

**HP Broad of Departmental Examination**  
**Departmental Examination for Tehsildars: April, 2017**

**Paper No 6: Revenue Case**

**Maximum Time Allowed: 3 Hours.**

**Maximum Marks: 100**

**Note:**

1. **Question No 1 is Compulsory.**
2. Attempt any two questions out of the remaining three questions.
3. Bare Acts/Rules/Manuals/Government Notifications can be consulted.

**Question No. 1**

Consider the following:

A. Sh. Het Ram and Sh. Jattu ~~both sons~~ of Sh. Shunku moved an application (hereinafter called Applicants) before Id. Assistant Collector 1st Grade-cum-Land Reforms Officer (Settlement), Kasauli addressed against the General Public with the prayer to correct Khasra Girdawri entries. They pleaded that they were co-owner-in-possession of land comprised in Khewat/Khatauni No 93/120, Khasra No. 268 min, 269, 270, 271, 274, Kita 5, measuring 16-15 bigha, situated in Muhal Koti, Pargana Basal, Tehsil Kasauli, District Solan, H.P. as per Jamabandi and Khasra Girdawari for the year 2004-2005. They pleaded that the name of one Sh. Chhitru Ram son of Sh. Natru has been shown in the column of cultivable possession of the revenue record and in the column of rent it has been mentioned that said Sh. Chhitru Ram was paying Chakota to the owners of the land. But said Chhitru Ram was missing and nothing has been heard about him for the last more than 7 years in the area. They pleaded that there is no entry of Sh. Chhitru Ram and his family members in the Pariwar Register of Gram Panchayat Jabli, Tehsil Kasauli, District Solan, H.P., due to this Sh. Chhitru Ram or his legal heirs were not impleaded as necessary party and the application was filed against General Public as necessary party. They further pleaded that the land in question was being looked after and maintained by their predecessor-in-interest and after the death of Sh. Shunku Ram (predecessor-in-interest) the land was coming in their possession. They were cultivating the land in question peacefully without any interruption and interference from any side. Applicants prayed that the name of Sh. Chhitru Ram should, therefore, be removed from the column of possession and revenue record be corrected.



- B. In reply to the Notice issued to the General Public, Sh. Hari Ram, Sh. Lachhi Ram, Smt. Malti Devi and Smt. Leela Devi sons and daughters of late Sh. Sita Ram s/o Sh. Acchru Ram appeared before the Land Reforms Officer (Settlement), Kasauli and claimed that they were the successors-in-interest of Sh. Chhitru Ram, therefore, they were entitled for ownership of the land in question. They (hereinafter called Respondents) filed a reply to the Application claiming ownership of this land.
- C. Ld. AC Ist Grade considered the pleas of the parties and converted the application as the one to resolve dispute regarding Tenancy rather than for correction of revenue entry. Land Reforms Officer-cum-Assistant Collector (Settlement), Kasauli gave the parties due opportunity to lead their evidence and heard them.
- D. Applicants led their evidence claiming that they were coming in continuous and uninterrupted possession over the land since their predecessor-in-interest. They examined Sh. Jattu Ram (AW-1), Sh. Chet Ram (AW-2) and Smt. Prem Dei (AW-3) in their support. AW-1 is successor-in-interest of Sh. Shunku. The witnesses stated that the land was in the cultivating possession of Applicants and neither Sh. Chhitru Ram nor his successors were in the possession of the land in question.
- E. Respondents examined Sh. Palak Ram son of Thewa and Sh. Hari Ram son of Sh. Seeta Ram in support of their case. Sh. Palak Ram stated that Sh. Chhitru Ram died 30-35 years back. In his Examination-in-Chief he stated that "*Chhitru Ram died 30-35 years back and I do not know who is cultivating the land after his death.*" He also stated that "*earlier he (Chhitru Ram) lived in Hadli, then he came to Kheel village. Land of Shunku (predecessor-in-interest of Applicants) was in Kheel Village which was cultivated by Chhitru.*" In Cross Examination he also said that he was not aware about the family details of Sh. Chhitru. He also said that he was not aware that the land in question was in cultivating possession of Sh. Shunku Ram, father of Jattu-Premu and after him Jattu and Premu are in possession of this land. The other witness of the Respondents was Sh. Hari Ram who stated that Sh. Chhitru was his maternal grandfather. He stated that Sh. Chhitru Ram died in the last month of 1975. He also stated that they paid Chakota of 6.12 paisa annually and that this land is in their possession after the death of Sh. Chhitru Ram. In Cross Examination he stated that they paid Chakota to Nambardar but he could not produce any receipt of the same. The Respondents did not place any documentary evidence to establish the exact date of death of said Sh. Chhitru Ram and it is on record that Sh. Hari Ram (grandson of Sh. Chhitru) had earlier made a statement to the Patwari that his grandfather Sh. Chhitru died in 1971-72.



- F. Sh. ABC, Id. counsel for the Applicants argued that the Applicants are coming in possession of the land in question since the time of their predecessor-in-interest peacefully and without any interruption. During Settlement operations they got to know about wrong entry in the column of possession. The entry was in the name of Sh. Chhitru Ram who was not heard of since long and his LR's were not even residing in the village where the land is located. Therefore, application for correction of revenue entries was filed by impleading General Public as party. Id. counsel argued that there is no entry in record pertaining to the family of Sh. Chhitru Ram in Gram Panchayat Jabli and there is no entry of death of Sh. Chhitru or any family member of Sh. Chhitru in the register of deaths and births being maintained by the Panchayat. It is clear that late Sh. Chhitru never lived in the said village and was not cultivating the land in question. After the death of Sh. Chhitru exact date of which is not known, no family member of Sh. Chhitru Ram remained in the said village as per record of the Gram Panchayat Jabli, Tehsil Kasauli, District Solan, H.P. Therefore, it is clear that the entries in the revenue record pertaining to Sh. Chhitru Ram in respect of the land in question in the column of possession of Jamabandi and Khasra Girdawri are wrong, illegal and not tenable in the eyes of law. Id. counsel argued that said Sh. Chhitru Ram has never been inducted as a tenant upon the land in question and said land has remained in continuous possession of the Applicants throughout who are cultivating and looking after the same since the time of their forefathers. He further argued that the Respondents did not prove that they were successors-in-interest of the deceased Sh. Chhitru Ram. The Respondents are strangers to the land therefore they have no right to claim ownership over the land in question. Id. counsel prayed that orders should be passed on the basis of the available evidence to correct the revenue entries and to remove the name of Sh. Chhitru Ram from the record.
- G. Sh. XYZ, Id. counsel for the Respondents argued that the revenue entries showing Sh. Chhitru Ram in the cultivating possession of the land in question as tenant since 1950s cannot be rejected summarily. Sh. Chhitru Ram was recorded as tenant over 16-15 bigha land on Galla Batai basis and the Respondents have inherited the interests of Sh. Chhitru Ram through their mother who was the only legal heir of Sh. Chhitru Ram. He further argued that from the record it is clear that Sh. Chhitru Ram was in possession of the land in question at one point or the other, otherwise there was no reason for the entry to be there in his name. He argued that in view of the provisions contained in Section 104 (4) and Section 31 of the Act the LR's of Chhitru Ram should be declared owners of this land. He stated that Para 279 of the Punjab Settlement Manual does not allow change in



revenue entries in summary manner and name of Chittu Ram cannot be removed. Mother of Appellants (Smt. Har Dei) was entitled for tenancy rights as the law has been settled by Hon'ble High Court of Himachal Pradesh (Sim L.C. 1994 (2) page 279) in this regard. He prayed that orders should be passed to give proprietary rights to the Respondents.

*On the basis of the details given above pass the FINAL ORDER deciding the Application under the HP Tenancy and Land Reforms Act, 1972 as LRO-cum-AC Ist Grade, Kasauli. (50 marks)*

**Question No. 2**

**Read the facts given and answer the questions:**

Mr. A (buyer) and Mr. B (seller) presented a Sale Deed for Registration regarding land bearing Khasra No. 100 measuring 4 bigha and 2 biswa and Khasra No. 101 measuring 4 bigha and 2 biswa (Kita 2) situated at Village Buranwala, Tehsil Baddi, District Solan, H.P. before the Sub Registrar, Baddi on 17.05.2016 at 11.30 a.m. On the same morning at 10.30 am the Tehsildar Baddi had received a phone call from the office of Collector (Recovery), HP State Financial Corporation asking him not to allow any transfer of this land as an order was passed by the Collector (Recovery) on that very day (17.05.2016) attaching it as the owner had defaulted on the loan to the tune of Rs 8 Crore only taken against this land from the Corporation. Tehsildar asked the parties to present the Sale Deed again at 4 pm. He telephoned the Collector HP Finance Corporation and asked him to send the Order of Attachment to him. The HP Finance Corporation faxed the Order to the Tehsildar by 3.30 pm. When the Sale Deed was presented before him again at 4 pm, he refused to register it on the ground that a charge was created on the land in question and returned the sale deed to the executants. The executants objected to it and said that the charge was not created when they had obtained the revenue record just a day before and that the revenue record showed that the land was free from all encumbrances therefore the deed cannot be refused. They also said that they have already paid 80% of the Sale Consideration to the sellers which amounted to Rs 80,00,000 out of the total Rs One Crore and they had taken possession of the land as was mentioned in the Sale Deed and that they had spent money on Stamp Papers etc. Hence the deed should be registered.

- a. *Whether the Sub-Registrar Baddi was right in refusing the Sale Deed or not? Give your reasons justifying your answer. (15 marks)*
- b. *Irrespective of your answer to point (a) above, pass an Order refusing the Sale Deed assuming that you will decide to refuse and return the Sale Deed. (10 marks)*



### **Question No. 3**

Sh. Sadh Ram died on 1.1.2015. His son, Ganga Ram reported to Patwari concerned about his death on 15.1.2015. Patwari entered the Mutation on the basis of legal heirs of Sh. Sadh Ram in favour of Kamla (widow), Ganga Ram and Sobha Ram (sons) and Sheela (daughter). Entire land in the name of Sadh Ram was inherited by him from his father. At the time of visit of the Tehsildar for attestation of Mutation on 22.02.2015 all the legal heirs were present. Sh Sobha Ram produced a Registered Will in his favour executed by late Sh. Sadh Ram on 15.12.2014. By virtue of this Will Sh. Sadh Ram had excluded all other legal heirs from inheritance of his land and other property and bequeathed it only on Sh. Sobha Ram. The author of the Will and the Witnesses were also present and they said that the will was genuine. All other legal heirs contested the will and stated that it was forged. They said that said Sadh Ram signed only in Urdu but the Will showed that he had signed in Hindi. They produced certain papers signed by Sadh Ram where he had signed in Urdu. Lambardar of the Village said that as far as he knew Sadh Ram signed in Urdu only.

***Pass an order of Mutation in this case. (25 marks)***

### **Question No 4**

Patwari, Patwar Circle Rampur, Tehsil Shilai, District Sirmour reported on December 15, 2016 to the AC Ist Grade Arki through the Field Kanungo concerned that Sh. Munshi Ram son of Late Sh. Dhani Ram resident of Village Jobri had encroached upon Khasra No. 150/1 min 10 biswa situated in Muhal Jobri, Tehsil Shilai District Sirmour. He reported that the land belonged to the State Government and was recorded in the ownership and possession of the State Government as per the Jamabandi from the year 1975 till date. He further reported that said Munshi Ram had raised a small temporary structure upon part of the encroached land and had sown maize crop in rest of the land.

The AC Ist Grade issued a Show Cause Notice to the alleged encroacher on December 20, 2016. Sh. Munshi Ram filed a reply and claimed adverse possession on the land in question. He contended that he had inherited the possession of the land from his late father more than 20 years ago. The advocate of Sh. Munshi Ram stated that the AC 1<sup>st</sup> Grade was not competent to decide the case as Revenue Officer and he should decide the matter as a civil court. The AC Ist Grade asked the parties on February 15, 2017 to produce their evidence in support of the claim that Respondent was coming in adverse possession over the land.

Sh. Munshi Ram produced Sh. Nathu Ram a resident of the same village who supported his claim. He produced certain electricity bills dating from early 1980 showing that an electricity meter was in his father and then in his name.



The State Government examined the concerned Patwari who refuted the claim of Sh. Munshi Ram and exhibited the Jamabandis since 1975 till date along with recent Khasra Girdawri entries for the last 3 years which showed the state of H.P. as owner in possession of the land comprised in Khasra No 150.

On behalf of the State the Kanungo stated that as per the record the land was in possession of the State of HP and there was no report of encroachment on this land by Sh. Munshi Ram or his father prior to the report submitted the Patwari in December 2015.

Ld counsel for Sh. Munshi Ram argued that he was coming in continuous, hostile and adverse possession as is clear from the statement of the witness and electricity bills. He challenged the revenue entries being wrong and stated that the Patwari was not competent to demarcate the land in question, therefore, his report cannot be relied upon. He pleaded that the AC Ist Grade cannot decide this case

On the basis of the above,

- a. *Draw a Show Cause Notice to the encroacher. (10 marks)*
- b. *Write and order based on the evidence led before you deciding whether Question of Title was involved or not and whether you should decide the matter a Civil Court or as a Revenue Court? (15 marks)*