

HIGH COURT OF BOMBAY AT GOA (PANAJI)
FINAL (MAIN) WRITTEN EXAMINATION FOR THE POST OF CIVIL JUDGE
JUNIOR DIVISION AND JUDICIAL MAGISTRATE FIRST CLASS 2019
PAPER – I (CIVIL AND CONSTITUTIONAL LAW)

(Date : 08.12.2019)

Time : 3 hours

Total Marks : 100

Instructions :

1. All questions are compulsory.
2. Question No.1 carry 20 marks. All other questions carry equal marks i.e. 16 marks each.
3. Your answers must be to the point, wherever possible quote the specific provisions of law.
4. Do not reproduce any question. Write only question's number against the answer.
5. Number of optional question up to the prescribed number in the order in which questions have been solved, will only be assessed and excess answers of the questions/s will not be assessed.
6. Other than cited cases, candidate should not write roll number, any names (including his/her own), signature, address or any indication of his/her identity anywhere inside the answer book otherwise he/she will be penalised.

Q.1. Draft judgment on the following facts:

Marks : 20

- i) Adhere to the contents of Judgment as required under the Code of Civil Procedure.
- ii) Frame and answer the issues properly.
- iii) Give legal, logical and proper reasons for your findings.
- iv) Conclude the judgment with a proper order.

Averments in the plaint:

Plaintiff is the owner of a plot admeasuring 1000 sq.mtr. situated at Mapusa, Goa. Since last 30 years the plaintiff is working at Mumbai in a Private firm. When the plaintiff had been to Goa in the month of March 2019, he found defendant has encroached upon his plot and has unauthorisedly made constructed thereon. Plaintiff issued notice to the defendant to hand over peaceful and vacant possession of the suit plot. As the defendant fail to do so, he preferred suit for eviction of the defendant and peaceful possession of the suit plot.

Averments in the Written statement :

Defendant has claimed that the plaintiff has permitted him to occupy the plot and to make construction thereon since more than 25 years ago and he is paying the occupation charges of Rs. 1000/- per month to the plaintiff. Alternatively, defendant has pleaded that he is in peaceful, uninterrupted and continuous possession of the suit plot since more than 20 years and has become owner of the suit plot by virtue of adverse possession.

Q.2. Write short notes on *any two* of the following:

(8 marks each)

- a. Resistance of delivery of possession to the decree holder or purchaser under the Code of Civil Procedure.
- b. Place of institution of suits and objections to jurisdiction under the Code of Civil Procedure.

- c. Provisions under the Specific Relief Act for cancellation of instruments.
- d. Provisions with regard to Licitation of gifted assets, licitation of bequeathed assets and licitation of assets which is not acceptable to division without detriment, under the Goa Succession Special Notaries and Inventory Proceedings Act, 2012.

Q.3. Discuss **any four** of the followings: (4 marks each)

- a. Mundkar's right to alienate under the Goa, Daman and Diu Mundkars (Protection from Eviction) Act 1975.
- b. Determination of fair rent and cases wherein increase in fair rent is admissible under the Goa, Daman and Diu Buildings (Lease Rent & Eviction) Control Act, 1968.
- c. Tenants right of first purchase under the Goa, Daman and Diu Agricultural Tenancy Act, 1964.
- d. Impediments to the marriage under Portuguese Civil Code.
- e. Instrument of Declaration of Heirship under the Goa Succession Special Notaries and Inventory Proceedings Act, 2012.
- f. As per the provisions of the Goa Succession Special Notaries and Inventory Proceedings Act, 2012, to whom the office of head of the family belongs and when the guardian can be appointed as head of the family.
- g. Provisions relating to recovery of possession by landlord for repairs, alterations or additions or reconstruction under The Goa, Daman and Diu Buildings (Lease Rent & Eviction) Control Act, 1968.
- h. Provisions as to inventory upon divorce or separation or annulment of marriage and inventory in the event of dissolution of joint family under the Goa Succession Special Notaries and Inventory Proceedings Act, 2012.

Q.4. Answer **any two** of the followings : (8 marks each)

- a. Provisions as to the disposal of the Civil suit at the first hearing under the Code of Civil Procedure.
- b. Provisions as to Contingent contracts and its enforcement under the Indian Contract Act 1872.

- c. Explain Rights and liabilities of buyer and seller under the Transfer of Property Act, 1882.
- d. Annulment of Catholic and Civil marriage and its effects under Portuguese Civil Code.

Q.5. Write short notes on **any four** of the followings : (4 marks each)

- a. Procedure for sale of agricultural produce, growing crops and negotiable instruments in execution proceedings under the Code of Civil Procedure.
- b. Rectification of Instruments under the Specific Relief Act.
- c. Dissolution of partnership firm.
- d. With reference to Limitation Act - Legal disability and disability of one of several persons.
- e. Transfer by ostensible owner under the Transfer of Property Act.
- f. Duration of transit, Right of stoppage in transit and its effect under the Sale of Goods Act.
- g. Landlords rights to obtain possession under the Goa, Daman and Diu Buildings (Lease Rent & Eviction) Control Act, 1968.
- h. Bar to eviction of a mundkar from a dwelling house and procedure for restoration of possession under the Goa, Daman and Diu Mundkars (Protection from Eviction) Act 1975.

Q.6. Write short notes on **any two** of the followings: (8 marks each)

- a. Effect of death, marriage and insolvency of parties on a civil suit and the procedural aspects in this regard under the Code of Civil Procedure.
- b. Constitutional provisions with regard to protection in respect of conviction for offences and protection against arrest and detention in certain cases.
- c. Extinction of Easements.
- d. General rights and duties of the spouses and marital authorisation under Portuguese Civil Code.

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FINAL (MAIN) WRITTEN EXAMINATION FOR THE POST OF CIVIL JUDGE
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PAPER – II (CRIMINAL LAW)
(Date : 08.12.2019)

Time : 3 hours

Total Marks : 100

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Q.1. Write a judgment on the following facts :

Marks : 20

- i) Adhere to the contents of Judgment as required under the Code of Criminal Procedure.
- ii) Frame and answer the points for determination properly.
- iii) Give legal, logical and proper reasons for your findings.
- iv) Conclude the judgment with a proper order.

The informant Neeta's marriage was solemnized with Somesh on 01.01.2018. Six months after the marriage her husband along with her in-laws started harassing her on account of demand of dowry. They used to abuse her on this count. On many occasions her mother-in-law did not use to provide her meal. On three to four occasions she was kept locked inside the room throughout the day. She had complained about such ill-treatments to her father on phone. On 02.10.2018 in the morning her husband beat her with the stick in the presence and on instigation of her in-laws. They drove her out of matrimonial home. She went to her parents house. Narrated all instances of cruelty to them. She then went to the Police station and lodged report against her husband and her mother-in-law and father-in-law. Police referred her to medical examination. Investigating Officer recorded statements of Neeta, her parents and the neighbours of her matrimonial home and on completion of investigation filed a charge-sheet against the accused.

Prosecution examined Neeta, her parents, two neighbours, Doctor and Investigating Officer. The neighbours did not support the prosecution. The defence of the accused is total denial and false implication in the case.

Q.2. Write notes on **any two** of the followings :

(8 marks each)

- a. Trial of summons cases by Magistrates.
- b. Compounding of offences and withdrawal from prosecution.
- c. Primary Evidence and Secondary Evidence.

- d. Prerequisites for applicability of sec 138 of the Negotiable Instruments Act and the requirements for taking cognizance of offence punishable under Section 138 of the Negotiable Instruments Act.

Q.3. Write short notes on **any four** of the followings: (4 marks each)

- a. Custody and disposal of property in pending trial and at the conclusion of trial.
- b. Irregularities which vitiate proceedings under the Code of Criminal Procedure.
- c. Wrongful restrain and wrongful confinement.
- d. Criminal liability of an act of a child above 7 years and under 12 years of age, of immature understanding and acts of a person of unsound mind.
- e. Holder and holder in due course of negotiable instrument.
- f. Relevancy of facts forming part of same transaction and when facts not otherwise relevant become relevant.

Q.4. Discuss **any two** of the followings: (8 marks each)

- a. Tender of pardon.
- b. Criminal force and assault.
- c. Cheating and mischief.
- d. Proof of execution of document required by law to be attested, proof where no attesting witness found and proof when attesting witness denies the execution.

Q.5. Write short note on **any two** of the followings: (8 marks each)

- a. Cognizance of offences by Magistrate and procedure in cases which Magistrate cannot dispose of criminal proceedings.
- b. Procedure to be followed by Magistrate upon receipt of a complaint.
- c. Relevancy of character as per the Indian Evidence Act.
- d. Rights of victims and witnesses under the Scheduled Castes and Schedules Tribes(Prevention of Atrocities) Act 1989.

Q.6. Write an essay on **any one** of the following topics:
(Approx 800 words)

Marks 16

- a. Appreciation of retracted confession and confession of co-accused in a criminal trial.
- b. Victims right and role of court towards victim under the Criminal Justice System.
- c. Protection, reliefs provided to the aggrieved person under the Protection of Women from Domestic Violence Act, 2005.
