

**HP BOARD OF DEPARTMENTAL EXAMINATION
DEPARTMENTAL EXAMINATIONS FOR IAS/HAS OFFICERS OF
HIMACHAL PRADESH SESSION, OCTOBER, 2012.**

Paper -5 (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.
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Q.No. 1

On receiving the report from Patwari, Patwar Circle Banoti, Tehsil and Distt. Shimla, on 13th April 2011, AC 1st Grade Shimla issued a show cause notice to one Sh. Ram Singh, S/o Shri Lekh Ram, R/o Vill. Banoti, Tehsil & Distt. Shimla, as to why he should not be ejected alongwith fine from the comprising in KH. No.136/1 measuring 0-07-68 hec. situated in village Banoti, Tehsil & Distt. Shimla. Sh. Ram Singh appeared before the AC 1st Grade and submitted a written reply of the show cause notice. He submitted that his possession over the land in question is an old one and is continuing for the last more than 40 years. He further submitted that his father had constructed a kacha house over the land in question and had planted some apple trees around the house. He, as per his statement, had simply renovated the old structure. He also stated that the settlement authorities have also made a file against his encroachment and the settlement took place in 1981. Sh. Ram Singh, the alleged encroacher, prayed for the withdrawl of the notice as he had already become the owner of the said land by way of adverse possession. On the above grounds AC 1st Grade Shimla, decided to proceed as civil court to decide the plea of adverse possession and asked Sh. Ram Singh to file the necessary petition for appropriate adjudication.

On receiving the petition the AC 1st Grade (exercising the power of Civil Court) issued notice to the Secretary (Revenue) and Collector of the District Shimla to file a reply to the said petition within a period of 2 months. The main points raised in the petition were almost the same as raised by the petitioner in his reply to the notice under section 163 of the HP Land Revenue Act. The District Collector, Shimla filed reply in his capacity as well as on behalf of the Secretary (Revenue) also. The petitioner presented Sh. Mast Ram, Namberdar as his witness who stated that the possession of the petitioner was old one. He further stated that he has seen it for the last 40 year that there was a kacha house of the encroacher Sh. Lekh Ram. The petitioner submitted the electricity bill of the meter installed in the old kacha house about 28 years ago. On behalf of the State Government Patwari and Kanungo appeared as witnesses. In his Examination in Chief, the Patwari stated that the

encroachment of Sh. Ram Singh is recent one and he had manipulated the wrong entries in the settlement record. The Patwari stated that the land in question is recorded in the ownership and possession of the State and the entries in record of rights carry presumption of truth. The Patwari, however, could not substantiate his stand in the cross examination on the factum of old kacha house in place of the new construction. The Statement of the Kanungo was also recorded and was the same as that of Patwari.

The arguments of the petitioner and the State were on the above lines. The petitioner prayed for the declaration to declare him as the owner in possession of the land in question whereas the State cited the ruling of the Hon'ble High Court declaring the encroachment as a serious problem being created by the unscrupulous elements.

On the basis of the aforesaid pleadings :-

- i. Frame the issues and write a detailed judgment with relevant provisions of law. (45 Marks)
- ii. Write the order sheet of the day. (15 marks)

Q.No.2

Sh. Ramesh Chand S/o Sh. Roshan Lal soled land comprising in Khata/Khoutni No. 13/15 Kh. No. 41, 42, 53 and 57 total numbers 4 measuring 1-17 bigha situated in village Khaira, Tehsil & Distt. Solan to one Sh. Gurmail Singh S/o Joginder Singh. The land was mutated in favour of the buyer as per the stipulation of the sale deed. It was lateron found that Sh. Gurmail Singh was non-agriculturist of the State and had fraudulently procured an agriculturist certificate. On receiving the information the Tehsildar Solan sent the mutation on which the sale was attested to the Sub - Divisional Collector Solan for review.

On the basis of the aforesaid facts :-

- i. As Collector of Sub-Division Solan, write a detailed review order on the mutation. (15 marks)
- ii. What are the duties of the AC 1st Grade and Sub-Division Collector in such cases of violation of the provisions as contained in Section 118 of HP Tendency Act? (15 marks)
- iii. How the District Collector will deal with this case on receiving the report ? (10 marks)