Maharashtra Civil Judge (Mains) 2015

Paper I: Civil Laws · compulsory paper

Civil Procedure Code, Transfer of Property Act, Specific Relief Act, Law of Contracts, Sale of Goods Act and Partnership Act. Time: 3 Hours · Maximum Marks: 100

Instructions to the candidates

1. All questions are compulsory.
2. Question No. 1 carries 20 marks. All other questions carry equal marks, i.e. 16 marks each.
3. Your answers must be to the point, wherever possible quoting the specific provision of law.
4. Do not reproduce any question. Write only the question's number against the answer.
5. Wherever an option has been given, only the required number of responses in the serial order attempted shall be assessed. Excess responses shall be ignored.
6. Other than cited cases, the candidate should not write roll number, any names (including their own), signature, address or any indication of their identity anywhere inside the answer book, otherwise he will be penalised.
7. The English version of the question shall be authentic in case of any ambiguity.
8. All questions can be attempted only in one language, either English or Marathi, as per the option given in the application form.
9. Candidates are expected to answer all the sub-questions of a question together. If a sub-question is attempted elsewhere (after leaving a few pages or after attempting another question), the later sub-question shall be overlooked.

Question No. 1 [20 marks]

Write a judgment on the basis of the facts narrated below. While writing the judgment: (a) adhere to the contents of a judgment as required under the Code of Civil Procedure; (b) frame and answer the issues properly; (c) wherever necessary, fill up the details from your imagination; (d) give legal, logical and proper reasons for your findings; (e) conclude the judgment with a proper operative order.

Facts. 'A', 'B' and 'C' are real brothers and sons of deceased 'X'. 'X' inherited agricultural lands (P1, P2 and P3). During the lifetime of 'X', agricultural land (P4) was purchased.

Averments in plaint: 'B', the plaintiff, has contended that lands (P1 to P4) are joint family properties of the plaintiff and the defendants. There is no partition of these properties by metes and bounds. He claims 1/3rd share and separate possession in the suit properties.

Written statement of defendant no. 1 'A': 'A' claims that land (P4) is his self-acquired property and it stands in his name as per revenue records. He further claims that 'B' and 'C' have not challenged the revenue entries till date. There is no dispute that lands (P1 to P3) are joint family properties.

Written statement of defendant no. 2 'C': 'C' contends that since during the long illness of 'X' he has taken good care of 'X', land (P4) is gifted orally by 'X' to him. The rest of the contentions of the plaint are admitted.

Evidence: 'A', 'B' and 'C' are only agriculturists by occupation. Lands (P1 to P3) are being cultivated separately by 'A', 'B' and 'C' after the death of 'X'. Land (P4) is in the name of 'A' as per the 7/12 extract.

Question No. 2 [16 marks]

Answer any two of the following sub-questions:

(a) Discuss the rights and liabilities of seller and buyer in the transaction of sale of immovable property.

(b) Rights and liabilities of partners inter se and with third parties: discuss.

(c) Discuss the essentials of a valid transfer of property.

Question No. 3 [16 marks]

Write short notes on any four of the following:

(a) Return of plaint and rejection of plaint

(b) Indemnity and warranty

(c) Bailment and pledge

(d) Condition and warranty

(e) Stay of suit and bar of further suit

(f) Conclusiveness and presumptions of foreign judgments

Question No. 4 [16 marks]

Answer any two of the following sub-questions:

(a) Discuss the rights and liabilities of a mortgagor.

(b) Discuss the rights and liabilities of lessor and lessee in respect of lease of immovable property.

(c) In which circumstances is an agreement rendered void?

Question No. 5 [16 marks]

Answer any four of the following sub-questions:

(a) Doctrine of election

(b) Stoppage in transit

(c) Fraudulent transfer

(d) Compromise of suit

(e) Interest, cost and compensatory cost

(f) Contingent contract

Question No. 6 [16 marks]

Answer any two of the following sub-questions:

(a) Suit by or against Government or public officer (discuss relevant provisions).

(b) Determination of lease of immovable property.

(c) Explain the difference between set-off and counter-claim.

(d) Deal with the provisions regarding “suit by indigent person”.