

DJ : MW

HIGH COURT OF JUDICATURE AT BOMBAY

(APPELLATE SIDE)

MAIN WRITTEN EXAMINATION

FOR THE POST OF DISTRICT JUDGE

PAPER I - CIVIL LAW

Date : 24.08.2019

Total Marks : 100

Time : 11.00 a.m. to 2.00 p.m.

INSTRUCTIONS

1. All questions are compulsory.
2. Figures to the right indicate marks.
3. Answers to optional questions, in excess of prescribed number, will not be assessed.

1. Write a Judgment on the following facts :- 40

Plaintiff's case :

Defendant is tenant of suit premises at Aurangabad on the monthly rent of Rs. 1,000/- since 01.01.2010. The defendant was regular in payment of rent till 01.01.2012, however, thereafter the defendant/tenant adopted practice of remaining in arrears of rent.

The plaintiff had to issue notices to the defendant for claiming the arrears of rent. The plaintiff had issued the first notice in the year 2012 claiming arrears for the period 01.01.2012 to 01.08.2012. He was further required to issue notice demanding the arrears of rent for the period 01.01.2013 to 31.12.2013 and then again a third notice for the period 01.04.2014 to 31.12.2014. It is only after issuance of such notices the defendant/tenant had paid the rent as demanded in these notices. Thereafter, also the defendant was not regular in payment of the rent and he uses to pay the same intermediately.

The plaintiff lastly issued a demand notice dated 03.06.2016 claiming arrears of rent of Rs. 12,000/- for the period 01.06.2015 to 31.05.2016. Followed by the notice, the plaintiff filed the suit for the recovery of the possession of the rented premises, as the defendant has not paid and is not ready and willing to pay the agreed rent.

Defendant's case :

As per the defendant he has responded the demand notices of the plaintiff from time to time and has also paid the arrears of rent as claimed therein. He has also paid the amount of Rs. 12,000/- by cheque to the plaintiff, as claimed in the demand notice dated 03.06.2016, on the basis of which the plaintiff has filed the suit.

Evidence :

The plaintiff in support of his contention has examined himself and produced on record, three demand notices issued earlier and so also the demand notice dated 03.06.2016 which are marked as Exhibit '8' to '11' respectively.

The defendant examined himself and produced the reply notice and the copy of cheque of the payment of Rs. 12,000/- in favour of plaintiff alongwith the receipts of earlier payments made against the three demand notices issued by the plaintiff. These documents are at Exhibit '13' to '17' respectively.

Plaintiff's argument :

As the defendant is habitually irregular in payment of rent, the suit is tenable and the plaintiff is entitled to relief as claimed.

Defendant's argument :

In view of the payments of arrears of rent in respond to the demand notice the suit for possession simpliciter on the ground of arrears of rent is not tenable.

As per the defendant in view of the requirement under section 15(2) of the Maharashtra Rent Control Act 1999, and as the defendant has paid the amount as per demand notice, the suit is not tenable and deserves to be dismissed.

The Trial Court dismissed the suit on 01.08.2019.

The plaintiff preferred appeal against the judgment and decree of the Trial Court.

Decide the appeal on the above facts.

2. Write an essay in about 500 words on any one of the following:- 20
- a. Procedure of admission of appeal and procedure for hearing of appeal.
 - b. Procedure for suits involving a substantial question of law as to the interpretation of the constitution or as to the validity of any statutory instrument.
 - c. The niceties of Commercial Court Act 2015 and case management hearing of commercial disputes.
 - d. The amendments made to the Specific Relief Act, particularly contract relating to the infrastructure projects, by the Specific Relief (Amendment) Act, 2018.
3. Write short notes on any four of the following:- 20
- (i) Appointment of receivers.
 - (ii) Rejection of plaint and return of plaint.
 - (iii) Res judicata and Res sub-judice.
 - (iv) Reference.
 - (v) Effect of withdrawal of the suit with liberty to institute a fresh suit and otherwise.
4. Answer any two questions of the following:- 20
- (a) Discuss rejection of application for permission to sue as an indigent person.
 - (b) Effect of death, marriage and insolvency of parties.
 - (c) Describe the mode of execution of decree of specific performance for restitution of conjugal rights and for an injunction.
