

**H.P.BOARD OF DEPARTMENTAL EXAMINATION
DEPARTMENTAL EXAMINATION OF IAS/ HAS OFFICERS OF HIMACHAL
PRADESH SESSION NOVEMBER, 2009**

Paper-5 **(Revenue Cases)**

Time Allowed: 3 Hours.

Maximum Marks: 100

- Note:-** 1. All questions carry equal marks.
2. Credit will be given for citing updated relevant provisions of Las/ Rules.
3. Only bare Acts/ Rules can be consulted.
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Q.No.1 Sh.Jasdev Singh osn of Sh. Gurdyal Singh resident of Village and P.O. Kolar, Tehsil Paonta Sahib, District Sirmour filed an application before AC II grade, Paonta Sahib for partition of land comprised in Khata Khatauni No. 10/ 32, Kita 7 measuring 27-00 bighas situated in Mouza Kolar as per the entries Recorded in Jamabandi for the year 2008-09. Respondents Sh.Narotam and Shyam Lal in their reply contested the partition proceedings on the grounds That the land in question was mutated in favour of the respondents, alongwith Their brother ShriKrishan Lal ono 28-12-2003 under the provisions of HP Village Common Land (Vesting & Utilization) Act. The applicant purchased The land in question from their brother in 2005 in violation of the provisions Of the Act as the land so reverted to the co- sharers could not have been Alienated for 25 years from the date of mutation. They have further contested That since the time, land mutated in their favour, they have invested huge Amount in the development of land for converting the waste land into “Bagicha Bakhhal Abbal Phaldar” Sh. Krishan Lal who is a Government Servant and has not visited his home for the last 10 years. Hence, they pleaded Settlement amount spent on th development of land must be preceded by Partition. Denying these pleas in his Replication, the applicant has asserted the Correctness of entries of the jamabandi which carry the presumption of truth And the settled position of law which says that possession of one is possession Of all. He has further pleaded that the sale deed had been executed in his Favour on 25-7-2005. On the aforesaid pleadings answer the following Questions supported with reasons:-

- (i) How does Assistant Collector of first Grade proceed in such cases? **(10 Marks)**
- (ii) Whether points at dispute are cognizable by a Civil Court or a Court? Give Reasons in support of your answer. **(15 Marks)**
- (iii) Based upon the facts of the case, write a detailed well reasoned order. **(25 Marks)**

Q.No.2 Assistant Collector Ist grade Shimla (Rural) has issued a notice under section 163 of the H.P. Land Revenue Act, 1954 to one Sh. Paras Ram Mauza Koti, District Shimla for encroaching the Government land comprised in Khasra No-671 measuring 0-18 bighas. The respondent resisted the proceedings on the Following.

- (i) That the land in question is in the possession of respondent since 1970. He asserted that settlement operation in the mauza Koti took place in 1984 and the Settlement authorities found his old possession over the land in dispute and therefore, a misal of encroachment has been prepared against his name by the authorities. A separate No. has also been carved out for the land in question.
- (ii) That the entries of standing record of rights carry presumption of truth. The question of title is established in this case and therefore, AC Ist Grade is estopped from proceedings against him.

With these pleadings and the facts of the case, the AC Ist Grade arrives at the conclusion that question title is involved in the case and directed the respondents to file regular plaint. On the date of next hearing the Counsel stated that he has already raised the plea of adverse possession on the basis the facts of the case and the entries of Misal Hakiyat for the year 1985 and till his plea of adverse possession is decided, no order can be passed to evict the respondent. He further pleaded that only the aggrieved party files the plaint and the respondent is not aggrieved as his possession is peaceful, open and hostile. In view of the aforesaid position, answer the following questions;

- (a) What courses of action are available with AC Ist grade? Support the Answer with reasons. **(10 Marks)**
- (b) Write the order sheet of the day, based on your opinion on the available Courses of action. **(10 Marks)**
- © Frame the issues as Assistant Collector I st Grade decides to hear the Case as if he were a Subordinate Judge. **(10 Marks)**
- (d) As per law what are the main ingredients of adverse possession that Need to be determined before such declaration is passed? Write a appropriate decree in such cases. **(20 Marks)**
