



MH Civil Judge (Main) Examination-2016

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.

Facts :

Suit Properties : Gat No. 817, 820 and 828
Situating at Village Bhada,
Tal. Ausa, District Latur
Facts for the Judgement

Plaintiff's Case :

One Ashok Amol Desai was the owner of the suit properties. On 1.10.2004, he entered into an agreement of sale of the suit properties with plaintiff Ram Lalit Mane; for the total consideration of 74,00,000. On the date of the agreement the plaintiff gave * 1,00,000 to Ashok Desai towards earnest money. It was agreed that Ashok Desai would obtain





requisite permission of the authorities for sale of the quit properties and thereafter within one month the sale deed would be executed on payment of balance consideration. Ashok died on 11.10.2006. The plaintiff approached the son of Ashok Desai, namely, Arvind in January 2008. Arvind denied the transaction. Plaintiff issued a legal notice dt 30.9.2010. Arvind did not respond to the notice. Hence Ram filed a suit for specific performance of contract and alternatively for refund of earnest money.

Defendant's case :

Defendant denied the transaction and took the defence that the plaintiff had fraudulently took the signature of his father on blank paper as the father of the defendant was in need of money and therefore obtained a loan of 1,00,000 from the plaintiff.

Evidence :

Take by imagination, based on pleadings.

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

- What is decree ? Explain the difference between Preliminary decree and Final decree. Whether a preliminary decree can be executed ?
- Explain the difference between Section 5 and Section 6 of the Specific Relief Act, 1963.
- When is a suit for Declaration, Possession and Injunction required to be filed ? When is a suit for Possession and Injunction required to be filed ?

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

- Vested and Contingent interest
- Transfer by one Co-owner
- Marshalling Securities
- Difference between courts of limited jurisdiction and courts of unlimited jurisdiction
- Cause of action and when it can be said that a cause of action arose partly (1) Necessary and Proper parties

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

- Explain the need for temporary injunction to create third party interest in suits for specific performance of contract vis-a-vis provision of lig-pendence in Transfer of Property Act, 1882.
- Under what circumstances specific performance of contract cannot be enforced?
- What is part performance of contract with reference to specific performance of contract ?

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

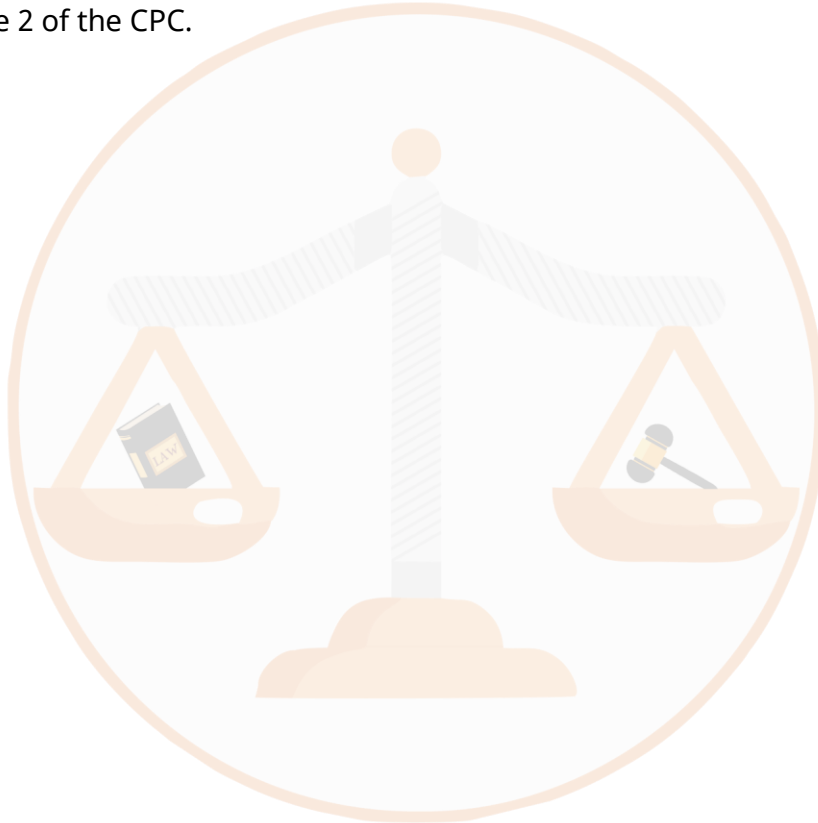
- Define consent. When is consent said to be free?
- What is the importance of consideration under Contract Act, 1872 ?
- Define Contract of Guarantee and Continuing Guarantee.
- Explain the difference between Pledge and Mortgage.
- Explain the concept of fiduciary relationship between Principal and Agent.

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





- (a) Explain the different modes of service of summons under the Code of Civil Procedure, 1908.
- (b) Explain the difference between ex parte decree and ex parte order. What are the grounds to set aside ex parte decree?
- (c) What is the principle of res-judicata and constructive res-judicata ? Explain the difference between res-judicata and Order 2 Rule 2 of the Code of Civil Procedure, 1908.
- (d) Explain the difference between Preliminary issue under Section 9-A and Order 14 Rule 2 of the CPC.





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. **What is meant by burden of proof? On whom does it lie ? Does the burden of proof shift?** [10]
2. **Write short notes (any two):** [10]
 - (a) Document
 - (b) Hostile witness
 - (c) Res gestae
 - (d) Secondary evidence
3. **Explain in detail the provisions regarding criminal conspiracy.** [10]
4. **Write difference between (any four) :** [10]
 - (a) Bailable offence and Non-bailable offence
 - (b) Common intention and Common object





- (c) Inquiry and Investigation
- (d) Admission and Confession
- (e) Complaint and FIR
- (f) Bigamy and Adultery

5. Explain the provisions relating to hurt and grievous hurt.

[10]

6. Define and explain the following:

[10]

- (a) Place of Public Entertainment' under Protection of Civil Rights Act
- (b) Atrocity

7. Write notes (on any four):

- (a) Valuable Security
- (b) Wrongful gain and Wrongful loss
- (c) Injury
- (d) Good faith
- (e) Theft
- (f) Extortion

[10]

8. Discuss in detail the provisions relating to unlawful assembly.

[10]

9. Write an essay on any one of the following:

- (a) Whether capital punishment should be abolished ?
- (b) Whether defamation should be decriminalised ?
- (c) Whether juvenile offenders should be treated as adults in case of heinous crimes ?

[20]

10. Write judgement on the following facts :

[10]

There was a quarrel between A and B. C, B's brother, went to A's house to know the cause of the quarrel. A twisted C's right hand forcefully resulting in dislocation of C's shoulder. B is an eye witness to the incident.

It was argued on behalf of the prosecution that it has proved its case beyond reasonable doubt. It was argued on behalf of the accused that there was enmity between A and C. B's testimony cannot be relied upon as he is a related witness and no independent witness was examined.

