

"LEGAL RIGHTS"

Definition: Legal rights refers to rights according to law. It exists under the rules of some particular legal system.

According to Salmond :-

"A right is an interest recognized and protected by a rule of right. It is any interest, respect for which is a duty and the disregard of which is a wrong."

According to Holland :

"A right is a capacity residing in one man of controlling, with the assent and the assistance of the state, the actions of others"

"KINDS"

- Primary Rights : Primary rights are

also called antecedent, sanctioned or enjoyment rights. These are those rights which are independent of a wrong having been committed. They exist for own sake. They are antecedent to be wrongful act or omission.

Example :

- Right of Reputation
- Right of life
- Right of owner of guardian. etc

→ Secondary Rights :

Secondary rights are also called sanctioning, restitutory or remedial rights. Secondary rights are a part of the machinery provided by the state of the redress of injury done to the primary rights. Their necessity arises on account of the fact that primary rights are very often violated by the persons.

Example :

It is my primary right that no one can cause damage to me but if anybody violates my primary rights and cause damage then it is my secondary right to claim compensation for such damages.

⇒ Public Rights :

A public right is possessed by every member of the public. It is between a state and the private individual.

Example :

Right to vote.

→ Private Right :

A private right is concerned only with the individuals. Both the parties connected with the right are private persons.

Example :

Contract entered into by two individuals i.e. Partnership contract two persons.

Right in Rem :

It is derived from the Roman term. Rem means "world". Right in rem means right against or in respect of things. It is available against the world at large.

Example :

"A" has a house, then A has right in rem to the peaceful enjoyment of his property - no body has any right to interfere.

⇒ Patent right, copy right etc are the ideal example of it.

⇒ Rights in rem are "Negative right"

Right in Personam :

It is a personal right available against a particular person or persons

Example :

If "A" leases out his house to "B" then his right to receive the rent, is the right against "B" only.

⇒ Right in Personum are "Positive right."

⇒ Right in Re-Aliena :

Right in re-aliena are
The rights over the property of
another person

Example :

The right of a tenant or
a mortgagee in possession of the
property etc are rights in Re-Aliena.

According to Salmond :

A right in Re-Aliena or encumbrance
is one which limits or derogates
from some more general rights
belonging to some other person
in respect of the same subject
matter.

⇒ Right in Re-Propria :

A right in re-propria
means right over one's own
property, title, ownership etc

Example :

"A" is the owner of the house and "B" is his tenant. A has the right in re-propria and B has right in re-aliena.

Essentials of Legal Rights :

According to Salmond, every legal right has 5 essentials.

- 1- The Person who is the owner of the right or Person entitled.
- 2- The Person against whom the right is there or the person who is to perform the act on the wish of the person who has a right.
- 3- The content of the right
- 4- The act or omission of something also termed as the subject matter of the right.

5- Certain facts or events by reason of which the right has become vested in its owner.

Conclusion:

To conclude, I can say that legal rights are those which are conferred by the state on certain individuals and imposes corresponding duties on others for public interest and general welfare.