

Domicile

Private International Law

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Domicile Meaning

- Domicile is based on principle of Individual Liberty
- An Individual is free to establish his domicile at any place in the world
- National boundaries are no hindrance in choice of domicile
- Person may have his nationality in one country and domicile in another.
- A person maybe stateless but he can not be without domicile
- Therefore its obvious that in all those matters which are connected with personal life of person like marriage, succession ,capacity is governed by law of the place with which a person is most closely connected with.
- The law of the domicile.
- Common law countries and some continental European countries, domicile is a connecting factor in personal matters

Domicile meaning

- Domicile: Jural concept used for establish the connection of a person with the law of the country with which the person is most closely connected with.
- Dependent And Independent Person
- To establish the connection of dependent person
- A , Husband , married to B, Wife, establishes matrimonial home at Jaipur, C, Son.
- Domicile of Husband Jaipur , B, C domicile is also Jaipur.
- Definition:
- Domicile is connected with personal matters: natural to define it with reference to home.
- Lord Cranworths: 'By domicile we mean home, the permanent home'

Domicile meaning

- Permanent Home: The present intention of making the place a persons permanent home and he has no other idea than to continue there.
- A technical meaning
- Permanent Home is not a place where a person is residing with his family if has not intention to reside there permanently.
- Residence + Intention to reside permanently.
- **Ramsay V Liverpool Royal Infirmary**
- A person died leaving behind a will which was valid under Scottish law and invalid under law of England.
- A man dies he was born in Glasgow , Scotland Domicile of origin.
- 37 yrs he was residing in England, Liverpool. He died in England
- Only Connection with Glasgow which still connected him to Scotland that he often said that he was proud to be a Glasgow man
- Court held he continue to have his Scottish domicile origin.

Domicile meaning

- **Winas V AG**
- Winas he was born in US
- He lived in many countries in his entire life
- He died in England
- He was building a vessels to be used by US naval forces.
- House of Lords held that he died domicile died US
- English Private Int. law: Residence+ Intention to reside permanently.

Four General Rules of Domicile: English & Indian Private Int. law

- **No person can be without a Domicile**

every person must have a domicile. Practical necessity.

A person n may be homeless, stateless but law attributes domicile to that person

Every person has a legal domicile.

Domicile of a person is determined on birth

- **No person can have simultaneously two Domiciles**
- **Domicile denotes the connection of a person with a territorial system of Law**
- The presumption is in favour of continuance of an existing Domicile

Domicile Of independent Person

- Domicile of Origin: Law confers a domicile on every person on Birth

This is known as Domicile of Origin. By operation of law the person gets domicile of origin.

Domicile of Origin is attributed to a person on the basis of Paternity of maternity.

Once the person acquires domicile of choice domicile of origin remain in abeyance

Revival of Domicile of Origin, the person must have abandoned domicile of choice voluntarily

Re Lloyed Evans

The Domicile of origin Continues until domicile of choice is acquired

Sankaran Govindan V Lakshmi Bharti (Kerala HC)

Domicile of Choice

- Any Independent Person
- Law
- England: Domicile and Matrimonial Proceedings Act ,1973
- The Indian Succession Act 1925
- Two Conditions :
- 1. Residence in the country of Domicile of Choice
- 2. Intention to live in a country permanently
- Sec. 10 :
- Residence: -
- Time element
- No Duration of residence is necessary for acquiring domicile
- Jopp V Wood : 25yr residence is not enough
- Sp Ghose V Deputy Collector 10 yrs residence is not enough
- Temporary residence

Domicile of Choice

- Central Bank of India V Ram Narayan;
- Intention: Intangible Fact. Act of mind
- It is difficult to prove
- Kedar Pande V narayan Bikram Shah
- Events and circumstances of the life of a person to establish intention
- Sankaran Govindan V Lakshi Bharti (SC)
- Satya Vs Teja Singh
- Refugees
- Mandal V Mandal: Individual Refugees
- Fugitives:

Domicile of Dependent

- Minors, married Women, Lunatics
- Dependent: Incapable of having a Domicile of Choice
- English Law:
- Domicile and matrimonial Proceedings Act , 1973
- Married Women
- Lord Denning: Gray V Formossa
- Domicile of Married women is the same and changes with Domicile of Husband.
- Common Law: Unity of Person of Husband and Wife
- Domicile and matrimonial Proceedings Act , 1973: major Change
- Wife is independent person

Domicile of Dependent: India

- Indian Succession Act:
- Ss. 15 and 16
- On Marriage The wife acquires the domicile of Husband
- Two Exception:
- A.If wife is living separate under the decree of the court
- B. If the husband is undergoing a life sentence.
- Prem Pratap V Jagat Pratap
- Minor Child:
- Age Of Minority
- 18

Minor Child

- English Law
- Legitimate Child: Father: if father is alive
- After death of the father : Mother
- Illegitimate Child: Mothers
- Minor Orphan:
- Indian law
- Indian Succession Act: Sec. 7: Fathers: Legitimate Child
- Illegitimate Child: Mothers Domicile
- Three exception;
- If Minor is married