

Date :- 2nd January, 2011

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

(APPELLATE SIDE)

WRITTEN EXAMINATION

FOR THE POST OF JUDGE, FAMILY COURT - 2010

Time : 3 hours

Total Marks : 100

N.B.: (1) Marks to each question are indicated by figures in the margin on right hand.

(2) Number of optional questions up to the prescribed number in the order in which questions have been solved, will only be assessed and excess answers of the question/s will not be assessed.

(3) Other than cited cases, 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 disqualified.

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

20

The Petitioner AB son of CD

The Respondent EF wife of AB

The Petitioner was married to the Respondent in the year 2002. They were living together at Nashik. While they were so residing, some disputes arose between them.

It is the allegation of the Petitioner-husband that the Respondent-wife frequently used to leave the house of the Petitioner and go to reside at her parents' house. It is the further contention of the Petitioner that the Respondent was doing so without any reason or rhyme. Further it is the contention of the Petitioner that the Respondent was never ready to live with the Petitioner because the Petitioner was living in a joint family. The Respondent always wanted to live separately. However, the Petitioner was not ready to do so since he never wanted to shirk the responsibility of his parents.

The Respondent finally left the house of the Petitioner in the year 2004 and thereafter did not come back. Notice was issued to the Respondent calling upon her to resume co-habitation. The Respondent refused. Hence the Petitioner instituted a petition for dissolution of marriage in the year 2009.

The Respondent resisted the said petition. She denied all the allegations as were made against her. It was her contention that the Petitioner himself was not ready to cohabit with her. The Petitioner always used to ill-treat her on account of

unlawful demands and used to turn her out of the house. Ultimately, he drove her out of his house in the year 2004. Therefore, she has been constrained to reside at the house of her parents. She prayed for rejection of the petition.

Parties led evidence in support of their contentions.

Write a judgment on your own imagination on the aforesaid facts.

Q.2 (a) Translate into Marathi :

5

The Plaintiffs claimed to be the owners of the suit field. The suit field was initially mortgaged by the Defendants with the Plaintiffs' father Keshav Kalu Wani. Subsequent to the mortgage, there was a settlement between Keshav Kalu Wani and the predecessor-in-title of the Defendants, viz. Chindhu Nihalsing. In spite of the said settlement, the land remained in possession of Chindhu, the father of Defendant Nos. 1 and 2. Defendant Nos. 1 and 2 effected partition of the suit land and later sold it to the Defendant Nos. 3 and 4. The Defendant Nos. 1 and 2 never applied under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948. It is the contention of the Plaintiffs that they are entitled to possession of the suit property. They had in fact issued notice to the Defendants that the Plaintiffs were the owners of the suit property and the possession should be delivered back to the Plaintiffs. The Defendants did not. Hence the suit.

(b) Translate into English :

5

आमच्या वाटण्या १९७४ साली झाल्या. वाटणीच्या वेळी वादीला सर्वे कमांक ३० मधील पूर्व बाजूमधील साडे अठरा गुंठे जमीन दिली. बाकीची ३० गुंठे जमीन माझे ताब्यात आहे. ती वादीचे जमिनीलगत आहे. माझे हिश्यास लागून साडे अठरा गुंठेचा प्रतिवादी २ चा हिस्सा व मयत गणपतीचा साडे पंधरा गुंठेचा हिस्सा होता. बहिणीसाठी हिस्सा वाटून दिला नाही. बाकीच्या ३ जमिनी प्रतिवादी ४ व ५ यांना दिल्या. या जमिनीमध्ये एक सामाईक विहीर आहे व ती पडक आहे. आता शेतात वेगळ्या वेगळ्या वहीवाटी आहेत. अशा प्रकारे वाटण्या केल्याचा कागद नाही. वहीवाटीबाबत माझे शब्दाशिवाय दुसरा पुरावा नाही. मी एकत्र कुटुंबाचा मॅनेजर नव्हतो. माझे इतर भाऊ परगावी राहात होते. ते व्यसनाधीन होते.

Q. 3 What is the difference between judicial separation and divorce? Discuss. 10

Q. 4 Explain the procedure for execution of an order under Section 125 of the Code of Criminal Procedure. 10

Q. 5 What do you understand by "Protection Order" and "Residence Order"? Under what circumstances such orders can be passed? 10

Q. 6 What considerations should weigh with the Judge while passing an order for custody of a minor? 10

Q. 7 Write Short Notes (Any two) 10

- (a) Primary Evidence and Secondary Evidence
- (b) Public Document.
- (c) "Proved", "Not proved" and "Disproved".

Q. 8 Write Short Notes (Any two) 10

- (a) Execution of a decree for restitution of conjugal rights.
- (b) Scope of applicability of the Indian Evidence Act to the Family Courts.
- (c) Essentials of a valid adoption.

Q. 9 Write Short Notes (Any two) 10

- (a) Right of the children born out of void marriage
- (b) "Defendants" within the meaning of Section 21 of the Hindu Adoptions and Maintenance Act.
- (c) Leading questions.