

CONTRACT OF PLEDGE

Rights of Pawnee

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Rights of Pawnee

- *Right to retain* – Section 173 of the Act provides that the pawnee may retain the goods pledged, not only for payment of the debt or the performance of the promise, but for the interest of the debt, and all necessary expenses incurred by him in respect of the possession or for the preservation of the goods pledged.



- Section 174 of the Act provides that the pawnee shall not, in the absence of a contract to that effect, retain the goods pledged for any debt or promise other than the debt or promise for which they are pledged; but such contract, in the absence of anything to the contrary, shall be presumed in regard to subsequent advances made by the pawnee.



- The lien of a pawnee (also known as pawnee's right of retainer) is a particular lien only. He can retain the goods pledged only for the debt or promise to secure which they were pledged, and not for any other debt, in the absence of a contract to the contrary.



- The pawnee is however, allowed to tack his subsequent advances to the original debt, in the absence of any agreement to the contrary.



Right to receive extraordinary expenses

- Section 175 of the Act provides that the pawnee is entitled to receive from the pawnor extraordinary expenses incurred by him for the preservation of the goods pledged.



Right to institute a suit

- Section 176 of the Act provides that if the pawnor makes default in payment of the debt, or performance, at the stipulated time of the promise, in respect of which the goods were pledged,



- the pawnee may bring a suit against the pawnor upon the debt or promise, and retain the goods pledge as a collateral security; or he may sell the thing pledged, on giving the pawnor reasonable notice of the sale.



- If the proceeds of such sale are less than the amount due in respect of the debt or promise, the pawnor is still liable to pay the balance.
- If the proceeds of the sale are greater than the amount so due, the pawnee shall pay over the surplus to the pawnor.



- Section 178 of the Act provides that where a mercantile agent is, with the consent of the owner, in possession of goods or the document of title to goods, any pledge made by him, when acting in the ordinary course of business of a mercantile agent,



- shall be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the pawnee acts in good faith and has not at the time of the pledge notice that the pawnor has not authority to pledge.



- Here, the expressions “mercantile agent” and “documents of title” shall have the meanings assigned to them in the Indian Sale of Goods Act, 1930. *[Explanation]*





THANK
YOU

