

HP BOARD OF DEPARTMENTAL EXAMINATION
DEPARTMENTAL EXAMINATION FOR IAS/HAS OFFICERS
JUNE 2018
PAPER 5: REVENUE CASE

TIME ALLOWED 3 HOURS

MAXIMUM MARKS 100

NOTE:

- 1. ATTEMPT ALL QUESTIONS**
- 2. REVENUE ACTS/RULES/MANUALS CAN BE CONSULTED**

QUESTION NO. I

On 08.12.2017, AJAY KUMAR son of Sh. Vikram Singh approaches the Patwari of Patwar Circle. Gumma and informs that his father has died a few days back and he is the only legal heir, therefore, the Mutation of the property be entered in his name. Patwari records the information in his Roznamcha and enters Rapat Number 25 in this regard. He accordingly makes an entry in Mutation Register as Mutation Number 18. Field Kanungo, Gumma verifies the entry. The Tehsildar visits the Patwar Circle on 10.01.2018 and holds the proceedings in Jalsa-e-Aam. When the Mutation Number 18 is taken up for attestation the Tehsildar finds that as per the Shajra Nasab drawn on the back of the Mutation No. 18 Sh. Vikram Singh is survived Smt. Radha Devi (wife) and Smt. Rama (daughter) besides Sh. Ajay Kumar (son). Further, on enquiry he is informed by the Nambardar of the Village that both Rama and Radha are alive and they live in Shimla where husband of Rama works in a private company. It is further revealed that the Patwari has not informed the wife and daughter of the deceased. Sh. Ajay Kumar states that his sister is married and does not want any share in the property and his mother also lives with her at Shimla, therefore, he, being the only male heir, should be treated as the only person entitled for the property of his father.

(i) Assume that you are the Tehsildar-cum-Assistant Collector Ist Grade.

Pass an order deferring the attestation of Mutation with the direction that wife and daughter of Late Vikram Singh should be informed and asked to be present before him on 12.02.2018.

(10 Marks)

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On 12.02.2018, both Smt. Radha Devi and Smt. Rama are present before the Tehsildar, besides Sh. Ajay Kumar. Smt. Radha Devi and Smt. Rama state that they do not want any share in the property of the deceased Sh. Vikram Singh and they have no objection if the entire land is mutated in the name of Sh. Ajay Kumar. On this date another person named Sh. Hardev Kumar who is present in the general assembly states that late Sh. Vikram Singh, before his death, had entered into an agreement with him to exchange half of his land with him. He presents a unregistered Tabadala Nama in support of his claim. Sh. Ajay Kumar rejects the claim of Sh. Hardev as false and states that his father never entered into any agreement to exchange the land with anyone.

(ii) Pass an order attesting the Mutation in the light of submissions made before you as Assistant Collector 1st Grade.

(20 Marks)

QUESTION NUMBER II

Sh. Ramanand Shashtri and Sh. Digambar Shashtri (both real brothers) file a joint application before the Assistant Collector 1st Grade-cum-Tehsildar Solan with the request to partition their respective shares from their brother Sh. Radha Raman Shashtri and mother Smt. Revati Devi in the joint property. Total land recorded in the joint ownership of these four persons is 100 bighas which is recorded in equal shares as per Jamabandi.

Notice is issued to the Respondents, who appear and file their replies. Respondent No 1 Sh. Radha Raman Shashtri states in the written reply that he is the exclusive owner-in-possession of 75 bighas of land out of 100 bighas and he is cultivating entire 100 bigha land after the death of his father Sh. Priya Vrat Shashtri who died 22 years back. Remaining 25 bighas of land is being cultivated by him on behalf of his mother who has been given **Ta-Hayaat Rights** in 25 bigha land by his father. After his mother's death this 25 bigha land shall also pass on to him. He further stated in his written reply that his father had, before his death, given the entire landed property measuring 100 bigha to him as he was the only one taking care of the entire land. His brothers Ramanand and Digambar (Applicants) were living in America for the last 40 years. He stated that since both his brothers had settled outside India and hardly visited their

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ancestral village where the land was located, their father had told all of them in a family function 22 years back (after two months of which he had died) where they had all gathered that he wants his entire land to be Willed in the name of Radha Raman Shashtri as he was the one who was taking care of him. He had also told at that time that 25 bigha land will be given to his wife Smt. Revati who will have a life interest in it and after her death this 25 bigha land shall pass to Radha Raman. He stated that his brothers and mother had agreed to the arrangement. His father wanted to get a Will made to this effect but immediately after the family function he fell sick and was admitted into a hospital where he died after two months. He attached the hospital record with the reply. He also attached details showing that he was maintaining separate account of the expenditure and income from 75 bigha and 25 bigha land respectively. And he also attached the bank account details of his mother showing that proceeds from 25 bigha land were being deposited in his mothers account. He further pleaded that both his brothers had left for America after the function. He said that due to illness of his father the Will could not be executed. He also produced record showing that after the death of his father he had filed an application before the AC Ist Grade to delete the names of his brothers from the column of ownership by way of correction of revenue entry but the application could not be decided as his brothers, who lived in America, could not be served. He attached the copy of this application with his reply. He pleaded, that all the Girdawri entries are in his name only and now after all these years his two brothers have started to claim the land wrongly. He attached copies of Khasra Girdawri for the last five years (both for Rabi and Kharif Crops) showing that only his and his mother's name has been entered in the field inspections. He pleaded that since the death of his father only his and his mother's name is appearing in Khasra Girdawri. He also attached the copies of Jamabandi showing that in the column of possession his and his mother's name has been recorded as cultivators though his brothers are recorded as owners in the ownership column along with him and his mother. He claimed that his brothers have not spent even a single rupee in the land over the years and he has developed the entire land exclusively. He claimed that his brothers have now started to claim this land wrongly as they have no right in this land.

Respondent No. 2 Smt Revati Devi files a separate reply and supports the claim made by her son Sh. Radha Raman Shashtri (Respondent No. 1). She also states in her reply that her son Sh. Radha Raman is cultivating 25 bigha land on her behalf in which she hold life interest.

Applicants file Rejoinder and deny the claims made by the Respondents. They state that they hold Indian Passports and have been coming to India at least once in two/three years and have been visiting their native village. They attach copies of the Passport, Visa and Immigration Stamps to prove their contention that they hold Indian Passports and have been visiting India at regular intervals. They rely on the judgments that have established the principle that possession of one co-sharer is possession of all. They deny that their father had ever expressed his intention to Will entire land in the name of Respondent No 1 as claimed by him. They say that there is no documentary evidence to this effect and the claim of the Respondents is false that their father decided to give entire land to Respondent No. 1. They state that they had reached an understanding with their brother (Radha Raman) that since he was living in the village, he will develop the land with his money and will enjoy the produce exclusively. They plead that once the land is partitioned they will develop their respective shares and will cultivate these separately and will be entitled for the profits from their respective shares. The evidence led by the parties is in line with their respective pleadings.

Witnesses of applicants state that though they were living in America they visited their native village after every two/three years; the land was held jointly by the three brothers and their mother in equal shares as per revenue papers; there was no Will (registered or unregistered) executed by Late Priya Vrat Shashtri.

Witnesses of the Respondents state that the land was being cultivated by Radha Raman exclusively for the last 22 years and the applicants never tilled the land and they did not spend any money on the land development. Respondent developed the land by installing bore wells, poly-houses, fencing the land and creating irrigation facility on the land.

(i) Based on the Pleadings of the Parties frame issues. (10 Marks)

(ii) Pass final order in this case based on the pleadings and evidence led by the parties. (20 Marks)

QUESTION NUMBER III

On 12.06.2010 an application is filed by Devi Chand Son of Ram Chand before the Land Reform Officer cum Tehsildar, Kangra with the following claim: Ram Chand was non-occupancy tenant on land comprised in Khasra Numbers 15, 16, 17, 18 and 35/2 measuring 18-10 bigha in all situated in Village Dhar in Palampur Tehsil. After the HP Tenancy and Land Reforms Act 1972 came into force the then Land Reform Officer Palampur conducted the proceedings under the Act and passed an order by virtue of which Ram Chand was made owner of the land in question. However, when the Mutation was attested Khasra Number 35/2 measuring 3-00 bigha was inadvertently left out. Ram Chand was an illiterate person and he did not know that this number was left out. This Order was passed in the year 1976 (Case No. 231/1976 dated 10.09.1976) and the Mutation was also attested in 1976 (Mutation Number 111 of 1976 dated 15.11.1976). Devi Chand son of Ram Chand pleaded that he was a minor at that time and later he joined Indian army and land was being cultivated by his father. His father died in the year 2010 (Date of death: April 22, 2010) and after his death when he got copies of the revenue papers he found that his father was shown as owner of Khasra Numbers 15, 16, 17, 18 measuring 15-10 bigha only and Khasra Number 35/2 was still coming as tenancy land. He attached the copy of the Jamabandis since 1950s till the latest Jamabandi showing that Khasra Number 35/2 measuring 3 bigha was recorded in the ownership of Ripu Daman Singh as land owner and Ram Chand was recoded as non-occupancy tenant. He therefore pleaded that he should be conferred ownership of the land as his father had become owner of the land automatically by virtue of coming into force of the Tenancy and Land Reforms Act.

Notice was issued to the owner Ripu Daman Singh who filed his written reply to the application with the preliminary objections that the application was not maintainable as the LRO has decided the matter in 1976 and that order has attained finality and now LRO can not re-open the matter and there is no provision of review under the revenue law; that the application was hopelessly time-barred and was hit by limitation; that matter was decided in the year 1976 and the LRO had not passed any order that ownership of Khasra Number 35/2

was to be given to Sh. Ram Chand; that the Order of the LRO passed in 1976 had become final and no appeal had been filed against the said order; that the Mutation was also not challenged by Ram Chand or Devi Chand since 1976 and the revenue entries showing Ram Chand as tenant are wrong.

On merits he pleaded that father of Devi Chand was recorded as a non-occupancy tenant on Khasra Numbers 15, 16, 17, 18 and 35/2 measuring 18-10 bigha in the year 1955 and when the Tenancy and Land Reforms Act came into force and the proceedings were undertaken by the then LRO he had filed an application for resumption of land as provided in the Act and Khasra No. 35/2 was part of the land claimed in resumption. That is why the then LRO had not conferred the ownership rights in respect of Khasra Number 35/2 upon Sh. Ram Chand. He said that Khasra Numbers 15, 16, 17 and 18 were located near each other and formed a compact parcel of land whereas Khasra Number 35/2 was located away from this parcel of land and was near his ancestral house which is located on Khasra number 35/1. Since this land (Khasra Number 35/2) was next to his house he had resumed this land. He attached copy of Jamabandi showing that his house was located on Khasra No. 35/1 and also attached the field map showing that Khasra Number 35/1 and 35/2 were located far away from Khasra Numbers 15,16,17 and 18. He also attached the copy of the Order Passed by the then LRO in the year 1976 and highlighted that the operative part of the order mentions only Khasra Numbers 15, 16, 17, 18 measuring 15-10 bigha and it does not refer to Khasra Number 35/2 measuring 03-00 bigha at all. He prayed that the application be dismissed. He attached the copy of his application that showed that he had included Khasra Number 35/2 in the list of Khasra numbers to be resumed by him. He also pleaded that he was in cultivating possession of the land comprised in Khasra Number 35/2. The Respondent also stated that though there is an entry of Ram Chand as non-occupancy tenant in the column of possession there is no entry qua Rent in the relevant column. No rent has been paid ever either by Ram Chand or Devi Chand in respect of this land therefore the tenancy entry is no correct.

Applicant filed rejoinder denying the claim of the Respondent and pleaded that the Khasra Number 35/2 was left out of the operative part of the order passed by the LRO inadvertently and there is no finding that Khasra Number 35/2 was

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resumed in favour of the owner/Respondent; that the Khasra Number 35/2 is not in the list of land resumed as decided by the LRO though it is part of the application made by the Respondent; that the tenancy entries are continuing since 1955 in respect of Khasra Number 35/2 and the Respondent has never challenged these entries; that the vestment of ownership rights is automatic; the claim of Respondent about cultivation of the land in question is not supported by any document and that LRO was competent to decide the matter as provided under the Act. He also pleaded that since the vestment was automatic and his father had become owner of the land in the year 1974 itself there was no need to pay any rent. He pleaded that before 1976 there was an entry of Rent in the relevant column but the same was not there after 1976 which was the fault of revenue agencies. He pleaded that in several cases related to the same revenue village the rent column did not have any entry but the tenants had been made owners of the land in question. He attached some of the copies of revenue record related to other land owners in support of his claim. He pleaded that the land was in his cultivating possession.

LRO heard the parties, asked them to lead the evidence. Both the applicant and the Respondent proved the documentary evidence attached with their respective pleadings. As far as cultivating possession was concerned neither Applicant nor Respondent could present any documentary evidence to establish cultivating possession. Applicant produced two witnesses who stated that the father of applicant cultivated the land in Khasra Number 35/2. The Respondent also produced two witnesses who stated that Khasra Number 35/2 was in possession of Respondent. The Patwari concerned was examined by the LRO who stated that Khasra Number 35/2 was fallow land and was not being cultivated on the spot. He stated that since there was no crop sown on this Khasra Number, it cannot be said who was in possession of this land. No other evidence was led by any of the parties.

Assume you are the Land Reform Officer, Palampur. Pass final order in this case deciding the matter. (40 marks)