

HIGH COURT OF JUDICATURE AT BOMBAY
(APPELLATE SIDE)
MAIN WRITTEN EXAMINATION – 2020
FOR THE POST OF DISTRICT JUDGE
PAPER I – CIVIL LAW
QUESTION PAPER

Date : 31st July, 2021

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 on the following facts after mentioning bare necessary facts and presuming that necessary witnesses were examined and relevant documents have been produced. (30)

The plaintiff claims that the defendant No.1 had agreed to sale the land Gat No. 57, admeasuring 08 acres at Village Lanja, District Ratnagiri under a registered Agreement for Sale dated 1st July, 2015 for a consideration of Rs. 4,00,000/-. Part-consideration of Rs. 2,00,000/- was paid and acknowledged under the agreement. It was agreed that, the balance consideration will be paid at the time of execution of Sale Deed on 1st August, 2016. The defendant No.1 has also agreed to obtain permission from Collector for sale. The plaintiff was put in possession of the land on the day of execution of Agreement. The defendant No.1 accepted further consideration of Rs. 1,00,000/- in two instalments of Rs. 30,000/- and Rs. 70,000/- on 9th August, 2015 and 27th October, 2015, respectively. However, the defendant No.1 avoided to obtain permission for sale and execute the Sale Deed in favour of plaintiff. Instead the defendant No.1 attempted to alienate the suit land in favour of the

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defendant Nos. 2 and 3. Thus, the plaintiff gave notice. As the defendant No.1 did not execute the Sale Deed, the plaintiff instituted a suit against defendant Nos. 1 to 3 on 1st July, 2019.

The defendant No.1 resisted the suit. Though defendant No.1 admitted execution of Agreement, it was contended that, it was only in the nature of security towards loan of Rs. 50,000/- obtained by him from the plaintiff, which he claimed to have repaid. He specifically pleaded that possession was never parted with under the Agreement and that defendant Nos. 2 and 3 were in possession of suit land in the capacity of tenants. It was contended that the suit was barred by limitation.

Defendant Nos. 2 and 3 also contested the suit and contended that they entered the suit land as tenants of the defendant No.1, on *batai* (tenancy basis) since *Gudipadva* of 2012. It was further contended that, on 2nd July, 2016 defendant No.1 has agreed to sale the suit land to them for a consideration of Rs. 8,00,000/- by executing an earnest note, under which Rs. 1,50,000/- was accepted by defendant No.1. The balance consideration was agreed to be paid at the time of execution of Sale Deed. The defendant Nos. 2 and 3 further contended that, they have instituted a suit seeking specific performance of contract against the defendant No.1 on 2nd August, 2019, which is pending.

Trial Court passed a decree for specific performance against the defendants.

Write a Judgment in an appeal preferred by the Defendant No.1.

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

- A. Welfare of child and Shared Parenting.
- B. Right to privacy.
- C. Doctrine of '*stare decisis*' with focus on the Indian scenario.
- D. 'Rule of Law'.

Q.3. Answer any **two** of the following in detail :- (20)

- A. Maintainability of cross objection in appeal.
- B. Analyse adultery, cruelty and desertion as grounds to dissolve marriage under the codified Hindu Law.
- C. Proof of reasonable and bonafide requirement as a ground of eviction under the Maharashtra Rent Control Act, 1999.
- D. Proof of Will : Pre-requisites and Onus.

Q.4. Distinguish between any **two** of the following legal definitions/concepts:- (20)

- A. Contributory and Composite negligence.
- B. Extension and Exclusion of the period of limitation.
- C. Tenant holding over and Tenant at sufferance.
- D. Mortgage by conditional sale and Sale with a condition of repurchase.

Q.5. Write short notes on any **two** of the following :- (10)

- A. Additional evidence at Appellate stage.
- B. Inherent powers enumerated in the Code of Civil Procedure, 1908 and its limitations.
- C. Error apparent on the face of Record.
- D. Power to order interim measures by arbitral tribunal.
