

**Departmental Examination for Tehsildars and Naib Tehsildars  
of Himachal Pradesh**

**June-2018**

**Paper No.6**

**Time Allowed: 3 Hours**

**Revenue Case**

**Maximum Marks: 100**

**Note:-**

1. HP. Land Revenue Act/Rules and HP Land Records Manual, Bare Acts and Govt. Notifications are allowed to be consulted.
2. The candidates may answer the questions either in Hindi or in English.

**Question No. I**

On the basis of the following pleadings of the parties and other particulars of the case as given below, please frame the issues requiring determination in the case and write the judgment as Assistant Collector First Grade.

**15+35 Marks**

'V' the uncle and undisputed guardian of minor 'M' filed a suit on behalf of 'M' on 19.08.1983 against 'B' recorded as tenant under 'M' on land measuring 25 Bighas situated in villages 'X' Tehsil 'Y' District 'Z', for the recovery of arrears of rent amounting to Rs.3000/- and for ejection 'B' on the following grounds:-

- 1) That 'B' was inducted as "gairmaurusi" tenant on the land by 'A', the deceased father of 'M', as the then land owner, during the year 1972, on payment of annual rent of Rs.1000/- payable in two equal instalments by the 30<sup>th</sup> June and the 31<sup>st</sup> December, each year.
- 2) That in August, 1974, 'A' died, upon which the land was inherited in equal shares, as land owners, by 'W' and 'M' respectively the widow and minor son of 'A'.
- 3) That in August, 1975, 'W' died, upon which 'M' inherited the share of 'W' in the land and thus, 'M' was recorded in revenue records as the land owner of the entire land measuring 25 Bigha on which 'B' was continued to be shown as tenant on the same terms and conditions on which the land was given by 'A' to 'B' for cultivation as tenant.
- 4) That 'B' stopped cultivating as land since kharif, 1980 and established as sheep breeding farm on the entire tenancy land where he started constructing sheds and making other arrangements for breeding/rearing sheep; and in June, 1983, the construction of even a big godown was taken in hand by 'B'
- 5) What despite notices, 'B' did neither pay any rent to 'M' since kharif, 1980, nor refrain from doing the aforementioned acts which constituted, use of the tenancy land in a

manner which has rendered it unfit for the purpose for which land was being held by 'B' tenant.

'V' produces two witnesses, namely, 'L' the Lamberdar and 'P' the Pradhan, who fully supported the case of 'M' and also copy of the Jamabandi for the year 1880-81, showing 'B' recorded as tenant on the land under the ownership of 'M'

'B' did not produce any evidence except for getting his own statement recorded. 'B' admitted in his reply to the suit and in his statement, the facts mentioned in grounds No.1) to 4) above, but 'B' denied that he had any liability to pay rent to 'M' since kharif, 1980. 'B' claimed that upon death of 'W' he had himself become the land owner by operation of the provisions of the HP Tenancy and Land Reforms Act, 1972. 'B' also claimed that the entries made in the Jamabandi for the year 1980-81 showing 'M' as the land owner in respect of the entire land measuring 25 Bighas were wrong because the effect of operation of the provisions of the said Act and the Rules framed there under has not been recorded in the revenue records to show 'B' as the land owner instead of 'M'.

During arguments, the counsel for the parties stressed on various points of fact and of relevant law, in support of their respective contentions.

### Question No. 2.

An application for partition was presented before you as Assistant Collector, 1<sup>st</sup> Grade. The respondents raised a question of title and you as a Revenue Officer after due preliminary inquiry came to the conclusion that a question of title was involved. You have, therefore, decided to convert yourself into a competent court and decide the question of title yourself as a court. The relevant record and evidence is given as detailed in record part. Based on the record, frame the issues and write the order of the day on which you frame the issues.

15 Marks

Based on the same and the assertion of the parts and keeping in view the relevant legal position write a self constrained judgment complete in all respects deciding

35 Marks

### RECORD PART

In the Court of the A.C. 1<sup>st</sup> Grade (Partition) Kasumpti, Distt. Mahasu. H.P.  
Shri Roshan Lal son of Shri Madal Lal resident of village Barati, Pargana Chautha,  
S.Teh. Soni. Distt. Mahasu. H.P.

.....Applicant.

Vs.

Smt. Sumna widow of Shri Gori Datt resident of village Barati, Pargana Chautha S.Teh. Soni, Distt. Mahasu.

2. Sh. Keshav Ram. Sh. Gori Datt through his mother as guardian ad-litem r/o village Barati. S.Teh. Soni, Distt Mahasu.
3. Smt. Shanti wife of Shri Goria resident of village Kalti, Pargna Shohawali, Teh Kasumpti, Distt. Mahasu, H.P.
4. Shri Mathru son of Shri Sasi ram resident of Barati, pargana Chautha, S.Teh. Soni, Distt. Mahasu.
5. Sh. Chet Ram son of Shri Sasi Ram R/O village Barati, Pargana Chautha, S.Teh. Soni, Dstt. Mahasu, H.P.

Applicant for partition of land at village Karati Pargna Chutha, S.Teh. Suni Distt. Shimla comprising in K.K.No.9/24 measuring 9 Bighas as recorded in the jamabandi for the year 1965-66.

The applicant respectfully submits as under:-

1. That Smt. Durgu has died and in her place the applicant is owner in possession of  $\frac{1}{2}$  share in respect of land comprising in K.No.9/24 measuring 9 Bighas as per jamabandi for the year 1965-66, vide registered deed No.6/72 dated the 07.02.1972.
2. That the applicant and respondents are having joint Khata and they are possessing the land in question jointly.
3. That for convenience sake and to enjoy the share separately the applicant wants to get his share partitioned in accordance with the provision of H.P. Land Revenue Act.

It is, therefore, prayed that share of the applicant may be partitioned from the share of respondents.

Kasumpti, dated the 17<sup>th</sup> June, 1972.

Sd/- (Madan Lal (Father)  
Applicant.

Verification:

I, Madan Lal next friend of the applicant do hereby solemnly verify that the contents of pares 1 to 3 are true and correct to the best of my knowledge.

Kasumpti, 17.06.1972

Sd/- (Madan Lal (Father)  
Applicant.

(Gist of Written Statement)

**PRELIMINARY OBJECTION:-**

1. That the applicant is for partial partition and is not maintainable.
2. That the land has not been fully described in the application and the application requires amendment.
3. That the applicant is out of possession as such there involves a question of title and the application is liable to be dismissed on this short ground.
4. That the land in question was in the possession of the replying respondents. Sh. Madan Lal F/O the applicant who got a gift executed by musamat Durgu Wd./O Kundan of village Ramhan under influence and fraud. The said gift is not binding on the respondents especially when it was obtained by deceit and fraud and when it was illegal and contrary to law.
5. That, musamat Durgu was not in possession of the land. She has conveyed the land in respect of her share in favour of Shri. Chet Ram respondent nearly 13 years ago. The said transaction of transfer was by oral gift and the possession was passed on that very movement and since then her share is in the possession of Sh. Chet Ram respondent. Sh. Chet Ram Respondent has been maintaining the said Smt. Durgu, during her life time.
6. That the entry in the revenue record is wrong. The contents of the gift deed vide which the entry has been made in the revenue record are also wrong and contrary to facts. There exists no valid gift under the law and the gift in question has not been acted upon. The gift is only complete when the donee accepts the same but in the present case there is no acceptance as required under the law, as such any entry made under the said illegal gift does not confer any right, title and interest on the applicant.
7. That there has been private partition between the parties and therefore this application is not maintainable. Private partition took place since long and the parties are in separate possession since then.
8. That the replying respondents have effected improvements on the land of the value of thousands of rupees. Sh. Chet Ram replying respondent has spent more than 15000/- on the improvement of the share of masamat Dargu. Sh. Chet Ram respondent has also constructed a house over the land.
9. That the applicant has no locus standii to file the present application.
10. That for the fore-going reasons a question of title arises in the case of application deserves to be dismissed.

**ON MERITS:**

1. Para-1 of the application is not admitted to be correct. The land has not been properly specified. Full reasons have been given in the preliminary objections. The application is not maintainable and is liable to be dismissed.

2. That Para-2 of the application is also denied. The application has no title and interest in the land as already stated above not is in possession of any part of the land in question. The entries in the revenue record is wrong and against of existing facts.
3. That with regard to the contents of Para-3 of the application, it is submitted that there is no question of partition because the application has no locus standii and right to file the present application.

It is, therefore prayed that for the foregoing reasons the application may please be dismissed with costs.

Sd/- Chet Ram & Other Respondents  
through counsel for the respondents.

Application for partition of land at Village Barati Sub-Tehsil Suni in respect of land comprising Khata/ Khatauni NO.9/24 measuring 9 (Nine) Bighas.

**WRITTEN STATEMENT OF SHRI KESHAV RAM MINOR THROUGH COURT  
GUARDIAN.**

1. That the applicant is not in possession of the land under partition, hence the question of title is involved. The application may be dismissed on this very ground.
2. That a private family partition had taken place since long and as such the application is not maintainable.
3. That the application has no locus standii to file the present application as he has no title and interest under the law.

It is, therefore, prayed that the application for partition of land may be dismissed with cost.

Date 18.06.1974.

Sd/-  
(Keshav Ram) Minor through Daya  
Nand Verma, Court Guardian.

**ARGUMENTS:**

The counsels for both parties reasserted their pleadings and argued their points. The counsel for Roshan Lal stated that there was no question of title whereas counsel for Chet Ram argued that there was question of title.