

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

**PAPER-3 (REVENUE LAW AND PROCEDURE)**

**Time Allowed:3 Hours.**

**Maximum Marks: 100**

**Note:- A. Attempt FOUR Questions in all, subject to the following:**

- a) Question Number 5 and 6 are COMPULSORY**
- b) Attempt any TWO Questions out of remaining FOUR Questions**

**B. Credit will be given for citing relevant Section of the Act or relevant Rule.  
However mere reproduction from the Act or Rules will not be sufficient.**

**Q.No.1 a) What is meant by following terms:**

- i) Abadi Deh
- ii) Chaharam
- iii) Misl Hakiyat
- iv) Musavi
- v) Parta
- vi) Shajra Kishtwar
- vii) Sajra Nasb
- viii) Wajib UI Arz
- ix) Banjar Jadid
- x) Banjar Kadim

**(10 x 1= 10 marks)**

- b) What is the significance of 'Land Revenue'? When and how and it be Increased? (5 marks)**
- c) Do you agree with the view that Land Revenue should be abolished as it is too Costly to collect petty amount of land revenue? Give reasons in support of your answer. (5 Marks)**

**Q.No.2 a) What are the various stages in a Partition Case keeping in view the provisions Contained under HP Land Revenue Act and Rules framed there under?**

**(5 marks)**

- b) Which orders passed by Assistant Collector while deciding partition proceedings can be appealed against? (5 marks)**
- c) What general principles should be kept in mind while preparing Mode of partition? (5 marks)**
- d) What is meant by the term 'Question of Title'? How should the Assistant Collector proceed if 'Question of Title' is raised in partition proceedings? (5 marks)**

**P.T.O.**

- Q.No.3 a) while distinguishing between 'possession' and adverse possession' describe The essential requirements to establish adverse possession. **(10 marks)**
- b) Whether the following statements are **True or False**.
- i. Burden of proof in cases where adverse possession is claimed is on the owner of property and not on the person claiming acquisition of title by adverse possession.
  - ii. Permissive possession can not be converted into an adverse possession unless it is proved that the person in possession asserted an adverse title to the property to the knowledge of the true owners for a period of twelve years or more.
  - iii. Any break in adverse possession amounts to interruption and gives a fresh start to the period of limitation.
  - iv) There can be no adverse possession by public.
  - v.) A tenant can acquire as against the landlord title by adverse possession of the lease property.
  - vi. The period of adverse possession against government is 40 years.
  - vii. In case of vacant land possession follows title.
  - viii. Lands in military cantonments can not be acquired by adverse possession.
  - ix.) Possession of one co- sharer is possession of all co- sharers.
  - x. A Series of acts of trespass with no continuity do not constitute adverse Possession. **(10 x 1= 10 marks)**

- Q.No.4 Go through the following information and pass a reasoned Final Order as Collector, Sub Division in an Appeal filed under Section 14 of the H.P. Land Revenue Act against the Order passed by Assistant Collector IInd Grade in Mutation Case.
1. One Sh. Hari Prasad, resident of Gopalpur Village, executed a will on 16-08-1995. He gave his entire property to Smt. Kamla Devi, his daughter (his sole legal heir) except for a 4 biswa plot abutting the road which he gave to one Raj Kumar who was not related to him at all' as he looked after him during his illness.' Sh. Hari Prasad died on 1-9-1998.
  2. The Ld. A.C. IInd Grade went to Gopalpur on Village on tour on 1-10-1998 And took up the mutation for attestation in open assembly. On that date Smt. Kamla Devi was present who admitted the Will to be genuine but the writer And the witnesses mentioned in the Will and Raj Kumar was not present. Thus, he postponed the attestation but recorded that it was brought to his Notice that the Will in favour of Raj Kumar was registered to evade Stamp Duty and that in effect Raj Kumar had purchased the said 4 biswa plot from Late Sh. Hari Prasad for Rupees 20,000 sometime in 1995 but the deal was not Registered.
  3. The Mutation was taken up for attestation again in the patwarkhana Shyam Nagar (10 kms. From Gopalpur) on 1-11- 1998. On this date the writer of the Will and the witnesses mentioned in the Will., Smt. Kamla Devi, Sh. Raj Kumar were present. The writer and witnesses claimed the will to be genuine And daughter of Late Hari Prasad stated the she had no objection if the 4 biswa

Plot is mutated in the name of Raj Kumar.

4. Ld AC-IIInd Grade rejected the Will and recorded that the will was not genuine as it was a manipulation by Sh. Raj Kumar to avoid Stamp Duty. He ordered that Entire property be mutated in the name of Smt. Kamla Devi daughter of Late Sh. Hari Prasad as per Hindu Succession Act.
5. This Order dated 1-11-1998 is challenged before you in the capacity of Collector, Sub Division, by Raj Kumar on the following grounds: Conclusion of Ld AC IIInd Grade regarding genuineness of the Will was based on conjectures and Surmises., he had never purchased the land in question; there was no evidence Before the AC IIInd Grade regarding alleged sale transaction' the writer of the Will and the witnesses had established the genuineness of the will' it was not in The competence of the AC IIInd Grade to decide the genuineness of Will and Finally daughter of Sh. Hari Prasad had no objection to the Will.

Based on the facts given above, pass Final Order in proper format in the Revenue Appeal as Collector. The order must cover facts of the case, discuss grounds of Appeal and appreciate evidence available on record and give clear direction to The A.C. IIInd Grade to attest the Mutation in a particular fashion with proper Reasons. **(30 marks)**

Q.No.5 Go through the following information and pass a reasoned Final Order in proper Format as Collector under the H.P. Ceiling on Land Holdings Act, 1972.

1. One Sh. Ram Pratap Singh had more land than the permissible area recorded in His ownership and possession at the time of coming into force of the H.P. Ceiling on Land Holdings Act, 1972, hereinafter called the Act, and he filed a return on prescribed proforma before the Collector under the Act. In his return he mentioned the land to be declared surplus which included Khasra Number 9, situated in Muhal Zamin measuring 50 bigha and recorded as Gair Mumkin Charand.
2. The Collector heard him and after examining the record passed an order and Declared 315 bigha land, including Khasra Number 9 as surplus on 1-1-1975.
3. This Order of Collector was challenged by Smt. Kamayani Devi wife of Sh. Pratap Singh before the Divisional Commissioner in 1980 saying that she was in Exclusive possession of the land comprised in Khasra Number 9 and that she Was living separately from her husband due to estranged family ties since 1970 Therefore she should have been heard by the Collector and Khasra Number 9 Should not have been declared as surplus. It should have been recorded in her Name instead. The appeal was dismissed as Time Barred by the Divisional Commissioner on 1-1-1981.

4. Smt. Kamayani Devi Filed a Revision Petition before the Financial Commissioner (Revenue) the order passed by the Divisional Commissioner. This Revision was Allowed by the Financial Commissioner (Revenue) with the following Observations:.... Smt Kamayani Devi being wife of Sh. Ram Pratap Singh is Member of his family as per the definition of family given in Sub- Section (e) of Section 3 of the Act and the permissible limit of the family will be determined in Accordance with the law, yet her claim that she was in exclusive possession of Khasra Number 9 needs to be looked into. Thus, she was the concerned person And entitled to hearing when the Collector had selected permissible Area under Sub- section 2 of Section 9 of the Act. Therefore she should be heard.'
5. The Financial Commissioner quashed the orders passed by the Collector and Divisional Commissioner and directed the Collector to decide the matter afresh in Accordance with law after giving opportunity to the petitioner (Smt Kamayani Devi) of being heard. This Order was passed on 1-1-1983.
6. The Collector heard Sh. Ram Pratap Singh and Smt Kamayani. Sh. Ram Pratap Singh said that he stood by the detail of the return filed by him in the first instant. He admitted that he and his wife were not having good relations but denied Having given Khasra Number 9 to her at any time. He denied his wife's Exclusive possession over the land comprised in Khasra Number 9 and said that It was rightly declared surplus. He further denied that he and his wife got Divorced in the year 1978. Smt Kamayani argued that she was in exclusive Ownership of the land since 1970 but she did not produce any documentary proof Support of her claim. She stated that she was living separately from her husband And children due to estranged family relations and that she needed the disputed Land to sustain her livelihood. Collector after hearing both the parties decided that ' Smt Kamayani Devi was entitled to own and possess land measuring 50 bighas Situated in Khasra Number 9 and therefore this land should not have vested with State government.' This order was passed on 1-1-1985
7. The Order dated 1-1-1985 was challenged by the State of Himachal Pradesh Before the Divisional Commissioner on the ground that the Surplus Area had Vested with the State of H.P. and the State had become absolute owner of the Same. The Collector could not have passed the order dted 1-1-1985 without Haring the State. It was further argued that the Collector erred in giving Khasra Number 9 to Smt Kamayani Devi as one ' family is entitled to one unit of land Under the Act and by giving Khasra Number 9 to Smt Kamayani Devi the Collector had given more land to the family than the permissible area under the Act . Secondly there was nothing on record before the Collector to establish Possession of Smt. Kamayani Devi over the disputed land.

8. The Divisional Commissioner allowed the Appeal of the State of H.P. on 1-1-1988 and remanded the case again to the Collector with the direction that it should Be decided afresh in the light of Order passed by the Ld Financial Commissioner (Appeals) on 1-1-1983.
9. All parties appeared before Collector and reiterated their respective arguments Given above and pleaded their respective case.

**Assuming that you have to decide the case as Collector, pass a reasoned Final Order in proper format the case keeping in view the provisions contained in The Act and the Rules framed there under.**

**(30 marks)**

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