

KINDS OF POSSESSION

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Mediate and Immediate Possession: Possession is immediate, or immediate. Samand says – “A person may possess any thing for or on behalf of another. In such cases the latter’s possession is through the person who so possesses the thing on his behalf. Thus, the possession held by a person through another person can be called Vyavidh, while that which is acquired or held directly or personally can be called Avyavhit or Pratyaksha.

- (1) Concurrent possession is one which is acquired through an agent or servant. For example, when I send my servant to buy clothes for me, from the time he buys the cloth till the time he gives it to me, he (the servant) has natural possession and I have natural possession.
- (2) Secondly, possession occurs where a thing is held by a person on his own behalf as well as on behalf of someone else, for example, if someone has borrowed a book from me, then it is mine. There is legal possession of that book.
- (3) The third type of continuous possession is where the continuous possession of the thing is by any person who has a claim on that thing until some time has passed.

Unless some condition is fulfilled

Corporeal and Incorporeal Possession; Again a distinction is made between ‘tangible’ and ‘intangible’ possession. Tangible possession is some kind of ongoing relationship between a person and an object. This is a matter of fact and not of rights. This is only an entitlement to a right, not the right itself. ‘Intangible’ possession is the continuing use of a claim to something

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(other than a physical substance). Thus, the claimed good can be either a non-exclusive consumption of a physical substance or (for example, a way or other easement over a piece of land) or there may be an interest or benefit unrelated to the consumption of material goods. For example, 'a trademark, a patent or a term of profit.' In short, tangible possession is the possession of a thing, and 'intangible' possession is the possession of a right.

Possession and Ownership Ownership is a cognate concept of possession, so it would not be out of place to say a few words about the relationship between the two. Samund differentiates between these two on the basis of facts and rights. The fact of possession is that which exists as a right of ownership. Possession is the actual exercise of a claim, ownership is the legal recognition of a claim. I am the owner of a thing insofar as my claim to it is maintained by the will of the State expressed in law. I possess it, while my claim to it is maintained by my will to assert my claim. The rights of both are essentially the same – the rights of possession and ownership are essentially the same.

Both Are similar. Within the limits prescribed by policy, the owner is entitled to exercise his natural powers over the subject-matter without interference, and is more or less protected from preventing other persons from such interference. The master is authorized to keep everyone away, and is not accountable to anyone. The occupier is authorized to keep out all but one, and is not liable to anyone except that one."

Meaning of property

Generally, property means that 'object' (Res) on which the right of ownership can be exercised. The right of ownership is usually exercised only on tangible objects. According to Samand, the meaning of the word property is mortgage property.

Proprietary rights in rem. Universal rights mean such rights which a person has against the entire human race.

Under the law, the word 'property' has been used in different meanings. Sometimes It is used in the sense of ownership and sometimes in the sense of title. not only this Sometimes all the things that a person has are considered his property.

This includes not only the things that some person owns but also the things that that person owns.

All the claims of the person are also included in his property. But it is noteworthy that this meaning of property is inappropriate from legal point of view. According to Samand, under law, the word property can be used in the following contexts:

- (1) *In the form of all legal rights;* property in this context includes all the legal rights of a person., servant here Until a man's own life, his hands and feet, his freedom, his children, And all the land, property etc. is considered his property.
- (2) *In the form of proprietary rights;* In this sense, property includes the personal rights of man. There is no inclusion but only the proprietary rights are called its property. Therefore, a person is entitled to receive land, chattels, etc. held by him in the company. The shares and debts due to him etc. are his property, but His right to life or liberty or reputation will not be considered as property. At present the word property is often used in this sense. In the form of Proprietary Rights in rem.
- (3) *In this sense, property does not include all the proprietary rights of a person;* but only such property rights which are in rem. Proprietary rights in rem. Universal rights mean such rights

which a person has against the entire human race. Under the law, the word 'property' has been used in different meanings. Sometimes It is used in the sense of ownership and sometimes in the sense of title. not only this Sometimes all the things that a person has are considered his property. This includes not only the things that some person owns but also the things that that person owns.

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(4) *Corporeal Property*; In the limited sense, property cannot include any other right other than the right of ownership over physical objects. english jurist bentham (Bentham) has considered this meaning of property to be appropriate.

Theories Regarding Origin of Property

There are mainly three concepts regarding the origin of property which are accepted in law as the principles related to the origin of property.

(1) *Natural Theory of Property*; According to this belief regarding the origin of property, the person who first takes control of any property or thing is the rightful owner of that property from the legal point of view. Jurists like Hugo Grotius and Blackstone have supported this natural theory regarding the origin of property.

(2) *Labor Theory related to property*; According to the labor theory of property, an object is the property of the person whose labor has created it. But many jurists have criticized this principle on the grounds that labor does not create wealth but is merely a means of accumulating wealth.

(3) *Creation of property by state power (State created property)*; According to this theory, property originated from the state. Edward Jenks has supported this theory. But the futility of this theory is evident from the fact That in fact both state and property have originated as a result of social and economic forces.

(4) *Metaphysical Theory*; According to this theory, property is an essential part of human personality. Hegel considered property to be an external expression of human freedom because control of property is necessary for the development of an individual.

(5) *Psychological Theory*; According to this theory, wealth has originated from man's propensity to earn. It is the natural tendency of humans to acquire property and control it. Betham supported this theory. YAL

(6) *Historical Theory*; According to this theory, wealth originated in three successive stages. In the first phase, a tendency to control things arose in humans. In the second stage he started possessing the things and in the third stage he started having ownership over the things.

The desire to keep it arose.

(7) *Functional Theory*;

Functional theory of property on the functional aspect of property

Emphasizes. According to this, the property acquired by humans through labor and effort is justified.

Similarly, distribution of wealth in the society is on a fair and equitable basis Should be done.

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