

# ***INDIAN EASEMENT ACT***

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# INDIAN EASEMENT ACT



# Easement

"Easement" defined. -An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

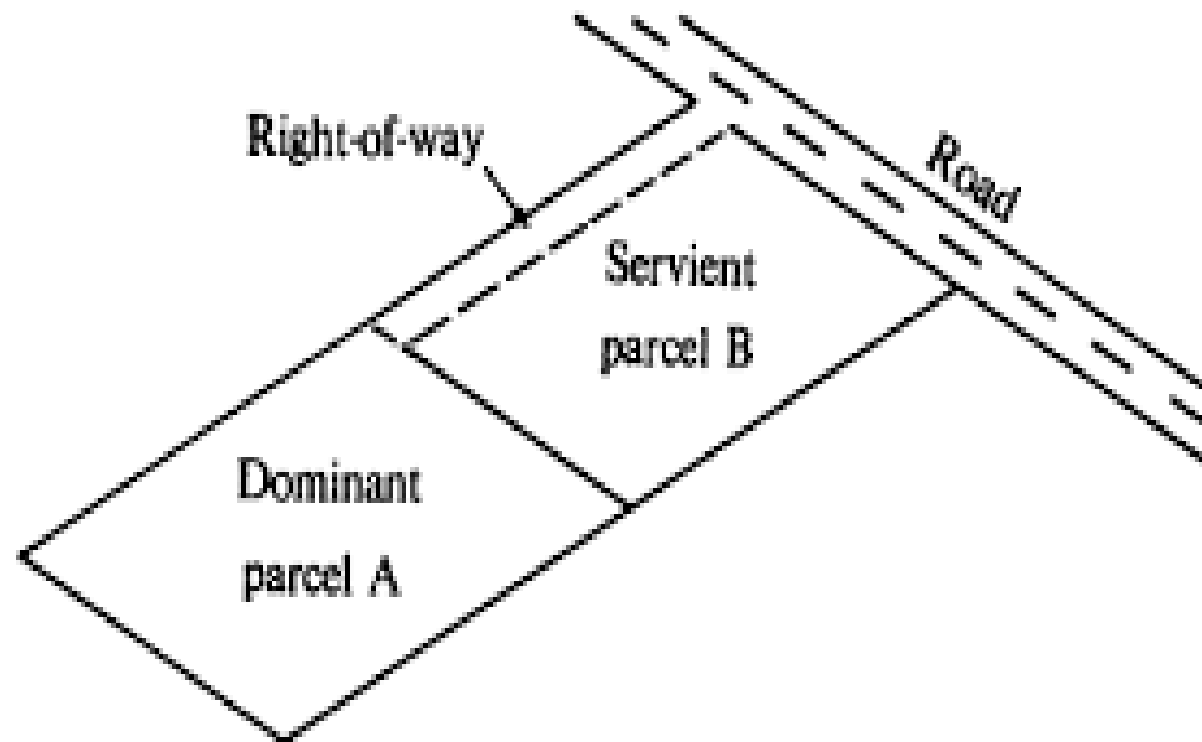
An easement is the right to use the real property of another without possessing it.

dominant heritage ... The land for the beneficial enjoyment of which the right exists

servient heritage ... land on which the liability is imposed

Dominant owner ... owner of dominant heritage

Servient Owner ... Owner of land on which liability is imposed



# CHARACTERISTICS OF EASEMENT RIGHTS

- There must be dominant and a servient tenement;
- The easement must accommodate the dominant tenement.
- The right of easement must be possessed for the beneficial enjoyment of the dominant tenement
- Dominant and servient owners must be different persons.
- The right should entitle the dominant owner to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of servient tenement and
- That something must be of certain or well defined character and be capable of forming the subject matter of grant.

# CLASSIFICATION OF EASEMENT

- Positive and negative easement
- Apparent and Non apparent easement
- Continuous and discontinuous easement
- Easement of necessity and Quasi easement

# POSITIVE AND NEGATIVE EASEMENT

Positive easement deals with right of the dominant owner to do some affirmative Act upon the servient heritage.

An easement entitling its holder to do something affecting the land of another in such a way that the holder would be guilty of trespass or nuisance were it not for the easement

**Ex:** Right of way in another persons land

Negative easement means the right to restrain the commission of an act on the servient tenant

**Ex** A right to air and light

# APPARENT EASEMENT AND NON APPARENT EASEMENT

Apparent easement can be observed –

**Ex :** Right to take water from the other persons land

**Non apparent easement :** A non apparent easement is one that has no external signs to point to its existence

**Ex :** Right of way over another persons land



# CONTINUOUS EASEMENT

This is in continuous practice

Continuous easements are those kind of easements that can be enjoyed without a purposeful or deliberate act by an individual who claims it. Continuous easements include easements for sewer pipes, drains, light and air, or lateral support of a wall.

Ex: Right to receive air and light .Right of way is discontinuance

# EASEMENT OF NECESSITY

It arises by operation of law on the basis of implied grant

It is an easement which law creates by virtue of the doctrine implied grant on severance of common ownership of the tenements to meet the necessity of a particular case.

Ex: A is an owner of house and vacant site. The right of way to the house is provided through vacant site. Now A sells the house to B, B is entitled to the easement of right of way



## QUASI EASEMENT

The right of a common owner to claim right over one property for the benefit of another is called quasi easement

In case of Quasi easement a common owner of two properties can exercise some right over one property for the beneficial enjoyment of the another property. This is not easement because there is no dominant and servient owner have distinct property

Easement right cannot be claimed by the dominant owner unless it is expressly reserved by the or for the beneficial enjoyment of the dominant heritage.

# EASEMENT BY PRESCRIPTION

- Easement by Prescription arises if that right is enjoyed peacefully without any interruption for a period twenty years
- light and Air
- Support of one property is necessary for enjoyment of another property
- It may be with right to way or any other easement right.
- If the property belongs to Government , the period is 60 years.

## TERMINATION OF EASEMENT

- If the basis of cause of such easement has ceased to exist.  
Example: vacating the house loses his right of way on B's land
- Right holder either expressly or impliedly give up his easementary right
- Servient owner revokes the easementary right by exercising the power of revocation
- If the easement is for a limited period
- When the easement is not beneficial to owner of easement
- In case of easement necessity then when such necessity comes to an end.

Thank

You

