PAPER PRESENTATION SUBMITTED BY

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AT RAJAMAHENDRAVARAM

Session No. II & III

1. Conditions as to time and Limitation under different statutes
2. Different reliefs with different period of limitation
3. Amendment of pleadings – The aspect of Limitation

TOPIC – I

CONDITIONS AS TO TIME AND LIMITATION UNDER DIFFERENT STATUTES

TOPIC - I

LIMITATION ACT, 1963

Legislative Intent:

The law of limitation was enacted with the legislative intent to prevent stale disputes or grievances from coming to court where resolution or redressal is not sought within the prescribed time. The law of limitation bars the remedy of the plaintiff but does not extinguish their right. The law is intended to ensure that parties do not engage in dilatory tactics and instead seek their remedy expeditiously.

(Balakrishnan v. M.A. Krishnamurthy, 7 SCC 123 (1987)

"Vigilantibus non dormientibus jura subveniunt": The law helps those who are vigilant about their rights, not those who neglect them.

- **"Interest reipublicae ut sit finis litium":** It is in the public interest to have an end to litigation.

The law of limitation is founded on public policy. It is enshrined in the legal maxim “interest republic aeut sit finis litium”i.e. it is for the general welfare that a period of limitation be put to litigation. The object is to put an end to every legal remedy and to have a fixed period of life for every litigation as it is futile to keep any litigation or dispute pending indefinitely. Even public policy requires that there should be an end to the litigation otherwise it would be a dichotomy if the litigation is made immortal vis-a-vis the litigating parties i.e. human beings, who are mortals

The law of limitation prescribes time limits for a party to bring a claim or application before a court, and relates to the extinguishment of a remedy, if those time limits expire (Prem Singh and Ors. v. Birbal and Ors., AIR 2006 SC 3608; L.S. Synthetics Ltd. v. Fairgrowth Financial Services Ltd. and Ors., AIR 2005 SC 1209; Punjab National Bank and Ors. v. Surendra Prasad Sinha, AIR 1992 SC 1815). The Supreme Court of India has held that the law of limitation is not meant to destroy the rights of the parties but is meant to regulate the availability of such remedy, for a legislatively fixed period (N. Balakrishnan v. M. Krishnamurthy, AIR 1998 SC 3222). The law of limitation seeks to promote diligence and expects a litigant to seek the enforcement of a right available to them within a reasonable

time (State of Karnataka v. Laxuman, 8 SCC 709 (2005); Binod Bihari Singh v. Union of India, 1 SCC 572 (1993).

Limitation as a Defence:

The plea of limitation need not be set up as a defence. Even if limitation has not been specifically raised by the defendant as a challenge to the proceeding, it is not deemed to have been waived. If a claim or application is preferred before the court, the court may move to dismiss the application or claim, due to it being time barred. (section 3, Limitation Act.) Usually, this determination is peremptory in nature, and is made at the earlier stages of proceedings, when the maintainability of the claim or application is considered by the court. The plea can be raised at any stage in the proceedings, and therefore cannot be found to be waived simply because the defendant has not raised the plea at an earlier stage of the trial. **Sheikh Makbul v. Union of India and Anr., AIR 1960 Ori 146;** Ramesh Kumar v. Rajesh Kumar and Ors., AIR 2015 HP 85.)In cases where limitation is a mixed question of law and fact, the courts deal with it immediately after the conclusion of evidence.

Failure to file a claim or application within the prescribed period of limitation extinguishes the remedy to file a claim, however the substantive right that the plaintiff seeks to enforce survives and continues to be available if there are other ways of enforcing it (Bharat Barrel & Drum Mfg. Co. Ltd. v. ESI Corporation, 2 SCC 860 (1971)).

For example, a claim of equitable set-off may be raised by a plaintiff irrespective of whether it is within the prescribed limitation period. In a suit for recovery of money, the debtor (defendant) can claim that an earlier debt in respect of the same transaction (recoverable from the plaintiff) should be set-off against the plaintiff's claim. Here even if the earlier debt is barred by limitation, at the discretion of the court, the debtor is permitted to set-off the debt due to the creditor by the amount of the debt due to them, pro tanto. (Lakshmichand and Balchand v. State of Andhra Pradesh, 1 SCC 19 (1987); Jitendra Kumar Khan and Ors. v. The Peerless General Finance and Investment Company Limited and Ors., 8 SCC 769 (2013); Union of India v. Karam Chand Thapar and Bros. (Coal Sales) Ltd. and Ors., 3 SCC 504 (2004).) A claim of equitable set-off has been held to be an

exception to the law of limitation, since it constitutes an independent cause of action instituted on the same date as the suit for the recovery of money. For more on the circumstances in which courts will admit a time-barred application or appeal.

The Limitation Act, 1963, sets time limits within which legal actions, like filing a suit or appeal, must be initiated, preventing stale claims and ensuring timely justice. The Act contains 32 sections and 137 articles, providing specific time frames for different types of suits, appeals, and applications.

- **What it does:**

The Act establishes deadlines (called "limitation periods") for various legal actions, like filing a lawsuit, appealing a court decision, or making an application to the court.

- **Why it's important:**

It ensures that legal matters are addressed promptly, preventing cases from dragging on indefinitely and ensuring that justice is served in a timely manner.

- **How it works:**

The Act specifies different time limits for different types of legal actions, and if the deadline is missed, the right to pursue that action is lost.

- **Example:**

If someone wants to sue someone else for a debt, they have a certain amount of time (the limitation period) to file the lawsuit. If they wait too long, they can no longer sue for that debt.

- **Key Purpose:**

The Limitation Act promotes efficiency and prevents people from sleeping on their rights, ensuring that legal disputes are resolved within a reasonable timeframe.

LIMITATION PERIOD FOR CIVIL CASES IN INDIA:

The time limit for filing a civil suit in India is generally **3 years**, although some specific suits may have different periods, such as 12 years for property recovery.

Civil Appeal against any judgment or order is **90 days from the date of the judgment or order**.

The general limitation period for filing a suit for recovery of money, including loans, under the Limitation Act, 1963, is three years from the date the money becomes due.

- **Limitation Act, 1963:**

This act governs the time within which legal actions, including suits for money recovery, must be initiated.

- **Three-Year Period:**

Article 35 of the Limitation Act, 1963, specifies a three-year limitation period for suits for money recovery, including those based on promissory notes.

- **Starting Point:**

The three-year period begins from the date the loan becomes due, or the date the money is payable.

- **Fresh Period of Limitation:**

As per Section 19 of the Limitation Act, a fresh period of limitation is computed if there's any payment made or the debt is otherwise acknowledged.

- **Example:**

If a loan is granted on April 4, 2022, the suit for recovery must be filed before April 4, 2025, to be within the limitation period.

- **Specific Cases:**
    - **Money deposited on demand:** Three years from the date of demand.
    - **Money paid for the defendant:** Three years from the date the money is paid.
    - **Money received for the plaintiff's use:** Three years from the date the money is received.
    - **Interest on money due:** Three years from the date the interest becomes due.
    - **Money found due on accounts stated:** Three years from the date the accounts are stated in writing.
    - **Breach of promise:** Three years from the date the time specified arrives or the contingency happens.
    - **On a single bond:** Three years from the date specified for payment.

- **Limitation Periods (as per the Limitation Act, 1963):**
    - **Suits for Breach of Contract:** Generally, three years from the date of the breach.
    - **Suits for Recovery of Money:** Three years from the date the money becomes due.
    - **Suits for Possession of Immovable Property:** 12 years from the date of adverse possession.
    - **Appeals:** Limitation periods vary depending on the court and the type of appeal (e.g., 30, 60, or 90 days).
    - **Applications:** Limitation periods vary depending on the type of application (e.g., 10, 30, 60, or 90 days, or 1, 3, or 12 years).
- **LIMITATION PERIOD FOR CRIMINAL OFFENCES IN INDIA:**

  In India, the limitation period for taking cognizance of certain criminal offenses, as outlined in Section 468 of the Code of Criminal Procedure (CrPC), varies depending on the severity of the offense, with a 6-month limit for offenses punishable only by fine, a 1-year limit for offenses punishable with up to 1 year imprisonment, and a 3-year limit for offenses punishable with imprisonment exceeding 1 year but not exceeding 3 years.
- **Section 468 of CrPC:**

  This section addresses the bar to taking cognizance of an offense after the expiry of the period of limitation.
- **Limitation Periods:**
- **Offenses punishable with fine only:** 6 months.
- **Offenses punishable with imprisonment not exceeding one year:** 1 year.
- **Offenses punishable with imprisonment exceeding one year but not exceeding three years:** 3 years.
- **No Limitation for More Serious Offenses:**

  There is no limitation period for offenses punishable with imprisonment exceeding 3 years.
- **Starting Point of Limitation:**

  The period of limitation begins from the date of the offense.

- **Exclusion of Time:**

  Time during which any person has been prosecuting another prosecution against the offender with due diligence is excluded from the period of limitation.

- **Bharatiya Nagarik Suraksha Sanhita:**

  The newly introduced Bharatiya Nagarik Suraksha Sanhita mandates that a verdict in a criminal trial be delivered within 30 to 45 days.

- **Limitation for filing charge sheet:**

Under Section 173 of the Criminal Procedure Code (CrPC), the police must file the charge sheet within 60 days from the date of the arrest of the accused if they are in custody. If the accused is not in custody, the time limit is generally 90 days.

1. NEGOTIABLE INSTRUMENTS ACT, 1881:

Under the Negotiable Instruments Act, 1881, for a cheque bounce case (Section 138), the payee must issue a notice within 30 days of receiving information about the dishonor from the bank and file a complaint within one month from the expiry of the 15-day notice period.

- **Issuing the Notice:**

  The notice must be in writing and sent by the payee or holder in due course.

  It must be issued within 30 days of receiving information from the bank about the cheque's dishonor.

  The date of receiving information from the bank is excluded when calculating the 30-day period.

- **Filing the Complaint:**

  The drawer (the person who issued the cheque) has 15 days from receiving the notice to pay the amount.

  If the drawer fails to pay within these 15 days, the payee can file a complaint under Section 138 of the Negotiable Instruments Act.

  The complaint must be filed within one month from the expiry of the 15-day period granted to the drawer to make payment.

- **Cause of Action:**

  The cause of action for filing a complaint arises after the expiry of the 15-day

payment period.

Section 142(1)(b) of the Negotiable Instruments Act states that the cause of action arises after the 15-day period granted to the drawer to pay the amount.

Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period.

- **Supreme Court of India Case Law:**

  Yogendra Pratap Singh vs Savitri Pandey & Another on 19 September, 2014 -

A complaint filed before expiry of 15 days from the date on which notice has been served on the accused cannot be sasid to disclose the cause of action in terms of clause (c) of the proviso to Section 138 and upon such complaint which does not disclose the cause of action, the court is not competent to take cognizance. A conjoint reading of Section 138 with Section 142 (b) leaves no manner of doubt that no offence can be said to have been committed unless and until the period of 15 days as prescribed under clause (c) of the proviso. Section 138 has infact elapsed. Therefore, a court is barred in law from taking cognizance of such a complaint. It is not open to the court to take cognizance of such a complaint merely because on the date of consideration of taking cognizance into thereof a period of 15 days from the date on which the notice has been served on the accused has elapsed. If the period prescribed in clause (c) of the proviso to Section 138 has not expired, there is no commission of an offence nor accrual of casue of action for filing of complaint under Section 138 of the act. The Apex Court therefore does not approve the view taking by the Apex Court in (2000) 7 SC 183 and so also the judgments of various High Courts following the said judgment and the same is overruled. Rather the view taken by the Apex court in (2007) 14 SCC 753 holding the service of that notice in terms of Section 138 proviso (b) was a part of the cause of action for lodging the complaint and communication to the accused about the fact of dishonouring of the cheque and calling upon to pay the amount within 15 days was imparetive in character. No complainant can maintain against

the accused/drawer of the cheque before expiry of the 15 days from date of receipt of notice because the accused cannot be said to have committed any offence under then. The complaint under Section 138 filed before expiry of 15 days of notice could not be treated of complaint in the eye of law in the criminal proceedings initiated on such complaint or liable to be quashed. (2007) SCC 753 approved – AIR 2015 SC 157 : (2014) 10 SCC 713.

2. PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005:

Some states may impose a time limit of **one year from the date of the alleged incident** for filing civil lawsuits seeking damages for domestic violence, while others may have shorter or longer time frames. But there is no time limit for filing petition under Domestic Violence Act as it is continuing petition.

Section 29 of DV Act shall lies an appeal to the Court of Session within **thirty days** from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later. Magistrate courts for disposal of applications being made by an aggrieved person under the Protection of Women from Domestic Violence Act, 2005, within **60 days from the date of its filing**.

3. AP DOWRY PROHIBITION RULES, 1998:

Under the Andhra Pradesh Dowry Prohibition Rules, 1998, any complaint related to dowry, whether for demanding or accepting it, must be filed **within one year** from the date of the incident.

- **Time Limit:**
  The complaint can be made within one year of the incident, whether it's a demand for dowry or the acceptance of dowry.
- **Who can file a complaint:**
  Any aggrieved party or someone on their behalf can file a complaint.
- **Place of Trial:**
  The trial or inquiry will take place at the place where the complainant is residing.

Dowry Prohibition Act, 1961:

The Dowry Prohibition Act, 1961, prohibits both taking and giving dowry, and demanding dowry is also an offense.

- **Section 6 of the Act:**

  This section deals with the return of dowry received by someone other than the woman in connection with whose marriage it is given, and sets a time limit for its return.

- **Section 7 of the Act:**

  This section deals with the cognizance of offences, stating that only specific courts can handle dowry cases.

- **Section 10 of the Act:**

  This section grants the state government the power to make rules, including rules related to the powers and functions of Dowry Prohibition Officers.

4. INDIAN SUCCESSION ACT, 1925:

Under the Indian Succession Act and the Limitation Act, there's no strict time limit for applying for succession or legal heirship certificates, but delays can raise suspicion, requiring justification to the court.

- **No Fixed Time Limit:**

  The Limitation Act, 1963, doesn't prescribe a specific period for applying for succession or legal heirship certificates after the deceased's death.

- **Article 137 of the Limitation Act:**

  Article 137 of the Limitation Act, which deals with applications for which no specific period is provided, is applicable to applications for probate or letters of administration.

- **Example Case:**

  In Ganpati Vinayak Awchal v. Unknown, the Bombay High Court confirmed that Article 137 of the Limitation Act does not apply to applications for heirship certificates.

- **Revocation of Probate:**

Section 263 of the Indian Succession Act, 1925, allows for the revocation or annulment of probate or letters of administration for just cause.

- **Appeals:**

  An appeal against an order of a District Judge granting, refusing, or revoking a certificate under the Indian Succession Act lies to the High Court, and the appeal must be preferred within the time allowed for an appeal under the Code of Civil Procedure, 1908.

- **Example Case:**

  In Smt. Kempawa @ Champavati W/O Sidagouda vs Shri. Basappa Lagamappa Giddagol, the Principal District Judge of Belgaum allowed a petition filed under Section 263 for revocation of probate.

5. HINDU SUCCESSION ACT, 1956:

The general limitation period for claiming a share in property under the Hindu Succession Act is 12 years from the date the right to sue accrues.

- **Limitation Act, 1963:**

This act prescribes the time limits within which legal actions, including those related to property inheritance, must be initiated.

- **12-Year Limitation:**

Article 65 of the Limitation Act, 1963, generally provides a 12-year period for filing a suit for recovery of possession of immovable property or any interest therein based on proprietary title.

- **When does the right to sue accrue?**

The 12-year period begins when the right to sue arises, for example, when an aggrieved legal heir becomes aware of their exclusion from the property.

- **Section 22 of Hindu Succession Act:**

  This section deals with the preferential right to acquire property, and the limitation period for claims under this section is also governed by the Limitation Act.

- **Specific Cases:**

- **Suit for possession:** A suit for possession of property based on proprietary title has a 12-year limitation period.

- **Suit for preferential right:** A suit claiming preferential right under Section 22, if filed after a long delay, may not be maintained.
- **Article 137:**

  Article 137 of the Limitation Act, 1963, serves as a residuary provision, applying default limitation periods (generally 12 years) to cases not specifically covered by other articles.
- **Case Law:**

In P. Srinivasamurthy vs P. Leelavathy And 6 Others, the plaintiff was dismissed because they filed the suit after a long delay and could not claim the preferential right.

6. HINDU MARRIAGE ACT, 1956:

Under the Hindu Marriage Act, 1955, the period of limitation for filing an appeal against a Family Court's decree is 30 days as per Section 19(3) of the Family Courts Act, 1984, or 90 days as per the amended Section 28 of the Hindu Marriage Act.

- **General Limitation:**

  The Hindu Marriage Act, 1955, generally prescribes a 30-day limitation period for filing appeals against decrees or orders passed by the Family Court.
- **Amendment to Section 28:**

  Section 28(4) of the Hindu Marriage Act was amended in 2003, extending the period of limitation for filing an appeal from 30 to 90 days.
- **Inconsistency:**

  There is an inconsistency between Section 19(3) of the Family Courts Act (30 days) and the amended Section 28 of the Hindu Marriage Act (90 days) regarding the limitation period for filing appeals.
- **Supreme Court's Opinion:**

  The Supreme Court, in the case of Savitry Pandey v. Prem Chandra Pandey, opined that a minimum period of 90 days may be prescribed for filing an appeal.

- **Maintainability of Appeal:**

  The Gujarat High Court ruled that an appeal is maintainable if filed within 90 days, as prescribed under the Hindu Marriage Act, 1955.
- **Other Limitation Periods:**
- **Annulment of Marriage:** A petition for annulment of marriage based on force or fraud can be filed within one year of the discovery of such fraud or force.
- **Divorce:** Under Section 13(1A)(ii) of the Hindu Marriage Act, either party can file for divorce if there has been no restitution of conjugal rights for a period of one year or more after the passing of a decree for restitution of conjugal rights.
- **No time limit for marriage registration:** There is no strict time limit for registering a marriage, and couples can register their marriage years after the ceremony, provided they meet the documentation requirements.
- Under Section 13 of the Hindu Marriage Act, 1955, a marriage can be dissolved by a decree of divorce, and the grounds for divorce include desertion for a continuous period of not less than two years immediately preceding the presentation of the petition.
- **Mutual Consent Divorce:**

  If both parties agree to a divorce, they can file a petition under Section 13B of the Hindu Marriage Act, but there's a mandatory cooling-off period of at least 6 months after the initial filing. As per the decision of Hon'ble Supreme Court in Civil Appeal No.11158/2017 between **Amardeep Singh Vs. Harveen Kour and Ors.**, waiving the statutory locking period for the grant of decree of divorce on the ground of mutual consent.
- **Limitation for filing divorce:**

  Section 14 of Hindu Marriage Act prescribed minimum time to file Divorce-

  14. No petition for divorce to be presented within one year of marriage:-
- (1) Notwithstanding anything contained in this Act, it shall not be competent for any Court to entertain any petition for dissolution of marriage by a decree

of divorce, unless at the date of the presentation of the petition one year has elapsed since the date of the marriage.

- 12. **Voidable Marriages:-**(1) Any marriage solemnized, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:-

  (a) that the marriage has not been consummated owing to the impotency of the respondent; or

  (b) that the marriage is in contravention of the condition specified in clause (ii) of Section 5; or

  (c) that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner was required under Section 5 as it stood immediately before the commencement of the Child Marriage Restraint (Amendment) Act, 1978, the consent of such guardian was obtained by force or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent; or

  (d) that the respondent was at the time of the marriage pregnant by some person other than the petitioner.

  2) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage (a) on the ground specified in clause (c) of sub-section (1) shall be entertained if- (i) the petition is presented **more than one year after the force had ceased to operate** or, as the case may be, the fraud had been discovered ; or (ii) the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be, the fraud had been discovered;

  (b) on the ground specified in clause (d) of sub-section (1) shall be entertained unless the court is satisfied- (i) that the petitioner was at the time of the marriage ignorant of the facts alleged;

  (ii) that proceedings have been instituted in the case of a marriage solemnized before the commencement of this Act within one year of such

commencement and in the case of marriages solemnized after such commencement within one year from the date of the marriage; and

(iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the said ground.

7. GUARDIANS AND WARDS ACT, 1890:

The Guardians and Wards Act, 1890, places limitations on a guardian's powers, particularly regarding the ward's property and removal from the court's jurisdiction, ensuring the court can continue to monitor the ward's welfare. For Hindus, by statute,' it is now **18 years**. In the second place, a person is a minor in matters governed by the Indian Majority Act - till he attains the age of 18 years. That Act does not extend to the capacity of any person to act in certain specified matters.

Limitation of powers of guardian of property appointed or declared by the court:

- Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the court to be guardian of the property of a ward, he shall not without the previous permission of the court, -
- (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of his ward, or
- (b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

8. SC/ST (PREVENTION OF ATROCITIES) ACT, 1989:

Under Section 14A(3) of the SC/ST (Prevention of Atrocities) Act, appeals against orders of the Special Court or Exclusive Special Court must be filed within 90 days, with a potential extension if the High Court finds sufficient cause, but no appeal can be entertained after 180 days.

Section 14A OF SC/ST ACT CONTAINS **NO LIMITATION PERIOD** TO BAR FILING OF APPEAL - (01 Aug 2022) Allahabad High Court has held that Section 14A of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (SC/ST Act) puts no limitation on filing an appeal against an order under the provisions of the 1989 Act.

9. NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (NDPS) ACT, 1985:

Statutory Period It was also said that Section 36-A(4) of the NDPS Act provided that reference to '90 days' as mentioned in Section 167(2) CrPC shall be construed as '**180 days**' for NDPS cases.

Limitation For NDPS Act:

- The Court scrutinized Section 36A(4) of NDPS Act which requires investigation in NDPS matters to be completed within 180 days' period instead of 90 days as against Section 167(2) of Cr.P.C, which may be extendable to a period of 1 year.
- If specific reasons are provided as laid in M. Ravindran v. Intelligence Officer, Directorate of Revenue Intelligence - Supreme Court] If the investigation is not completed within the prescribed time period (**180 days or extended period) and the charge-sheet is not filed, the accused has an indefeasible right to be released on bail**.

10. PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT, 2012:

The Protection of Children from Sexual Offences (POCSO) Act does not have a time limit for reporting child sexual offenses, meaning victims can file a complaint at any time, even after becoming adults.

- **No Time Bar:**

  The POCSO Act, enacted in 2012, explicitly states that there is no limitation period for reporting crimes under its purview.

11. JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2006:

Under the Juvenile Justice (Care and Protection of Children) Amendment Act, 2015, the inquiry into a child's case must be completed within **four months**,

extendable by **two months**, from the date of the child's first production before the Board, with the exception of preliminary assessments for heinous offenses, which must be disposed of within **three months.**

- The Section 101(1) of the JJ Act grants a **30-day** time limit for preferring an appeal before the children's court against the order made by the Committee or the Board. Nonetheless, Section 101(2) of the JJ Act does not prescribe any time limit for preferring an appeal against the JJB preliminary assessment order.
- The Supreme Court recently pointed out that no time limit has been prescribed under the Juvenile Justice (Care and Protection of Children) Act, 2015 to prefer an appeal against the preliminary assessment order of the Juvenile Justice Board (JJB) and deemed it appropriate to fill up the gap by prescribing 30 days' time limit for preferring appeal against the JJB's preliminary assessment order.

12. MOTOR VEHICLE ORIGINAL PETITION (MVOP) ACT, 1988:

Under the Motor Vehicles Act, 1988, a claim for compensation must be filed **within six months** of the occurrence of the accident.

- **Section 166(3) of the Motor Vehicles Act, 1988**

  States that "No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident".
- **Starting Point of Limitation:**

  The six-month period starts from the date of the accident.
- **Recent Amendments:**

  While the six-month limit remains, there's a new grace period. The Claims Tribunal may now accept applications for up to **twelve months** after the accident, provided the applicant can show sufficient cause for the delay in filing.
- **FIR as Application:**

  The Claims Tribunal shall treat any report of accidents forwarded to it under section 159 as an application for compensation under this Act.

- **Madras High Court Ruling:**

  The Madras High Court has ruled that Motor Accident Claim Tribunals cannot dismiss claim petitions on the ground of limitation, as they are mandated to treat the First Information Report (FIR) registered by the police as an application for compensation,

Madras High Court case-law

Thomas Daniel vs Selvi on 2 April, 2024

C.R.P. (MD) No. 761 of 2024

It is, no doubt, true that prior to 01.04.2022, there was no limitation for filing claims seeking compensation for injury or death arising out of the use of the motor vehicle. Clause (3) of Section 166 of the Act, which was introduced by the Motor Vehicles (Amendment) Act, 2019, provides that a claim for such compensation must be filed before the Tribunal within six months from the date of accident.

6. It is brought to notice that the Constitutional Validity of the said amendment has been challenged before the Hon'ble Supreme Court of India in **Bhagirathi Dash -vs- Union of India in W.P. (Civil) No. 166 of 2024** in which notice has been ordered on 01.04.2024 to the Respondent therein.

7. That apart, it is highlighted that in a Revision of this Court in **Malaravan-vs- Praveen Travels Pvt. Ltd., [(2023) 5 CTC 47]**, where the accident had taken place after the amendment came into force on 01.04.2022, this Court has read down the amendment introduced to the Act as extracted below:-

> “Shift from right to duty
>
> The Parliament taking note of such a rapid development in Information Technology introduced Section 166(3) and 166(4) of the Motor Vehicles Act. These Sections have to be read along with Rule 150A read with Annexure XIII of Central Motor Vehicles Rules with Forms I to IX. If they are read so, then it is no more the right of an accident victim to file a claim petition under Section 166 but it has bloomed into a full-fledged duty on the part of the police.
>
> The police on investigation have to file an FAR (First Accident Report), IAR (Interim Accident Report) and DAR (Detailed Accident Report). As per Rule 18 of Annexure XIII, it has been mandatory on the Claims Tribunal to kick start the

compensatory mechanism. Rule 21 of the Central Rules ensures that the DAR filed by the police shall be treated as a Claim Petition.

13. LAND ACQUISITION ACT, 1894:

In land acquisition matters, specific time frames or limitation periods exist for various actions, such as filing objections, seeking enhancement of compensation, or appealing decisions, as outlined in the Land Acquisition Act, 1894 and subsequent amendments.

- **Objections to Land Acquisition:**
  Within 60 days from the date of publication of the preliminary notification.
- **Reference to Court for Enhanced Compensation (Section 18):**
  Six months from the date of the Collector's award.
- **Application for Re-determination of Compensation (Section 28A):**
  A strict three-month period from the date of the award, with only the time taken to obtain a certified copy of the judgment excluded.
- **Appeal to the High Court:**
  Within 120 days (60 days initial and 60 days extension) from the date of the award.
- **Award Under Section 11:**
  The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration.
- **Lapsing of Proceedings:**

  If the Collector fails to make an award within two years from the date of publication of the declaration, the entire proceeding for the acquisition of the land lapses.
- **Strict Adherence:**

  The Supreme Court has consistently emphasized the importance of adhering to these limitation periods.
- **No Extension Based on Delayed Awareness:**

  There is no provision for extending the limitation period based on delayed awareness of an award or enhanced compensation order.

- **Responsibility of Landowners:**

  Landowners are responsible for staying informed and filing applications within the stipulated period.

- **Section 5 of the Limitation Act:**

  Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 **excludes** Section 5 of the Limitation Act, which deals with condonation of delay.

- **Section 29(2) of the Limitation Act:**

  The Court held that Section 74 of LARR Act, 2013 prescribes a specific limitation period for appeals, making Section 74 a special law for limitation purposes, even if the 2013 Act is generally a general law.

14. CONSUMER PROTECTION ACT, 1986:

Under the Consumer Protection Act, the limitation period for filing a complaint is two years from the date the cause of action arises.

- **Cause of Action:**

  The "cause of action" refers to the date on which the deficiency in service or defect in goods is detected or arises.

- **Limitation Period:**

  A complaint must be filed within two years from this date, failing which it will be considered time-barred as per section 69.

- **Condonation of Delay:**

  The consumer forum may, however, entertain a complaint filed after the two-year period if the complainant can demonstrate sufficient cause for the delay.

- **Appeals:**

  An appeal to the State Commission from an order of the District Commission has to be filed within forty-five (45) days from the date of the order.

- **Importance of Timely Filing:**

  Filing a complaint within the prescribed limitation period is crucial for ensuring prompt resolution of consumer disputes.

15. SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 (SARFAESI) ACT:

Under the SARFAESI Act, the limitation period for enforcing a secured debt, as governed by the Limitation Act, 1963, is 12 years from the date the debt becomes due.

- **Limitation Period:**
  The SARFAESI Act, 2002, relies on the Limitation Act, 1963, for determining the time limit for initiating proceedings.
- **Article 62 of the Limitation Act:**
  This article specifically addresses the enforcement of payment of money secured by a mortgage or otherwise charged upon immovable property, setting the limitation period at 12 years from when the money sued for becomes due.
- **Borrower's Response to Notice:** Borrowers have 60 days to respond to a notice of default.
- **Challenging Lender's Action:** Borrowers have 45 days to challenge the lender's action before the Debt Recovery Tribunal (DRT).
- **Appealing DRT's Decision:** Borrowers have 30 days to appeal the DRT's decision to the Debt Recovery Appellate Tribunal (DRAT).

16. ARBITRATION AND CONCILIATION ACT, 1996:

Under the Arbitration and Conciliation Act, the limitation period for filing an application under Section 11(6) for the appointment of an arbitrator is three years from the date when the right to apply accrues, as governed by Article 137 of the Limitation Act, 1963.

- **Arbitration is not the bringing of an action under the statutes of limitation**, and parties are generally free to structure their arbitration agreements as they see fit.
- The Court held that the notice invoking arbitration shall be issued within **three years from the date of accrual of the cause of action.**
  Bhim Shankar Sakkare v/s Walchandnagar Industries Limited (2023)

Facts:

- An arbitral award was issued against the appellant Bhimshankar Sahakari Sakkare on 24.08.2016 of the arbitration and conciliation Act of 1996. As per Sec. 34(3) of Arbitration Act, there is a 90 day period to file an application to set aside the award. Further it can be extended by 30 days.
- In this case, the initial 90 day period expired on 2411.2016 and additional 30 day period ended on 24.12.2016. The trial courts were closed for winter vacations from19.12.2016 to 01.01.2017. The appellant filed the application U/sec.34 and an application for condonation of delay on the reopening day 2.01.2017. The application was filed beyond 120 day maximum period, hence the trial court dismissed the condonation application filed by the appellant.
- Appellant argued before Hon`ble High Court that the court closure should extend the filing period as per sec.4 of the Limitation Act,1963 and sec.10 of the general clauses Act, 1897.

Issues:

1) Does the benefit of sec.10 of General Clauses Act, 1897 apply when the last day of the condonable period falls on a holiday?

2) Can the application be filed on the next day when the court reopen

Appellants contentions:

Sec.34(3) of the Arbitration and Conciliation Act 1996 provides a three month limitation period for filing an application to set aside an arbitral award. However, the sec. permits an extension of 30 days for sufficient cause.

The last day of the condonable period was 24.12.2016. This date fell during the court`s winter vacation that was from 19.12.2016 to 01.01.2017. The application was filed on the next reopening day, which was on 02.01.2017.

Sec. 10 of General clause Act should apply when the last day falls on a holiday. Hence, filing on the reopening day should be considered valid.

Not providing this benefit creates unfair situation where the condonable period is cut short due to holidays. Sec. 4 of limitation Act allows for actions to be taken on the next working day if the limitation period expires on a holiday.

However, this provision applies to the initial period specified by the law and not to any additional time that might be granted for sufficient cause. Since sec. 4 does not cover condonable periods, sec. 10 of General clause Act provides for a similar extension for holidays. Hence, this should apply to fill this gap. Sec. 10 confirms that if the last day of a deadline is a holiday the action can be performed on the next working day. They further requested that the court allow them to file the application on the 1st working day after the court's vacation.

RESPONDENT'S CONTENTION:

- Sec. 34(4) of Arbitration Act sets a strict 3 month limitation extendable only by 30 days if there were sufficient causes, but not beyond that period.
- Appellant filed the application after the condonable period had expired because they had ample time before courts vacation.
- Hon'ble Supreme Court in Union of India V/s Popula Constructions Company (2001) ruled that the words "but not thereafter" in sec. 34(3) mean the court cannot condone the delay beyond 30 days.
- Sec.4 of Limitation Act only applies to prescribed period of Limitation i.e., 90 days and not to the condonable period 30 days.
- In Saguta Ahmed v/s Upper Assam Poly wood products (2020) clarified that condonable period is not part of the prescribed period and cannot be extended by holidays.
- Court vacations are known well in advance and parties should plan accordingly without relying on extensions due toholidays.
- Appellant had 25 days after the expiry of the prescribed period and before the vacation.
- Sec.34 of Arbitration Act provided a limited right to challenge an Award extending the condonable period beyond what is statutorily allowed contradicts the intent of the Act.

Judgment:

- Hon'ble Supreme Court up held the decisions of the trial court and the Hon`ble High Court it concluded that the application of sec.10 of the General Clauses Act does not extend the condonable period u/sec. 34(3) of the

Arbitration Act. Therefore, the appellants application, filed after 120 day period, was rightly dismissed.

- The term " prescribed period" in sec.5 of the Limitation Act refers only to the limitation period, not the condonable period. Sec.10 of General clauses Act cannot be used to extend the statutory condonable period. It was further held that courts strictly on force the timelines set under the Arbitration and conciliation Act, 1996.

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17. DRUGS AND COSMETICS ACT, 1940:

The limitation period for filing complaints by Drugs Inspectors under the Drugs and Cosmetics Act is governed by the provisions of the Criminal Procedure Code (Cr.P.C.) and specific sections of the Drugs and Cosmetics Act itself.

1. Limitation Period for Section 27(d):

The limitation for filing a complaint under Section 27(d) of the Drugs and Cosmetics Act is **three years** from the date of seizure of the drug. This was established in the case law where the court noted that the complaint must be filed within this timeframe to avoid being barred by limitation.

2. Limitation Period for Section 18(b):

For complaints under Section 18(b) punishable under Section 28(a), the limitation period is **one year** from the date of the offence.

3. Commencement of Limitation:

The limitation period commences from the date of knowledge of the commission of the offence, which is typically the date of the report from the Government Analyst, as per Section 469(1)(b) of the Cr.P.C. State Of Rajasthan VS Sanjay Kumar - Supreme Court (1998).

Exclusions in Limitation Calculation:

Time taken for obtaining necessary sanctions or permissions, as well as periods during which the court is closed, are excluded from the limitation period calculation Bharat Damodar Kale VS State Of A. P. - Supreme Court (2003).

Summary of Legal Principles

- **Three-Year Limitation**: For offences under Section 27(d), the complaint must be filed within three years from the date of seizure.
- **One-Year Limitation**: For offences under Section 18(b) punishable under Section 28(a), the complaint must be filed within one year.
- **Knowledge of Offence**: The limitation period starts from the date the concerned officer becomes aware of the offence, typically marked by the Government Analyst's report.

18. INDUSTRIAL DISPUTES ACT, 1947:

The Industrial Disputes Act, 1947, does not prescribe a specific limitation period for raising industrial disputes or challenging dismissal orders before the Labour Court or Industrial Tribunal.

- **No Limitation Period:**
  The Act itself doesn't set a time limit within which disputes must be raised or applications filed.
- **Supreme Court Rulings:**
  The Supreme Court has held that since the Act doesn't prescribe a limitation period, the Labour Court or Tribunal cannot introduce such considerations.
- **Open to Approach Even Belatedly:**
  This means that parties can approach the relevant forum, even if there's a delay in raising the dispute, as long as the dispute is genuine and the delay is not attributable to the party's negligence.
- **Section 2A(3) Clarification:**
  Section 2A(3) of the Act specifies that applications related to discharge, dismissal, retrenchment, or termination of service must be made to the Labour Court or Tribunal before the expiry of three years from the date of such termination.
- **Section 12(5) Clarification:**
  Section 12(5) of the Act specifies that the application must be submitted to the applicable litigation forum (that is, the Labour Court or the Industrial Tribunal), within three years.

The application must be submitted to the applicable litigation forum (that is, the Labour Court or the Industrial Tribunal), within **three years**: For claims relating to termination of employment, from the date of discharge, dismissal, retrenchment, and other types of termination of employment.

Section 24A of the Act provides that a consumer dispute can be filed within **two years from the date on which the cause of action arises**.

19. FACTORIES ACT, 1948:

In Factories Act, 1948, a court cannot take cognizance of an offense unless a complaint is made within three months of the Inspector becoming aware of the alleged offense, or six months if the offense involves disobeying a written order.

20. FOOD SAFETY AND STANDARDS ACT, 2006:

Section 77 of the Food Safety and Standards Act, 2006, states that no court shall take cognizance of an offense under the Act after the expiry of one year from the date of commission of the offense.

- **Extension of Limitation Period:**
  However, the Commissioner of Food Safety has the power to approve prosecution within an extended period of up to **three years**, for reasons to be recorded in writing.
- **FSSA Overrides other laws**
  The FSSA has an overriding effect on other laws, including the CrPC.
- **Example:**
  In the Kewal Dairy case, the Commissioner of Food Safety invoked Section 77 to extend the prosecution limitation period from one year to three years.

21. WORKMEN'S COMPENSATION ACT, 1923:

The Workmen's Compensation Act, 1923, the general limitation period for filing a claim for compensation is two years from the date of the accident or death. However, the Commissioner can entertain claims even if filed outside this period, if satisfied that the delay was due to sufficient cause.

- **General Limitation Period:**
  Section 10 of the Workmen's Compensation Act specifies that a claim for

compensation must be filed within two years from the date of the accident or death.

- **Extension of Limitation Period:**

The Commissioner, who is responsible for deciding compensation claims, has the power to entertain claims even if they are filed outside the two-year period if they are satisfied that the failure to file the claim in time was due to sufficient cause.

- **Sufficient Cause:**

What constitutes "sufficient cause" for extending the limitation period can vary depending on the specific circumstances of each case.

- **Example of Sufficient Cause**:

The mere fact that the workman elected to continue to remain in service did not constitute sufficient cause so as to entitle the workman to prefer the claim for compensation beyond the period of limitation provided for by the Act.

- **Employer's Responsibility:**

If an accident occurs and results in the death of a workman or serious bodily injury, the employer is required to send a report to the Commissioner within seven days of the death or injury, giving the circumstances attending the death or injury.

- **Appeal Period:**

The period of limitation for an appeal under the Act is sixty days.

22. BANKING LAW REPLACES WITH COMPANIES ACT:

In banking law, the Limitation Act of 1963 sets time limits for legal actions, including suits, appeals, and applications, ensuring that legal proceedings are pursued within a reasonable timeframe. Banks must ensure loan documents are within the required limitation period to pursue legal action for debt recovery.

- **Purpose of the Limitation Act:**

  The Limitation Act of 1963 establishes a time limit within which any suit, appeal, or application must be filed.

- **"Prescribed Period":**

The "prescribed period" refers to the period of limitation determined in accordance with the Limitation Act's provisions.

- **Importance for Banks:**

Banks must ensure all legal loan documentation is current and legitimate, as they can only pursue legal action if the documents are within the statute of limitations.

- **Time-Barred Debts:**

If documents have expired or become time-barred, the banker will be unable to pursue legal action to recover the debt.

- **Example:**

For debts arising from simple contracts, the limitation period is three years from the date the debt becomes due and payable.

STRESS ASSETS STABILIZATION FUND v/s SKYLEAD CHEMICALS LIMITED (2022)

This appeal arose from the order of the National Company Law Tribunal (NCLT) Ahmedabad bench, dated 12th Jan 2022. The NCLT dismissed the application filed by the stress assets stabilization fund (SASF) u/s 7 of the 1BC against Sky land chemicals Limited on the ground that the application was time barred under the limitation Act of 1963.

On December 31,1997 IDBI bank sanctioned a foreign currency loan at USD 1.25 million to Sky land chemicals Limited. Due to the respondent`s failure to repay, the outstanding amount was converted in to non convertible debentures (NCDS) on March 29, 2001 The account was declared a non performing asset (NPA) on January 19,2004. IDBI bank transferred the loan to SASF on September 30, 2004. SASF recalled the financing facilities on October 31,2006. Sklead Chemical Limited was declared a sick industrial company by the board for Industrial and Financial Reconstruction (BIFR) on September 19, 2006. BIFR proceedings continued until its dissolution on December 1,2016. SASF filed an application U/sec. 7 of the 1BC on January 7, 2019 which was dismissed by the NCLT on January 12, 2021 as time barred.

Issues: Whether the application filed by SASF U/sec. 7 of the 1BC is barred by limitation?

Arguments: The appellant argued that the period during which the case was pending before BIFR should be excluded from the limitation period. It was further claimed that the entries in the balance sheets of Sky lead Chemicals Limited from 2004-05 to 2016-17 acknowledged the debt.

The respondent argued that the application was indeed time barred. It is further contended that the balance sheet entries do not constitute a valid acknowledgement of debt U/sec. 18 of the Limitation Act.

Judgment:

The national Company Law Tribunal (NCLT) concluded that Sec.7 application filed by SASF was within the prescribed limitation period when the excluded period and acknowledgements were considered. The period during which the proceedings were pending before BIFR, from the BIFR reference date to the BIFR dissolution date should be excluded while calculating the limitation period. The balance sheet entries from 2004-05 to 2016-17 which reflected the outstanding liability, constitute an acknowledgment of debt u/sec.18 of Limitation Act, 1963. These acknowledgements extended the limitation period and made the application u/sec.7 of the 1BC valid. The national Company Law Appellate Tribunal (NCLAT) over turned the NCLT's decision and granted SASF appeal.

23. INCOME TAX ACT, 1961:

Normally, a notice cannot be issued if **three years have passed since the end of the relevant assessment year**.

Section	**Nature of compliance**	**Limitation of time**
149(1)	Issuing notice under section 148 :	
	If the escaped assessment amounts to or likely to amounts to —	
	(i) less than Rs. 50,00,000	Within 3 years from end of relevant assessment year
	(ii) Rs. 50,00,000 or more	Within 10 years from end of relevant assessment year

24. CUSTOMS ACT, 1962:

Under the Customs Act, 1962, the general limitation period for issuing a show cause notice for recovery of duty or interest is **two years** from the "relevant

date," but it can be extended to five years in cases of collusion, willful misstatement, or suppression of facts.

- **Normal Limitation Period:** The proper officer must serve a show cause notice within **two years** from the relevant date to the person liable for the duty or interest that has not been levied or paid, or which has been short-levied or short-paid, or to whom a refund has been erroneously made.
- **Extended Limitation Period:**

  In cases of collusion, willful misstatement, or suppression of facts, the limitation period can be extended to **five years** from the relevant date.

  Section 28(4) of the Customs Act, 1962, allows for this extended period in such circumstances.

The judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any Court, the limitation of **one year or six months**, as the case may be, shall be computed from the date of such judgment, decree, order or direction.

25. CHIT FUNDS ACT, 1982:

Under the Chit Funds Act, 1982, the period of limitation for disputes referred to the Registrar is generally **three years** from the date the subscriber dies or ceases to be a subscriber (for recovery of sums) or from the date of the act or omission that led to the dispute.

Provided that a sanction obtained under this sub-section shall lapse if the chit is not registered **within twelve months** from the date of such sanction or within such further period or periods not exceeding **six months in the aggregate** as the State Government may, on application made to it in this behalf.

26. MINIMUM WAGES ACT, 1948:

The Minimum Wages Act, 1948, has a limitation in that it applies to workers receiving wages below a certain threshold, currently INR 24,000 per month, and the Act also provides for revisions of minimum wage rates every five years, with the Central Government having the power to adjust these rates.

- **Fixing Minimum Wages:**

The appropriate government (Central or State) has the power to fix minimum wage rates for workers in scheduled employments.

- **Revision of Minimum Wages:**

The Act allows for the review and revision of minimum wage rates at intervals not exceeding five years.

- **Penalties for Non-Compliance:**

The Act provides for penalties for employers who fail to comply with the provisions, including fines and imprisonment.

- **Enforcement:**

The enforcement of the Act is ensured at two levels: through the Chief Labour Commissioner (Central) in the Central Sphere and through State Enforcement Machinery in the State Sphere.

- **Wage Periods:**

The Act also stipulates that no wage period can exceed one month.

- **Deductions:**

The Act prohibits unauthorized deductions from wages.

- **Complaints:**

The appropriate government can appoint a labour commissioner or other officers to process complaints related to minimum wages.

- **Overtime:**

If an employee works overtime, the employer must pay them for every hour or part of an hour so worked in accordance with the Act.

27. PREVENTION OF CRUELTY TO ANIMALS ACT, 1960:

Under the Prevention of Cruelty to Animals Act, 1960, a prosecution for an offense can't be initiated after three months from the date the offense was committed.

- **The Act:**

The Prevention of Cruelty to Animals Act, 1960, aims to prevent the infliction of unnecessary pain or suffering on animals.

- **Limitation Period:**

Section 36 of the Act specifies that a prosecution for an offense against the Act cannot be started after three months from the date the offense was committed.

- **Bengal Cruelty to Animals Act, 1869:**

This act also has a similar provision, stating that a prosecution for an offense against this Act shall not be instituted after the expiration of **three months** from the date of the commission of the offence.

- **Offenses covered:**

This act covers offences committed against performing animals and the exhibition of performing animals.

- **Penalties:**

If any person contravenes, or abets the contravention of, any rules made under this section, he shall be punishable with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

28.ENVIRONMENT (PROTECTION) ACT, 1986:

The Environment (Protection) Act, 1986, a cornerstone of Indian environmental law, empowers the Central Government to protect and improve the environment, including setting standards, regulating industries, and managing hazardous substances, with provisions for penalties and public participation. No limitation is liable for this act.

29. ANDHRA PRADESH CO-OPERATIVE SOCIETIES ACT, 1964:

The limitation period for disputes is generally six years from the date the act or omission occurred that gave rise to the dispute, according to Indian Kanoon. However, for disputes related to elections, the period is one month from the date of the election result declaration.

30. ANDHRA PRADESH SOCIETIES REGISTRATION ACT, 2001:

This act does not explicitly define a specific limitation period for society registration or renewal, but it does mandate certain timelines for specific actions like registering amendments and filing annual reports.

- **Registration of Alterations/Amendments:**

The Registrar must register any alterations to the memorandum of association within 30 days from the date of receipt of the resolution, if they are not contrary to the Act.

- **Annual Filing of Governing Body List:**

Societies must furnish the Registrar with a list containing the names and addresses of members of the Managing Committee and officers entrusted with the management of the affairs of the society, within 15 days from the date on which the General Body meeting was held.

- **Registration of Amendments to Bye-laws:**

The Registrar must register any proposed amendment to the bye-laws within a period of 30 days if he is satisfied that the proposed amendment fulfills the conditions specified in the Act.

- **No Specific Renewal Period:**

The Andhra Pradesh Societies Registration Act, 2001 does not mention a specific period for renewal of society registration, unlike the Societies Registration Act of 1860, which requires renewal every five years.

Other Relevant Acts:

The Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995, mandates that the Registrar shall register the proposed amendment within a period of 60 days from the date of receipt of the application.

31. ANDHRA PRADESH EXCISE ACT, 1968:

The general limitation period for serving a notice to show cause for non-payment or short-payment of excise duty is one year from the relevant date. However, this period can be extended to five years in cases of fraud, suppression of facts, or willful misstatement.

Extended period of limitation under provision of section 11A(4) of the Central Excise Act, 1944 was rightly invoked. The act of not disclosing the vital information before the jurisdictional Central Excise authorities was conscious and purposeful acts on the part of assessee.

32. ANDHRA PRADESH PROTECTION OF DEPOSITORS OF FINANCIAL ESTABLISHMENTS ACT, 1999:

The limitation period for filing a claim is generally **three years** from the date the deposit becomes due or payable.

- **General Limitation Period:**

The Limitation Act, 1963, generally sets a three-year limitation period for suits related to money or contracts.

- **Specific to Deposits:**

For money deposited under an agreement payable on demand, the limitation period is three years from when the demand is made.

- **Andhra Pradesh Protection of Depositors Act:**

This Act, enacted in 1999, aims to protect depositors of financial establishments in Andhra Pradesh.

- **Time-barred Claims:**

Any claim not preferred within the prescribed period becomes time-barred.

- **Arrear Claims:**

Arrear claims, as per the A.P. Financial Code, are allowed for one year from the due date, and if exceeding one year, pre-audit by the A.G. is required.

- **Individual claims:**

Individual claims up to Rs. 500 may be paid without pre-audit up to 3 years

33. ANDHRA PRADESH MONEY LENDERS ACT, 2017:

The Andhra Pradesh (Telangana Area) Money Lenders Act, 1349F, outlines a limitation period of 12 years from the date the money becomes due for enforcing payment of money secured by a mortgage or otherwise charged upon immovable property.

- **Act:**

The relevant act is the Andhra Pradesh (Telangana Area) Money Lenders Act, 1349F.

- **Immovable Property:**

The limitation period applies to enforcing payment of money secured by a mortgage or otherwise charged upon immovable property.

- **Enforcement:**

The 12-year period starts from the date when the money sued for becomes due.

- **Money Lender License:**

  No money lender shall carry on in any district the business of money lending without obtaining a license.

- **Penalty for Contravention:**

  If any person contravenes the provisions of the Act, he shall be punished with fine which may extend to ten thousand rupees.

34. ANDHRA PRADESH, CB-CID:

In Andhra Pradesh, the CB-CID (Central Bureau of Criminal Investigation Department) is a branch of the Criminal Investigation Department (CID) that assists and supports the district police in investigations, providing specialist officers, technical support, and criminal intelligence.

- **Functions of CB-CID:**
- **Investigation Support:** The CB-CID can take up the entire investigation of a case or send specialist investigating officers or civilian experts to assist district police.
- **Scene of Crime Assistance:** They can assist in visits to scenes of crime, providing technical support and criminal intelligence.
- **Technical Support:** They provide technical support to the district police.
- **Criminal Intelligence:** They provide criminal intelligence to the district police.

CID Branches:

- Besides CB-CID, CID may have other branches such as Anti-Human Trafficking & Missing Persons Cell, Anti-Narcotics Cell, Finger Print Bureau, Criminal Intelligence Division, Anti-Terrorism squad, Economic Offences Wing, and High-Tech Crime Enquiry Cell.
- **Andhra Pradesh Control of Organised Crime Act, 2001:** This act makes special provisions for the prevention and control of criminal activities by organized crime syndicates or gangs.
- **Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacots, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land-**

Grabbers (Regulation of Place and Conditions) Order, 1986: This order deals with the regulation of dangerous activities.

- **Andhra Pradesh Police (Reforms) Act, 2014:** This act is related to police reforms in Andhra Pradesh.
- **Andhra Pradesh Civil Services (Disciplinary Procedure Tribunal) Act:** This act deals with the disciplinary procedure for civil servants.
- **Andhra Pradesh Rules for the Andhra Pradesh Government Pleaders:** These rules relate to the Andhra Pradesh Government Pleaders.
- **Andhra Pradesh (Andhra Area) District Police Act, 1859:** This act deals with the district police in the Andhra Area.
- **CBI Consent:** The state of Andhra Pradesh has given consent to the CBI to probe cases in the state.

35. ANDHRA PRADESH GAMING ACT, 1974:

Sub-section (3) thereof takes the precaution that the amount shall not be sent to the District Superintendent of Police for distribution until the expiry of three months from the date of the direction under Sub-section (1) or if an appeal is presented within that period until the appeal is disposed off.

TOPIC – II

DIFFERENT RELIEFS WITH DIFFERENT PERIOD OF LIMITATIONS

TOPIC - II

DIFFERENT RELIEFS WITH DIFFERENT PERIOD OF LIMITATIONS

Different legal reliefs, such as declarations, possession of immovable property, or specific performance of a contract, have distinct limitation periods, as determined by the Limitation Act, 1963, and other relevant laws. The Limitation Act, 1963, generally prescribes a three-year period for filing suits relating to contracts, accounts, and declarations, as well as suits for recovery of movable property.

Cause of Action:

The "cause of action" refers to the event or circumstance that gives rise to the right to sue. For example, in a breach of contract case, it would be the date of the breach.

Specific Examples:

- *Breach of Contract: A suit for damages arising from a breach of contract must be filed within three years from the date of the breach.*
- *Tort: Similarly, a suit for damages arising from a tort (civil wrong) must be filed within three years from the date of the tort.*
- *Money Recovery: A suit for recovery of money, including damages, must be filed within three years from the date the money becomes due.*

Exceptions:

Fraud, Mistake, or Concealment: If a claim is based on fraud, mistake, or concealment of facts, the period of limitation does not begin to run until the plaintiff or applicant discovers the fraud, mistake, or concealment, or could have discovered it with reasonable diligence.

- *Disability: If a person is under a disability (e.g., minority, insanity) when the cause of action arises, the period of limitation does not begin to run until the disability ceases.*

Specific Articles in the Limitation Act:

- *Article 56: Relates to suits for compensation for breach of contract, with a three-year limitation period from the date of breach.*
- *Article 57: Relates to suits for compensation for torts, with a three-year limitation period from the date the cause of action arises.*

- *Article 113: Relates to suits for the recovery of money, with a three-year limitation period from the date the money becomes due.*

A wide-ranging number of remedial facets of the law have been taken into consideration by the Specific Relief Act of 1963. Established on the principle of Ubi jus ibi remedium, ensures that every person who is wronged in the social process must have a social redress. Even though this act of 1963 focuses only on the administration of civil rights and not the penal laws, but also the civil laws are necessary to take into consideration the rights of an individual, in case of violation of which severe violent clashes can occur. Such is the recovery of possession of property either movable or immovable by the procedure of the Code of Civil Procedure of 1908.

The term **possession** does not only mean bare occupation or actual use as per the ruling in the judgment of [Lala Bishumbhar Nath v. Nisar Ali AIR 1932 Oudh 51]. This remedy provided under the Specific Relief Act, 1963, includes recovery of the possession of the specific property, i.e., relief in specie instead of any damage money or compensation, and is one of the hallowed aspects provided by the equity of the common law.

I. Recovery Of Possession Of Movable Property

Section 7 and section 8 of the Specific Relief Act, 1963 establishes remedies to recover possession of the specific movable property by the Code of Civil Procedure, 1908. Section 8 provides conditions under which a person when in present control of the property but not as the owner is liable to return the property to the person is entitled to the immediate possession.

Section 7. Recovery of specific movable property.—A person entitled to the possession of specific movable property may recover it in the manner provided by the Code of Civil Procedure, 1908 (5 of 1908).

Explanation 1.—A trustee may sue under this section for the possession of movable property to the beneficial interest in which the person for whom he is trustee is entitled.

Explanation 2.— A special or temporary right to the present possession of movable property is sufficient to support a suit under this section.

8. Liability of person in possession, not as owner, to deliver to persons entitled to immediate possession:

Any person having the possession or control of a particular article of movable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:—

(a) When the thing claimed is held by the defendant as the agent or trustee of the plaintiff;

(b) When compensation in money would not afford the plaintiff adequate relief for the loss of the thing claimed;

(c) When it would be extremely difficult to ascertain the actual damage caused by its loss;

(d) When the possession of the thing claimed has been wrongfully transferred from the plaintiff.

Explanation.—Unless and until the contrary is proved, the court shall, in respect of any article of movable property claimed under clause (b) or clause (c) of this section, presume—

(a) That compensation in money would not afford the plaintiff adequate relief for the loss of the thing claimed, or, as the case may be;

(b) That it would be extremely difficult to ascertain the actual damage caused by its loss the limitation period for recovering movable property, generally, is three years from the date when the property is wrongfully taken or when the possession becomes unlawful, according to Article 91(b) of the Limitation Act, 1963.

Specific Scenarios and Relevant Articles 68 to 71 in the Limitation Act, 1963

- **Wrongful Taking or Injury:** If a person's movable property is wrongfully taken or injured, the limitation period starts from the date of such wrongful taking or injury.

- **Wrongful Detainment:** If the possession of the property becomes unlawful, the limitation period starts from that date of wrongful detainment. As per **article 69** , the limitation is 3 years.
- **Lost or Acquired by Theft:** For specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion, the limitation period is three years from when the person having the right to possession first learns in whose possession it is.
- **Article 68:**three years from the date when the person having right to the possession of th property first learns in whose possession it is.
- **Deposited or Pawned Property: Article 70**
- For recovering movable property deposited or pawned, the limitation period is three years from the date of refusal after demand as per **Article 70 f**or recovery of movable property deposited or pawned from a depositary or pawnee.
- As per article 71 ,limitation to recover movable property deposited or pawned and after wards bought from the depository or pawnee for a valuable consideration.
- **Sale of Movable Property:** If the movable property is sold, the limitation period is three years from the date the sale is known to the owner

II. Limitation period for rectification of instrument:

The limitation period for seeking rectification of an instrument under Section 26 of the Specific Relief Act, 1963, is three years from the date the cause of action arises, as outlined in Article 113 of the Limitation Act, 1963.

Period of Limitation for Rectification of Instrument under Section 26 of the Specific Relief Act, 1963:

The period of limitation for seeking rectification of an instrument under Section 26 of the Specific Relief Act, 1963, is primarily governed by the Limitation Act, 1963. Specifically, Article 113 of the Limitation Act applies, which prescribes a limitation period of three years.

Limitation Period: A suit for rectification of an instrument must be filed within three years from the date the cause of action arises, as per Article 113 of the Limitation Act, 1963 K Krishnaswamy VS S. Rajendra - Current Civil Cases Shankar Ram VS Deputy Director of Consolidation - Allahabad.

- Cause of Action: The cause of action for rectification typically accrues when the party seeking rectification becomes aware of the mistake or fraud that necessitates the rectification Jagga Singh VS Mal Singh - Punjab and Haryana Amrik Singh @ Jasbir Singh VS Jasvir Singh - Punjab and Haryana.

- **Exceptions**:

  In some cases, courts have indicated that if the rectification is due to mutual mistakes or inadvertent errors, the strict application of limitation may not apply Amrik Singh @ Jasbir Singh VS Jasvir Singh - Punjab and Haryana.

  However, the general rule remains that the suit must be filed within the prescribed limitation period unless specific circumstances justify an exception Gurukul Nishulk Mahavidyalay Samiti VS Misri Lal Gupta - Allahabad.

- **Relevant Legal Provisions:**

  Section 26 of the Specific Relief Act, 1963: This section allows for the rectification of an instrument when it does not express the real intention of the parties due to fraud or mutual mistake Meena Jaiswal VS Indian Oil Corporation Ltd. - Allahabad.

  Article 113 of the Limitation Act, 1963: This article specifically addresses the limitation period for suits not otherwise provided for, including those for rectification of instruments Shankar Ram VS Deputy Director of Consolidation – Allahabad.

- **Conclusion:**

In summary, the period of limitation for seeking rectification of an instrument under Section 26 of the Specific Relief Act, 1963, is three years from the date the cause of action arises, as outlined in Article 113 of the Limitation Act, 1963. It is crucial for parties seeking rectification to be aware of this limitation to ensure their claims are filed timely.

III. LIMITATION FOR RESCISSION OF CONTRACT:

Under the Indian Limitation Act, 1963, the limitation period for seeking rescission of a contract is three years from the date the facts entitling the plaintiff to have the contract rescinded first become known to them.

Prem Raj v. D.L.F. Housing and Construction (Private) Ltd. (1968): *This case highlights that a person who sues for rescission of a contract cannot claim alternative relief of specific performance, but a person filing a suit for specific performance can claim rescission as an alternative remedy.*

Hungerford Investment Trust v. Haridas (1972): The Supreme Court held that a party has the option to rescind a contract without the aid of the court, but the court adjudicates the antecedent rights of the parties.

IV. Limitation period for suit for eviction:

Limitation Period for Instituting a Suit for Eviction:

In the context of eviction suits in India, the limitation period is governed by the Limitation Act, 1963. The specific period for filing a suit for eviction can vary based on the nature of the tenancy and the grounds for eviction.

General Limitation Period:

The limitation period for filing a suit for eviction of a tenant is typically 12 years from the date when the right to sue accrues, as per Article 58 of the Limitation Act, 1963.

Specific Situations:

If the eviction is sought on the grounds of non-payment of rent, the limitation period may be shorter, often 6 months from the date the rent became due, depending on the terms of the lease agreement.

Tenancy Types:

For periodic tenancies (month-to-month), the limitation period may also be influenced by the specific terms of the tenancy agreement and the nature of the default.

Exceptions:

Certain circumstances, such as acknowledgment of the tenancy or payment of rent, can reset the limitation period.

The limitation period for instituting a suit for eviction generally stands at 12 years, but specific circumstances such as non-payment of rent may impose a shorter period. It is advisable to consult the relevant provisions of the Limitation Act and the specific terms of the tenancy to ensure compliance with the legal requirements.

V. Limitation period for cancellation of instrument:

The general limitation period for filing a suit to cancel or set aside an instrument, as per Article 59 of the Limitation Act, 1963, is three years from the date when the facts entitling the plaintiff to have the instrument cancelled become known to them.

- **Article 59 of the Limitation Act, 1963**:

  This article specifically addresses suits for cancellation or setting aside of an instrument.

  Three-Year Period:

  The Act prescribes a three-year limitation period for such suits.

- **Commencement of Limitation Period:**

The period begins to run from the date when the plaintiff becomes aware of the facts that entitle them to seek cancellation of the instrument.

- **Example**:

  If a person discovers that a document they signed was obtained through

  fraud, the three-year limitation period starts from the date of that discovery, not the date the document was executed.

- **Other relevant Articles**:

  Article 58 of the Limitation Act, 1963 also deals with similar matters, and it also prescribes a three-year period.

- **Specific Relief Act, 1963**:

  The Specific Relief Act, 1963, also provides for the cancellation of instruments, and it is important to note that the Limitation Act, 1963, governs the limitation period for such suits.

Case Law:

The decision in the case of **Rajpal Singh v. Saroj (Deceased) through Legal Representatives & Anr. reported in (2022) 15 SCC 260**, the Hon'ble Supreme court held in para 14 that-"14…...Relief for possession is a consequential prayer and the substantive prayer was of cancellation of the sale deed dated 19-4-1996 and therefore, the limitation period is required to be considered with respect to the substantive relief claimed and not the consequential relief. When a composite suit is filed for cancellation of the sale deed as well as for recovery of the possession, the limitation period is required to be considered with respect to the substantive relief of cancellation of the sale deed, which would be three years from the date of the knowledge of the sale deed sought to be cancelled. Therefore, the suit, which was filed by the original plaintiff for cancellation of the sale deed, can be said to be substantive therefore the same was clearly barred by limitation. Hence, the learned trial court ought to have dismissed the suit on the ground that the suit was barred by limitation. As such the learned first appellate court was

justified and right in setting aside the judgment and decree passed by the learned trial court and consequently dismissing the suit."

VI. Limitation period for SUIT FOR PARTITION:

A partition suit is said to be finally disposed of only when a final decree is passed. As per Article 136 of Limitation Act 1963, period of limitation for execution of partition decree is 12 years from the date the decree becomes enforceable.

The limitations of partition:

The limitation for filing a partition suit is typically 12 years from the date of the cause of action. It is crucial for the plaint to adequately disclose the cause of action and the relevant facts.

What is the time limit for ancestral property partition suit?

12 years

According to the Limitation Act, in the case of a suit for partition, the limitation is fixed at **12 years** from the day the plaintiff claims the property. The partition suit limitation for ancestral properties is also fixed at 12 years.

Merla Veera Venkata Satyanarayana Vs. Merla Srivani and another - 2016 (5) ALT 243 (S.B.) M. SEETHARAMA MURTI,j held:-

SUIT FOR PARTITION PRINCIPLES regarding PARTITION suits In Shub Karan Bubna v. Sita Saran Bubna ((2009) 9 SCC 689), it was held: A preliminary decree for PARTITION only identifies the properties to be subjected to PARTITION, defines and declares the shares/rights of the parties That part of the prayer relating to actual division by metes and bounds and allotment is left for being completed under the final decree proceedings Thus, the application for final decree, as and when made, is considered to be an application in a pending suit for granting the relief of division by metes and bounds Held, in view of this settled proposition of law, the contention of the defendant/revision petitioner that the application of the plaintiffs is bared by law of limitation has no merit Therefore, it follows that the trial court is justified in overruling the objection of the defendant in that regard. (Para 8).

VII. Limitation period for SUIT FOR Specific Performance of contract:

The limitation period for filing a suit for specific performance of a contract, as per Article 54 of the Limitation Act, 1963, is three years from the date fixed for performance or, if no such date is fixed, from the date the plaintiff has notice that performance is refused.

- Article 54 of the Limitation Act, 1963:

  This article specifically addresses the limitation period for suits related to specific performance.

- Three-Year Period:

The law prescribes a three-year period for filing a suit for specific performance.

- Date of Performance:

  If the contract specifies a date for performance, the three-year period begins from that date.

  If no date is fixed, the period starts from the date the plaintiff becomes aware that the defendant has refused to perform the contract.

- Equitable Remedy:

Specific performance is an equitable remedy that compels a party to fulfill their contractual obligations when monetary damages are insufficient.

- **Example Scenario**:

If a contract specifies that a sale deed should be executed within one month, the three-year limitation period would start from the end of that month.

- **Reasonable Time:**

While the limitation period is three years, courts may consider whether the suit for specific performance was filed within a reasonable time, even if within the limitation period.

VIII. Limitation period for SUIT FOR RECOVERY OF MONEY CASES:

In India, the general limitation period for filing a suit for the recovery of money is three years from the date the money becomes due, as per **Article 21** of the Limitation Act, 1963.

- **General Rule:**

  A suit for recovery of money must be filed within three years from the date the cause of action arises, which is typically when the money becomes due.

  Article 21 of the Limitation Act, 1963:

  This article specifically addresses suits for money lent under an agreement that it shall be payable on demand, and the limitation period is three years from the date of the agreement.

- **Exceptions**:

  Acknowledgment of Debt: If the debtor acknowledges the debt in writing within the limitation period, the limitation period restarts from the date of the acknowledgment.

  Part Payment: A part payment of the debt can also act as an acknowledgment, restarting the limitation period.

  Mortgage or Charge on Immovable Property: If the money is secured by a mortgage or is otherwise charged on immovable property, the limitation period is twelve years, from the date when the money sued for becomes due.

  Consequences of Filing Beyond the Limitation Period: If a recovery suit is filed after the expiry of the limitation period, the defendant can raise the plea of limitation, and the court is obligated to dismiss the suit unless the plaintiff can demonstrate a valid reason for the delay.

- **Demand Notice:**

  There is no legal requirement to issue a demand notice before filing a suit for recovery of money.

IX. Limitation period for SUIT FOR DECLARATION:

Section 34 of the Specific relief Act states that any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief.

Article 58 of the Limitation Act states that, to obtain any declaration, the period of limitation will be three years.

The recent case law of Hon'ble Supreme Court:

N. Thajudeen v. Tamil Nadu Khadi & Village Industries Board

A bench comprising of Justice Pankaj Mithal and Justice Ujjal Bhuyan held that if in a suit for declaration of title, a further relief of recovery of possession is also sought, then the limitation period for filing the suit would be governed by the limitation period prescribed for filing a suit for recovery of possession (i.e., 12 years as per Article 65 of Limitation Act) and not the one prescribed for seeking declaration of title (i.e., 3 years as per Article 58 of the Limitation Act) .

The Court's Observations

- The Court reasoned that "in a suit for declaration of title along with recovery of possession of an immovable property, a suit for a declaration of title to immovable property would not be barred so long as the right to such a property continues and subsists. When such right continues to subsist, the relief for declaration would be a continuing right and there would be no limitation for such a suit. The principle is that the suit for a declaration for a right cannot be held to be barred so long as Right to Property subsist." "Once it is held that the gift deed was validly executed resulting in the absolute transfer of title in favour of the plaintiff-respondent, the same is not liable to be revoked, and as such the revocation deed is meaningless especially for the purposes of calculating the period of limitation for instituting the suit."

- ❒ “Even otherwise, though the limitation for filing a suit for declaration of title is three years as per Article 58 of the Schedule to the Limitation Act but for recovery of possession based upon title, the limitation is 12 years from the date the possession of the defendant becomes adverse in terms of Article 65 of the Schedule to the Limitation Act. Therefore, suit for the relief of possession was not actually barred and as such the court of first instance could not have dismissed the entire suit as barred by time.”

Case Law:

In Ram Saran v. Ganga Devi [(1973) 2 SCC 60] this Court had categorically held that the suit seeking for declaration of title of ownership but where possession is not sought, is hit by the proviso of Section 34 of the Specific Relief Act, 1963 and, thus, not maintainable. In Vinay Krishna v. Keshav Chandra [1993 Supp (3) SCC 129] this Court dealt with a similar issue where the plaintiff was not in exclusive possession of property and had filed a suit seeking declaration of title of ownership. Similar view has been reiterated observing that the suit was not maintainable, if barred by the proviso to Section 34 of the Specific Relief Act. (See also Gian Kaur v. Raghubir Singh [(2011) 4 SCC 567)

In view of the above, the law becomes crystal clear that it is not permissible to claim the relief of declaration without seeking consequential relief.

In Venkataraja and Ors. v. Vidyane Doureradjaperumal (Dead) thr. LRs (2-Judge Bench)31, the purpose behind Section 34 was elucidated by this Court. It was observed that the purpose behind the inclusion of the proviso is to prevent multiplicity of proceedings. It was further expounded that a mere declaratory decree remains non-executable in most cases. This Court noted that the suit was never amended, even at a later stage to seek the consequential relief and therefore, it was held to be not maintainable. This position of law has been reiterated recently in Akkamma and Ors. v. Vemavathi and Ors. (2-Judge Bench)32.

The Hon'ble Supreme Court also in Executive Officer, Arulmigu Chokkanatha Swamy Koil Trust, Virudhunagar v. Chandran and Others (2-Judge Bench)33 *while*

reversing the High Court decree, observed that because of Section 34 of the SRA, 1963, the plaintiff not being in possession and claiming only declaratory relief, ought to have claimed the relief of recovery of possession. It was held that the Trial Court rightly dismissed the suit on the basis that the plaintiff has filed a suit for a mere declaration without relief for recovery, which is clearly not maintainable.

X. Limitation Period SUIT FOR PERMANENT INJUNCTION:

- General Rule: The limitation period for filing a suit for permanent injunction is generally three years from the date when the right to sue accrues, as per **Article 11**3 of the Limitation Act, 1963. However, this is contingent upon the nature of the claim and whether it is tied to other forms of relief, such as a declaration of rights Sreedevi Video Corporation, Rep. by its Partner, Ganshyam Hemdev VS SaReGaMa India Ltd. , Chennai - Madras.

- Dependent Relief: In cases where the relief of permanent injunction is sought alongside a declaration of rights, the limitation period is governed by Article 58 of the Limitation Act. This article specifies that the limitation begins from the date when the right to sue first accrues, meaning that successive violations do not create fresh causes of action .Sreedevi Video Corporation, Rep. by its Partner, Ganshyam Hemdev VS SaReGaMa India Ltd. , Chennai - Madras

Continuing Cause of Action

- Definition: A continuing cause of action arises in situations where there is a continuous breach or tort. In such cases, a fresh period of limitation begins to run at every moment during which the breach or tort continues Garib Dass (Died) Through His L. R. VS Municipal Corporation And Anr. - Punjab and HaryanaSwaran Lal VS Municipal Corporation - Punjab and Haryana.

- Application to Permanent Injunction: The concept of a continuing cause of action is applicable primarily in cases of ongoing wrongs. For instance, if a defendant continuously threatens to dispossess a plaintiff, each day of that

threat can provide a fresh cause of action for seeking an injunction Garib Dass (Died) Through His L. R. VS Municipal Corporation And Anr. - Punjab and HaryanaSwaran Lal VS Municipal Corporation - Punjab and Haryana.

- Limitations on Continuing Cause of Action: The continuing cause of action does not apply to claims for declaration of rights, as the limitation period is strictly tied to the first accrual of the right to sue. Thus, if the right has been infringed upon, the plaintiff must act within the prescribed limitation period, regardless of subsequent violations Sreedevi Video Corporation, Rep. by its Partner, Ganshyam Hemdev VS SaReGaMa India Ltd. , Chennai - MadrasPugazhendhi VS Subramanian - Madras.

In a recent ruling, the Supreme Court of India in Bhudev Mallick alias Bhudeb Mallick v. Ranajit Ghoshal [2025 INSC 175] held that

No Limitation on Permanent Injunction Decrees The Supreme Court categorically ruled that decrees of permanent injunction are immune from limitation under Article 136 of the Limitation Act, 1963. The proviso to Article 136 explicitly states:

"*An application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.*"

The Apex Court observed that each breach of an injunction is an independent and actionable wrong, meaning that execution proceedings could be initiated whenever a violation occurs, regardless of the time elapsed since the decree was passed. Citing precedents such as *Jai Dayal v. Krishan Lal Garg* [(1996) 11 SCC 588] and *Shri Benedito Dias v. Armando Fernandes* [2017 (4) AIR Bom. R 381], the Supreme Court reaffirmed that an injunction decree remains perpetually enforceable.

XI. Limitation period for SUIT FOR MANDATORY INJUNCTION:

MANDATORY INJUNCTION:- According to the purport of Section 39 of the Specific Relief Act, 1963, mandatory injunction means when, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the court is capable of enforcing, the court may in its discretion grant an injunction

to prevent the breach complained of, and also to compel performance of the requisite acts. Mandatory injunction is an injunction which orders a party or requires them to do an affirmative act or mandates a specified course of conduct. It is an extraordinary remedial process which is granted not as a matter of right,but in the exercise of sound judicial discretion. One must keep in mind that the Mandatory injunctions are quite rare in practice

The Madras High Court in **R.Kumar vs G.Jaganmoorthy S.A.No.674 of 2015, on** 25.10.2017. In the present case, the appellants/plaintiffs filed the suit for mandatory injunction to remove the pipeline. The pipeline was laid in August 1992 and Ex.A1 notice dated 17.9.1992 was issued to the respondents/defendants to remove the pipeline. The appellants filed the suit only on 11.10.1995 i.e. After three years from the date of right to sue accrues. Therefore, in view of Article 113 of the Limitation Act, the suit is barred by limitation **held that ,** there is no specific provision in the limitation Act 1963 which prescribes the period of limitation for the relief of mandatory injunction to remove a particular thing like pipeline, etc. Therefore, the case on hand will attract Article 113 of the Limitation Act. As per Article 113 of Limitation Act, the period of limitation for filing a suit for mandatory injunction is three years. It also reiterated the judgment of

Madhya Pradesh High Court in the case of Mohanlal vs. State of Madhya Pradesh and others (A.I.R. 1980 M.P. 1) wherein it was held as under:

There is no separate Article provided under the Limitation Act for a suit for injunction. So a suit for injunction has to be governed by the residuary Article i.e. Article 113. Under this Article, a suit can be filed within 3 years from the date of accrual of the cause of action. The Division Bench has rightly held that the cause of action for a suit for injunction arose each time when there was a threat of recovery by the respondents. Every threat of recovery gives a fresh cause of action. Until the recovery is made it cannot be said that a suit for injunction becomes barred. The reason is that if recovery of the amount is not justified under the terms of the contract, the State could no acquire that right on the facts of the case by prescription.

XII. Limitation period for SUIT FOR DAMAGES:

The limitation period for a suit for damages in a court of law following a breach of contract, whether express or implicit, is **three years when not specified explicitly**. In the case of a complaint about damages, the period of limitations begins when the real contract is violated.

Limitations on Recovery of Damages in Contract Cases:

A party can recover damages only for those losses that he can prove with reasonable certainty. **Losses that are purely speculative are not recoverable**.

XIII. Limitation for recovery of possession of immovable property

In India, the limitation period for filing a suit to recover possession of immovable property based on title is 12 years from the date the defendant's possession becomes adverse to the plaintiff, as per Article 65 of the Limitation Act, 1963

- **Limitation Act, 1963:**

  The Limitation Act, 1963, outlines the timeframes within which legal actions must be initiated.

- **Article 65:**

  Article 65 specifically addresses suits for possession of immovable property based on title.

- **12-Year Period:**

  The suit must be filed within 12 years from the date the defendant's possession becomes adverse to the plaintiff.

- **Adverse Possession:**

  "Adverse possession" means the defendant's possession is hostile and without the consent of the rightful owner, and it is open, notorious, and exclusive.

- **Specific Relief Act:**

  The Specific Relief Act, 1963, provides the legal framework for individuals seeking to recover possession of immovable property.

- The objective of section 6 is to restrain an individual who through force or against the will of the plaintiff who has been in an uninterrupted long-standing possession of the property, dispossess him of the property, otherwise than in due course of law.
- This was observed in the case, **Puthukkattil Parangodan v Puthukkattil Parameswaram**[AIR 2002 Ker 221], where the essentials of the tenancy were absolutely destroyed and the tenancy automatically terminated. Even so, the landlord was eligible to claim the property only through the court process.

Who Can Seek Recovery Of Possession Of Immovable Property:

Under section 5 and 6 of the Specific Relief Act of 1963, it has been established that a person who is disposed of his immovable property can claim the property through this remedy.

It is a principle of law which defines that an individual, who has been enjoying an extensive uninterrupted possession of the immovable property, can recover the property by seeking an injunction in against any individual in the world other than the valid owner of the property.

Article 65 To Schedule - I Of The Limitation Act, 1963

provides with the duration of 12 years, within which any individual who seeks to recover his property or as a beneficiary, can initiate an action following the due course of law provided that it is proved that his possession was peaceful, open and continuous.

Under section 6, a suit can be brought by the person disposed of by his immovable property against his free consent and otherwise than in due course of law; he may recover the possession thereof.

This was observed in **K.K. Verma v Union of India**[3] that even after the tenancy agreement was terminated; tenant still occupied that right to hold juridical possession and he can only be dispossessed until the owner gets an order of eviction against the tenant.

Requisites Of Section 6 Of Specific Relief Act, 1963

The plaintiff must have judicial possession at the time of dispossession. In **MC Batra vs Lakshmi Insurance Co. Ltd**[AIR 1956 All 709] , it was observed that this section states nothing about the nature of possession of the person dispossessed. Still, it was seen in some cases that this possession must be what is defined as judicial possession, which is the possession founded on certain rights.

Dispossession of the plaintiff should be against his will otherwise than in due course of law. The suit under this act must be initiated within six months from the date of dispossession. Dispossession should be made by any person other than the government.

No appeal shall lie from any decree passed in any case initiated under this section, nor is obliged for any review of any such claim would be allowed.

Title Of The Plaintiff

Section 6 instructs explicitly that the party is not forbidden from establishing their title of the property through the suit initiated to claim back the property. It was observed in **Sanwal Ram v Ramjan**[AIR 2016 Chh 48], that uninterrupted long-standing possession of the property is sufficient to prove the actual possession under this act. Question of title can be ignored.

The possession should have been judicial, i.e., possession sanctioned by law. It should neither be by force nor by fraud, in the case **Nayar Service Society Ltd vs K.C. Alexander** [AIR 1968 SC 1165], it was expressed that trespasser does not possess the right to disturb the peaceful possession of a long time of person and cannot gain benefit out of his illegal act.

Only such individuals can institute a suit under section 7, who occupies the current possession of the movable things. It can be special or a temporary right. However, it is not necessary that the plaintiff should have been removed from his possession.

Under section 8, the defendant has complete domination of possession of

the good claimed, but the defendant is not the true owner of the good. The thing claimed by the plaintiff was held by the defendant only as an agent.

Under clause:

a. that states that when the defendant has temporary possession of the property as a trustee, the implication lies on the plaintiff to prove the relationship.

   Similarly, under clause (d) which provides that when the good in question was unjustly removed from the possession of the plaintiff, also, the implication on the part of the plaintiff to prove unjust transfer.

b. Case Law of Hon'ble Supreme Court of India

Shrimant Shamrao Suryavanshi And ... vs Pralhad Bhairoba Suryavanshi (D) By ... on 22 January, 2002 AIR 2002 SUPREME COURT 960

It is observed that the Limitation Act does not extinguish a defence, but only bars the remedy. Since the period of limitation bars a suit for specific performance of a contract, if brought after the period of limitation, it is open to a defendant in a suit for recovery of possession brought by a transferor to take a plea in defence of part performance of the contract to protect his possession, though he may not able to enforce that right through a suit or action.

In the present case, it is not disputed that the transferee has taken possession over the property in part performance of the contract. It is also not disputed that the transferee has not brought any suit for specific performance of the agreement to sell within the period of limitation. It is also not disputed that the transferee was always and still ready and willing to perform his part of the contract. Further, the view taken by the High Court in judgment under appeal was overruled by the Full Bench of the Bombay High Court in the case of Mahadeo Nathuji Patil vs. Surajbai Khushal Chand Lakkad & Ors. - 1994 Maharashtra Law Journal, 1145, which, according to our view, lay down the correct view of law.

Case Law:

THE SUPREME COURT OF INDIA in CIVIL APPEAL NO. 14803 OF 2024 (arising out of SLP (CIVIL) NO. 29135 OF 2019) between MALLAVVA AND ANR. V/S KALSAMMANAVARA KALAMMA …..(SINCE DEAD) BY LEGAL HEIRS & ORS

A suit was filed seeking relief of declaration and injunction in respect of the suit property trial court findings -the plaintiff is an absolute owner of suit properties but the plaintiff is not in possession over the suit - suit filed without seeking relief of possession is dismissed in the First Appeal filed by the legal heirs of the original plaintiffs an application for amendment of plaint was filed wherein, the plaintiffs prayed for possession of the suit property. The application seeking amendment of plaint filed by the legal heirs of the original plaintiff came to be allowed -First Appellate Court reversed the judgment and order passed by the trial court – the defendants preferred second appeal which was dismissed. -- point that falls for our consideration before Supreme court is whether the original suit filed by the plaintiffs even after the amendment of the plaint at the stage of first appeal seeking possession of the suit property could be said to be time barred. In other words, whether the suit would be governed by Article 58 or Article 65 of the Limitation Act, 1963 ?

The Supreme court observed It is well settled that when there are several reliefs claimed in a suit, the limitation period would be that of the main relief, the Limitation for ancillary relief being ignored.

Further upheld that when the suit is based on title for possession, once the title is established on the basis of relevant documents and other evidence unless the defendant proves adverse possession for the prescriptive period, the plaintiff can not be non-suited. [See: Indira v. Arumugam and Another reported in (1998) 1 SCC 614.]

Case Law of Hon’ble Supreme Court of India:

In Jai Jai Ram Manohar Lal v. National Building Material Supply, Gurgaon reported in (1969) 1 SCC 869, the supreme Court held that the power to grant amendment to pleadings isintended to serve the needs of justice and is not

governed by any such narrow or technical limitations in the case of **Rajpal Singh v. Saroj (Deceased)through Legal Representatives & Anr. reported in (2022) 15SCC 260,** the Supreme Court held that if a composite suit is filed for cancellation of Sale Deed as well as for recovery of possession, the limitation period should be considered with respect to the substantive relief of cancellation of Sale Deed which would be three years from the date of knowledge of Sale Deed sought to be cancelled.

TOPIC – III

AMENDMENT PLEADINGS – THE ASPECT OF LIMITATION

TOPIC - III

AMENDMENT PLEADINGS – ASPECT OF LIMITATION

About Pleading:

According to **Order VI Rule 1**of the CPC,**"Pleading", shall mean a plaint or written statement,**which includes all the details required by a party to comprehend the contentions of the other party.

About Amendment of Pleading:

An **amendment of pleading** under CPC can be performed under **Order VI Rule 17 - Order VI Rule 17** main provision provides that the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

The proviso added in this provision provides that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

Three Important Facts About Amendment of Pleadings:

Amendment of pleadings can be allowed at any stage.

Amendment must be necessary for determining the “real question of controversy” between the parties if such amendment is sought to be brought after commencement of trial the Court must, in allowing the same come to a conclusion that in spite of best efforts on the part of the party to the suit, the same could not have been brought before the point of time, when it was actually brought.

Object

The object of this rule is to minimize the litigation, minimize the delay and to avoid multiplicity of suits.In the case of Salem Advocate Bar Association, Tamil Nadu v. Union of India & Ors. (2005), the Court held that the object of adding the proviso is to prevent frivolous applications which are filed to delay the trial.

It is a settled rule that the Courts should adopt a liberal approach in granting the leave to amend the pleadings. However, the same cannot be in contravention of the statutory boundaries placed on the power.

All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.

The amendments should be disallowed if:By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations) The amendment completely changes the nature of the suit

The prayer for amendment is malafide. By the amendment, the other side should not lose a valid defence.

* Some general principles to be kept in mind are

The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs

Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

The Landmark Cases on Amendment of Pleadings :

In **L.J.Leach & Co. Ltd. & Anr. Vs. M/s. Jardine Skinner & Co**. [AIR 1957 SC 357], this Court at paragraph 16 of the said decision observed as follows :-

"It is no doubt true that courts would, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the court to order it, if that is required in the interest of justice."

Supreme Court of India

M/S. Revajeetu Builders & Developers vs M/S. Narayanaswamy & Sons & Ors on 9 October, 2009 AIR 2009 SC (SUPP) 2897

The Supreme Court laid down basic principles allowing or rejecting application under Order VI Rule 17 of CPC:

Whether the amendment sought is **imperative for proper and effective adjudication** of the case?

Whether the application for amendment is **bona fide or malafide?**

The amendment should **not cause such prejudice to the other side** which cannot be compensated adequately in terms of money;

Refusing amendment would in fact lead to injustice or lead to multiple litigation;

Whether the **proposed amendment constitutionally or fundamentally changes the nature and character** of the case? and

As a general rule, the court should **decline amendments if a fresh suit on the amended claims would be barred by limitation** on the date of application.

Usha Balasaheb Swami and Ors v. Kiran Appaso Swami and Ors. (2006)

A prayer for amendment of plaint and written statement stand on different footing.

The general principle that amendment of pleadings cannot be allowed so as to alter materially or substitute cause of action or the nature of claim applies to amendments to plaint. It has no counterpart in the principles relating to amendment of the written statement.

Supreme Court of India

Ragu Thilak D. John vs S.Rayappan & Others on 23 January, 2001 citations: AIR 2001 SUPREME COURT 699

The appellant filed a suit against the respondents praying for a decree of permanent injunction restraining them, their agents and subordinates from demolishing the compound wall in the suit scheduled property. During the pendency of the suit, the respondents-defendants were alleged to have entered the appellant's house unauthorisedly and demolished the compound wall on north, east and western side. They were also alleged to have damaged the gate in the entrance.

In view of the subsequent developments, the appellant filed an application under Order 6 Rule 17 for the amendment of the plaint for adding paras 8(a) to 8(f) in his plaint. The trial court rejected his prayer and the revision petition filed against that order was dismissed by the High Court vide order impugned in this appeal, mainly on the ground that the amendment, if allowed, would result in introducing a new case and cause of action. It was further held that as the appellant was seeking recovery of damages, the amendment could not be allowed as it would allegedly change the nature of the suit. It was also observed that the amendment sought was barred by limitation.

After referring to the judgments in Charan Das v. Amir Khan [AIR 1921 PC 50], L.J. Leach & Co. Ltd. & Anr. v. Jardine Skinner & Company [1957 SCR 438], Smt.Ganga Bai v. Vijay Kumar & Ors. [1974 (2) SCC 393], M/s.Ganesh Trading Co. v. Moji Ram [1978 (2) SCC 91] and various other authorities, this Court in B.K.N. Pillai v. P.Pillai & Anr. [JT 1999 (10) SC 61] held: "The purpose and object of Order 6 Rule 17 CPC is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. The power to allow the amendment is wide and can be exercised at any stage of the proceedings in the interests of justice on the basis of guidelines laid down by various High Courts and this Court. It is true that the amendment cannot be claimed as a matter of right and under all circumstances. But it is equally true that the courts while deciding such prayers should not adopt hypertechnical approach. Liberal approach should be the

general rule particularly in cases where the other side can be compensated with the costs. Technicalities of law should not be permitted to hamper the courts in the administration of justice between the parties. Amendments are allowed in the pleadings to avoid uncalled for multiplicity of litigation.

If the aforesaid test is applied in the instant case, the amendment sought could not be declined. The dominant purpose of allowing the amendment is to minimise the litigation. The plea that the relief sought by way of amendment was barred by time is arguable in the circumstances of the case, as is evident from the perusal of averments made in paras 8(a) to 8(f) of the plant which were sought to be incorporated by way of amendment. We feel that in the circumstances of the case the plea of limitation being disputed could be made a subject matter of the issue after allowing the amendment prayed for.

Amendment To Pleadings In CPC: The Supreme Court's Significant Ruling In Basavaraj V Indira & Others, (2024) 3 SCC 705

The two-judge bench of the Hon'ble Supreme Court of India, comprising of Justice C.T. Ravikumar and Justice Rajesh Bindal, deciding the case of Basavaraj v. Indira and Others(2024) 3 SCC 705 *inter alia* held that an amendment to a plaint cannot be pleaded at the fag end of the proceedings. Originally, a compromise decree was issued in relation to two parties (who were related to parties in the present appeal) by Lok Adalat, District Legal Services Authority, Gulbarg in the year 2004. But the respondents in the present appeal filed a suit for partition of ancestral property before trial court in Gulbarg in 2005. When the said suit was reaching its fag end in the year 2010, the respondents filed an application for amendment to the suit of 2005, seeking the declaration of the compromise decree of 2004 as null and void. The reasoning given for such a late application was oversight and mistake only. When the trial court dismissed the application for amendment, appeal was filed against the trial court's decision before the Karnataka High Court. The Hon'ble High Court ruled in favour of the respondents, allowing the amendment application, and the present appeal was filed in Supreme Court of India against the same decision.

ISSUES:

The main issue before the Supreme Court was- *whether the application of the respondents seeking amendment to the original suit (filed in trial court in 2005), should be accepted or not?*

JUDGMENT:

The Bench ruled in favour of appellants, stating that the application seeking amendment cannot be accepted and the ruling was based on the following reasons-

- **Challenge to compromise decree-**

- Firstly, the Court observed that the respondents in the present case did not raise any objection against the compromise decree at the time the suit was filed by them for partition of ancestral property.
- **Relying upon Pushpa Devi Bhagat (Dead) through L.R. Sadhna Rai (Smt.) v. Rajinder Singh and others (2006) 5 SCC 56**6 that the law related to challenge to compromise decree is well settled. The bench observed that a compromise decree cannot be challenged unless as provided under the proviso to Order XXIII Rule 3, C.P.C.
- The Court perused the memo submission in the suit wherein amendment was sought and found that the parties to the compromise decree (Mahananda, wife of Basavaraj and Mahadevi, the wife of Shivsharnappa) were not parties to this appeal. As such, even if amendment application is allowed, the compromise decree cannot be set aside as the parties thereto are not present here.

Maintainability of amendment of plaint-

The bench observed that unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial, no application for amendment could be filed after the trial commences. The burden of proof is upon the respondents in the present case to prove that in spite of due diligence, it was not possible for them to raise the plea for amendment before the commencement of trial.

1. Relying upon its own ruling in M. Revanna v. Anjanamma (Dead) (2019) 4 SCC 332 by legal representatives and others, the Court opined that an application for amendment may be rejected if it seeks to introduce totally different, new and inconsistent case or changes the fundamental character of the suit.

2. Relying upon the cases of Revajeetu Builders and Developers v. Narayanaswamy and sons and others (2009) 10 SCC 84 as well as *Revanna* case, the Bench observed that an amendment to plaint under Order VI Rule 17 of C.P.C.cannot be accepted if it is found to be prejudicial to the interest of the other party. The Bench observed that the respondents failed to **file an appeal against the compromise decree** within the required limitation period, i.e., three years.

Referring to Article 59 in Part IV of the Schedule to Limitation Act, the Bench observed that the respondents failed to file an appeal against any decree within the required limitation period, i.e., three years. Since they failed to challenge the decree in prescribed time period, they cannot be allowed to challenge the decree via an amendment. In essence, **what cannot be done directly, cannot be done indirectly.**

1. **Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. and Anr.** CIVIL APPEAL NO. 5909 OF 2022 (Arising out of SLP(C) No. 22443 of 2019)

2. A 2 (two) judge bench comprising of Justice Anirudha Bose and Justice J.B Pardiwala of the Hon'ble Supreme Court formulates guidelines for amendment of pleadings

The guidelines are as follows:

- All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC.
- Courts to allow prayer for amendment:

1. if the amendment is required for effective and proper adjudication of the controversy between the parties, and

2. to avoid multiplicity of proceedings, provided

3. the amendment does not result in injustice to the other side,

1.by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side, and; the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

2. It would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision.

3. Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

4. where it is intended to rectify the absence of material particulars in the plaint.

5. Where the amendment sought is only with respect to the relief in the plaint and is predicated on facts which are already pleaded in the plaint.

- **A prayer for amendment is generally required to be allowed unless**:
    1. by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,
    2. the amendment changes the nature of the suit,
    3. the prayer for amendment is malafide, or
    4. by the amendment, the other side loses a valid defence.
- In dealing with a prayer for amendment of pleadings, the court to avoid a hyper technical approach is ordinarily required to be liberal especially where the opposite party can be compensated by costs. The court should also be liberal if the amendment is sought before commencement of trial.
- Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.
- Amendment should be disallowed, where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

This judgment puts down almost all the factors comprehensively for the law pertaining to amendment of pleadings.

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T.N. Alloy Foundry Co. Ltd. Vs. T.N. Electricity Board and Ors. [(2004) 3 SCC 392 Hon'ble Supreme Court observed as follows:

"The law as regards permitting amendment to the plaint, is well settled in L.J. Leach and Co. Ltd. v. Jardine Skinner and Co., it was held that the Court would as a rule decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But this is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the court to order it.

It is not disputed that the appellate court has a coextensive power to the trial court.

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Amendment of written statement and counter claim- decision of Hon'ble Supreme Court of India

M/S. South Konkan Distilleries & Anr vs Prabhakar Gajanan Naik & Ors on 9 September, 2008

citation: AIR 2009 SUPREME COURT 1177,

Facts:

Prabhakar Gajanan Naik has filed a suit for dissolution of partnership firm wherein the appellant No.1, being defendant No.1 in the suit, was the partnership firm and the appellant No.2, who is defendant No. 4, was a partner of the said firm. the appellants by their written statement disputed the existence of such partnership and had taken a plea that by way of a family arrangement, the defendants/appellants were allowed to carry on the business of setting up South Konkan Distilleries. in the written statement, a counter claim of Rs.52 lakhs was made against the original plaintiff/respondent. The said written statement was, however, filed on 17th of June, 1987. The counter claim of the appellants was

based on a notice of the learned counsel dated 23rd of October, 1986. In 2000, i.e., after thirteen and a half years, the appellants filed an application for amendment of the written statement and the counter claim seeking enhanced amount. In the application for amendment, the appellants had alleged that as they were suffering loss of Rs. 20,000/- per day from the month of June, 1987, when the original written statement was filed, the counter claim was made only upto to the date of filing of the written statement and by seeking an amendment of the same, they were only claiming a sum of Rs.20,000/- per day from June, 1986 till November, 2000 which would be less than Rs.25 lakhs, sought to increase the amount of damages from Rs.52 lakhs, as originally claimed, to Rs. 8,53,50,000/- by claiming damages allegedly incurred for the subsequent period from the year 1986.

This application for amendment of the written statement and the counter claim, filed by the appellants, was opposed by the original plaintiff/respondent on the ground that the prayer for amendment of the written statement and the counter claim was clearly barred by the law of limitation. The trial court by its order dated 5th of February, 2001 came to the conclusion that as the cause of action arose in 1986, the prayer for amendment of the written statement and the counter claim for enhanced damages, as noted herein earlier, was clearly ex facie barred by the law of limitation. Accordingly, the trial court rejected the application for amendment of the written statement and the counter claim filed by the appellants and aggrieved by the aforesaid order of rejection, a writ petition being W.P.No.463/2003 was filed at the instance of the appellants which was also rejected by the impugned order of the learned Judge of the High Court against which a special leave petition was filed and on grant of leave.

Held in para 13- the appellants are now completely making out a new case by alleging that the appellants were incurring damages on continuous basis, which is contrary to the pleadings made in the written statement and the counter claim.

Held in para 16- ……..”applying also the principles laid down in the aforesaid decision in the case of supreme court in **AIR 1967 SC 96 [A.K.Gupta & Sons Ltd. vs. Damodar Valley Corporation]** in, in the facts of this case, we are of the view

that since even on the date of filing of the application for amendment of the written statement and the counter claim, the claim was barred and no fresh suit could be filed on such amended claim and, therefore, the two courts below had acted within their jurisdiction in rejecting the prayer for amendment of the written statement and the counter claim"

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It is well settled that the Court should be extremely liberal in granting amendment, provided the same was within the period of limitation or there would be an arguable issue with regard to the point of limitation, thereby raised an issue on the question whether the amended claim of the appellants was barred by the law of limitation. In support of this submission, reliance was placed in the case of Pankaja and Anr. Vs. Yellappa [Dead] By LRs and Ors. [(2004) 6 SCC 415].

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Supreme Court of India:

Vineet Kumar vs Mangal Sain Wadhere on 5 January, 1984

Equivalent citations: 1985 AIR 817,

Facts : The respondent filed a suit for eviction and for arrears of rent and damages for use and occupation pendent lite and future on the allegation that the appellant was inducted as a tenant of the premises in suit on a monthly rent of Rs. 250 on 7th February, 1972, that the building in suit was constructed in 1971 under the co-operative housing scheme of the State Bank of India for which the Bank advanced loan. The building in suit was assessed to house and water tax on 1st October. 1971 and as such the building was not covered by the U.P. Urban Buildings (Regulation of letting, Rent and Eviction) Act, 1972 (hereinafter referred to as the new Rent Act for short), and that the defendant defaulted in the payment of rent despite notice dated 24th March, 1977. The Respondent therefore terminated the tenancy of the appellant.

The claim was resisted by the appellant on the ground that the building in question was constructed in 1968 and that it was covered by the new Rent Act. His further stand was that rent had been cleared upto 6th April, 1977 and there was no default in the payment of rent. He also challenged the service and the validity of

the notice terminating his tenancy. The appellant also claimed the adjustment of Rs. 1000 spent by him towards the repairs of the premises. By a later amendment it was further pleaded that the plaint having not been amended so as to bring the suit under the provisions of the new Rent Act the suit was barred by s.20 of the Act.

Holding : it is well recognised that where the amendment does not constitute an addition of a new cause of action, or raise a new case, but amounts to no more than adding to the facts already on the record the amendments would be allowed even after the statutory period of limitation.

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Supreme Court of India

Vishwambhar & Ors vs Laxminarayan (Dead) Through on 20 July, 2001

Equivalent citations: AIR 2001 SUPREME COURT 2607

Facts -- one Dattatraya Agnihotri died in April 1961 leaving behind his widow Laxmibai, sons Vishwambhar and Digamber, and daughters, Indumati, Usha, Mangla and Shobha. The suit land was ancestral property in the hands of Dattatraya Agnihotri. At the time of death of their father Vishwambhar and Digmber were minors. Laxmibai was managing the properties left by Dattatraya Agnihotri as guardian of the minors. On 14.11.1967 Laxmibai executed a sale deed in favour of Laxminarayan transferring 4 acres 13 guntas of the suit land for the sum of Rs.6,000/- and delivered possession to the purchaser. Again on 24.10.1974 she executed another sale deed in favour of Vijay Kumar son of Laxminarayan in respect of 4 acres 13 guntas, a part of the suit land for the sum of Rs.9000/- and delivered possession to the purchaser. The sale deeds were executed without any legal necessity and without obtaining permission of the Court as provided under Section 8 of the Hindu Minority and Guardianship Act, 1956.

Digamber attained majority on 5th August 1975 and Vishwambhar became major on 20th July, 1978. Thereafter they filed the suit RCS No.5/81 impleading the purchasers Laxminarayan and Vijay Kumar as defendants 1 and 2 respectively, their mother Laxmibai as defendant no.3 and their sisters, Indumati, Usha, Mangla and Shobha as defendant nos. 4 to 7 respectively. The plaintiffs pleaded that the two sale deeds executed by defendant no.3 on 14.11.1967 and 24.10.1974 in

favour of defendant nos.1 and 2 are not binding and operative on the legal rights of plaintiff no.1, and prayed that the said sale deeds be set aside to the extent of his share and the suit for possession of the land.

the trial court as well as the first appellate court accepted the case of the plaintiffs that the alienations in dispute were not supported by legal necessity. They also held that no prior permission of the court was taken for the said alienations. The question is in such circumstances are the alienations void or voidable? In Section 8(2) of the Hindu Minority and Guradianship Act, 1956, it is laid down, inter alia, that the natural guardian shall not, without previous permission of the Court, transfer by sale any part of the immovable property of the minor. In sub-section (3) of the said section it is specifically provided that any disposal of immovable property by a natural guardian, in contravention of sub-section (2) is voidable at the instance of the minor or any person claiming under him. There is, therefore, little scope for doubt that the alienations made by Laxmibai which are under challenge in the suit were voidable at the instance of the plaintiffs and the plaintiffs were required to get the alienations set aside if they wanted to avoid the transfers and regain the properties from the purchasers. As noted earlier in the plaint as it stood before the amendment the prayer for setting aside the sale deeds was not there, such a prayer appears to have been introduced by amendment during hearing of the suit and the trial court considered the amended prayer and decided the suit on that basis.

Observation:- plaintiff no.2 Digamber attained majority on 5th August, 1975 and Vishwambhar, plaintiff no.1 attained majority on 20th July, 1978. Though the suit was filed on 30th November, 1980 the prayer seeking setting aside of the sale deeds was made in December, 1985. Article 60 of the Limitation Act, prescribes a period of three years for setting aside a transfer of property made by the guardian of a ward, by the ward who has attained majority and the period is to be computed from the date when the ward attains majority. Since the limitation started running from the dates when the plaintiffs attained majority the prescribed period had elapsed by the date of presentation of the plaint so far as Digamber is concerned. Therefore, the trial Court rightly dismissed the suit filed by Digamber.

Ruling - Regarding the suit filed by Vishwambhar it was filed within the prescribed period of limitation but without the prayer for setting aside the sale deeds. Since the claim for recovery of possession of the properties alienated could not have been made without setting aside the sale deeds the suit as initially filed was not maintainable. By the date the defect was rectified (December, 1985) by introducing such a prayer by amendment of the plaint the prescribed period of limitation for seeking such a relief had elapsed. In the circumstances the amendment of the plaint could not come to the rescue of the plaintiff.

From the averments of the plaint it cannot be said that all the necessary averments for setting aside the sale deeds executed by Laxmibai were contained in the plaint and adding specific prayer for setting aside the sale deeds was a mere formality. As noted earlier, the basis of the suit as it stood before the amendment of the plaint was that the sale transactions made by Laxmibai as guardian of the minors were ab initio void and, therefore, liable to be ignored. By introducing the prayer for setting aside the sale deeds the basis of the suit was changed to one seeking setting aside the alienations of the property by the guardian. In such circumstance the suit for setting aside the transfers could be taken to have been filed on the date the amendment of the plaint was allowed and not earlier than that.

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The Hon'ble Supreme Court, while considering Order VI Rule 17 of the Code, in several judgments has laid down the principles to be applicable in the case of amendment of plaint which are as follows:

(i) Surender Kumar Sharma v. Makhan Singh, (2009) 10 SCC 626, at para 5:

"5. As noted hereinearlier, the prayer for amendment was refused by the High Court on two grounds. So far as the first ground is concerned i.e. the prayer for amendment was a belated one, we are of the view that even if it was belated, then also, the question that needs to be decided is to see whether by allowing the amendment, the real controversy between the parties may be resolved. It is well settled that under Order 6 Rule 17 of the Code of Civil Procedure, wide powers and unfettered

discretion have been conferred on the court to allow amendment of the pleadings to a party in such a manner and on such terms as it appears to the court just and proper. Even if, such an application for amendment of the plaint was filed belatedly, such belated amendment cannot be refused if it is found that for deciding the real controversy between the parties, it can be allowed on payment of costs. Therefore, in our view, mere delay and laches in making the application for amendment cannot be a ground to refuse the amendment."

(ii) North Eastern Railway Administration, Gorakhpur v. Bhagwan Das (dead) by LRS, (2008) 8 SCC 511, at para 16:

"16. Insofar as the principles which govern the question of granting or disallowing amendments under Order 6 Rule 17 CPC (as it stood at the relevant time) are concerned, these are also well settled. Order 6 Rule 17 CPC postulates amendment of pleadings at any stage of the proceedings. In Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions: (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs."

(iii) Usha Devi v. Rijwan Ahamd and Others, (2008) 3 SCC 717, at para 13:

"13. Mr Bharuka, on the other hand, invited our attention to another decision of this Court in Baldev Singh v. Manohar Singh. In para 17 of the decision, it was held and observed as follows: (SCC pp. 504-05) "17. Before we part with this order, we may also notice that proviso to Order 6 Rule 17 CPC provides that amendment of pleadings shall not be allowed when the trial of the suit has already commenced. For this reason, we

have examined the records and find that, in fact, the trial has not yet commenced. It appears from the records that the parties have yet to file their documentary evidence in the suit. From the record, it also appears that the suit was not on the verge of conclusion as found by the High Court and the trial court. That apart, commencement of trial as used in proviso to Order 6 Rule 17 in the Code of Civil Procedure must be understood in the limited sense as meaning the final hearing of the suit, examination of witnesses, filing of documents and addressing of arguments. As noted hereinbefore, parties are yet to file their documents, we do not find any reason to reject the application for amendment of the written statement in view of proviso to Order 6 Rule 17 CPC which confers wide power and unfettered discretion on the court to allow an amendment of the written statement at any stage of the proceedings."

(iv) Rajesh Kumar Aggarwal and Others v. K.K. Modi and Others, (2006) 4 SCC 385, at paras 15 & 16:

"15. The object of the rule is that the courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side.

16. Order 6 Rule 17 consists of two parts. Whereas the first part is discretionary (may) and leaves it to the court to order amendment of pleading. The second part is imperative (shall) and enjoins the court to allow all amendments which are necessary for the purpose of determining the real question in controversy between the parties."

(v) Revajeetu Builders and Developers v.

Narayanaswamy and Sons and Others, (2009) 10 SCC 84, at para 63:

"63. On critically analysing both the English and Indian cases, some basic

principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment:

(1) whether the amendment sought is imperative for proper and effective adjudication of the case;

(2) whether the application for amendment is bona fide or mala fide;

(3) the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case;

and (6) as a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 Rule 17. These are only illustrative and not exhaustive."

MULTIPLE CAUSES OF ACTION:

Where the facts and circumstance of a claim result in more than one cause of action, it is possible for different limitation periods to apply depending on the cause of action pleaded. For instance, in a matter relating to damage or loss of goods, a breach of obligations claim under the contract and a concurrent breach of duty owed to the plaintiff under law of tort may lead to liability under both. The Limitation Act prescribes separate periods for the preference of suit in tort, and for breach of obligations under contract. However, the limitation period available for both actions cannot run sequentially. The limitation periods instead run concurrently, from the very first occasion of legal injury to the plaintiff. In most matters involving concurrent liability, the plaintiff prefers the longer period of limitation available to them.

(**P.K. Kalasami Nadar v. Alwar Chettiar and Ors., AIR 1962 Mad 44 (1962).)**

There is another decision of the Supreme Court in the case of **Khatri Hotels Private Limited & Anr. v. Union of India & Anr. reported in (2011) 9 SCC 126** , The Supreme Court noted that while enacting Article 58 of the Limitation Act, the legislature had designedly made a departure from the language of Article 120 of the Limitation Act, 1908. The Court noted that the word “first” has been used between the words “sue” and “accrued”. The Court said that the same would mean that if a suit is based on multiple causes of action, the period of limitation would begin to run from the date when the right of sue first accrued. In other words, the Court held that successive violation of the right would not give rise to fresh cause and the suit would be liable to be dismissed if it was beyond the period of limitation counted from the day when the right to sue first accrued.

OTHER RELEVANT CASE LAWS:

Order 9 Rule 9 CPC - Sec.5 Limitation Act - (Latest case-law) - Legal Research.

1. **Kiran Krishna Real Estate and Constructions (P) Limited, Visakhapatnam Vs. P.V.A. Prasad - 2023 (3) ALT 68 (S.B.)** Smt. VENKATA JYOTHIRMAI PRATAPA,j

(1) Sufficient cause Sufficient cause must be shown to the satisfaction of the court for non-appearance, when the SUIT was called.(2) Liberal consideration Sufficient cause should receive a liberal consideration as an elastic expression in order to do substantial justice rather than being struck on technical rigidities.

(3) Requirement of medical record - It is highly unlikely to expect a medical record for each illness which incapacitate the party from appearing on a given day, particularly when bonafide of the party is exercised in due time to rectify his absence.

2. **Vijay Laxman Bhawe Since Deceased through his Legal Heirs Vs. P and S Nirman Pvt. Ltd. and others- 2024 (4) ALT(SC) 16 (D.B.)** B.R. GAVAI and SANDEEP MEHTA,jj

RESTORATION application by third party The application for RESTORATION of the SUIT, filed at the behest of the stranger, who is not a party to the proceedings, is totally illegal.

Limitation Act, 1963, Section 5 - Condonation of delay - Application by third party to SUIT - Entertaining an application filed at the behest of a stranger for condonation of delay in filing an application for RESTORATION of the subject SUIT is totally unsustainable in law - Respondent No.1 has not even been impleaded in the subject SUIT - Application filed at the behest of the stranger, who is not a party to the proceedings, is totally illegal - If the approach as adopted by the trial court is approved, any Tom, Dick and Harry would be permitted to move an application for condonation of delay in filing an application for RESTORATION of the SUIT even if he is not a party to the subject SUIT - Reasoning given by the trial court as well as the High Court for condoning such an inordinate delay will not come under the

ambit of -sufficient cause- - Order of trial court as well as the High Court are not sustainable in law.(Paras 9, 10 and 12).

3. **Kilaru Appa Rao Vs. Sunku Prathapa Reddy - 2022 (6) ALT 288 (S.B.).**

(1) Liberal approach A party who approaches the Court of law for a particular relief, is expected to be diligent in pursing the matter The litigation becomes unending to the opposite party, besides creating hardship and mental trauma The dictum of law is that the delay if inordinate, should not be condoned by adopting casual or liberal approach.

(2) Limit of litigation Legislatively fixed period of time shall always be adhered to as the same rests on the salutary maxim Interest Reipublicae Ut Sit Finis Litium which means in the interest of the State that there should be a limit to litigation.

4. **P.M. Chenchu Manthadi and others Vs. M. Lokanadham Reddy - 2022 (4) ALT 736 (S.B.)** NINALA JAYASURYA,j

Civil Procedure Code, 1908, Order 9, Rule 9 RESTORATION of SUIT The counsel for the petitioners/plaintiffs was present on the date of posting and sought time, which was eventually disallowed and SUIT was dismissed for default Seeking to set aside the said Order, immediately i.e. within a week, the petitioners/plaintiffs filed an application seeking to restore the SUIT, which shows their bona fides to contest the matter on merits As valuable properties are involved, the learned Trial Court, in the opinion of this Court, ought to have taken a pragmatic view, instead of a pedantic view There is no delay in filing the application under Order 9, Rule 9 of CPC The Trial Court, in such circumstances, should have allowed the application at least by imposing costs, restored the SUIT and decided the same on merits, to render substantial justice to the parties Civil Revision Petition allowed. (Para 8).

5. **Achutha Adinarayana Vs. State of Andhra Pradesh rep., by its Principal Secretary to Government, Registration and Stamps Department, Velagapudi, Amaravati, Guntur District and others - 2022 (2) ALT 371 (S.B.)** D.V.S.S.SOMAYAJULU,j

(1) Restoring the SUIT The trial Court or other Courts granting orders should ensure that when a SUIT is restored to file or when an ex parte decree is set aside etc., a specific order should be passed on the interim order if any that was existing earlier.

(2) Duty on counsels A greater duty is cast on the learned counsels for parties to bring this to the notice of the Court, since the Courts are more often than not over burdened with work.

(3) Interim orders Interim order does not have a life beyond the SUIT Interlocutory orders are passed in aid of the main relief that is to be granted.

6. **Velaganaboina Chandrasekhar and another Vs. Gariboina Chandrasekhar - 2020 (1) ALT 216 (S.B.)** MS. J. UMA DEVI,j -- Quotable point: Delay RESTORATION The delay caused in filing of the application for RESTORATION is 26 days, which is not so abnormal.

7. **Chapiri Kuderu Shakshavali and another Vs. Shaik Isthak Ahamed and others - 2016 (1) ALT 735 (S.B.)** RAMACHANDRA RAO,j

RESTORATION application In a case where SUIT is dismissed for default on account of plaintiffs absence to appear on the day to which it was posted, when sufficient cause is shown for his absence on that day and when RESTORATION application was filed within time without any delay, his absence on the earlier dates of hearing, if any, should not be taken into account for consideration of such application. (Para 12).

8. **G. Shareefunnisa Begum Vs. Kurnool Municipal Corporation, rep. by its Municipal Commissioner and others - 2015 (1) ALT 758 (S.B.)** C.V. NAGARJUNA REDDY,j

SUIT for compensation Lower court ought to have been more generous in considering the application by mother for RESTORATION of SUIT dismissed for default as it is a SUIT claiming compensation for the death of her son due to collapse of school building. (Paras 4 and 5).

9. **M. Rajamannar Vs. B. Fakruddin - 2014 (6) ALT 802 (S.B.) RAMACHANDRA RAO,j**

QUOTABLE POINT-- Delay condonation While considering whether or not to condone delay, the guiding principle is whether a party has acted with reasonable diligence and had not been negligent and callous in the prosecution of the matter. (Para 21)

10. **Sushil K. Chakravarty (D) Thr. LRs. Vs. M/s. Tej Properties Pvt. Ltd. - 2013 (4) ALT(D.N.)(SC) 15.2 (D.B.) P. SATHASIVAM and JAGDISH SINGH KHEHAR,jj**

SUIT AND COUNTER SUIT - Two cross SUITs - Civil Procedure Code, 1908, Order XXII, Rule 4(4) - Judgment pronounced without impleading L.Rs. of sole defendant - Later on, petition under Order IX Rule 13 by L.Rs. for recalling judgment - Cross SUIT filed by above sole defendant - Dismissed for default, pursuant to his death, since no L.Rs. came on record and in fact the deceased did not have Class I heirs - Above L.R., brothers, being Class II heirs, filed petition under Order IX Rule 9 for RESTORATION - Both I.As. stood dismissed, mainly on account of delay in filing them - Appeals thereagainst dismissed by High Court - Apex Court Held: Factual position projected by L.Rs. applicants, that they came to know of pending litigation only in February 2008 in order to have delay condoned, false - There is ample record demonstrating their knowledge as far back as in August, 1998 - No valid justification for them to have delayed their participation as L.Rs. - They did not approach Court with clean hands - Appeals dismissed.

11. **Nannuri Sathi Reddy Vs. Nannuri Narsi Reddy and others - 2012 (2) ALT 113 (S.B.) L. NARASIMHA REDDY,j**

Cancellation of ex parte decree - Filing of a separate SUIT for cancellation of an ex parte decree by the parties to such decree without following the procedure prescribed by Order 9 CPC for setting aside of such decree or without preferring an appeal against such decree is opposed to provisions of CPC and also to public policy. (Paras 8 and 9).

12. **National Highways Authority of India v. M. Hakeem, 2021 SCC OnLine SC 473**,

The Supreme Court's recent judgment in this case has further explored the scope of powers under Section 34 of the Arbitration Act. This ruling has prompted a deeper analysis of the legislative history and the diverse views held by different High Courts. For instance, the High Courts of Karnataka (Padma Mahadev vs. Sierra Prasad, 2023 (3) ALT 68 (S.B.)) have taken the stance that a Section 34 court can only annul an arbitral award, necessitating fresh arbitration proceedings. In contrast, the High Courts of Madras (Gayatri Balaswamy vs. ISG Novasoft Technologies Ltd., 2014 (6) ALT 802 (S.B.)) and Telangana (Saptarishi Hotels (P) Ltd. vs. National Institute, 2012 (2) ALT 113 (S.B.)) have held that a Section 34 court can either set aside or modify the award, varying its findings as necessary.

These judicial perspectives highlight the ongoing evolution and interpretation of Order 9 Rule 9 CPC and the Limitation Act, 1963. As demonstrated in these recent cases, the Indian judiciary is tasked with balancing the principles of justice and procedural compliance to ensure fair outcomes in the restoration of suits and the application of delay condonations. This dynamic interpretation aims to uphold the principle of substantial justice while maintaining the integrity and efficiency of the legal system

13. **Mustigulla @ Namaswamy Hemanth Kumar Vs. M/s. Abhaya Infrastructures Private Limited and others - 2016 (6) ALT 244 (D.B.) V. RAMASUBRAMANIAN and Smt. ANIS,jj**

(1) Limitation Limitation is a mixed question of fact and law.

(2) Starting point for calculating the period of limitation Starting point for calculating the period of limitation is the date on which the exclusion becomes known to the plaintiff.

(3) Factum of exclusion Factum of exclusion and the date relating to commencement of the period of limitation are both questions of fact.

(4) Res judicata When the very decree in O.S.No. 101 of 1969 is sought to be set aside on the ground of fraud, that decree cannot be construed to operate as res judicata.

(5) Ground of undervaluation and insufficient court-fee The plaint was not and could not have been rejected on the ground of undervaluation and insufficient court-fee.

(6) Cause of action Cause of action implies a right to sue.

(7) Expression cause of action The expression cause of action is not defined in any statute.

(8) Cause of action But it has been judicially interpreted to mean that every fact, which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court, would constitute a cause of action.

MULTIPLE RELIEFS:

When seeking multiple reliefs in the same case, the limitation period is determined by the relief with the longest prescribed period of limitation, as per the Limitation Act, 1963.

- **The Principle:**
  If a suit seeks multiple reliefs, the period of limitation is determined by the relief that has the longest period of limitation prescribed under the Limitation Act, 1963.
- **Example:**

If a suit seeks both a declaration of title and recovery of possession, the limitation period will be governed by the longer period applicable to the suit for recovery of possession (which is 12 years) rather than the shorter period applicable to the suit for declaration of title (which is 3 years).

- **Article 58:** Relates to suits for declaration (other than those covered in Articles 56 and 57) and prescribes a 3-year limitation period.
- **Article 65:** Relates to suits for possession of immovable property and prescribes a 12-year limitation period.
- **Supreme Court Precedent:** N. Thajudeen v. T.N. Khadi & Village Industries Board [2024 SCC OnLine SC 3037].

CIVIL APPEAL NO. 6333 OF 2013. N. THAJUDEEN V/S TAMIL NADU KHADI AND VILLAGE INDUSTRIES BOARD Dt. OCTOBER 24, 2024

plaintiff-respondent, Tamil Nadu Khadi and Village Industries Board, instituted a suit for declaration of its title and recovery of possession of the suit property was filed by the plaintiff- respondent on 25.09.1991. The court of first instance held that as the same was not filed within three years from the date of revocation of the gift deed, i.e., 17.08.1987 (Exhibit B-2), the suit is barred by limitation but the Honble supreme court held in para 24 that "*though the limitation for filing a suit for declaration of title is three years as per Article 58 of the Schedule to the Limitation*

Act but for recovery of possession based upon title, the limitation is 12 years from the date the possession of the defendant becomes adverse in terms of Article 65 of the Schedule to the Limitation Act. Therefore, suit for the relief of possession was not actually barred."

- **Important Note:**

The nature and structure of the relief sought can significantly influence the applicable limitation period.

In the suit different reliefs based on different cause of action have been prayed for, even if one of the reliefs are found to be time barred, the plaint cannot be partially rejected, in support of the said submission the decision of the Hon'ble Supreme Court in the case of **D. RAMACHANDRAN VS. R.V. JANAKIRAMAN AND OTHERS** reported in (1999) 3 SCC 267 is relied on.

The Supreme Court has held that in a suit for declaration with a further relief, the limitation would be governed by the Article governing the suit for such further relief.

The Supreme Court has established that different reliefs within a single case can have different limitation periods, depending on the cause of action and the specific relief sought, as articulated in cases like **Khatri Hotels Pvt. Ltd. v. Union of India and State of Punjab v. Gurdev Singh.**

1. **Independent Reliefs**:

   The Supreme Court has established that if two reliefs are independent and based on different causes of action, the dismissal of one relief due to limitation does not bar the other relief. This principle was articulated in the case of Gunwant Bhai Mulchand Shah & others v. Anton Elis Farel & others, where it was held that claims for different reliefs with distinct limitation periods cannot be dismissed solely because one is time-barred Kerala State VS A. S. Thilakan - Current Civil Cases (2014)Kerala State, represented by Chief Secretary VS A. S. Thilakan - Kerala (2014).

2. **Consequential Relief**:

   In cases where a primary relief is barred by limitation, any consequential relief that is dependent on the primary relief may also be barred. For instance, if a suit for declaratory relief is dismissed due to limitation, a prayer for permanent injunction, which is consequential to the declaratory relief, may also be considered barred as was held in Padhiyar Prahladji Chenaji (Deceased) Through L. R. S VS Maniben Jagmalbhai (Deceased) Through L. R. S - Supreme Court (2022).

Vasantha (Dead) Thr. Lr. v. Rajalakshmi @ Rajam (Dead) Thr.Lrs.

(Civil Appeal No. 3854 of 2014) [2024] 2 S.C.R. 326 : 2024 INSC 109

13 February 2024 [Hrishikesh Roy and Sanjay Karol*, JJ.]

in this case , the Hon'ble Supreme court, upheld the following judgments

in Vinay Krishna v. Keshav Chandra (2-Judge Bench)29, this Court while considering Section 42 of the erstwhile Specific Relief Act, 1877 to be pari materia with Section 34 of SRA, 1963 observed that the plaintiff's not being in possession of the property in that case ought to have amended the plaint for the relief of recovery of possession in view of the bar included by the proviso.

29.This position has been followed by this Court in Union of India v. Ibrahim Uddin (2-Judge Bench)30, elaborated the position of a suit filed without the consequential relief. It was observed:

"55. The section provides that courts have discretion as to declaration of status or right, however, it carves out an exception that a court shall not make any such declaration of status or right where the complainant, being able to seek further relief than a mere declaration of title, omits to do so.

3. **Nature of Claims**:

   The nature of the claims is crucial. If the reliefs sought are fundamentally different, the court may grant one while denying the other based on limitation. For example, a suit for possession may be independent of a suit

for damages, allowing the court to grant one relief while denying the other YAR MUHAMMAD VS LAKSHMI DAS - Allahabad (1957).

Relevant Case Law:

- **Gangubai, W/o. Maruti Ghadi v. Rama Sateri Ghadi**: The Karnataka High Court emphasized that reliefs must not be inconsistent with the plaintiff"s claim and should be based on the same cause of action. The court must ensure that granting one relief does not prejudice the other party Namboori Janaki died per L. Rs VS Gurram Hanumantha Rao - Telangana (2021).
- **K.I. Shephard v. Union of India**: The Supreme Court reiterated that the authority must extend benefits to all similarly situated individuals without requiring each to approach the court, reinforcing the principle of equitable relief YOGESH KUMAR SHARMA VS STATE OF U. P. - Allahabad (2017).

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1. Limitation for filing written statement:

Section 27, order V rule 1 sub-rule 1 and Order VIII rule 1 CPC deals with the limitation for filing written statement in civil suits.

section 27 :Summons to defendants .-

Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed [on such day not beyond thirty days from date of the institution of the suit.]

order 5 Rule 1-summons

(1) When a suit has been duly instituted, a summons may issued to the defendant to appear and answer the claim and to file the writ statement of his defence, if any, within thirty days from the date of service summonsonthatdefendant;Provided that no such summons shall be issued when a defendant has appeal at the presentation of the plaint and admitted the plaintiff's claim Provided further that where the defendant fails to file the written statement wit! the said period of thirty days, he shall be allowed to file the same on such other days as may be specified

by the Court for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.

Under Order 5 Rule 1, a summons directs the defendant to appear and answer the claim on a specified date. The court may also direct the defendant to file a written statement **Sudershan Devi VS Sushila Devi - Supreme Court**.

Order 8, Rule 1 of the Code of Civil Procedure (CPC) states that a defendant must file a written statement of their defense within 30 days of being served with a summons. If the defendant fails to file within 30 days, they can file with the court's permission on another day, but no later than 90 days from the date of service of summons.

If the defendant has a counterclaim or wants to set off, he must incorporate in the written statement as crossclaims. Furthermore, the limitation period to submit a written statement including set-off or counterclaim is **30 days from the filing of the plaint**

Time Limits for Filing Written Statements:

- The defendant is required to file a written statement within 30 days from the date of service of summons. If this period is missed, the court may allow an extension, but not exceeding 90 days from the date of service Samar Singh VS Kedar Nath Alias K. N. Singh - Supreme CourtChintaman Sukhdeo Kaklij & others VS Shivaji Bhausaheb Gadhe & others - Bombay.
- If the written statement is not filed within the stipulated time, the defendant forfeits the right to file it Aditya Khaitan VS IL and FS Financial Services Limited - Supreme Court.

Amendments and Applicability:

- The amendments to the CPC, particularly those introduced by the Commercial Courts Act, 2015, have modified the timelines and procedures for filing written statements in commercial disputes Aditya Khaitan VS IL and FS Financial Services Limited - Supreme Court.
- The provisions of Order 5 Rule 1 and Order 8 Rule 1, as amended, are mandatory, and courts are expected to adhere strictly to these timelines

unless exceptional circumstances are demonstrated Chintaman Sukhdeo Kaklij & others VS Shivaji Bhausaheb Gadhe & others - BombayRaj Process Equipments & Systems Pvt. Ltd. VS Honest Derivatives Pvt. Ltd. - Bombay.

Andhra Pradesh High Court - Amravati

Amoda Iron Steel Limited, vs Sneha Analytics And Scientifics, on 25 January, 2022

Author: Hon'ble justice sri C. Praveen Kumar

Held in para's 36 and 37 as follows :

36. The applicability of proviso to sub rule (1) of rule(1) of Order V CPC has been expressly excluded to the suits or applications transferred to the Commercial Court and the Commercial Court has been vested with the discretion to prescribe a new time period within which the written statement shall be filed. When both the provisions i.e., the proviso to sub-rule(1) of rule-(1) of Order V and the proviso to Section 15 (4) of the Act, 2015 are read together, the apparent conclusion is that on expiry of 120 days from the date of service of summons if written statement is not filed, the right to file written statement cannot be forfeited, because of the non applicability of 2nd proviso to Order V Rule(1) sub rule(1) to a suit transferred to the Commercial Court under Section 15(1) or (2) and the time limit of 120 days specified in 2nd proviso to sub rule (1) of rule 1 of Order V CPC also looses significance firstly because of its non applicability and secondly because said Section 15(4) itself provides that the Commercial Court in such a transferred case may in its discretion provide a new time period for filing written statement within which the written statement shall be filed.

37. Here, we notice an anomaly in the statutory provisions. A comparative study of the second proviso to Order V rule 1 sub- rule(1) CPC and the proviso to Order VIII rule 1 CPC as amended through Section 16 of the Act, 2015 shows that both the provisos are verbatim the same. Section 15(4) of the Act, 2015, which expressly excludes the applicability of the proviso to sub rule(1) of rule(1) of Order V CPC, is silent about the proviso to rules 1 and 10 of Order VIII. On the one hand, proviso to sub rule 1 of rule 1 of Order V CPC shall not apply, meaning thereby that with

respect to the suits or applications transferred to the Commercial Court from the civil court under Section 15(1) or (2) the right of the defendant to file written statement shall not be forfeited even if the same is not filed within a period of 120 days from the date of service of summons and further, in view of Section 15(4) itself, the commercial court may in its discretion prescribe a new time period within which the written statement shall be filed, but on the other hand, in view of the proviso to Order VIII rule 1 CPC on expiry of 120 days, the right of the defendant to file the written statement, if the written statement is not filed within that time-limit, shall be forfeited and the court shall not allow the written statement to be taken on record on expiry of such period nor the court shall extend the time for filing the written statement in view of rule 10 of Order VIII CPC. Both the provisions i.e Section 15(4) proviso and Order VIII rules 1 and 10, therefore apparently can not be given effect to at the same time.

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 came into force on 23.10.2015 bringing in their wake certain amendments to the Code of Civil Procedure. In Order V, Rule 1, sub-rule (1), for the second proviso, the following proviso was substituted:

no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement.‖ A perusal of these provisions would show that ordinarily a written statement is to be filed within a period of 30 days. However, grace period of a further 90 days is granted which the Court may employ for reasons to be recorded in writing and payment of such costs as it deems fit to allow such written statement to come on record. What is of great importance is the fact that beyond 120 days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record. This is further buttressed by the proviso in Order VIII Rule 10 also adding that the Court has no further power to extend the time beyond this period of 120 days.

(The Hon'ble Supreme Court of India also upheld the above rule in **"Prakash Corporates vs Dee Vee Projects Limited on 14 February, 2022" Authored by sri justice: Dinesh Maheshwari.)**

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2. Limitation for setting aside dismissed for default:

Order IX of the Code of Civil Procedure (CPC) deals with the appearance of parties and the consequences of non-appearance, including dismissal of suits and the possibility of restoration.

Rule 2: If summons are not served due to the plaintiff's failure to pay costs or present copies of the plaint, the court may dismiss the suit.

Rule 3: If neither party appears when the suit is called for hearing, the court may dismiss the suit.

Rule 4: If a suit is dismissed under Rule 2 or 3, the plaintiff can either bring a fresh suit (subject to the law of limitation) or apply to set aside the dismissal.. **Rule 9:** The court may restore a suit dismissed for non-appearance, if the plaintiff shows sufficient cause for not appearing.

Rule 6: If the plaintiff appears and the defendant does not, the court may proceed to try the case ex-parte **Rule 13:** A defendant against whom an ex-parte decreehas been passed can apply to set aside the decree**.**

The judicial perspectives highlight the ongoing evolution and interpretation of Order 9 Rule 9 CPC and the Limitation Act, 1963. As demonstrated in these recent cases, the Indian judiciary is tasked with balancing the principles of justice and procedural compliance to ensure fair outcomes in the restoration of suits and the application of delay condonations. This dynamic interpretation aims to uphold the principle of substantial justice while maintaining the integrity and efficiency of the legal system.

Limitation Period:

The period for filing an application to restore such a suit is 30 days from the date of dismissal, as per Article 122 of the Limitation Act, 1963

Sufficient Cause:

The plaintiff must also satisfy the court that they were prevented by sufficient cause from appearing on the date fixed.

Restoration: If the court is satisfied with the reasons for non-appearance, it may restore the suit and set a new date for hearing.

Appeal: When the second application falls under Order 9 Rule 9 C.P.C., the right of appeal shall also accrue when such application is rejected.

If an application under Order 9 Rule 9 is dismissed, an appeal under Order 43 Rule 1(c) to challenge the dismissal, can be preferred.

The court must first consider any application filed under Section 5 of the Limitation Act for not filing the set aside application within 30 days from the date of dismiss for default; before addressing applications under Order 9 Rule 9 or Rule 13. If the Section 5 application is dismissed, the subsequent applications under Order 9 cannot be entertained **K. P. Chandra Rao VS K. Ravindranath Tagore - Andhra Pradesh.**

Supreme Court in **Jaswant Singh & Ors. vs Parkash Kaur & Anr**.Civil Appeal No.9409 of 2017, while affirming the view of full bench of MP High Court in **Nathu Prasad vs Singhai Kapurchand AIR 1976 MP 136**, held that when application under Order 9 Rule 9 CPC for restoration of suit is rejected, the second application for restoration of the original application falls under the purview of the Order 9 Rule 9 CPC read with Section 141, and rejection of the application does fall under Order 43 Rule 1(c) CPC. When the second application falls under Order 9 Rule 9 C.P.C., hence the right of appeal shall also accrue when such application is rejected. The period of limitation for an application for restoration of an application filed under Order 9 Rule 9 which had been dismissed for default is discussed as

In **Brijmohan v. Raghoba (AIR 1932 Nag 101)**, the Court of the Judicial Commissioner had held that to such an application the provisions of Rule 9 of Order 9 of the Code of Civil Procedure were not applicable and that such an application could be entertained under the inherent powers of the Court under Section 151 of the Code of Civil Procedure. This view was followed by Robde, J. In **Premshankar v. Rampyarelal (AIR 1944 Nag 317)**, The application, being under the inherent powers under Section 151 of the Code of Civil Procedure, was not governed by Articles of the Limitation Act, though the party invoking the jurisdiction of the Court under Section 151 of the Code must be diligent and not guilty of laches.

Order 9 rule 13:

In **Perivakarupa Thevar v. Vellai Thevar** AIR 1961 Mad 338, the Judges of the Division Bench observed as follows:

"In our opinion, an application under Order 9. Rule 13 stands on the same footing as one under Order 9 Rule 9. A right to have an ex parte order set aside is not procedural but substantive in character. Further Section 141, CPC must be read subject to special procedure prescribed for a proceeding under a particular enactment. "We have already pointed out that in terms the provisions of Order 9, Rule 13 apply only to suits. And it is well settled that Section 141 CPC does not apply to execution proceedings. There is also ample authority interpreting the word 'proceeding' as relating to original matters in the nature of suit and an application under O 9 R 9 is not an original matter in the nature of the suit."

The Supreme Court's recent judgment in **National Highways Authority of India v. M. Hakeem, 2021 SCC OnLine SC 473,** has further explored the scope of powers under Section 34 of the Arbitration Act. This ruling has prompted a deeper analysis of the legislative history and the diverse views held by different High Courts. For instance, the High Courts of Karnataka (Padma Mahadev vs. Sierra Prasad, 2023 (3) ALT 68 (S.B.)) have taken the stance that a Section 34 court can only annul an arbitral award, necessitating fresh arbitration proceedings. In contrast, the High Courts of Madras (Gayatri Balaswamy vs. ISG Novasoft Technologies Ltd., 2014 (6) ALT 802 (S.B.)) and Telangana (Saptarishi Hotels (P) Ltd. vs. National Institute, 2012 (2) ALT 113 (S.B.)) have held that a Section 34 court can either set aside or modify the award, varying its findings as necessary.

3. Limitation to add legal heirs on record:

The limitation period to add legal heirs on record in a pending suit or appeal is generally 90 days from the date of death, as per Article 120 of the Limitation Act, 1963, and Order 22, Rule 3 (2) of the Code of Civil Procedure.

- **Limitation Period:**

The application to substitute the legal representative(s) of a deceased party must be filed within 90 days from the date of death as per Article 120 of the Limitation Act.

- **Abatement:**

If the application isn't filed within this period, the suit or appeal can abate (become invalid) against the deceased party.

- **Setting Aside Abatement:**

Even after the 90-day period, an application to set aside the abatement can be filed within 60 days, according to Article 121 of the Limitation Act.

- **Condonation of Delay:**

Courts have the discretion to condone any delay in filing the application, provided a sufficient cause is shown.

- **Procedure:**

The proper sequence is to file an application for substitution within 90 days, then if not filed, an application for setting aside the abatement within 60 days, and if that too is not filed, then file the requisite applications for substitution and setting aside the abatement with an application for condonation of delay.

The Delhi High Court in Deepak Verma vs Daya Nand on 1 July, 2019

Observed in paras 10, 11 and held in para 17

Though, It has been explained by the Supreme Court in **Union of India vs. Ram Charan & Ors. (1964) 3 SCR 467**,that the period of limitation for substitution of legal heirs begins to run upon the date of death of the defendant, and not the plaintiff's knowledge thereof. The decisions of the Andhra Pradesh High Court in in **Nethra Chits Pvt. Ltd., Hanamkonda vs. B. Ramachandra Reddy & Ors. AIR 2003 AP 486** and the Calcutta High Court in **Sri Aloke Kumar Satnaliwala vs. Bharat Petroleum Corporation Ltd. [Judgment dated 09.12.2014 in CO No.1927 & 2125 of 2012].** cited on behalf of the revisionist, are to the same effect.

Failure to file an application under **Order XXII Rule 4 within 90** days automatically leads to abatement of the suit and creates a valuable right in favour

of the legal representatives of the deceased defendant. However, the CPC does provide for situations where the plaintiff may be able to establish that he was prevented by sufficient cause from making the application under **Order XXII Rule 4 of the CPC** within time, by incorporating a provision for setting aside of the abatement under Order **XXII Rule 9 of the CPC**. Although, the Act provides a further period of 60 days for making such an application, it is also specifically provided in Order XXII Rule 9(3) that Section 5 of the Act would apply to such applications. On a combined reading of Rule 9(3) and Rule 4(5), the plaintiff's ignorance about the death of the defendant is a factor which would weigh with the Court in deciding whether or not to permit a belated application for setting aside the abatement of a suit.

17.....the period of limitation of making an application for substitution of legal heirs of a deceased defendant begins to run from the date of death. The date upon which the plaintiff acquired knowledge of the death is not relevant for this purpose. The suit would abate as against the deceased defendant after the period of 90 days provided under Article 120 of the Limitation Act expires. However, even after this period has elapsed, the plaintiff can apply for setting aside the abatement of the suit. Although the period of 60 days is provided for this purpose in Article 121, any delay in making the application can be condoned if the plaintiff is able to show sufficient cause for the delay. The plaintiff's ignorance about the death of the defendant and the non- compliance with Order XXII Rule 10A of the CPC are relevant factors which would have a bearing while considering the application for condonation of delay.

The Hon'ble Supreme Court of India in Katari Suryanarayana & Ors vs Koppisetti Subba Rao & Ors on 8 April, 2009 citations: AIR 2009 SUPREME COURT 2907, held:

Case facts: Respondent filed a suit in the Court of Principal District Munsif, Ramachandrapuram on or about 27.12.1985 praying, inter alia, for a decree for grant of mandatory injunction as also a decree for permanent injunction against the

appellants restraining them from using the land in dispute. The said suit was dismissed by the learned Trial Judge by a judgment and decree dated 15.6.1993.

5. Respondent preferred an appeal thereagainst. The Subordinate Judge, Ramachandrapuram allowed the said appeal by a judgment and decree dated 22.11.1996 holding that they being the owners of the land in suit, were entitled to a decree for mandatory as also permanent injunction.

Appellant approached the High Court in the year 1997 aggrieved by and dissatisfied with the said judgment and decree of the First Appellate Court by preferring a second appeal which was marked as SA No.192 of 1997. Indisputably during the pendency of the said appeal; whereas Respondent No.3 expired on 31.5.1999, Respondent No.2 expired on 14.1.2000. No application for their substitution within the period prescribed under Order XXII Rule 9 of the Code of Civil Procedure was filed. Appellant filed an application for bringing on record the heirs and legal representatives of the said respondent Nos.2 and 3 only in December 2006 alleging that they had been informed thereabout by their counsel only on 19.11.2006. An application for condonation of delay in filing the said application was also filed. The said applications, as noticed hereinbefore, were barred by 2381 days and 2601 days respectively. By reason of the impugned judgment and order, the High Court refused to condone the delay in bringing on records the heirs and legal representatives of respondent Nos.2 and 3. Consequently, as indicated hereinbefore, it was held that the appeal had abated.

Observation and ruling : the appellants were neighbours. They were co-sharers. The respective dates of death of the respondent Nos.2 and 3, thus, were known to them. It is difficult to conceive that the petitioners were not in touch with their learned advocates from 1999 to December 2006. If not every week, they are expected to contact their lawyers once in a year. Ignorance of legal consequence without something more would, in our opinion, be not sufficient to condone such a huge delay. Appellants are literates. They have been fighting their cases for a long time. The High Court in its impugned judgment has categorically arrived at a finding that no sufficient cause has been shown for the purpose of condonation of

delay in bringing on record the names of the heirs or legal representatives of the deceased respondent Nos.2 and 3.

The Hon'ble Andhra Pradesh High Court – Amravati in Mandadapu Lakshminarayana Died, vs Mandadapu Rama Rao, on 12 August, 2024

Upheld the judgment of Hon'ble supreme court in para 26 and held in para 28 as

26. In **N. Balakrishnan V. M. Krishnamurthy9,** the Hon'ble Apex Court held thus:

> "7. It is axiomatic that condoning delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion.
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> 10. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice

vide Shakuntala Devi Jain v. Kuntal Kumari and State of West Bengal v. The Administrator, Howrah Municipality. In evaluating whether a sufficient cause exists, the paramount objective is to ensure substantial justice for all parties involved. Technicalities should not hinder the Court from administering fair justice. There is no material indicating any mala fides on the part of the Petitioners regarding the delay in their applications.

28. A conspectus of judgments referred to supra, makes it clear that length of delay is no matter, and acceptability of the explanation is the only criterion. The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly.

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Judicial delays caused due to Section – 5 of the Limitation Act

Laxmi Narayan v. Hari Prasad (2001): In this case, the court faced delay because of the application under Section 5 of the Limitation Act, 1963. It allows condonation of delay if sufficient cause is shown. The plaintiff will benefit through this provision of the Act, despite the delay in filing the appeal, which prolonged the final decision, as happened in this case.

Collector, Land Acquisition, Anantnag & Ors. v. MstKatji&Ors. (1987): This is the landmark case, which sets the precedent for the exceptions under the Limitation Act. The Supreme Court highlighted that the expression "sufficient cause" under Section 5 should be interpreted liberally. The state's appeal was filed after the prescribed period and it was accepted, but this acceptance elicited fears about the worship of the legal rule on limitation periods and hence its application in the dispensation of justice.

Balakrishnan v. M. Krishnamurthy (1998): The Supreme Court held that negligence on the part of the litigant cannot always be a just cause for condoning delays under Section 5 of the Limitation Act. Nevertheless, in this instance, despite the negligence, the delay was allowed which exposes further how the exceptions under the Limitation Act facilitate the already protracted processes.

Judicial delays caused due to Section – 12 of the Limitation Act

Union of India v. Ram Charan (1964): In this case, the delay was condoned under Section 12 of the Limitation Act (which excludes time taken to obtain a copy of the decree). The decision emphasized how such exceptions can lead to considerable delays in the final resolution of cases.

State of West Bengal v. Administrator, Howrah Municipality (1972): The Supreme Court in this case, addressed the issue of delay in filing the appeal as the state sought condonation under Section 12. The state applied for absorption in their appeal to the unnecessary delays that were partly administrative in nature thus leading to delay in the administration of justice.

These cases stemmed from delays in the administration of justice due to the specific provisions of the Limitation Act of 1963. In most of these instances, the exceptions sought to serve justice, but the results were quite the opposite. It should be considered that the exceptions under The Limitation Act, of 1963 were made to promote greater justice and equity in the suit, but due to a lack of codifications, these exceptions may become loopholes and may cause troubles for the judiciary.

Conclusion:

Hence, the exceptions under the Limitation Act may cause trouble for the judiciary, but it should be considered that these exceptions were made to promote equity and justice in the judiciary and they performed their task in a good manner. The provisions of Section 3 (1) of the Limitation Act, concerning time limitation are not absolute. There are instances when the interests of justice demand that an action, that is otherwise barred by time limitation, should nonetheless be allowed. These provisions prevent abuse of process, while also allowing the court to counterbalance situations where genuine reasons for delay are offered. These provisions may introduce a measure of flexibility in the otherwise rigid practice of law. Section 6 of the Act is designed to protect the interests of people who are unable to take care of themselves for legal purposes, like children or individuals suffering from psychiatric conditions, in that they are allowed to commence any action only after the legal incapacity is removed. It is also shown in the case laws that time limits for filing a plaint were at times extended for a plaintiff who was a minor at the time of instituting the suit, to ensure that justice was served.

Similarly, in cases involving power dynamics or errors, the statute stipulates that the limitation period begins only when the fraud is discovered or the mistake comes to light. The court in these case laws also permitted the extension of time limits because the plaintiff came to know of the fraud after the limitation period had passed. Hence, it prevents wrongdoers from taking advantage of their fraud as long as the victim did not know about the fraud within the original stipulated period

of filing the claim. There are many more cases, where these exceptions have played a crucial role in providing justice in the suits.

The court can consider the specific circumstances of individual cases since it allows for exceptions for “sufficient cause” under Section 5 of the Limitation Act. The Limitation Act and its various exceptions put instruments in the hands of the judiciary to ensure that the extreme decisions of the limitation periods do not bind justice, by ensuring that even genuine causes are facilitated and determined in a court of law. The Limitation Act aims to promote speedy judicial decisions, and the exceptions were made to maintain the balance between equity and justice under the Act.

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