



MH Civil Judge (Main) Examination-2014

PAPER- I CIVIL LAW

**Civil Procedure Code, Transfer of Property Act, Specific Relief Act,
Law of Contracts, Sale of Goods Act and Partnership Act**

Time Allowed: 3 Hours

Maximum Marks: 100

Note:

- (1) All questions are compulsory.
- (2) Question No. 1 carries 20 marks. All other questions carry equal marks i.e., 16 marks each.
- (3) Your answers must be to the point, wherever possible quoting the specific provision of law.
- (4) Do not reproduce any question. Write only question's number against the answer.
- (5) Wherever option has been given only the required number of responses in the serial order attempted shall be assessed. Excess responses shall be ignored.
- (6) "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 penalised".
- (7) English version of the question shall be authentic in case of any type of ambiguity.
- (8) All questions can be attempted only in one language either in English or in Marathi as per the option given in the application form.
- (9) Candidates are expected to answer all the subquestions of a question together. If subquestion of a question is attempted elsewhere (after leaving a few pages or after attempting another question) the later subquestion shall be overlooked.

1. Write a Judgement on the basis of the facts narrated below :

While writing Judgement :

- (a) adhere to the contents of Judgement as required under the Code of Civil Procedure.
- (b) frame and answer the issues properly.
- (c) wherever necessary, fill up the details from your imagination.
- (d) give legal, logical and proper reasons for your findings.
- (e) conclude the Judgement with a proper operative order.

Averments in the Plaint

Plaintiff and Defendant No. 1 start business in partnership investing 1/2 share each in the capital of the business. Defendant No. 2 is the brother of Defendant No. 1. He gives his premises for running the business without charging any rent. Subsequently Defendant No. 1 retires and his minor son is accepted as partner. After some period, plaintiff files a suit for dissolution of partnership firm claiming half share in capital and profit and requesting the court for settlement of accounts.





Averments in the written statement

Defendants request for dismissal of the suit on following the grounds :

- (1) As partnership Firm is not registered, suit itself is not tenable.
- (2) Plaintiff alone cannot take a decision of dissolution of partnership. Defendants want to continue with the business.
- (3) Plaintiff does not have half the share in capital and profit. Defendant No. 2 is also a silent partner and entitled to share as the partnership premises belong to him.
- (4) As the son of Defendant No. 1 a is minor a suit is not tenable against him and his share cannot be liable for the loss, if any, in the business.

2. Answer any two of the following sub-questions:

- (a) Discuss the statement "Exclusion of Civil Court's jurisdiction is not to be readily inferred".
- (b) Discuss in detail provisions relating to execution of money decree from garnishee.
- (c) "If one suit is disposed of, second suit in respect of the same property between the same parties cannot be tenable". Discuss this statement.

3. Write short notes on any four of the following:

- (a) Suits by or against corporations
- (b) Rights and liabilities of mortgagee
- (c) Execution of a decree for specific performance of contract
- (d) Performance of Reciprocal Promises
- (e) Suit for possession of immovable property based on previous possession

4. Answer any two of the following sub-questions :

- (a) Discuss the relevant provisions of Injunction under the code of Civil Procedure and Injunction under the Specific Relief Act..
- (b) Elaborate the correctness of the statement, "lease and licence are two different transactions".
- (c) Discuss under which circumstances specific performance cannot be granted ?

5. Answer any two of the following sub-questions :

- (a) Discuss the terms 'Ostensible owner and Fraudulent owner'.
- (b) Discuss whether the powers of the Court Commissioner and the Court Receiver are the same or different ?
- (c) "Once goods are sold, the seller ceases to have any rights and liabilities". Discuss the statement.

6. Answer any two of the following sub-questions :

- (a) Discuss the statement, "Once the trial starts, amendment in pleadings cannot be permitted".
- (b) Discuss "onerous gifts" and "universal donee".
- (c) Discuss provisions relating to cancellation of instruments.
- (d) Free Consent





Paper - II
Criminal Law

**Indian Penal Code, Evidence Act, Code of Criminal Procedure,
SC & ST (Prevention of Atrocities) Act, 1989 and Protection of Civil Rights
Act, 1955, Essay on Current Legal Topic**

Time Allowed: 3 Hours

Maximum Marks: 100

Note:

- (1) Question Nos. 9 and 10 are compulsory.
- (2) Answer any six from the remaining questions.
- (3) Marks to each question are indicated by a figure in the margin on the right hand side.
- (4) Wherever option has been given only the required number of responses in the serial order attempted shall be assessed. Excess responses shall be ignored.
- (5) Do not reproduce any question. Write only question's number against the answer.
- (6) "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 penalised."
- (7) English version of the question shall be authentic in case of any type of ambiguity.
- (8) All questions can be attempted only in one language either in English or in Marathi as per the option given in the application form.
- (9) Candidates are expected to answer all the subquestions of a question together. If subquestion of a question is attempted elsewhere (after leaving a few pages or after attempting another question) the later subquestion shall be overlooked.

1. Explain the difference between a warrant trial and a summons trial.

[10]

2. Write short notes on any two:

- (a) Facts of which a court must take a judicial notice.
- (b) Difference between an admission and a confession.
- (c) Impeaching credit of a witness.
- (d) Competency of an accomplice to testify and precaution to be taken while appreciating his evidence.

[20]

3. Explain in detail the right of private defence with special reference to the instances when it extends to causing death.

[10]

4. Write the difference between any four :

[15]

- (a) Common Intention and Common Object
- (b) Theft and Extortion





- (c) Preparation to commit dacoity and assembling for the purpose of dacoity
- (d) Wrongful Restraint and Wrongful Confinement
- (e) Kidnapping and Abduction
- (f) Criminal trespass and House trespass

5. Explain with illustrations when the charges can be joined ?

[10]

6. Answer any two :

- (a) What is the use of the diary to be maintained by an investigating officer during trial ?
- (b) When unlawful compulsory labour constitutes 'untouchability' ?
- (c) What are the presumptions as to the offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ?
- (d) When police may arrest without warrant ?

[20]

7. Write a detailed note on presumptions of facts and law with reference to their effect.

[10]

8. Write short notes (any two):

- (a) Stoppage of summons case trial
- (b) Closure report of a case
- (c) Levy of fine
- (d) Further investigation by investigation officer

[20]

9. Write an essay on any one topic (800 words) :

- (a) Increasing participation of children in sexual offences - a challenge.
- (b) Collegium system of appointment of Judges Versus Judges Appointment Commission.
- (c) Witness protection - a challenge to judicial administration.

[20]

10. Write a judgement on the following facts :

A & B are ferry operators doing their business across the same creek. One night 'A' carries the boat of 'B' to the otherside of the creek clandestinely and leaves it there duly anchored. On the complaint of 'B' police carryout investigation. 'A' is arrested and chargesheeted in the court of JMFC Alibag. Boat is found intact and is seized during investigation.

During trial enough reliable evidence is led to attribute authorship of the incident to 'A'. Asstt. Govt. Prosecutor argues that theft by 'A' is duly established. According to the defence that 'A' had not retained the boat which is intact and there was no gain to him. Alternatively A claimed benefit of the probation of offenders Act.

[20]

