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ISSUE 3

ADMISSIBILITY AND RELEVANCY OF DOCUMENTS

INTRODUCTION

A. Admissibility

- The Indian Evidence Act, 1872 (for short “**Indian Evidence Act**”), does not define admissibility, however, it deals with provisions to illustrate documents or facts that may be admissible in court as evidence.
- Admissibility of a document refers to whether or not a court accepts a document as evidence in a suit or proceeding depending on the nature and importance of the document.
- Any document may be admissible in evidence by a court as long as it is produced in accordance with the provisions of the law and is reliable and relevant as against the fact sought to be asserted.

B. Relevancy

- Relevancy is also an important aspect of evidencing a document. A document or fact becomes relevant in evidence when it is essential to proving the case of the parties and is related to the dispute before the court.
- Section 3 of the Indian Evidence Act provides that a fact is relevant to another when the two are connected in any of the ways referred to in the provisions of this Indian Evidence Act relating to relevancy of facts.
- As in the case of facts, the relevancy in case of a document is also necessary to be ascertained for a court to take it into consideration in adjudication of a dispute.
- Chapter II (Of Relevancy of Facts) under Part I in sections 5-55 of the Indian Evidence Act lists the facts that may be relevant in aiding the process of resolving the dispute and adjudication thereof.
- Section 5 of the Indian Evidence Act states that evidence may be given to prove the existence or non-existence of a fact in issue and of such other facts as the Indian Evidence Act in the succeeding sections declares to be relevant.
- Thus, fact or document to be stated in evidence must necessarily be legally relevant whether or not it is logically relevant.
- For instance, privileged communications such as confidential information, marital communications or official records may be logically relevant in a case but are not admissible as evidence under sections 121-130 (Exclusions of certain relevant facts from being produced in evidence) of the Indian Evidence Act. Such facts or documents may be relevant but are not admissible as evidence.

- In *Lakshmandas Chaganlal Bhatia vs. The State* 1966 SCC OnLine Bom 17, the Court laid down rules as to relevancy of facts. Placing reliance on Section 9, the following facts were held to be relevant:

- Facts necessary to explain or introduce a fact in issue
- Facts which support or rebut an inference drawn from a fact in issue
- Facts which establish the identity of a thing or person
- Facts which disclose the time or place of the happening of a relevant incident
- Facts which establish the relation between the parties who may be relevant to the issue.

C. Section 136 of the Indian Evidence Act: Judge to decide as to admissibility of evidence

- Section 136 of the Indian Evidence Act provides that when either party proposes to give evidence to a fact, the decision as to admissibility of evidence shall be made by the judge.
- The judge may, in arriving at such decision, ask any of the parties of the relevance of the fact sought to be asserted in the evidence and shall admit the evidence only if it is proved to be relevant and not otherwise.
- The provision also contemplates that when the fact proposed to be proved is only admissible on proving some other related fact, then the related fact must be proved first.
- The court may however allow the party to prove the related fact later on an undertaking by such party to prove the given fact.
- Further, where relevancy of one fact depends upon another fact being proved, the court may apply discretion in either permitting the evidence in first fact to be given before the second fact is proved or require evidence to be given of the second fact before evidence in first fact is given.

The provision explains admissibility through illustrations:

- Where a copy of the contents of a document is sought to be produced due to the fact of the original being lost, the fact that the original is lost must first be proved before the copy of such document is produced by the party who seeks to produce the copy.

For instance: A is accused of receiving stolen property knowing it to have been stolen, the burden of proof lies



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on the accused, i.e., A to prove that he denied the possession of the property.

In this situation, the relevancy of the property being a stolen property becomes the first fact and the denial of possession by A becomes the second fact. In such situation, the court has the discretion to either require the property to be identified before the denial of possession is proved, or permit the denial of the possession to be proved before the property is identified.

- Where a statement, by a person alleged to be dead, about a relevant fact is sought to be proved, the fact that the person is dead must be proved before evidence is given to produce or prove the statement.
- This also holds relation to Section 32 which lists the cases in which the statement of relevant fact by a person who is dead or cannot be found, etc. is relevant.

D. Admissibility of certain kinds of evidence

- As discussed above, certain facts may be relevant logically but not be admissible in law. For instance, the general rule is that hearsay evidence is not admissible. However, in *Narain Singh vs. State of Haryana* AIR 2004 SC 1616, the court interprets section 32(1) of the Indian Evidence Act held that a dying declaration shall be an exception to such general rule. Yet, just like any other evidence, its creditworthiness must be tested.

- In *State (NCT) of Delhi vs. Navjot Sandhu* (2005) 11 SCC 600, the Supreme Court held that statements made by conspirators after they are arrested shall not be admissible since the conspiracy is assumed to have ended by that time.

E. Conclusion

- The terms admissibility and relevancy are often used interchangeably.
- However, the two differ in meaning and purpose. The common phrase that establishes the relationship between relevancy and admissibility is that all admissible document is relevant but all relevant document is not admissible.
- The roof of relevancy of a document rests on the pillar of whether such document would be essential or even reasonably necessary to help in the development of the case or resolve the conflict between the parties.
- In *Ram Bihari Yadav vs. State of Bihar* (1998) 4 SCC 517, the Hon'ble Supreme Court clarified that although "relevancy" and "admissibility" are often used as synonyms, there lies a distinction between them in their legal implication. The Court held, the probative value of the evidence is the weight to be attached to it and the same shall be judged on the basis of facts and circumstances of each case.