

KINDS OF POSSESSION

- **CORPOREAL AND INCORPOREAL POSSESSION**

Corporeal Possession: Possession of a material or tangible object. Eg: Land, house, watch.

Incorporeal Possession: Possession of intangible objects like Intellectual property rights- patent, copyrights; goodwill.



- **MEDIATE AND IMMEDIATE POSSESSION**

Immediate Possession: If the relation is a direct one. When the possession is acquired or retained directly or personally. It is also called as direct possession. Eg: If A directly go to a shop and buy a smartwatch for him, A gets immediate possession.

Mediate Possession: Possession held by one person through another. It is also called as indirect possession. Eg: If A sends B to buy a book for A, A gets mediate possession and B gets immediate possession.



- **DUPLICATE OR CONCURRENT POSSESSION**

When the possession of a thing is in the hands of two or more persons at the same time. It happens in the case of mediate and immediate possession; corporeal and incorporeal possession.

- **CONSTRUCTIVE POSSESSION**

It is not actual possession. It is a possession in law and not possession in fact.



- **DERIVATIVE POSSESSION**

When a person has lawful occupation or custody of the property under a right derived from another but not under a claim of title of his own.

- **ADVERSE POSSESSION**

Possession of a land belonging to another person by a person on his own behalf and setting up claim as the true owner of the land is adverse possession. A possession to be called as adverse must be invasion of the ownership of another, continuous, open, peaceful or undisturbed.



POSSESSION IN FACT AND IN LAW

POSSESSION IN FACT

- It is also called as **de facto possession**.
- It is actual or physical possession or physical relation to a thing.
- Physical control to the exclusion of others.
- No physical control on certain things, Need not be continuous, Mere physical control is not enough, Desire to retain the possession.



POSSESSION IN LAW

- Possession in the eye of law. It is recognized and protected by law.
- It is also called as **de jure possession**.
- **Roman law**– Possession in fact as **possessio naturalis** and possession in law as **possessio civilis**.
- Usually, possession in fact and in law, both exists in the same person. Sometimes, possession may exist in fact and not in law. In certain cases, it may exist in law and not in fact.



MODES OF ACQUISITION OF POSSESSION

Acquisition of possession can be done in the following ways:

- Taking
- Delivery
- By operation of law

TAKING

- An act on the part of the person who takes the possession. It is either original or derivative.
- **Original:** Possession of a thing that does not belong to any person or no previous owner- Res nullius.
- **Derivative:** Possession of a thing taken which has already a previous possessor. Taking is without the consent of the previous possessor. It may be rightful or wrongful.



DELIVERY

- Possession of a thing is acquired with the consent of the previous possessor or voluntary relinquishment of possession by one person in favour of another.
- Delivery is of two kinds: **Actual and Constructive.**



❖ **Actual delivery:**

- ❑ In actual delivery immediate possession is given to the transferee.
- ❑ There are two types of actual delivery: one is where the holder retains the mediate possession and the other one where the holder does not retain the mediate possession.



❖ **Constructive delivery:** Here there is only transfer of mediate possession. There is no change in the position of immediate possession. There are three types of constructive delivery:

- ❑ **Traditio Brevi Manu:** Surrender of mediate possession of a thing to one who has already immediate possession.
- ❑ **Constitutum Possessorium:** Mediate possession is transferred and the immediate possession is with the transferor.
- ❑ **Attornment:** Transfer of mediate possession and the immediate possession remains with some third person.



BY OPERATION OF LAW:

By operation of law possession is acquired by one person from another.

