

H.P. BOARD OF DEPARTMENTAL EXAMINATION
DEPARTMENTAL EXAMINATION FOR IAS / HAS OFFICERS OF
HIMACHAL PRADESH OCTOBET, 2013.

PAPER NO.5

Revenue Cases

Time Allowed: 3 Hours

Maximum Marks: 100

Note:-

1. All question carry equal marks.
2. Credit will be given for citing updated relevant provision of Law / Rules.
3. Only Bare Acts / Rules are allowed to be consulted.

Q.No.1

Govind & Bhagat Ram are sons of Late Shri Balam, who have their land in two revenue estates namely Nehra and Baragaon, Tehsil Shimla (Rural), Distt. Shimla. Both the brothers entered into an agreement, executed before and attested by the executive Magistrate in 1984 that Govind and Bhagat Ram would settle and hold the land in village Nerha & baragaon respectively. However, both of them were remained recorded as owners in possession in each revenue estate. In 2009, Govind filed two applications before the Assistant Collector 1st Grade Shimla (Rural) for the partition of land comprising in Khata / Khatoni No. 4/17 Kita 9 area measuring 00-57-68 hect., and Khata / Khatoni No. 7/21 Kita 6 area measuring 00-52-60hect, in Nehra & Baragaon respectively. In reply to these applications Bhagat Ram contested the applications as non- maintainable as estoppel caused by the agreement. The ground for other challenge was that he had developed the land by making the entire land in his possession, irrigatable by constructing rain water harvesting tanks with drip irrigation system with the cost of 7 lakhs. On the basis of these pleading the AC 1st Grade came to the conclusion that question of title was involved in the case hence asked the applicant to file the petition before him as he decided to proceed as a Civil Court.

Govind filed the petition for the issuance of declaration as to enable him to seek partition of the suit land and pleaded that the presumption of truth was attached with the entries of Record-of- Rights and he being owner in possession in both the villages, entitled to seek the partition. The agreement, he asserted, should not be taken as a ground for estoppels as that being a temporary arrangement and therefore, not entered into the Revenue Record. He further stated that Bhagat Ram should have developed the land to the extent of his share only.

Bhagat Ram in his reply to the petition reasserted the same grounds as in the application for partition and prayed to dismiss the petition with cost. Presume the pleadings and arguments on expected lines and attempt the following:-

- (a) Write a detailed judgment. (40)
- (b) Prepare the decree-sheet in consonance with judgment. (20)

Q. No. 2 Roshan S/o Duni Chand is entered as non-occupancy tenant over Govt. Land comprised in Khata/ Khautoni No. 61/225 area measuring 00-17-39 hect. Situated in Mohal Kothipura, Tehsil and Distt. Bilaspur.

He filed an application under section 104(3) read with section 104(4) of HP Tenancy & Land Reforms Act before the Land Reforms Officer, Bilaspur for the conferment of proprietary rights upon him as the Patwari, Patwar Circle Kothipura was not entering his request in Mutation Register for such proprietary rights. Collector Bilaspur in his reply stated that the action of patwari was valid as proprietary rights can not be conferred upon tenant over the land owned and vested in government and prayed for the dismissal of application.

Roshan in his rejoinder stated that the entries of Jamabandi showing, earlier his father and now him as non occupancy tenant are since 1954 on the payment of chakota of Rs. 25/- per annum and after 1974 he had become owner of the land in dispute by way the provisions of Law/ Rules in force.

During the arguments, the Ld. Advocate for the applicant interpreted the provisions of Law and Rule 27 of the HP Tenancy & Land reforms Rules, 1975 and prayed for the conferment of the proprietary rights as the mutation is an updation exercise only whereas by operation of law Roshan had become owner in possession on 4th Oct, 1975. The Ld. ADA, appearing for the state argued that the amendment of 1988 in HP Tenancy & Land Reforms Act, 1972 did not allow the conferment of proprietary rights over Govt. Land and the Hon'ble High Court HP in Chanderdev case had clarified the position and had held valid the retrospective operation of the Amendment.

With these facts:

1. Write a detailed order in the capacity of Land Reforms Officer.
2. Write Order Sheet of the day.

(25+15=40)

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