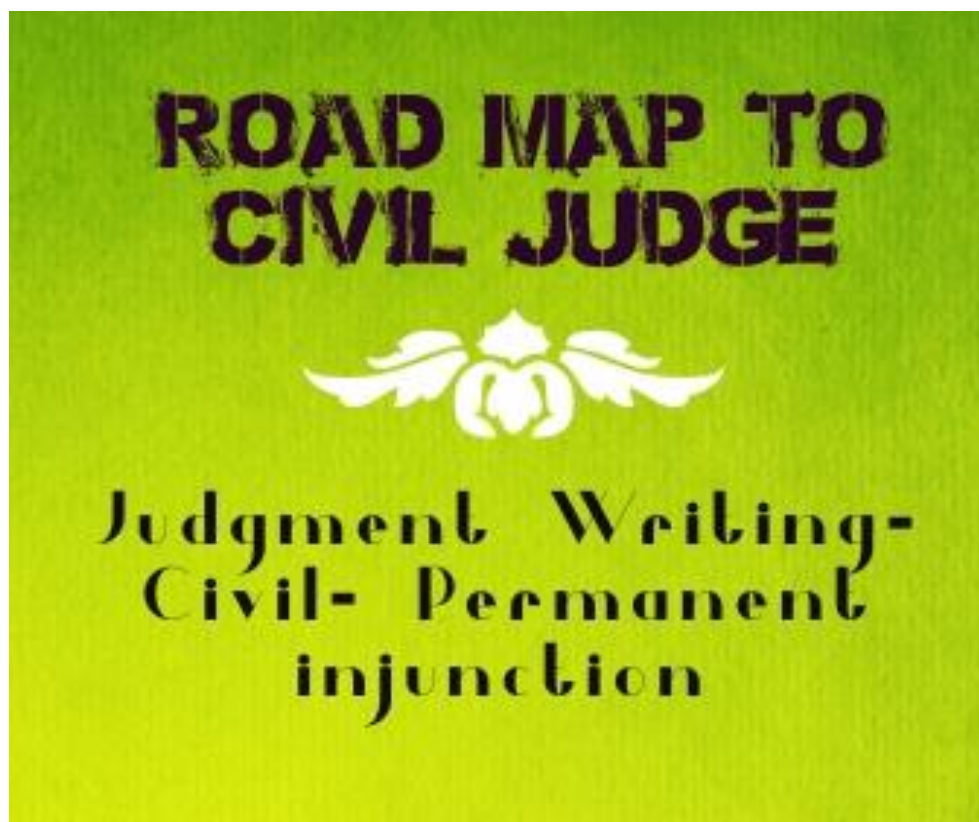


LAWXPERTS.

WHY YOU SHOULD STUDY THIS ?

1. HIGH QUALITY.
2. BASED ON STANDARD SOURCES
3. POSSIBILITY OF DIRECT QUESTIONS
4. COMPLETELY SYLLABUS-ORIENTED.



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SOLUTION FOR JUDGMENT WRITING – FOR 30/9/2016

Format :

NAME OF THE COURT
PRESENT: JUDGE NAME

DATE IN WORDS

CASE NUMBER

Plaintiff description Plaintiff

Vs.

Defendant descriptionDefendant

(Introductory para) The suit coming on for final hearing before me in the presence of (Learned counsels names) and upon hearing the arguments of plaintiff and defendants and also perusing the written arguments filed on the side of the plaintiffs and defendants and on perusing the documents on record and having stood over for consideration till this day, this court delivered the following:

JUDGMENT

UNDERSTAND THE PARTS :

Part I – Short facts of the case must be explained in crux.

Part II – Brief averments about the plaint must be stated.

Part III- Brief averments about the written statement must be stated.

Part IV – Issues – Framing issues is the most important task of the court

To frame apt and proper issues take assistance of our notes and primer at http://media.wix.com/ugd/38e9e6_0c3407420bef4122886c546bea5d6d63.pdf

ISSUES :

- 1) Whether the suit is maintainable?
- 2) Whether the plaintiff has proved his case?
- 3) Whether the relief prayed by the plaintiff can be granted?

Issue 1- Whether suit is maintainable ?

Area to be concentrated:

MAINTAINABILITY ISSUE I :

Pay careful attention to the relief prayed in the plaint –

- a. To grant mandatory injunction thereby to declare the General Power document executed by S.P.Dayanithi the seventh defendant to and in favour of 2nd defendant bearing document No.359 of 2004 dated 27.4.2004 registered on the file of ~~000000000~~ Registrar Office, ~~000000~~ is null and void, and not binding on plaintiffs.
- b. To grant mandatory injunction thereby to declare the sale deed bearing document No.1988 of 2007 dated 30.5.2007 executed by 2nd defendant in favour of the first defendant registered on the file of ~~000000000~~ Sub Registrar Office, ~~000000~~ is null and void, and not binding on plaintiffs.
- c. To grant mandatory injunction thereby to declare the General Power document executed by 1st defendant to and in favour of 3rd defendant bearing document No.2446 of 2008 dated 25.8.2008 registered on the file of ~~000000000~~ Sub Registrar Office, ~~000000~~ is null and void and not binding on Plaintiffs.
- d. To declare the sale agreement bearing document No.3408 of 2008 dated 24.8.2008 executed by first defendant through his power agent third defendant to and in favour of Kanakaraj and Jayamani, the 4th and 5th defendant is null and void, and not binding on plaintiffs.

Prayer sought to declare documents of the defendants to be void, is a negative prayer which cannot be entertained as per sec : 34 Specific relief Act - *in the present case, the negative relief sought for hangs in the balance and it does not impact directly on the plaintiffs. Therefore, in such circumstances the plaintiffs cannot seek for a negative relief. Further, such a negative relief even if granted is not at all found to be a workable one, in as much as it does not bind the plaintiffs and the defendants in the suit. Further, the plaintiffs cannot usurp the title to the property without seeking for proper declaration of his right and title to the property as held in R.N Shanumgavadivel vs. R.NMayilswamy.*

MAINTAINABILITY ISSUE II- Maintainability of the suit must be tested in light of the court fees act applicable in that particular State- if found to be not sufficient the plaint must be rejected under Order VII rule 11 CPC. Adequate time must be given for paying sufficient court fees.

MAINTAINABILITY ISSUE III: The defendant has denied the title of the plaintiff in his written statement- thereby creating a cloud over plaintiff title thus a declaration suit must be filed by the plaintiff and suit for bare injunction is untenable in law as held in *Anathula Sudhakar Vs. Buchi Reddy*.

ISSUE II – Whether the plaintiff has proved his case?

For the plaintiff to prove his case, it is well-settled that, he must sufficiently establish (1) prima facie case (2) balance of convenience (3) irreparable injury –

For detailed understanding refer our primer on injunction at

http://media.wix.com/ugd/38e9e6_0c0e74af37c9455ab06c6c808ca90d2a.pdf.

To claim bare injunction it is settled principle of law that the plaintiff must prove possession at the time of filling the suit.

LIST OF DOCUMENTS FILED UNDER ORDER 7 RULE 14 (2) OF CPC

S.No.	Date	particulars	Nature
1.	13.4.2007	corporation tax	Xerox
2.	30.5.2007	sale deed by Dayanithi to C.Subramanian	Xerox
3.	8.2.2008	Letter sent by I.G. registration to sub registrar	Xerox
4.	7.3.2008	Letter sent by police to Sub Registrar	Xerox
5.	18.11.2008	patta in favour of plaintiff	Xerox
6.	19.11.2008	Corporation tax in favour of plaintiffs	Xerox
7.	-	Letter from E.B. for name Change infavour of 1st Plaintiff. E.B. Card & Bill in the name of 1st Plaintiff.	Xerox

To prove possession – corporation tax receipts are let in as evidence – however Xerox copy alone filed – which is inadmissible in evidence (when original is available secondary evidence is impermissible) as per sec: 61 to 65 of Indian Evidence Act. Thus evidentiary value of each documentary evidence (existence, genuinty, execution) must be examined in light of evidence act and settled judgments.

To claim injunction the plaintiff must prove the disturbance made by defendant to the peaceful possession of plaintiff. Some proof of such disturbance are – FIR , CSR, Police complaint to that effect.

ISSUE III: Whether the plaintiff it entitled to the relief prayed for ?

On examining all the above issues it must be analysed whether granting such relief will prejudice the defendant and if not given whether it would cause irreparable injury to the plaintiff and accordingly decided. Decision as to cost must also be made.

Every judgment must be accompanied by a decree *

A Conceptual Analysis : Decree . Judgement.

<http://www.lawxpertsmv.com/single-post/2016/09/12/DECREE-AND-JUDGMENT-%E2%80%93-A-CONCEPTUAL-ANALYSIS>

Note : Judgment writing skill will differentiate you from other candidates in the examination and this paper is the scoring area – will make step ahead of all – thus concentrate more. *For complete judgment subscribe to our judgment writing series.