

HIGH COURT OF JUDICATURE AT BOMBAY
(APPELLATE SIDE)
MAIN WRITTEN EXAMINATION-2023
FOR THE POST OF DISTRICT JUDGE
PAPER-1 CIVIL LAW
QUESTION PAPER

Date : 4 th May, 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 of Appellate Court 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. **Do not mention your name or any other name or put signature as author of the judgment.** **30**

Plaintiff's case:

The plaintiffs are the landlords of the suit premises at Pune, comprising of six rooms. Suit premises were let out to Raghunath-the father of defendant no.1-Achyut, on monthly rent. Achyut, defaulted in payment of rent and was in arrears. Achyut had acquired suitable alternate premises and was residing in the said premises along with his family. The plaintiffs' children were to be kept for education at Pune. Plaintiff no.1, was transferred to Pune as his office was shifted there and was to retire from service soon. Except the suit premises he had no other premises to reside at Pune. The plaintiffs by their notice addressed to Achyut, terminated the tenancy on the above grounds and demanded possession.

Defendants' case:

Achyut, apart from denials averred that Raghunath and Sadashiv were real brothers. Vasant (defendant no.2) is the son of Sadashiv. The suit premises were taken on tenancy by the joint Hindu family and the joint family members are in occupation of the said premises. After the death of Karta- Raghunath, rent receipts were issued in his name. However at that time, Sadashiv with his family members was also residing in the suit premises. After Sadashiv's death his wife and children were residing in the suit premises. Vasant is now residing in the said premises with his family.

Vasant, raised similar contentions as to joint tenancy. He averred that due to growth of the defendant's family, Achyut had purchased a flat and was residing in the said block. The joint family had no concern with the flat. He had also filed a standard rent application before the Court of Small Causes at Pune, within one month from the receipt of the suit notice, praying that the standard rent be fixed. No notice was issued to him and/or to the heirs of deceased Sadashiv terminating their tenancy. Plaintiffs' children were in service and none of them were getting educated. Plaintiffs were in actual possession and occupation of 9 rooms in another property at Pune. He and his family would suffer greater hardship, if evicted.

Trial Court's findings:

The trial Court partly decreed the suit holding that, (i) Vasant was a tenant, (ii) Achyut had acquired alternate suitable premises (iii) plaintiffs' bonafide requirement was proved and ordered that Vasant, was entitled to continue in the suit premises as a tenant in respect of the four rooms by surrendering two rooms to plaintiffs.

Appellate proceedings

Vasant has preferred an appeal and also filed an application for production of additional evidence to dispute *bonafide* requirement of the Plaintiffs.

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

- A Contours of the term 'Other authorities' in Article 12 of the Constitution of India, in the light of judicial pronouncements.
- B "Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Explain.
- C Rise of 'tribunalisation' bane or boon.
- D Fundamental Rights vis a vis Ninth Schedule enactments in the light of Supreme Court's decision in ***I.R. Coelho v. State of T.N., (Nine Judge Bench)(2007) 2 SCC 1.***

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

- A Arbitrability of disputes as per the Arbitration and Conciliation Act, 1996?
- B Garnishee Proceedings as per Order XXI of the Code of Civil Procedure, 1908.
- C Evolution of concept of priority in payment of debts due to secured creditors, under various enactments.
- D What are the external aids to interpretation of statutes?

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

- A Damnum sine injuria and Injuria sine damnum.
- B Marshalling and Contribution as per the Transfer of Property Act, 1882.
- C (1) Agnate and Cognates,
(2) Divorce and Judicial Separation as per the codified Hindu Law.

D Memorandum of Association and Articles of Association as per the Companies Act, 2013.

Q.5 Write short notes on any two of the following. 10

- A Rights of unpaid seller, as per the Sale of Goods Act, 1930.
- B Pre-institution mediation and settlement, as per the Commercial Courts Act, 2015
- C Essential elements of valid marriage as per the Special Marriage Act, 1954.
- D 'Loss of consortium' as a head for compensation under the Motor Vehicles Act, 1988.
