

HIGH COURT OF JUDICATURE AT BOMBAY
(APPELLATE SIDE)
MAIN WRITTEN EXAMINATION-2022
FOR THE POST OF DISTRICT JUDGE
PAPER-1 CIVIL LAWS
QUESTION PAPER

Date : 16 th March 2024	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.

Q.1 Write a judgment by using your own imagination on the following facts after mentioning bare necessary facts and presuming that necessary witnesses were examined and relevant documents have been produced. Do not mention any names other than those given in the question and if necessary to mention names of witnesses, refer them as PW-1.... or DW-1...., as the case may be, without mentioning any name. **30**

Plaintiff's case:

Plaintiff is the owner of the suit property which is a two room tenement, in possession of the Defendant as a monthly tenant and the agreed monthly rent is Rs.55/-. Tenancy is monthly as per the Gregorian calendar. The suit premises are required reasonably and bonafide for the use and occupation of the plaintiff and his family consisting of his wife, two sons and two daughters. One of the daughters of the plaintiff namely 'D1' was recently married, the eldest son- 'S1' is 24 years and the younger son 'S2' is 12 years and another daughter 'D2' is 19 years. The plaintiff is residing in a hut admeasuring about 16 x 16 sq.ft. having two rooms on rental

basis and the landlord of the said premises has initiated eviction proceedings against the plaintiff which is pending. On account of inadequate accommodation, the plaintiff is not in a position to arrange for the marriage of 'S1' and the current residence is insufficient and inadequate. Defendant has constructed a permanent loft having an area of half of the suit premises by reason of which heavy load has been levied on premises causing injury to the suit premises. The defendant removed existing roof of the suit premises and increased the height of the wall by about 15 feet in front and 18 feet on the rear side without consent of the plaintiff. Defendant has acquired another suitable residential accommodation in building 'Highland Court' situated adjacent to the suit premises and that the suit premises has not been used by the defendant without reasonable cause for the purpose for which it has been let out for continuous period of six months immediately preceding the date of the suit. The plaintiff therefore sought possession of the suit premises.

Defendant's case:

Apart from the denials, it is contended that except the suit premises the defendant does not have any other premises and that the monthly income of the family is meager and as such, the requirement of the suit premises is greater for the defendant and the plaintiff is admittedly rich and better placed and has other premises. Plaintiff has much larger and spacious accommodation of 150 sq.ft. each four rooms of ground + first floor.

Trial Court's findings:

The trial Court, answered the issue as regards the bonafide requirement in the affirmative and on the issue of comparative hardship held that the plaintiff will suffer greater hardship, if eviction decree is refused. As regards the issue of permanent alteration and addition the issue was answered against the plaintiff. The issue of non-user of the premises for continuous period of six months was answered in the affirmative. The suit came to be decreed directing the defendants to handover vacant and peaceful possession of the suit premises.

Appellate proceedings

Defendant has preferred an appeal and the Plaintiff has filed cross-objections against the findings adverse to him. You are to write judgment of the appellate court. **Do not mention your name or any other name or put signature as author of the judgment.**

Q.2 Write a detailed note of about 400 words on any one of the following :- 20

- A "The Courts shall have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred."
- B Essential Elements of valid contract and distinction between void and voidable agreements.
- C Right to Privacy as per the Supreme Court's judgment in 'Justice K.S. Puttaswamy (Retd.) & Anr. vs. Union of India & Ors.'
- D Relief of specific performance in the light of amendments to the Specific Relief Act, 1963 and judicial pronouncements.

Q.3 Answer any two of the following in detail 20

- A Pre-institution mediation and settlement as per the Commercial Courts Act, 2015.
- B What are the grounds on which a Court can set aside an arbitration Award?
- C Production of additional evidence in Appellate Court and power of Appellate Court to remand a case to the Trial Court.
- D Rules of succession to a Hindu Female dying intestate.

Q.4 Distinguish between any two of the following legal definitions/concepts. 20

- A Mortgage by deposit of title deeds and usufructory mortgage.

- B (1) Lease and Licence
(2) License and Easement
- C Joint Tenants and Tenants in Common.
- D Conditions and warranties.

Q.5 Write short notes on any two of the following.

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- A Delegated legislation.
- B Extent of implied authority of a partner as an agent of the firm.
- C Presumption as to thirty years old document.
- D Irretrievable breakdown of marriage.
