

**HIGH COURT OF JUDICATURE AT BOMBAY**  
**(APPELLATE SIDE)**  
**MAIN WRITTEN EXAMINATION – 2021**  
**FOR THE POST OF DISTRICT JUDGE**  
**PAPER I – CIVIL LAW**  
**QUESTION PAPER**

Date : 20<sup>th</sup> August, 2022

Total Marks : 100

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

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**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.
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**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)

In a suit for redemption of mortgage and possession of the property, bearing Shop No. 10, Bhusari Galli, Barshi, Solapur, the Plaintiff averred that when he was in need of money the Defendant advanced him an amount of Rs.1,50,000/- against execution of a mortgage by conditional sale of the suit property, on 24<sup>th</sup> December, 1993. The mortgage was to be redeemed after the expiry of five years. Accordingly, on the expiry of five years, the Plaintiff demanded redemption of the mortgage and delivery of possession of the suit property. The Defendant on one or other pretext avoided to do so. Hence, the suit.

The Defendant resisted the suit. Though the Defendant admitted execution of the deed, the nature of the instrument was put in contest. It was contended that the transaction evidenced thereby was of sale with a condition

of repurchase. Additionally, the Defendant raised a contention that he has been in possession of the suit property as a tenant since 1988 at the monthly rent of Rs.100/-, and was running a grocery shop therein. During subsistence of the said tenancy, the deed was executed. It was contended that, even if the instrument is construed to be a mortgage, upon redemption, the Defendant's tenancy stands revived. As such, he is entitled to remain in possession of the suit property as a tenant.

The Defendant further contended that on the basis of the consent letter given by the Plaintiff on 25<sup>th</sup> October, 1994, he has carried out repairs to the suit property and incurred expenses of Rs.5000/-. The Defendant is thus entitled to refund of the said amount alongwith interest @ of 9% per annum.

On the basis of rival pleadings, the trial court settled the issues and passed a decree for redemption. The trial court held that the Defendant has failed to prove the plea of monthly tenancy. The trial court, however, directed the Plaintiff to pay the Defendant an amount of Rs.5000/- towards the expenses of repairs to the suit property, in addition to Rs.1,50,000/- being the mortgage money.

Write a Judgment in an appeal preferred by the Defendant.

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

- A. Legality of an award passed by an Arbitrator in conflict with the public policy of India.
- B. Jurisprudential concept of possession.
- C. Principles of natural justice and its development in modern times.
- D. Evolution of Hindu Women's Right to Property.

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

- A. "Limitation bars the remedy, but does not destroy the right". Discuss with exceptions.
- B. Appropriation of payments.
- C. Explain the concept 'future prospects' in relation to motor accident compensation claims with relevant case laws.
- D. Effect of non-registration of a Partnership Firm with particular reference to Maharashtra Amendment.

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

- A. Res-judicata and Relinquishment of part of claim.
- B. Joint Tenancy and Tenancy-in-common.
- C. Contract of indemnity and Contract of guarantee.
- D. Right in rem and Right in personam.

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

- A. Part performance of contract.
- B. Unpaid seller's lien.
- C. Admissibility of an insufficiently stamped instrument.
- D. Remoteness of damages.

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