

H.P. Board of Department Examination  
Departmental Examination for Tehsildars

Paper No.6.

Time Allowed: 3 Hours

Revenue Case

M. Marks-100

Note: 1. Attempt all the questions.

2. Only Bare Acts are allowed to be consulted.

3. Answers can be given in Hindi or English.

Q.No.I. One Prem Chand s/o Sh. Gita Ram through his Counsel moved an application on 15.3.2018, under Section 123 of the Himachal Pradesh Land Revenue Act, 1954 before the Tehsildar, Rajgarh for partition of his share in land comprised in Khatta No. 60 Khatauni No. 102, Kitas 29, area measuring 146-14 Bighas, situated at Mauza Fatehpur Sidhodi, Tehsil Rajgarh, District Sirmour. As per Jamabandi for the year 2015-16, attached with the application of Prem Chand is recorded as co-owner in joint possession to the extent of 1/2 share with Sh. Som Raj, Sh. Ranjeet Singh, sons Bhagwanti daughter and Smt. Kamla wife of Gita Ram S/o Ram, residents of estates, having equal share in rest of 1/2 share.

The respondents contested the application on the grounds that the entries in record of rights are not correct as the applicant has manipulated these entries on the basis of a forged "Will" of Sh. Gita Ram; that their predecessor in interest was owner in possession of land in two other Mohals namely Dahan and Fagu and the applicant has managed to get entire land mutated in his favour on the basis of aforesaid forged will; that the respondents had challenged the "Will" before the Ld. Civil Judge, Rajgarh in case No. 4/1 of 1999 and a compromise had taken place between the parties on 04/04/2001 in the Ld. Civil Court; that the respondents have submitted copy of compromise to the Patwari concerned for entering mutation in accordance with the compromise and the same is still pending decision before the A.C -2<sup>nd</sup> Grade concerned; that until and unless the mutation is attested the partition application cannot be adjudicated upon being made on the basis of wrong revenue entries.

In replication to objections raised by the respondents the Ld. Counsel for applicant stated that the partition application has been made in accordance with the entries in accordance of rights. He further added that after compromise the respondents have sold their share to third parties and have also raised loan on their share. He further argued that the compromise had taken place more than fifteen years back and that cannot be given effect in record-of-right today and should have been given affect at that time only.

Keeping in view the aforesaid backgrounds:-

(i) Pass an order on the issue as to whether the partition application should be accepted or declined keeping in view the provision of the H.P. Land Revenue Act, 1954.

(15)

(ii) In case it is presumed that the respondents have no objection on partition of the land and "Fard Kabza Moka" has also been procured, in that case devise a mode of partition of the land.

(15)

Q.No. II. Sh. Puran Chand, Sh. Karam Chand and Sh. Jeet Singh S/o Sh. Kundu Ram S/o Sh. Sunka residents of Mauja Lalchad, Tehsil and Distt. Kangra, are recorded as non-occupancy tenants under land owner namely, Jogu, Munshi and Majnu sons of Nanku son of Tholu, in Jamabandi for the year 1997-98, of land, comprising Khatta No. 163 Khatauni No. 295, Kitta 6 area measuring 05 Kanal 14 Marla, classified as "Kuhali Awal". In column of rent of the said jamabandi, there is an entry as "Galla Batai Chaharam". The land owners are also recorded owner in possession of 170 Kanal 15 Marla land in Khata No. 164 in the same Mauza, up to the extent of equal share out of which 90-16 Kanal area is recorded as irrigated having two crops in a year, 70 Kanal 14 Marla as un-irrigated giving one crop in a year and rest of the land is classified as "Ghasni".

Puran Chand, Karam Chand and Jeet Singh moved a joint application before the Ld. Land Reform Officer, Kangra, requesting for conferment of ownership rights over the land under tenancy as per Section 104 of the H.P. Tenancy & Land Reforms Act, 1972.

Owners, Jagu Ram, Munshi and Manju contested the application taking the plea that the land in dispute was recorded in the ownership of their mother to the extent of 1/3<sup>rd</sup> share and she was a widow and as such was protected under the Act. They further contended that during her life time, she had bequeathed her share in favour of Munshi by way of a registered "Will" and Munshi was serving in Indian Army and is also protected under the Act. They further contended that are of the applicant. Sh. Jeet Singh is a minor and minors are protected under the Act. They further contended that one of the respondents being a member of the Armed forces, is entitled to resume land for his personal cultivation. They also contended that the land of their father has also vested in the State Govt. under the provisions of the H.P. Ceiling & Land Holdings Act, 1972, as such they are entitled to retain land upto permissible area prescribed under Section 4 of the H.P. Ceiling Act, 1972.

(i) Keeping in view the aforesaid background write down a detailed order on the application discussing the possible arguments from the applicants side.

(25)

(ii) Presuming that the aforesaid application is allowed, write down a detailed mutation order conferring ownership rights on the applicants.

(15)

Q.No.III. Patwari halqua through Kanungo concerned, submitted a report dated 19/04/2007 to the Tehsildar Solan stating therein that Government land bearing Khasra No. 168/1 area measuring 1 bigha 2 biswa, situated at Mauja Luhanu, Tehsil & Distt. Solan, H.P. has been encroached upon by one Med Ram S/o Sh. Jeet Ram, resident of Mauja Luhanu, Tehsil & Distt. Solan, by constructing a residential house, a Kitchen & a Septic Tank thereon. He submitted that the land has been recorded in ownership of the State Government and in the column of possession, there is an entry of "Kabza Svaym Tabe Haquook Bartan, Mutabik Naksha Bartandaran". He submitted two copies of tatimas & Jamabandis to the Tehsildar, Solan for eviction of the encroacher from the Govt. land in accordance with the provision of Section 163 of the H.P. Land Revenue Act, 1954:

On receipt of this report, the Tehsildar Solan issued a show cause notice dated 01/05/2017 to Med Ram under Section 163 of the Act, *ibid*, to vacate the suit land well before 15.5.2017. In compliance to notice Med Ram

appeared before the Tehsildar Solan alongwith his counsel and requested for granting time to file reply. Tehsildar Solan granted time of three weeks and fixed case for reply on 06/06/2017. On 06.06.2017 Med Ram appeared in person alongwith his counsel and filed detailed reply to the notice alleging therein as follows:-

- (i) That the suit land belongs to the respondent being land recorded as "Hasab Rasad Mal Guzari" prior to 26 January, 1950 and same was in possession of the ancestors of the respondent. That keeping in view the amendments carried out in the H.P. Village Common Lands Vesting and Utilization Act, 1974 in the year 2001, this land has to be reverted to estate right holders and the State has no right over the land in dispute. Further citing various pronouncements of the Hon'ble High Court, and Hon'ble Supreme Court, he claimed that the village common land belong to local people and the State Government has no right to such land.
- (ii) That the demarcation has not been done by the competent authority as Patwari is not competent to carry out demarcation and it is the AC 1<sup>st</sup> Grade, who can demarcate the Government land; that demarcation has not been carried out in presence of the respondent.
- (iii) That in case, it is presumed that the land belong to State Government even in that case the suit land is in possession of the respondent since his ancestors and there was residential house on the suit land which was constructed way back in early nineteen fifties. He has only renovated the old existing house. That since the respondent is in possession of the land in dispute for last more than 60 years, his possession has matured into adverse possession and he has become owner of the suit land.

Considering the facts given above, you as Assistant Collector, 1<sup>st</sup> Grade, Solan; if prima facie question of title is involved, convert yourself as Civil Court and pass a judgement alongwith decree, but if you conclude that mere raising of question of title by Med Ram does not make it a title; then pass an order based on facts and law as Revenue court.