence of human blood on knife and clothes seized from him.

Evidence for defence :- Accused did not produce any evidence in defence.

Arguments of Prosecutor :- On behalf of the prosecution, prosecutor argued that on the basis of evidence adduced, prosecution has proved the guilt of the accused beyond the shadow of reasonable doubt.

Arguments of Defence Counsel :- On behalf of the accused It has been argued that there is no evidence that any body saw the accused inflicting the injury. Chemical examination report is not sufficient to

hold the accused guilty. Accused is innocent and twenty years of age and only bread earner of his family. On account of old enmity he has been falsely implicated.