

Departmental Examination for IAS/HAS Officers

of Himachal Pradesh

SESSION - DEC-17

~~November-2017~~

DEC

Paper No.5

Revenue Case

Time Allowed:3 Hours

Maximum Marks : 100

Note:-HP. Land Revenue Act/Rules and HP Land Records Manual are allowed

Question No.1

1. Sarvshri Ram and Shyam applicant No.. 1 and 2 sons of Gopal residents of Phati Benchi Kothi Raison, Tehsil & Distt. Kullu have filed an application before you in your capacity as an Assistant Collector 1st Grade, Kullu for the partition of their 1/5th share in Khata No.430/560 to 562 kitas, 10 measuring 28-0 bighas situated in Phati Benchi Kothi Raison, Tehsil & Distt. Kullu. Copy of the last Jamabandi for the year 1979-80 has been attached. It is mentioned in the application that there is always one dispute or the other over the possession or sharing of profits of the land and hence the land is require to be partitioned.
2. The other co-sharers were called by the Revenue Officer. All except Smt. Parbati co-sharer turned up in the Court. Smt. Parbati co-sharer did not attend despite due service of summons on her and hence ex-parte proceedings were taken against her. In their statements the remaining co-sharers stated as under:-

Smt. Kamla co-sharer (Respondent No.1)

States that she has no objection to the partition. Her share be partitioned and kept joint with her mother Smt. Radha.

Smt. Radha co-sharer (Respondent No.2)

States that her share be partitioned and kept joint with her daughter Smt. Kamla.

Sh. Hari Ram co-sharer (Respondent No.3)

Stated that the applicants are not in possession of the disputed land. The land in question has been in his as well as his Brother Prem Chand respondent No. 4's exclusive possession for the last 15/16 years. The applicant No.1 & 2 have had no concern whatsoever with the land during this period. Stated further that they are paying the land revenue of the entire holding to the Lambardar and have made improvements by constructing retaining walls and a Kuhal by spending huge amount of Rs.5,000 from their own pocket.

Prem Chand co-sharer (Respondent No.4)

Dittos the statement of respondent NO.3.

3. On the basis of application and statements of respondents how will you proceed further in this case.

(5-Marks)

Question No.2

In the above case you as a Revenue Officer hold that there is a question of title and decide that this will be determined by you as a Civil Court. What procedure will you adopt in that case to decide the question of title?

(5-Marks)

Question No.3

In their plaint respondents No.3 & 4 allege the same facts as mentioned in para 2 above. Application No.1 & 2 in their written statements have denied the facts as alleged by respondents Nos. 3 & 4. Other respondents did not prefer to file any reply. They have further mentioned in the written statements that the entire family is joint and whatever improvement is there has been made out the common pool and that applicant No.1 was in Govt. service and applicant No.2 was a minor and studying in the College till last year. Frame issues in this case for determination of question of title.

(10-Marks)

Question No.4

In the above case decide the question of title on the basis of evidence given hereunder:-

(30-Marks)

Respondents' (Now Applicants in the question of title).
Evidence

(1) Documentary evidence:- Copy of Jamabandi for the year 1979-80 has been produced. According to this Khasra Nos.620-625 and 630 Kitas 3 measuring 9 Bighas 15 Biswas have been shown in Hissadari cultivation of Prem Chand and Hari Ram co-sharers respondents No.3 & 4.

(2) Oral evidence

R.W. 1. Shri Chuni Lal Lambardar:- Stated that respondents No.3 & 4 have been paying the land revenue to him for the last 15/16 years.

XXX XXX-----Shayam Applicant is about 22 years old. Ram applicant No.1 has been in Govt. service in Punjab for the last 15/16 years. No family partition has taken place.

R.W.2 Shri Nimblu Ram of Phati Benchi--- States that he has seen respondents Nos. 3& 4 cultivating and managing the land. Applications No.1 & 2 do not cultivate and manage the land.

XXX

XXX The family is joint. No partition has taken place. Applicant No.2 was studying in the college and has left the College about a year back. Applicant No.1 Ram has been in Govt. service somewhere in Punjab for the last 14/15 years.

R.W. 3 Sh. Sangat Ram of Phati Bandrol—States that last year in the month of April, May 1978 he was employed as Mistri by respondent No.3. He constructed 3 retaining walls of the length of 50 meet each. He did this work on contract basis and was paid Rs.2000 by respondent No.3.

XXX XXX

XXX----- He does not know whether the family is joint.

R.W.4. Shri Jhabey Ram of Phati Mahol----- States that he was employed as Mistri by respondent No.4 for the construction of Kunal. 5 labourers has also been engaged on this work. The work continued for 2 months. He was paid Rs.12 and labourers were paid @ Rs.5 per day.

XXX XXX

XXX XXX----- He does not know whether the family is joint. Applicant No.2 was studying in the College those days.

Evidence on behalf of applicant Nos. 1 & 2 (Respondents in question of title case).

P.W. 1. Shri Ram applicant for partition--- States that the family is joint. Co-sharer Respondents Nos. 3&4 used to live at home and manage the land. He had been in Govt. service in Ludhiana (Pb.) for the last 15/16 years. His wife and children used to live at home and assist other family members in agriculture operations. He used to come home occasionally and send money to Respondent No.3 the head of the family after every 2/3 months. His younger brother applicant No.2 was a minor and studying in school/college. He has graduated only last year.

P.W. 2. Shri Nidhu Ram of Phati Benchi----- Stated that he is ⁷⁰70 years old and is the resident of the same village. Entire family is joint. No partition has ever taken place. Respondents 3&4 used to live at home and manage the land and Ram applicant No.1 has been in Govt. service somewhere in Punjab for the last 13/14 years. He used to send money to home. His wife and children usually stay at home and help the other family members in agricultural operations.

Court question-----He is not related to any of the parties.

Question No.5

Suppose in the above case you determine that the question of title is not established and decide to proceed further with the partition proceedings and proceed to record the statements of the parties about the mode of partition and record the following statements. Prepare a suitable mode of partition on the basis of statements of the parties given below:-

(20-Marks)

Applicant No.1

The land be partitioned in such a way that irrigated land irrespective of soil classification be made into a separate block and partitioned according to share. Khata of applicant No.1 & 2 be kept joint. The land under apple orchard and the land under plum orchard be partitioned separately. Ghasni land be made a separate block and partitioned according to share on the principles of consolidation of holding.

Cultivated Barani land near abadi being valuable to kept in a separate block and partitioned according to share. The land under recently constructed road by P.W.D. be partitioned according to shares. Abadi land and Kuhal be kept joint.

Applicant No.2

States that he agrees with the statement of applicant No.1 except that the turns of the Kuhal be fixed to avoid disputes in future.

Respondent No.1

The land be partitioned according to soil classification. Abadi land be kept joint. Turns for the use of Kuhal be fixed. Area under plum and apple orchards be kept joint. No allowance be given for the shortage or excess in area falling to the share of any share holder as under:-----

- 1, Biswa in case of irrigated land.
- 2, Biswas in case of unirrigated cultivable land. 5 biswas in case of Ghasni & land.

Question No.6

After the sanction of mode of partition by you partition paper were prepared by filed Kanungo and attached Naksha "bey" & "jeem" have been sent to you. What further action will you take on receipt of these papers?

(5-Marks)

Question No.7

Applicant No.1 objects that Khasra No.142/1 which has been allotted to him is of inconvenient shape as one portion of this field enters deep into the fields of other co-sharers and has requested that suitable shape be given to this filed so that there may be convenience of cultivation. Other co-sharers have no objection to the partition proposed by Field Kanungo. Write an order sanction partition on the basis of "Naksha Jeem" after deciding objection of applicant No.1.

(20-Marks)

Question No.8

What statements are attached with partitions papers?

(5-Marks)

THESE

ONE
PARTION