

Adverse Possession

Adverse possession is a fascinating and often contentious principle within property law. It grants property rights to an individual who has possessed land for a certain statutory period, typically without the legal title, effectively superseding the rights of the original owner. Originating from a desire to ensure productive land use and to resolve protracted ownership disputes, this doctrine has been interpreted in various ways across the globe.

Legal Framework

In India, adverse possession is deeply embedded in the legal system, primarily governed by the Limitation Act of 1963. This Act sets a twelve-year limitation period after which the original owner loses the right to reclaim possession from the adverse possessor. The rationale behind this law is to promote certainty and stability in property transactions, deterring prolonged and unproductive ownership disputes.

highlighted the doctrine's complexities but also its impact on the legal landscape of property rights.

Hayward and Anr. v. Chaloner (1968)

This case emphasised the fundamental importance of possession in adverse possession claims. It also addressed the balance between the interests of adverse possessors and the rights of legal titleholders, acknowledging the potential unfairness of adverse possession while upholding its necessity for legal certainty in property dealings.

S.M. Karim v. Bibi Sakina (1964)

The verdict in this case clarified that simply holding possession for a long time does not equate to adverse possession. The court specified that adverse possession must be continuous, public, and obvious to the actual owner. A claimant must demonstrate when possession became adverse, thereby setting

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)

Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

Key Judgments

Over the decades, the Supreme Court of India has played a critical role in shaping the interpretation and application of adverse possession. Notable cases have not only

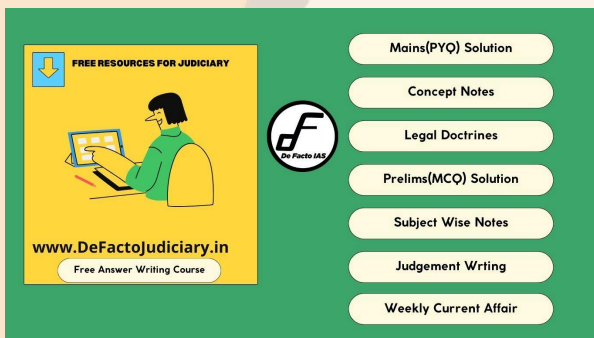
a higher threshold for proving such claims.

State of Haryana vs Mukesh Kumar and Others (2011)

This landmark judgement called for a rethinking of the adverse possession doctrine. The Supreme Court critiqued the foundation of adverse possession as irrational and outdated, highlighting shifts in the doctrine's reception and application, even in jurisdictions where it originated, like England. This was in response to modern views on property rights as fundamental human rights.

Mallikarjunaiah V. Nanjaiah (2019)

The Supreme Court imposed more stringent conditions on claims of adverse possession. It clarified that adverse possession could only be invoked as a defence, not merely based on long-term possession without the requisite hostile claim.



Ravinder Kaur Grewal v. Manjit Kaur (2020)

In a significant departure from previous interpretations, the Supreme Court ruled that adverse possession could be used not just defensively but also as grounds for filing a suit. This decision expanded the legal applications of adverse possession, allowing claimants to initiate actions based on their adverse possession claims, thereby recognizing it as a heritable and transmissible right.

Societal and Legal Implications

The evolution of the Supreme Court's stance on adverse possession reflects deeper socio-legal dynamics within India. The doctrine influences the distribution of property ownership and shapes the landscape of land disputes. By recognizing adverse possession

as a heritable and transferable right, the law now provides a mechanism for not just defending but actively claiming property rights, which adds a layer of complexity to property law in India.

Challenges and Criticisms

Despite its utility, adverse possession faces considerable criticism. Detractors argue that it unfairly punishes absentee landowners and can lead to a form of legal theft where someone loses property simply due to inaction or unawareness. Critics also question the moral basis of rewarding possession that was initially unauthorised or even clandestine.