HP Board of Departmental Examination DEPARTMENTAL EXAMINATION FOR TEHSILDARS HIMACHAL PRADESH APRIL, 2015.

PAPER No.6

REVENUE CASES

Time Allowed: 3 hours MM:100

i. Attempt all the questions.

Bare Acts/Rules can be consulted.

Refer to relevant Law/Rules and case law.

Question No. 1

One shri Chet Ram files an application to the Collector stating that he is a proprietor of village Sanjauli and is having a residential house in the village. Due to devastating landslides in the village during July, 1973, the residential houses of the inhabitants of the village including the applicant were washed away. After such natural calamity the land of the village became damp and full of moisture. It became uninhabitable for residential purpose. Consequently the proprietary body of the village was forced to occupy different sites in the Shamlat land measuring 37.7 Bighas comprising in khasra no.614. The applicant says that he came into possession of the land in dispute out of the said khasra no. by way of arrangement amongst the proprietors and residents of the village for the purpose of allotment of residential site. Residential site came to be constructed by the applicant over the land in question. The assistant collector treated the applicant as encroacher over the land on the assumption that the entire land comprising of this khasra no., which was shamlat vested in the state by virtue of HP Village Common Lands Vesting and Utilization Act, 1974. The assistant collector has issued show cause notice to the applicant as to why he should not be evicted from the land that has been recorded in ownership and possession of Government in the revenue records since long. The case of the applicant is that since the land comprising khasra no 614 was reserved by the proprietary body as a residential site in the village, the same did not vest in the state under the law, and as such, there is no occasion or authority to the authorities to initiate proceedings for dispossession of the aplicant from the land in dispute and the notice for demolition of his house and imposition of fine under section 163 of the HP Land Revenue Act, 1963 is without any basis and should be withdrawn forthwith and is illegal and not binding on the rights of the applicant.

The office version contested the position averred by the applicant stating that the land comprising khasra no 614 being shamlat had rightly vested in the state under the provisions of HP Village Common Lands Vesting and Utilization Act, 1974 and the applicant has encroached upon the land by constructing a house thereon despite protest having been raised by the revenue officials and thus it was averred that notice to eject Shri Chet Ram was legal and valid. The land being recorded in ownership of state of HP, it was averred, the applicant was bound to face proceedings under the provisions of section 163 of HP Land Revenue Act.

Based on the submissions made above:-

(i) Write two interim orders on substantive questions of procedure.

(15 Marks)

(ii) Write a detailed order under the provision of relevant law as a court of appropriate jurisdiction.

45 Marks)

Question no. 2

Patwari halqua, Mohal and tehsil Solan made a report to the Tehsildar, Solan, stating that during the current harvest inspection Shri Ram Dayal has been found to be in possession of part of the land comprising khasra no 112, measuring 0-22-39 hectts and that he has constructed a residential house on part of the land and has raised an orchard on part of the land comprising khasra no 112/1 measuring about 1202 square meters of land situated in Mohal Solan-1 of tehsil Solan, Distt. Solan. The Tehsildar, Solan took up the proceedings in the matter as Land Reforms Officer and issued process to the parties. The said shri Ram Dayal submitted that he is in possession of the land as a non-occupancy tenant over the land against payment of Rs 400/ per annum to the land owner shri Rakesh Kumar for the last so many years. One of the co-sharers shri Rakesh Kumar affirmed the fact of the tenancy between the two against the payment of rent as aforesaid. During the pendency of proceedings before the Land Reforms Officer, Solan, an application was filed by one Shanti Kumar saying that he is owner of the land in question along with other co- owners and submitted that the said shri Rakesh Kumar is of unsound mind and is not in right frame of his mind and he cannot induct any one as a tenant on the land owned by him along with other co-sharers. He accordingly submitted that there is no agreement as to creation of tenancy between the land owners and the so called self styled nonoccupancy tenant and the said halqua patwari is hand- in- glove with shri Ram Dayal, who is said to be a retired revenue officer, and hence the report made by him should be rejected forthwith and disciplinary action should be taken against him. Shri Ram Dayal also admits of having paid the aforesaid Rakesh Kumar a sum of Rs 15000/- for the said land but no deed is admittedly having been executed between the parties for conveyance of title.

Based on the submissions, write:

(i) Two orders involving questions of interim proceedings.

(ii) Detailed orders on the issues involved.

(10+30 Marks)

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