

HP BOARD OF DEPARTMENTAL EXAMINATION
DEPARTMENTAL EXAMINATIONS FOR TEHSILDAR/~~NAIB TEHSILDAR~~
SESSION, OCTOBER, 2012.

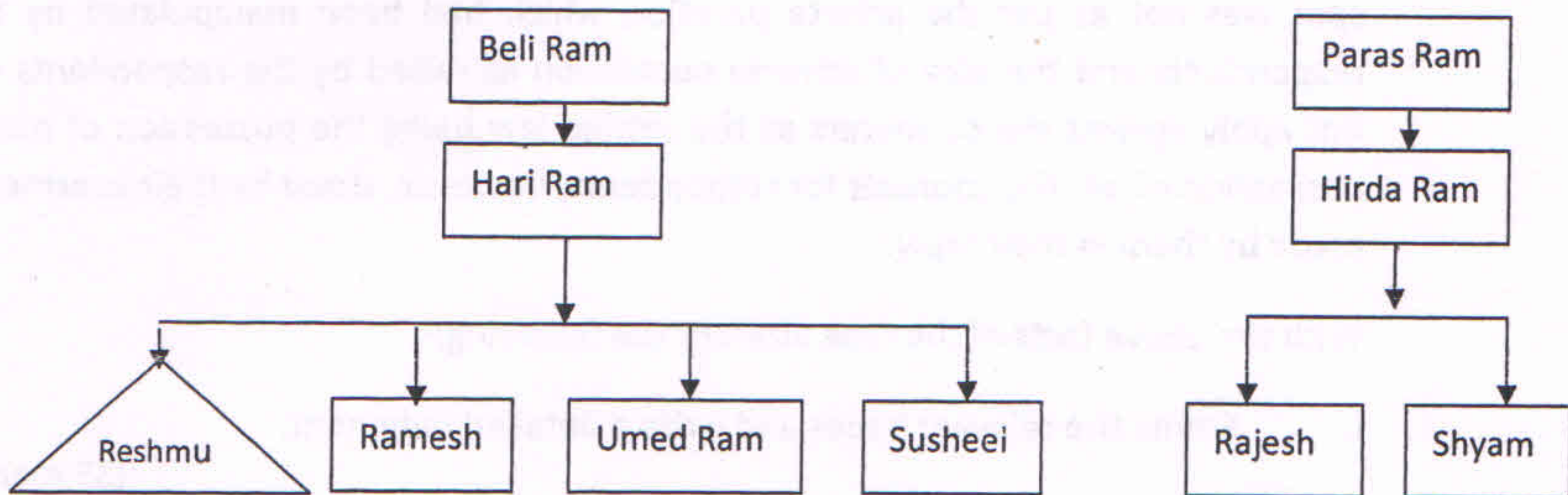
Paper -6 (Revenue Case)

Time Allowed: 3 Hours.

Maximum Marks:100

- Note:-**
1. Attempt all the question- Marks are given at the end of each question.
 2. Credit will be given for citing relevant provisions of Law/Rules.

Q.No.1. Smt. Reshmu Daughter, Ramesh, Umed Ram, Susheel and Pritam S/o Sh. Hari Ram are owners in possession alongwith Rajesh and Shyam S/o Sh. Hirda Ram of the land comprised in Khata/Khautoni No.7/12-17 Kita 19 measuring 31.07 Bighs situated in Mouja Mazhar Tehsil Ani Distt. Kullu. The Shajra Nasab shown below reveals as to how the land has come into the ownership of the parties concerned:



With these facts, Smt. Reshmu D/o Sh. Hari Ram filed an application under section 123 of HP Land Revenue Act to the Assistant Collector 1st Grade Ani for the partition of Land to get her share separated by making all the co-sharers as respondents. Respondents Sh. Ramesh, Umed Ram and Susheel contested the application on the ground that in 1980 Smt. Reshmu got married with one Sh. Sohan Lal and thereafter their father Sh. Hari Ram died in 1985. They challenged the correctness of the revenue entries showing Reshmu as equal sharer with them whereas they being coparcenery under Hindu Mitakshra system of law and were equal sharers with their father as per the provisions of section 6 of Hindu Succession Act, 1956. The Respondents Sh. Rajesh and Shyam also resisted the application by raising a plea that they in fact, they, were in actual possession over the entire holding as Reshmu, Ramesh, Umed Ram and Susheel had always been absentee landowners as they rarely visited the estate due to their engagement in

business activities at Rampur. They also placed a attested copy of private partition that had taken place between Hari Ram and Hirda Ram in the presence of the Namberdar. Taking notice of the facts the AC 1st Grade informed the parties that the question of title is involved in this case and as such these issues as raised by the respondents need to be adjudicated as a Civil Court.

While proceeding as Civil Court the above issues came up for determination before the AC 1st Grade. Respondents Ramesh, Umed Ram and Susheel relied on the provisions of Hindu Succession Act and Rajesh and Shyam placed reliance on the private partition already taken place and also raised the plea of adverse possession. The Advocate appearing for Smt. Reshmu contested the plea of wrong revenue entries and pleaded that the amendment has already taken place in the Hindu Succession Act by making daughters equal sharer with the brothers. He further pleaded that the parties have not challenged the entries since 1985 hence the law of estoppel applies against them. He also argued that the possession on the spot was not as per the private partition which had been manipulated by the respondents and the plea of adverse possession as raised by the respondents did not apply against the co-sharers as the settled law being the possession of one is possession of all. The counsels for respondents, however, stood by their averments made by them in their reply.

With the above facts of the case attempt the following:-

- i. Frame the relevant issues and write a detailed judgment. (35 marks)
- ii. Write the order sheet of the day. (15 marks)
- iii. Can plea of adverse possession be an issue of question as to title against the co-sharer? (10 marks)

Q.No.2

Shri Ramesh Chand is recorded as non-occupancy tenant in Khata/Khautoni No.40/57 Khasra No.417 area measuring 0.17 bigha situated in mauja Chamiyana, Tehsil and Distt. Bilaspur. The land is owned by the State Government, however, the entries in column No. 9 shows that the tenant is paying rent to the owner since 1961. The Patwari at the request of the tenant entered the mutation and the same was compared by the Kanungo and was placed before the AC 2nd Grade for attestation on his visit to the patwar circle. Shri Dyal Singh office Kanungo appeared as representative of the State Government and requested the AC 2nd Grade not to attest the mutation because no tenant can get ownership under section 104 on the land owned and vested in the State. His statement was recorded in which, he further stated that the entries as non-occupancy of Sh. Ramesh Chand may be deleted as no tenant has any right over the Government land. Shri Ramesh Chand, however, stated that as per the provisions of law he had become owner of the land

in question as all tenants had become owners by operation of law and the State was also not any exception as is evident from provisions of Rule 27 of the HP Tenancy and Land Reforms Rules 1975.

On the basis of the above facts:-

- i. Write a detailed order on the mutation as AC 2nd Grade Bilaspur. (20 marks)
- ii. Whether the proviso as added to section 104(9) in 1998 disentitles all the tenants from getting the proprietary rights over the Government land? (10 marks)
- iii. What is the mandate of Rule 27 of HP Tenancy and Land Reforms Rule 1975 with regard to the conferment of proprietary rights over Government land? (10 marks)
