

(h) The territories under the dominion of Pakistan;

(i) The commencement, continuance and termination of hostilities between Pakistan and any other State or body of persons;

(j) The names of the members and officers of the Court and of their deputies and Subordinate officers and assistants, and also of all officers acting in execution of its process, and of all advocates and other persons authorized by law to appear or act before it;

(k) The rule of the road on land or at sea.

(2) In all cases referred to in clause (1), and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.

(3) If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

113. Facts admitted need not be proved: No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the Court may in its discretion, require the facts admitted to be proved otherwise than by such admissions.

CHAPTER VIII ESTOPPEL

114. Estoppel: When one person has by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

Illustrations

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.

115. Estoppel of tenant and of licensee of person in possession: No tenant of immovable property, or person claiming through such tenant, shall, during the continuance

of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the license of the person in possession

thereof shall be permitted to deny that such person had a title to such possession at the time when such license was given.

116. Estoppel of acceptor of bill of exchange bailee or licensee: No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it; nor shall any bailee or licensee be permitted to deny that his bailor or licensor had at the time when the bailment or license commenced, authority to make such bailment or grant such license.

Explanation 1: The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.

Explanation 2: If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.

PART III

PRODUCTION AND EFFECT OF EVIDENCE

CHAPTER IX

OF THE BURDEN OF PROOF

117. Burden of proof: (1) Whoever desires any Court to give judgment as to any legal right or liability dependent On the existence of facts which he asserts, must prove that those facts exist.

(2) When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations

(a) A desired a Court to give Judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B by reason of facts, which he asserts, and which B denies to be true.

A must prove the existence of those facts.

118. On whom burden of proof lies: The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.