

M.P. JUDICIAL SERVICE MAIN EXAMINATION- 2013

Roll No./ अनुक्रमांक

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Candidate should write his Roll No. here
परीक्षार्थी अपना अनुक्रमांक यहाँ लिखें

C.J.-13

(Judgment/Order Writing)

Fourth Paper

निर्णय/आदेश लेखन

चतुर्थ प्रश्न-पत्र

Total No. of Questions :2

कुल प्रश्नों की संख्या : 2

Time Allowed -1.30 Hours

समय - 1.30 घण्टे

No. of Printed Pages : 8

मुद्रित पृष्ठों की संख्या : 8

Maximum Marks – 50

पूर्णांक - 50

Instructions / निर्देश :-

1. This Question Paper consists of Two Questions. All questions have to be answered. Answer to the questions must be given in one language either in Hindi or in English.
इस प्रश्न-पत्र में कुल दो प्रश्न हैं। सभी प्रश्नों के उत्तर देने हैं। प्रश्नों के उत्तर एक ही भाषा हिन्दी या अंग्रेजी में लिखना होगा।
2. In case there is any difference either of printing or of a factual nature, out of the Hindi and English versions of the question, the version in which the candidates has attempted his answer, will be treated as standard.
यदि किसी प्रश्न में किसी प्रकार का कोई मुद्रण या तथ्यात्मक अंतर हो, तो हिन्दी तथा अंग्रेजी रूपांतरों में से अभ्यर्थी ने जिस भाषा में प्रश्न हल किया है उसी भाषा के लिखित प्रश्न के तथ्यों को मानक माना जायेगा।
3. While answering a Question, do not use any word indicating a name. Where ever needed, use alphabets " A B C". Please do not mention your name, address, roll number or any specific mark or name under any circumstances. Otherwise it will be treated as disqualification and candidature shall be cancelled.
किसी भी प्रश्न के उत्तर में किसी नामवाचक शब्द का प्रयोग न करें। जहाँ आवश्यक हो वहाँ नाम के स्थान पर अक्षर "ए बी सी" का प्रयोग करें। स्वयं के नाम, पते, रोल नम्बर या विशिष्ट चिन्ह अथवा नाम का उल्लेख कदापि न करें। अन्यथा इसे अयोग्यता माना जायेगा तथा अभ्यर्थिता निरस्त कर दी जायेगी।
4. Write your Roll number in the space provided on the first page of Answer-Book or supplementary sheet. Any attempt to disclose identity, in any way by any means in any other part thereof shall disqualify the candidature.
उत्तर पुस्तिका अथवा अनुपूरक शीट के प्रथम पृष्ठ पर निर्दिष्ट स्थान पर ही अनुक्रमांक अंकित करें। किसी भी प्रकार से किसी भी साधन द्वारा किसी अन्य भाग पर पहचान प्रकट करने पर उम्मीदवारी निरहित हो जावेगी।
5. Answers of this Question Paper must only be given in Answer-book provided for this Question Paper. Answers given on another Answer-book shall not be valued.
इस प्रश्न पत्र के उत्तर, इस हेतु दी गई उत्तर-पुस्तिका में ही लिखें। अन्य उत्तर पुस्तिका में उत्तर दिये जाने पर उनका मूल्यांकन नहीं किया जावेगा।
6. Writing of all answers must be clear & legible. If the writing of answer-book written by any candidate is not clear or is illegible in view of Valuer/Valuers then the valuation of such answer-sheet shall not be done.
सभी उत्तरों की लिखावट स्पष्ट और पठनीय होना आवश्यक है। किसी परीक्षार्थी के द्वारा लिखी गई उत्तर-पुस्तिका की लिखावट यदि मूल्यांकनकर्ता/मूल्यांकनकर्तागण के मत में अस्पष्ट या अपठनीय होगी तो उसका मूल्यांकन नहीं किया जायेगा।

- 1 Write a judgment on the basis of pleadings and evidence given here under after framing necessary issues and analyzing the evidence, keeping in mind the provisions of relevant Law/Acts. 30

निम्नलिखित अभिवचनों के आधार पर विवाद्यक विरचित कीजिये एवं साक्ष्य का विवेचन करते हुए संबंधित विधि/अधिनियम के सुसंगत प्रावधानों को ध्यान में रखते हुए निर्णय लिखिये।

PLAINTIFF'S PLEADINGS

'A' filed a suit for declaration of relationship, eviction and recovery of rent against 'B' with pleadings that the suit house situated at Dhar was purchased by him some three years ago. 'A' is residing in a rental house and he needs bonafidely the suit house for residence of his family. He has no other suitable accommodation of his own in the town. Previously he had also filed a suit against 'B' for eviction on bona-fide requirement but the same was dismissed being filed within six months of the purchase of suit house by him. In the previous suit the defendant has also challenged the relationship hence a decree of declaration of relationship is also sought as the court has held that tenancy is not proved.

DEFENDANT'S PLEADINGS

'B' denied the plaintiff allegations substantially and pleaded in the written statement that there is no relationship of land lord and tenant among the parties. The plaintiff has no bona fide requirement and the suit is also barred by principle of res-judicata as the civil court has already dismissed the previous suit holding that the tenancy is not proved. During proceeding at evidence stage the W/S was amended by inserting a para that during pendency of suit the plaintiff has purchased and got vacated another house of his own and started living with his family.

Plaintiff's evidence-

Plaintiff has produced original sale deed (Ex.P1) copy of judgment of previous suit (Ex.P2). he has also produced himself and two witnesses 'C' and 'D' in oral evidence. The plaintiff 'A' has deposed the facts narrated in pleadings however he has admitted that during pendency of the suit he has purchased a house and he is residing in it however he has clarified that other family members are residing in rented

house. He has also admitted that there is no pleading regarding purchase of another house and no notice was given to defendant regarding purchase of suit house. Other witnesses have proved the purchase of suit house by plaintiff and necessity of plaintiff. They have shown their ignorance from the purchase of another house.

Defendant's evidence

Defendant has produced certified copy (Ex. D.1), the sale deed of the other house. Defendant has produced himself and one witness 'F' in evidence. Defendant has approved his pleading and deposed that with purchase of another house the requirement if any of plaintiff comes to end. Defendant had no notice regarding purchase of suit house by plaintiff and plaintiff has never realized the rent from defendant hence he can not be evicted on basis of disclaimer of title. The witness also supported the defendant's statement. Although defendant and his witness have admitted that they have not seen family of plaintiff residing in another house and they do not know whether the plaintiff has vacated/ left the rented house or not.

Arguments plaintiff

Even after first suit the defendant has denied the title of plaintiff on suit house. Defendant has not proved that the plaintiff has shifted in other house with family. Thus he has failed to prove that bona fide requirement of plaintiff is not genuine or comes to end. Plaintiff and his witnesses have proved the bonafied requirement. Previous suit was not maintainable hence principle of res-judicata does not apply in this suit. Since the defendant has also denied the title of plaintiff, hence the plaintiff also deserves to get the decree of eviction on this ground.

Arguments defendant

Disclaimer in a non-maintainable suit will not be treated as a ground against defendant. Since the plaintiff has admitted the purchase and taking possession of second/other house, he was under obligation to prove that this house is insufficient for the residence of his family. But the plaintiff has not prove this fact either by pleading or by evidence principle of res-judicata also applies in this case, because the civil court had inherent jurisdiction

