

**MAIN WRITTEN EXAMINATION FOR THE POST OF
CIVIL JUDGE JUNIOR DIVISION & JUDICIAL MAGISTRATE FIRST CLASS,
GOA STATE JUDICIAL SERVICE (2014).**

PAPER – I (07.12.2014)

Time : 3 Hours

Max. Marks : 100

Note:-(1) Que. No.1 is compulsory.

(2) Solve any 5 out of the remaining questions.

Que.No.1 : Draft judgment on the following facts:

- * Frame proper issues arising out of stated pleadings.
- * Adhere to contents of judgment required under the C.P.C.
- * Wherever it is necessary you may exercise discretion in filling up details, while appreciating evidence, which ordinarily one comes across during trial of a civil suit.
- * Give logical, legal and proper reasons in support of your findings and conclude the judgment with a proper order.

Averments in the plaint

Plaintiff XYZ claim that he has agreed to purchase from defendant a plot of land admeasuring 300 sq. mts. , situated at Mapusa, Goa, for a sum of Rs. Twenty Lakhs by executing an agreement of sale deed dt. 6.3.2013, and paid a sum of Rs. One Lakh as earnest amount. On the date of execution of agreement, Plaintiff was put in possession of the land and it was agreed that the sale deed was to be executed within six months from the that date. As the defendant failed to execute the sale deed within six months thereafter, Plaintiff filed a suit for specific performance of contract and in alternate for refund of earnest amount with interest and compensation.

Averments in Written Statement

Defendant contested the suit by claiming that the agreement is not enforceable as it was executed only for the purpose of security to the loan of Rs. One

Lakh which he borrowed from the Plaintiff for his daughter's marriage. He further claimed that out of said loan, he repaid an amount of Rs. Forty thousand and he is ready and willing to repay the remaining amount of Rs. Sixty thousand with interest to the Plaintiff in installments. He further claimed that the possession of the suit plot was never handed over to the plaintiff and same is with the defedant. He claimed that plaintiff has not pleaded his willingness and readiness to perform his part of contract nor issued any notice to him before filing the suit. Hence, he claims that on all counts suit of plaintiff is liable to be dismissed with cost.

Marks : 20

Que. No.2 : Discuss any four of the following:

- (a) What is *Benami* transaction? What is the effect of such transaction?
- (b) Rejection of Plaintiff and Return of Plaintiff.
- (c) What is mediation? How it operate?
- (d) What is Jurisdiction? Describe types of jurisdiction?
- (e) Define Admission? When and how admission against person making it be proved?
- (f) Describe the provisions regarding introduction and retirement of a partner under Indian Partnership Act?

Marks : 16

Que. No.3 : Answer any four of the following:

- (a) What are the pre-requisites of grant of relief of temporary injunction?
- (b) Elaborate the circumstances under which the relief of interim mandatory injunction can be granted?
- (c) What are the restrictions on attachment of salary in execution proceedings?
- (d) Discuss Counter Claim and Set off.
- (e) Abatement of suit and setting aside of abatement.
- (f) Examination of an Expert?

Marks : 16

Que. No.4 : Write short notes on any four:

- (a) Burden of proof.
- (b) Estoppel.
- (c) Proved, disproved and not proved.
- (d) Adverse possession.
- (e) Cause of action.
- (f) *Res-judicata*.

Marks : 16

Que. No.5 : Answer any four of the following:

- (a) Explain and elaborate:- Court can appoint a Receiver when it is just and convenient---
- (b) Scope of review of judgment or order?
- (c) Doctrine of part performance. Explain.
- (d) Effect of transfer pendente lite.
- (e) Essential ingredients of a valid contract?
- (f) Explain and elaborate:- Jurisdiction to pass decree of specific performance is discretionary---

Marks : 16

Que. No.6 : Answer any four of the following:

- (a) What are the rights of a purchaser against the vendor with no title or imperfect title?
- (b) Contract which can not be specifically enforced. Specify.
- (c) When can a party be permitted to lead secondary evidence? State the procedure to be adopted by the Court?
- (d) Discuss the procedure for filling suit by Indigent person?
- (e) What is effect of non registration of a Firm?
- (f) Procedure to be followed in a suit against a minor? Discuss.

Marks : 16

Que. No.7 : Discuss any four of the following:

- (a) Alternate Dispute Resolutions.
- (b) Indemnity and Guarantee.
- (c) Contingent interest.
- (d) Representative Suit.
- (e) Bailment.
- (f) Easement of necessity.

Marks : 16

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PAPER - II (07.12.2014)

Time : 3 Hours.

Max. Marks : 100

Note : 1) Question no. 11 and 12 are compulsory.
2) Answer any seven from the remaining questions.

Marks to each question are indicated by figure in the margin on right hand.

Que:-1- Write short notes on any two:-

- A) Cognizable and non cognizable offences.
- B) Rights of Magistrate to direct Police to register an FIR.
- C) Common intention and Common object.
- D) Criminal force and Assault.

Marks : 10

Que:-2- Explain Cruelty and discuss the provisions of abetment by the husband and in laws to commit suicide?

Marks : 10

Que:-3- A) Explain the procedure for issuance of summons in a Private complaint by a Magistrate?

- B) Explain how a Magistrate can take cognizance of any offence?

Marks : 5+5

Que:- 4- Write short notes on any two:-

- A) Confession of Co-accused in joint trial.
- B) Discovery and Recovery at the instance of Accused.
- C) Giving false evidence, consequence of. (ch XI)
- D) Arrest of person (Sec. 41)

Marks : 10

Que:-5- What is Primary evidence? When secondary evidence admissible?

Marks : 10

Que:- 6- Write short notes on any four:-

- A) First Information Report.
- B) Compounding of offence.
- C) Hurt and Grievous hurt.
- D) Forgery.
- E) Hearsay Evidence.
- F) Fact is issue.

Marks : 10

Que:- 7- Explain the difference between:- (Any two).

- A) Criminal breach of trust and misappropriation of property.
- B) Outraging modesty of woman and insulting her modesty.
- C) Robbery and Dacoity.
- D) Harassment of woman by in laws for illegal demand and Dowry death.

Marks : 10

Que:- 8- Define Defamation and what are its exceptions.

Marks : 10

Que:- 9- Write short notes on any two:-

- A) Burden of proof in criminal matter.
- B) Presumptions as to documents.
- C) Wrongful gain and Wrongful loss.
- D) Right of private defence.

Marks : 10

Que:- 10 – Elaborate:- concept of recording confessions by Magistrates and precautions to be taken while recording it?

Marks : 10

Que:- 11 - Write Essay on any one of the following:-

- A) Cyber Crime by white collared persons.
- B) Offence against a Child, consequence of.

Marks : 10

Que:- 12 – Write a judgment on the following facts:

(Specify proper points of determination and give reasons for your conclusion on each point for determination. Conclude the judgment by proper and final order. To the extent if it is necessary to elaborate appreciation of oral and documentary evidence, you are at liberty to fill in the details in the case from your imagination).

The case of prosecution is as under:-

Complainant filed complaint under section 138 of Negotiable Instrument Act, in the Court of JMFC, Panaji, disclosing that cheque issued by the Accused on 1.3.2013 for Rs.40,000/- drawn on Mapusa Bank, towards due repayment of loan, was returned unpaid by the bank on the ground of insufficiency of funds in the account of Accused and the notice issued from Panaji, to the Accused returned with the endorsement "Unclaimed". It is also the case of complainant that the cheque issued was at "Par".

Accused took the defence of want of jurisdiction of JMFC Panaji to entertain the complaint and also stated that the cheque was not issued towards repayment of debts but only for security.

Marks : 20
