

# DOCUMENTS

Public (s.74)

Documents Forming Acts or Records of Acts

- Sovereign Authority
- Official bodies and tribunals
- Public Officers

Legislative

Judicial

Executive of a Foreign Country

Public record of private documents kept in state or UT

Private (s.74)

All other documents

# PROOF OF PUBLIC DOCUMENTS

Public Officer

Custody of public document

Copy to be given of document

Right to Inspect

Certificate ..... True copy

Name

Title

Seal

Certified copies (s.75)

Certified copy is the proof (s.76)

# PROOF OF PUBLIC DOCUMENTS

## **Other official Documents (s.77)**

C.G or S.G Acts, Orders, Notifications certified by HOD.

Proceedings of Parliament/Legislature

Journal, Published or Printed by Govt.

Proclamations of President or Governor or Administrator

copies or extracts from "OG".

Foreign Country

Journal, Certified, Central Act.

Municipal or Local body

Certified by legal keeper

Public documents of foreign Country

Original or certified copy of legal keeper

Certificate by notary Indian Consulting

# PROOF OF PRIVATE DOCUMENT

- Original Document (Primary) s.57, s.59
- Copy of document etc (Secondary) s.58, s.60
- Admissibility Criteria
  - Creation
  - Custody
  - Condition
  - Content

# ELECTRONIC RECORDS

- Electronic or Digital Records..... Evidence
- “An electronic record on emails, server logs, documents on computers, laptop or smartphone, messages, websites, locational evidence and voice mail messages stored in digital devices are documents”.

.....Documentary Evidence

- Admissibility cannot be denied (s.61)
- Content may be proved according to s.63 (s.62)

# Admissibility of Electronic Record

Information contained in an Electronic Record

Computer Output..... Printed or Stored

Conditions laid down in relation to information

Computer..... If satisfied

No further proof

No production of original are necessary.

# ELECTRONIC DOCUMENT

- Identifying the Electronic Record containing the statement.
- Describing the manner in which it is produced.
- Giving particulars of device.
- Dealing with the matters relating to computer system as per S. 63
- Computer used regularly to store data in ordinary course of business.
  
- Information being fed regularly
- Computer system working properly
- Information fed is in ordinary course of business

Information fed and processed in computer on interlinked computers or computers in succession will be deemed to be single computer.

# CERTIFICATION

- Identify the electronic record
- Describe manner of production
- Particulars of device involved in production of e-record
- Statement should be signed by person in responsible official position.

# PRESUMALL

# THINK TASK

Given below are some aspects relating to documents.

Grasp the gist of the aspects clinically.

Guess weather they come under 'May' or 'Shall' presume?

1. Power of Attorney
2. Thirty year old document
3. Gazette in Electronic form
4. Electronic message
5. Genuineness of official Gazette
6. Reports of Judicial decisions
7. Certified Foreign Judicial Records
8. Five year old Electronic Record
9. Due Execution of Document not produced
10. Record of Evidence
11. Book written by the author
12. Genuineness of certified copies

# PRESUMPTIONS AS TO DOCUMENTS

## **“Shall” Presumptions**

- ØGenuineness of certified copies (s.78)
- ØRecord of Evidence (s.79)
- ØGenuineness of Official Gazette (s.80)
- ØGazette in Electronic form (s.81)
- ØMaps, Plans by authority (s.82)
- ØCollection of Laws & Reports of decisions (s.83)
- ØPower of Attorney (s.84)
- ØElectronic Agreements (s.85)
- ØElectronic Records and Signatures (s.86)
- ØElectronic Signature Certificates (s.87)
- ØDue Execution of Document (s.91)

# MAY PRESUME

- Certified copies of Foreign Judicial Records (s.88)
- Books, Maps and Charts (s.89)
- Electronic Messages (s.90)
- Documents thirty years old (s.92)
- Electronic records five years old (93)

# BEST EVIDENCE RULE

Always Best Evidence to prove a fact

Foundation of Law of Evidence

Document is the best evidence of its contents

Proscribed in s.94 & 95.

## THE RULE APPLICATION

- Terms reduced to writing  
contract, grant, disposition of property.
- Must be reduced to writing by law  
lease agreement.
- Proof by primary or secondary only  
Public Officer actions  
Wills admitted too probate

Exception

Facts not covered in document

Oral evidence permitted.

# EXCLUSION OF ORAL EVIDENCE

- Terms proved according to s.94
- Contradicting, Varying, Adding, Subtracting the terms
- Oral evidence to contradict not permitted.

## Exceptions

üInvalidating or Vitiating

üMatter uncovered or silent

üCondition Precedent, Subsequent

üSubsequent oral Agreement to Rescind or Modify

üUsage or Custom Annexed not Repugnant or Inconsistent

üLanguage Relation to Facts

Oral Evidence Admissible

*Thank  
you*



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