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→ Definition :-

Literal Meaning :-

The state of having, owning, or controlling something.

Technical Meaning :-

Possession is something that belongs to you or anything that is in your physical control.

Jurists have defined possession according to their own notions.

* Pollock says:

that having physical control over a thing that constitutes possession.

* According to Salmond:

The possession of a material object is the continuing exercise of a claim to the exclusive use of it.

* Savigny says:

intention coupled with the physical power to exclude others from the use of material object.

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O.W. Holmes:

Holmes defines possession as to gain possession, a man must stand in a certain physical relation to the object & to the rest of the world, and must have certain intent.

→ Elements of Possession :-

From the above definition we could see that possession has two essentials -

- Corpus possession :- Actual power over the object possessed.

- Animus Possidendi :- Intention of the possessor to exclude any interference from others.

→ Categories of Possession :-

Possession is divided into two categories.

- (a) Possession in fact
- (b) Possession in law

Possession in fact is actual or physical possession, it is physical relation to a thing -

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Possession in law means possession in the eye of law. It means a possession that is recognized & protected by law.

There is something sometimes a discrepancy between possession in fact and possession in law, although usually possession exists both in fact and in law in the same person. A person who is in de facto possession of a thing also comes to have de jure possession.

→ Modes of Acquiring possession :-

There are three modes of acquiring possession

- By the operation of law
- By Delivery
- By Taking

By the operation of law:- This happens as a result of law.

"Possession changes hands"
If a person dies possession of his property transfers to its legal heirs, representatives or successors.

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By Delivery: Delivery completes voluntary acts from one person to another. The transferor gives actual possession / position to the transferee.

It is usually a lawful mode of possession. The delivery maybe Actual or constructive.

* In actual delivery the thing is physically delivered.

* Constructive delivery is not actual & direct. There are certain things which can't actually transferred by the owner to the purchaser or by the transferor to the transferee, In such case, constructive delivery alone is possible.

By Taking: taking implies an act exclusively on the part of the person who physically takes the possession. It is acquisition of the possession without the consent of previous possessor. Sometimes it is said to be unilateral act.

Transferee acquires the possession without the knowledge or consent of former possessor of the thing. It is usually **possessio-civilis**. It may or may not be lawful. If it is lawful then it is legal possession i.e. **possessio-juri**.

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→ Kinds of Possession :-

- Corporeal Possession
- Incorporeal Possession
- Mediate possession
- Immediate possession
- Constructive possession
- Adverse possession

* Corporeal Possession :-

Those things which are having physical & material existence wherein, direct relationship with the thing, are possible. For example, house has physical existence which can be perceived by our senses.

* Incorporeal Possession :-

It means possession of immaterial or intangible things. These are the things which do not have physical existence & therefore can't be perceived by our senses.

For example, Copyright, trademark, patent, Goodwill etc.

"According to Salmond, corporeal possession is the possession of an object and incorporeal possession is the possession of right!"

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* Mediate Possession :-

It is the possession of a thing through another, either through his friend, servant or agent. As the thing remains, in possession with another, the possessor have lesser degree of physical control over such thing.

* Immediate Possession :-

It is also called direct possession. Direct or Primary possession by a person over a particular object which acquires directly or personally.

* Constructive Possession :-

Constructive possession is not actual possession. It is a possession in law & not possession in-fact.

* Adverse Possession :-

It means holding the land on his own behalf of some other person, if adverse possession continues peaceful & undisturbed for that number of years, he can claim ownership.

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* De facto possession :-

where the thing is ^{de facto possession exists} in the immediate occupancy of a party

* De jure Possession :-

De jure possession can be described as "possession in law". It exists when person claims a thing as his own in natural, normal, legal manner by occupying a thing without any dispute as to his legal right to possess and enjoy the thing.

→ Possessory Remedies :-

Possessory Remedies are those which exist for the protection of possession even against ownership. Proprietary remedies are those which are available for the protection of ownership. In many legal systems possession is provisional or temporary title even against the true owner. Even a wrongful possessor who is deprived of his possession can recover it from any person whatsoever on the ground

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of his possession. Even the true owner, if retakes his own, must first restore possession to the wrongdoer & then proceed to secure a possession on the ground of his ownership.

