Madhya Pradesh Civil Judge (Mains) 2022

Fourth Question Paper · Judgment Writing · compulsory paper

Total No. of Questions: 4 · Time Allowed: 03:00 Hours · Maximum Marks: 100

All questions are compulsory. Answer to all the Questions must be given in one language either in Hindi or in English. In case there is any variance either printing or of a factual nature, out of the Hindi and English versions of the question, the English version will be treated as standard.

Write your Roll No. only in the space provided on the first page of Answer-Book / Supplementary Sheet. Writing of his/her own Name or Roll No. or any mark of identification in any form or any Number or Name or Mark, by which the Answer Book of a candidate may be distinguished/ identified from others, in any place of the Answer Book not provided for, is strictly prohibited and shall, in addition to other grounds, entail cancellation of his/her candidature.

Writing of all answers must be clear & legible. If the writing of Answer Book written by any candidate is not clear or illegible in view of Valuer 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]

Plaintiff's pleadings

The plaintiffs filed the suit for declaration of title, issuance of permanent injunction and declaring the sale deed dated 17.11.2021, null and void on the ground that plaintiff No. 1 is the legally wedded wife of Late Tikaram and the plaintiff No. 2 to 5 are their children. The disputed property, agricultural land bearing survey No.1156 area 12 hectares situated at Sehora, District Jabalpur, was of the ownership of late Tikaram. After death of Tikaram, the disputed property is in their possession. When they filed an application for mutating the disputed land in their favour, it came to their knowledge that the defendant No. 1 and defendant No. 2, who are not in anyway related to Late Tikaram, have got the disputed land mutated in their names.

It has further been pleaded that on the basis of their name recorded in revenue records, the defendant No.1 and 2 had sold out the disputed land to defendant No.3, by sale deed dated 17.11.2021, which is against the right and interest of plaintiffs. On the basis of said sale deed, the defendant No.3 is interfering in their possession.

Written statement

The defendant No.1 and defendant No. 2 have filed the written statement denying the pleadings made by the plaintiffs and averting that the plaintiff No.1 is not the wife of Late Tikaram and nor other are children of Late Tikaram. Defendant No.1 is the legally wedded wife of Late Tikaram and defendant No. 2 is their daughter. The disputed property is ancestral property of Late Tikaram. After the death of Late Tikaram, the disputed property has been inherited by them being heirs of Late Tikaram and their names rightly mutated in revenue records. The suit has not been properly valued by plaintiffs and sufficient court fee not paid.

Framing of Charges

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

Prosecution case/allegations

On 10.10.2022 the complainant "P" lodged the oral report with his father to the effect that today morning at 08:30 a.m. he was studying inside his house situated at Mahaveerpura, Village Karonda, District Guna (M.P.). At that time, his uncle accused "B" came in his house from outside uttering abuses regarding mother-sister and asked him to come with him for harvesting soyabean. On denying, the accused beat him up with sickle, whereby he sustained injuries over the back side, head and near the eye. The injuries bleeded. When he shouted, his mother "C" and aunt "D" came on spot and saved him. During investigation complainant has been medically examined. In the medical examination, the doctor opined that the injuries of the complainant were caused by hard and sharp weapon. He also found the fracture of the back side of the head of the complainant. After due investigation, the charge sheet has been filed by Investigation officer before the Court.

Judgment/Order (Civil) Writing

3. Write a judgment on the basis of pleadings and evidence given hereunder after framing necessary issues and evaluating the evidence, keeping in mind the provisions of relevant Law/Acts :- [40]

Plaintiff's pleading

The Plaintiff 'P' is the owner of the disputed land bearing Khasra No.-1234 area 1.25 Hectares situated within the local limits of Village Magajpura, Tehsil and District Dhar by means of a Gift-Deed dated 26-05-1981 executed by the Plaintiff's grandfather 'G' in favour of the plaintiff out of love and affection. The Gift-Deed was accepted and acted upon. The name of the plaintiff mutated in the revenue records.

The Defendant 'D' colluded with the 'G' and after purporting to have revoked the Gift-Deed, he got the Sale-Deed dated 04-11-1981 from 'G' as if 'G' had title in the disputed land. Both the Revocation Deed as well as the Sale-Deed are illegal and invalid. The Gift-Deed cannot be revoked as the executant did not reserve any power of revocation of Gift-Deed. The defendant maneuvered to obtain the Sale-Deed in his favour, when 'G' was not in a sound and disposing state of mind. As the defendant made hostile claim, the plaintiff have filed the suit for declaration of title.

The suit was filed in 1990.

Defendant's pleadings

The alleged Gift-Deed was not executed by plaintiff's grandfather 'G'. The alleged Gift-Deed was not executed freely, voluntarily and willingly. By making 'G' in an unconscious state, by injecting sedative drugs, thumb impression was obtain in a document purporting to be a Gift-Deed. On coming to know of such circumstances plaintiff's grandfather 'G' executed a Revocation Deed on 04-08-1981. Plaintiff's grandfather 'G' sold the disputed land in favour of the defendant on dated 04-11-1981. The revenue record 'Khatauni' for the disputed land stands in the name of defendant. The suit is barred by limitation as the plaintiff did not question the revocation-deed and the sale-deed within the period of three years.

Plaintiff's evidence

Ex. P-1 Gift-Deed dated 26-05-1981

The plaintiff in his evidence has recorded only his own statements. While presenting the Gift-Deed, the plaintiff stated as per his pleadings that his grandfather, making it irrevocable, has written in it that due to old age and inability to see with eyes, he is putting his thumb impression.

The admission made by Plaintiff PW-1 during cross examination is that his grandfather was in habit of signing the document and the revocation deed bears the signature of his grandfather only. He also admitted that signature of 'G' is not found in Gift-Deed and some thumb impression alone is found.

It is the evidence of Plaintiff PW-1 that he has not signed as a witness in the Gift-Deed. It is not even stated in the evidence that the executant put his thumb impression in the document after fully understanding the contents of the document.

Plaintiff PW-1 has admitted that he did not question the executant about the Sale-Deed after coming to know the execution of the Sale-Deed in favour of the defendant in December 1981.

Defendant's evidence

Ex. D-1 Revocation of Gift-Deed dated 04-08-1981

Ex. D-2 Sale-Deed dated 04-11-1981

Ex. D-3 Revenue Record 'Khatauni' in the name of the Defendant

The defendant has recorded only his own statements. He supported his case.

In Revocation Deed Ex. D-1 there is recital to the effect that 'G' used to put Signature in the bank while withdrawing money and also that in the Police complaints he has put his signature. It is specifically stated in Revocation Deed that the executant was administered sedatives and the thumb impression was taken while the executant was in an unconscious state.

Arguments of plaintiff

The plaintiff's grandfather was admittedly the owner of the disputed land and he executed the Gift-Deed in favour of plaintiff. When the plaintiff's title was challenged, a cause of action arose to bring a suit for declaration of title. The suit is filed within three years from the date the cause of action arose, thus within limitation.

Arguments of defendant

The plaintiff has admitted that there is no signature of his grandfather on the Gift-Deed. Despite the plaintiff being aware of the Revocation-Deed and the Sale-Deed from the beginning, he did not file the suit within the limitation period of three years.

Judgment/Order (Criminal) Writing

4. Frame the charge on the basis of the given facts and write a judgement with reasons on the basis of allegations, evidence and arguments given hereunder, keeping in mind the relevant provisions of the concerned laws :- [40]

Prosecution case

On the night of 10-08-2023 at 10:00 pm. 'A' closed and locked his Jewellery Shop situated at City Dhar and went home. Thereafter in the next day on 11-08-2023 at 09:00 am. 'A' went to his shop. That time he found that his shop was open, locks were broken and jewellery were stolen. 'A' lodged report with city Police Station Kotwali Dhar and First Information Report registered on Crime No. 123/2023.

Investigation Officer prepared Spot Panchnama on the basis of footage of CCTV camera installed in the shop. Accused 'X' was arrested. Disclosure Statement (Memo) of accused was recorded before witness 'B'. Some jewellery viz. Gold Chain and Gold Ring were recovered before witness 'B' from accused's house on the basis of information given by accused in disclosure statement. Complainant 'A'

identified Gold Chain and Gold Ring from amongst various ornaments before Executive Magistrate 'C'. Identification Panchanama prepared. Investigation officer 'D' filed charge-sheet before the Magistrate court.

Defence plea

He was not in Dhar city at the time of the incident. No jewellery has been seized from his possession.

Evidence for prosecution

Ex. P-1 First Information Report

Ex. P-2 Site Map

Ex. P-3 Arrest Memo of Accused 'X'

Ex. P-4 Disclosure Statement (Memo) of Accused

Ex. P-5 Property Seizure Memo of Jewellery

Ex. P-6 Identification Memo of Jewellery

Material Object Number - MO 1 Gold Chain

Material Object Number - MO 2 Gold Ring

PW-1 Complainant 'A' stated the contents of first information report and also stated that he had identify his Jewellery Material Object Number-MO 1 Gold Chain and Material Object Number-MO 2 Gold Ring before the Executive Magistrate. In his cross-examination admitted the fact that no jewellery bills were given to the police and the person's face is not visible in the CCTV footage.

PW-2 'B' did not support the prosecution story.

PW-3 Executive Magistrate 'C' stated according to the Panchnama Ex. P-6 proceedings.

PW-4 Investigation officer 'D' confirmed the registration of FIR and stated according to the Panchnama's Ex. P-2, 3, 4 and 5 proceedings. In his cross-examination he admitted the fact that copy of CCTV footage neither recovered nor produced with charge-sheet.

Evidence for defence

Accused in his examination under section 313 of the Code of Criminal Procedure, 1973 contended as stated in defence plea.

Arguments of prosecutor

Prosecution proved his case beyond reasonable doubt.

Arguments of defence counsel

Independent witness 'B' did not support the prosecution story. Complainant 'A' admitted the fact that no jewellery bills were given to the police and the person's face is not visible in the footage of CCTV camera.