

DEPARTMENTAL EXAMINATION OF IAS/HAS OFFICERS OF H.P.
SESSION FEBRUARY, 2006

Paper:5
Time Allowed: 3 hours

Revenue Case.
Max.Marks:100

- Note: 1) Only bare Acts/ Rules can be consulted;
2) Legal citations be cited at appropriate places.

S/Shri Krishan Gopal Madan Gopal, sons; Smt. Jamna Devi, daughter, and Smt. Yashoda, widow of Ram Gopal AND Hans Raj S/O Amar Chand, all are having joint landed property comprised in Khata No. 171, Khatauni Nos. 356 & 357, Khasra Nos.455 to 461, kita 7, area measuring 72 –18 bighas, situate in revenue village Anandpur, tehsil and district Shimla.

Khasra No. 455 measuring 14-00 bighas recorded as “ Bagicha faldar” (Orchard);

Kh.no. 456 “ 38-12 ‘ “ “ Barani Awaal”
(Ist Class un- irrigated);

Kh.no. 457 “ 11-08 “ “ “Ghasani”
(Grassland);

Kh.no. 458 “ 0-10 “ “ “Dev sthan”
(Temple);

Kh.no. 459 “ 0-15 “ “Sha-re-aam”
(Common path);

Kh.no. 460 “ 0-02 “ “Gair-mumkin”
Bowli”(Water source);

All the above Khasra nos. are recorded under Khatauni No. 356-Kita 6 measuring 65-7 bighas and further recorded in the joint ownership and possession of all the legal heirs of late Ram Gopal, in equal shares.

Conti.P-2

Khasra no. 461 measuring 7-11 bighas classified as kulahu Doam” (2nd class irrigated) is recorded under Khatauni no. 357 and further recorded in the name of Hans Raj S/O Amar Chand as a non- occupancy tenant who is shown as paying rent under the rent column, as “ Services” being rendered by him to the land owners since the time of his induction as such and these entries are continuously coming in the record since 1990. He is also in the cultivating possession of the land in question since then.

Smt. Jamna Devi d/o Ram Gopal was married of by her late father about 20 years back and she has never come to take care of her share of land that has three years before. He youngest brother Shyam Gopal, with whom his widowed mother is also living since after the death of her husband, is cultivating about 25 bighas of land, besides harvesting the entire orchard.

Now S/Sh. Krishan Gopal & madan Gopal have applied through a joint application to have their respective shares partitioned and severed from the joint holding, seeking equal amount of all kinds of land falling to their shares.

On receipt of the notice of partition by the respondents namely Shyam Gopal, Smt..Jamna Devi & Smt. Yashoda, along with a copy of the application accompanying each notice, Shams Gopal, on his own behalf and on behalf of his sister and mother in the capacity of their General Power of Attorney, files a joint reply objecting to the right of the applicants’ for partition stating that since the applicants are not in possession of the “ Orchard” , they cannot seek it’s partition to claim a share in that and that they may seek their share in other land.

Sh.Hans Raj, non- occupancy tenant, has not been leaded as a necessary party by the applicants.

Please go through the above facts carefully and answer the following questions, giving legal, logical and cogent reacons:-

- (I) Whether the plea taken by the replying respondents is tenable or not?
(25 Marks)
- (II) Whether the partition proceedings could be carried on to the exclusion of the non- occupancy tenant not imp leaded as a party?
(25 Marks)
- (III) Based on your comprehension of the legal position in the above 2 questions, write a final self-speaking partition order suggesting the Mode of partition.
(50 Marks)

