

11th Limited Competitive Examination for promotion to the cadre of District Judge (Entry Level) against 10% quota

Date of Examination : 10th October, 2020 (Saturday)

Paper : Judgment Writing

Total Marks : 60

Pass Marks : 24

Time : 2 hours

At least one judgment must be written in English. Each judgment carries 30 marks.

1. Civil Judgment Writing

The plaintiff's father, Krishna Yadav was the elder son of one Govinda Yadav. The second son Vasudeva Yadav was the father of defendants 1 to 5 and husband of the 6th defendant. The plaint A schedule property was acquired by Govinda Yadav under Ext.-A-1 on 6-6-1894. After his death, the plaint B schedule property was acquired by Krishna Yadav under Ex. A-2, dated 30.10.1916. Krishna Yadav died in 1922, leaving the plaintiff, his son. Vasudeva Yadav died in 1949 leaving defendants 1 to 5 and the widow, the 6th defendant. During the pendency of the suit, the 6th defendant died and thereupon, defendants 1 to 5 were recorded as legal representatives and besides the seventh defendant, the daughter was brought on record. The suit was laid for partition of the plaint A and B schedule properties and for allotment of the plaintiff's half share, with past and future mesne profits. The plaintiff alleged that the suit properties were the joint family properties and that he was entitled to a half share therein.

The suit was resisted on the ground that the plaintiff's father was given his share and sent out of the family by Govinda Yadav and that the

plaintiff was not entitled to any share. It was also contended that, in any event, the defendants had acquired title by adverse possession for over the statutory period.

The trial court found that there was no joint family so as to entitle the plaintiff to claim a half share in the A schedule property which was purchased in the name of his grandfather Govinda Yadav. Inasmuch as the plaintiff B schedule property was acquired in the name of the plaintiff's father, the trial court found that the plaintiff was entitled to that property alone and, accordingly, dismissed the suit as regards the plaintiff A schedule property and the movables in the B schedule in which the plaintiff claimed a share, and decreed the suit declaring the plaintiff's title to the B schedule property and for possession of the same.

Aggrieved by this decree the first defendant has filed the appeal. Aggrieved by the dismissal of the suit in so far as the plaintiff A schedule property is concerned, the plaintiff has filed the memorandum of cross-objections.

Decide.

2. Criminal Judgment Writing

On February 14, 2014 one Vijay Singh Chauhan was murdered at about 2.45 p.m. at the orchard of Mangal Singh in the town of Bettiah, West Champaran. The prosecution case was that Vijay Singh had love affair with the daughter of Shiv Narayan, namely, Radha, who was a student in the girls' school in the town. Such love affair was not liked by Shiv Narayan, his brother Prakash Pathak and other members of the family. On the date of occurrence Vijay Singh had been to the school of Radha and Radha left the school and went with Vijay Singh to different places. Thereafter, Vijay returned to the garage of Shiv

Narayan where one Sri Vijay Kumar, the brother-in-law of one Sri S.K.Singh had come to the garage of Shiv Narayan for the purpose of finding out the residence of S.K.Singh. Vijay Singh and his younger brother Ajay Singh were asked by Shiv Narayan to accompany Vijay Kumar for the purpose of showing him the house of S.K.Singh. When they reached near about the Khara Well turning from the three-way (tigda) of Prem Narayan Tiwari, accused Raju came from behind and putting his hand on the shoulder of the deceased Vijay Singh asked him to come to discuss some matter. The deceased Vijay Singh told Vijay Kumar to wait for some time and he along with his brother Ajay Singh went towards the Prem Narayan Tigda. At that place, the accused Shiv Narayan Pathak and the co-accused Prakash as also Vishnu appeared. Vijay Singh on seeing these people attempted to enter the house of Mangal Singh and went towards the back side. He tried to cross the barbed wire fencing at the back side of the orchard of Mangal Singh but his pant got stuck up in the barbed wire and he fell down. While he was trying to extricate himself from the barbed wire fencing, the accused persons reached the place by entering through the gate of the orchard and came upon Vijay Singh. Accused Vishnu shut the mouth of the deceased. The accused Raju caught hold of his hand and accused Shiv Narayan attacked him with a knife and accused Prakash also inflicted injury with gupti and caused serious injuries on the chest and abdomen of Vijay Singh and he fell down. Thereafter, the accused persons ran away leaving Vijay Singh at the spot and Shiv Narayan threw away the knife at the spot. It is the further case of the prosecution that when Ajay Singh found his brother being attacked by the said accused persons, he ran to save his life but he was kicked away by Prakash. At that time the uncle of Vijay Singh namely Chatter Singh was returning from the market. On hearing the cries Chatter Singh also went to the orchard of Mangal Singh and had witnessed the assault made on Vijay. Another witness Ram

Gopal was also going to Kapra from the main market and seeing the crowd by the roadside he also stopped and had seen the accused persons assaulting Vijay Singh. The prosecution also alleged that Muntizar Ali (PW 7), Bithal (PW 14), Laxmi Prasad (PW 16), Durga Prasad (PW17) and Uttam Singh (PW 18) were also passing through the road and standing by the roadside they had also seen the incident. After the incident, Uttam Singh father of the deceased Vijay Singh was informed and he reached the place of occurrence by riding a scooter. Vijay Singh was removed to the local hospital with the help of a tempo and though he was immediately attended by the doctor at the hospital he died within 10-15 minutes after reaching the hospital

The defence case is that the cause of the murder was the love affair of Vijay Singh with Radha. The members of the family of Radha were displeased and Radha herself apprehending trouble advised Vijay Singh to remain alert against possible attack on him particularly by Prakash, her uncle, who was highly displeased with him. Vijay Singh went to the school of Radha and both went to different places on scooter taxi and while they reached near the Prem Narayan Tigda, they met Raju Pathak, Radha's paternal uncle's son. Raju was accompanied by a friend. Seeing Raju Pathak, Radha and Vijay entered the orchard of Mangal Singh. Raju came in search of Vijay and they saw Vijay and Radha there. Seeing Raju Pathak, Vijay ran towards them with a knife and Radha left the place. The defence suggested that the incident did not take place in the manner as alleged by the prosecution, and in all probabilities, Vijay Singh was injured in the hands of Raju Pathak and/or his friend.

Decide.