

## Miscellaneous Law -2<sup>nd</sup> semester

### Property Law (Saraswati 8)

#### Meaning of 'property'.

The law of property is concerned with the rights of persons towards one another in respect of things subject to persons which have a pecuniary or sentimental value to them. "Property" includes corporeal or tangible things e.g. cars, and incorporeal or intangible things e.g. shares.

Certain items are excluded from the ambit of the law of property: things which are not susceptible to human control e.g. sun and moon; things common to all humankind e.g. atmosphere; and state property intended for use by the general public e.g. public roads and the sea.

#### Real Rights (enforceable against the whole world)

Rights in respect of property are frequently classified as "real". The following are categories of real rights:

1. **Ownership:** can do what you want. "fullest" right you can have with regards to property  
How do you get ownership? Next:
  1. Agreement
  2. Delivery
2. **Real and personal servitudes**
3. **Mortgages**
4. **The right of a lease of immovable property**
5. **Easements**
6. **Adversarial rights**
7. **Pledge**

#### Movable and immovable property

- **Movable:** can be moved from one place to another without sustaining damage or losing its identity.
- **Immovable:** e.g. houses, fit in a building

#### Ownership

The most extensive right you can possess in respect of a thing – it entitles the person to deal with the thing as he pleases and to alienate it and reclaim it from anyone who holds it unlawfully.

The right of ownership, however, is not absolute: rights towards your property can be limited.

It is not confined to one person – two or more persons can own undivided shares in a single entity, such as a piece of land. A co-owner is free to do what he likes with his share without the consent of the other owners.

#### Acquisition of ownership in corporeal property

Ownership may be acquired in one of two ways:

1. **Acquired independently** and without the co-operation of any previous owner – new right created
2. **May be acquired by way of transfer** from a prior owner

#### Original modes of acquiring ownership

1. **Occupation:** ownership is acquired by occupation when a person takes possession of an unowned thing with the intention of becoming owner of it e.g. wild animals
2. **Accession:** where a thing or portion of a thing is incorporated by natural or artificial means into another thing so that the former loses its identity and becomes an integral part of the latter.

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**R S N Pillai**



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