PAPER PRESENTATION ON LIMITATION; SUITS, APPEALS AND APPLICATIONS & COMPUTATION OF LIMITATION

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The Limitation Act deals with the limitation of the period within which the suits, appeals and applications can be filed and how the period of limitation has to be computed. The said concept arose from the ancient Roman law, evolved through different legal systems, refined by English Law to the present form. In india the law of limitations was first enacted in the year, 1859 and with subsequent amendments transformed into the present day Limtation Act, 1963. The concept is mainly based on the two important maxims "interest reipublicae ut sit finis litium" meaning "it is in the interest of the state that there be an end to litigation," and "vigilantibus non dormientibus jura subveniunt" meaning "the law assists those who are vigilant, and not those who sleep over their rights,". Both appears to be similar, but, one is based on time and the other is based on latches even though within time. But both principles are for putting quietus to the litigation and bringing peace into the society. The law of Limitation consists of two distinct concepts limitation and prescription. Limitation bars the remedy and Prescription extinguishes the old right and create new rights.

b. The Hon'ble Supreme Court of India in Popat Bahiru Govardhane vs special land acquisition officer reported in 2013 (8) SCR 241 held that "13. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." (See : The Martin Burn Ltd. v. The Corporation of Calcutta, AIR 1966 SC 529; and Rohitas Kumar & Ors. v. Om Prakash Sharma & Ors., AIR 2013 SC 30) In view of the above, we are of the candid view that none of the submissions advanced on behalf of the appellants is tenable."

c. In Balakrishnan v. M.A. Krishnamurthy reported in (1998) 7 SCC 123, it was held by the Supreme Court "It fixes the life span for legal injury suffered by the aggrieved person which has

been enshrined in the maxim ‘interest reipublicae ut sit finis litium’ which means the Law of Limitation is for general welfare and that the period is to be put into litigation and not meant to destroy the rights of the person or parties who are seeking remedy. The idea with regards to this is that every legal remedy must be alive for a legislatively fixed period of time”.

d. In Syndicate Bank v. Prabha D. Naik, (AIR 2001 SC 1968) the Supreme Court has observed that the law of limitation under the Limitation Act, 1963 does not make any racial or class distinction while making or indulging any law to any particular person.

e. In Bombay Dyeing & Mfg. Co. Ltd. v. State of Bombay reported in AIR 1958 SC 328 the Supreme Court of India held that the Limitation Act doesn’t extinguish the right, but only bars the remedy.

2. The Limitation Act, 1963 **(hereinafter referred to as the Act)** consists of 32 sections (Secs.28 & 32 repealed) and 1 schedule with 137 articles. As per Section 2(j) of the Limitation Act the period of limitation means, time set by the second column of the schedule and prescribed period means the period of limitation computed in accordance with the Act.

3. When a person comes to a Lawyer with a civil wrong seeking remedy, the first thing the Lawyer verifies is that whether there is cause of action and whether it is barred by limitation or not since Section 3 mandates subject to provisions contained under Sections 4 to 24 of the Act, any suit, appeal or application filed after the prescribed period be dismissed irrespective of point of limitation is taken as defense or not. As such, first the Lawyer has to find out the nature of the suit to be filed, period of limitation prescribed for that remedy, that the date of arising of cause of action (all in the schedule) and lastly compute the period of limitation taking into consideration of any applicable circumstance to stop, suspend or exclude any period as provided under Sections 4, 6 to 24 of the Act. After confirming that there is cause of action and it is within limitation only the Lawyer can proceed further.

ii. The Hon’ble Supreme Court of India in Shrimant Shamrao Suryavanshi and another vs Pralhad Bhairoba Suryavanshi (D) By Lrs and others reported in AIR 2002 SC 960 to the effect that “It is, therefore, manifest 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. ” which means even a remedy is barred by limitation, it can be used as a shield i.e., defense.

iii. The Hon’ble Supreme Court of India in Shanti Prasasd Devi Vs. Shankar Mahto reported in 2005 (5) SCJ 28 held that Suit filed after prescribed period of Institution can be dismissed without regard to the fact whether limitation has been set up as a defense or not.

4. Scheme of Articles is as follows:-

Articles 1 to 113 : Suits

Articles 114 to 117 : Appeals

Articles 118 to 137 : Applications

5. Nature of suits as per the Schedule: Suits are divided into **10** categories:

Categories	**Limitation period**
i. Suits relating to accounts: Art. 1 to 5 :	3 years
ii. Suits relating to Contracts: Art. 6 to 55 :	3 years
iii. Suits relating to declarations: Art. 56 to 58:	3 years
iv. Suits relating to decrees and instruments: Art. 59 & 60:	3 years
v. Suits relating to immovable property: Art. 61 to 67 :	12 to 30 years
vi. Suits relating to movable property: Art. 63 to 71:	3 years
vii. Suits relating to tort :Art. 72 to 91:	1, 2 or 3 years
viii. Suits relating to trusts and trust property: Art. 92 to 96 :	1, 3, 12, or 30 years
ix. Suits relating to miscellaneous matters: Art. 97 to 112 :	1, 3, 12 or 30 years
x. Suits for which there is no prescribed period: Art. 113:	3 years

5. Appeals: The limitation period is 30, 60 or 90 days.

Applications: 10, 30, 60 or 90 days, 1, 2 or 3 years.

Applications for which no limitation is fixed elsewhere Article 137: 3 years.

6. Suits relating to Contracts under above category No.2 includes implied contracts 2a. Suits relating to wages, boarding, lodging, goods sold, for loss of goods etc., 2b. Suits relating to recovery of money lent, by cash, through cheque, agreement, bond, bond with condition, bill of exchange or promissory note, bill of exchange, or promissory note payable at fixed time, date or place, received as trustee, policy of insurance, as compensation for breach of promise, contribution made on behalf of co-defendant, co-trustee for his contribution, manager for his contribution, for damages of illegal occupation, arrears of rent, for unpaid sale consideration and specific performance.

7. Starting point of time:-

Section 9 of the Act lays down that once time begins to run no subsequent disability or inability to sue stops it which means once the prescribed period under the Act is completed any subsequent disability or inability will not stop it. The proviso to Section 9 provides the only exception to the above provision when the letters of administration of an estate of a debtor is given to a creditor, then the running of time stops till the creditor completes his duty as an administrator to the estate of the debtor.

b. The Hon'ble High Court of Andhra Pradesh in K. Venkataratnam Vs. K. Krishnamurthy reported in AIR 1977 AP 95 to the effect that "14.The legal position under Section 6 of the Limitation Act is to the effect that where the decree-holder happens to be minor, he is entitled to apply for execution within three years after attaining majority. Even if the guardian of the minor fails to execute the decree passed in favour of the minor the right to the minor to execute the decree within three years after attaining majority is not affected. But where a decree is passed in favour of minor's father, the limitation starts from the date of decree and even if the decree-holder dies leaving behind him the minor the limitation continues to run from the date of decree and as such the execution petition filed by the minor beyond the period of limitation from the date of the decree, but within three years after attaining majority becomes barred by limitation, since nothing stops the limitation when once it begins to run."

ii. Under Section 4, 6 to 24 of the Act different situations are given to postpone or suspend or as exception or to exclude for the purpose of computation of limitation.

iii. Sections 18, 19, 20 & 22 of the Act provides situations where a fresh period of limitation arises i.e., if a debt or right is acknowledged by the defendant before expiry of original prescribed period, fresh period of limitation starts from the date of acknowledgment (Sec.18).

The Hon'ble Supreme Court of India in Shapoor Freedom Mazda Vs. Durga Prasad Chamaria and others reported in AIR 1961 SC 1236 while dealing with Section 19 of the Limitation Act, 1908 i.e., Section 18 of the Act it would be relevant to consider the essential requirements of s. 19 which provides for the effect of acknowledgment in writing. Section 19(1) says, inter alia, that where before the expiration of the period prescribed for a suit in respect of any right, an acknowledgment of liability in respect of such right has been made in writing signed by the party against whom such right is claimed, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed. It would be noticed that some of the relevant essential requirements of a valid acknowledgment are that it must be made before the relevant-period of limitation has expired, it must be in regard to the liability in respect of the right in question and it must be made in writing and must be signed by the party against whom such right is claimed. Section 19(2) provides that where the writing containing the acknowledgment is undated oral evidence may be given about the time when it was signed but it prescribes that subject to the provisions of the Indian Evidence Act, 1872, oral evidence of its contents shall not be received; in other words, though oral evidence may be given about the date oral evidence about the contents of the document is excluded. Explanation 1 is also relevant. It provides, inter alia, that for the purpose of s. 19 an acknowledgment may be sufficient though it omits to specify the exact nature of the right or avers that the time for payment has not yet come, or is accompanied by a refusal to pay, or is coupled with &.,claim to a set off, or is addressed to a person other than the person entitled to the right. It is thus clear that acknowledgment as prescribed by s. 19 merely renews debt; it does not create a new right of action. It is a mere acknowledgment of the liability in respect of the right in question; it need not be accompanied by a promise to pay either expressly or even by implication. The statement on which a plea of acknowledgment is based must relate to a present subsisting liability though the exact nature or the specific character of the said liability may not be indicated in words. Words used in the acknowledgement must, however, indicate the existence of jural relationship between the parties such as that of debtor and creditor, and it must appear that the statement is made with the intention to admit such jural relationship. Such intention can be inferred by implication from the nature of the admission, and need not be expressed in words. If the

statement is fairly clear then the intention to admit jural relationship may be implied from it. The admission in question need not be expressed but must be made in circumstances and in words from which the court can reasonably infer that the person making the admission intended to refer to a subsisting liability as at the date of the statement. In construing words used in the statements made in writing on which a plea of acknowledgment rests, oral evidence has been expressly excluded but surrounding circumstances can always be considered. Stated generally courts lean in favour of a liberal construction of such statements though it does not mean that where no admission is made one should be inferred, or where a statement was made clearly without intending to admit the existence of jural relationship such intention could' be fastened on the maker of the statement by an involved or far-fetched process of reasoning. Broadly stated that is the effect of the relevant provisions contained in s. 19, and there is really no substantial difference between the parties as to the true legal position in this matter."

b. If payment on account of a debt is made before expiration of the original prescribed period, fresh period of limitation starts from the date of part payment (Section 19).

The Hon'ble Supreme Court of India in M/S Shanti Conductors (P) Ltd vs Assam State Electricity Board reported in AIROnline 2019 SC 1931 held that "The function of Section 19 is to provide a later date to count the period of limitation afresh, and that fresh period of limitation will be computed from the time when the acknowledgement is signed. Nothing turns on whether the acknowledgement is itself registered or not. The office of Section 19 being to postpone the date of reckoning limitation and not to create a different substantive period of limitation, the latter depends upon the appropriate article of the Limitation Act which applies to the suit."

c. In case of acknowledgment or payment by the agent duly authorised by a principal or lawful guardian, committee or manager in case of disabled person gives starts fresh period of limitation as in Section 18 & 19, but, doesn't render the other joint contractors, mortgagors, partners, executors liable if only one of the agent of one of such joint contractors, mortgagors, partners, executors give such acknowledgment or payment. (Section 20)

d. In a case of continuous breach of contract or tort, a fresh period of limitation starts from every moment the breach continues (Section 22).

dii. The Hon'ble Supreme Court of India in Rushibai Jagadishchandra Pathak Vs Bhavnagar Municipal Corporation reported in 2022 SCC (18) 144 explained the essence of Section 22 "It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself continues, then the act constitutes a continuing wrong. In this connection, it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury."

diii. The Hon'ble Supreme Court of India in Sankar Dastidar Vs. Banjula Dastidar and another reported in 2007 (3) SCJ 739 held that unless wrong is a continuous one, period of limitation doesn't stop running and explained that when a right of is claimed over cerain land over which tortfeaser has no right of possession, the breach of the same is a continuous one.

iv. Section 4 of the Act extends the limitation till the next court working day if the last date of limitation falls on a day when court is closed or it remains closed during any part of normal working hours.

The Hon'ble Supreme Court of India in *My Preferred Transformation & Hospitality Private Limited vs. Faridabad Implements Private Limited* reported in 2024 INSC 686 held that Section 4 of the Limitation Act is applicable only with regard to the prescribed period under the Limitation Act, but, not with regard to condonable period by the Court. In this case the party ought to have filed the application to set aside the Arbitral Award within 3 months from the date of the Award, but, he didn't do so and as per proviso to Section 34(3) of the Arbitration and Conciliation Act if sufficient cause is shown the Court can condone the delay of a further period of 30 days. But, the party therein filed the application to condone the delay after Court summer vacation by claiming benefit under Section 4 of the Act. The Hon'ble Supreme Court held that as the prescribed period under the Limitation Act i.e., 90 days was not expired on the court non working days and even though the condonable period of 30 days was completed in the Court summer vacation the party is not entitled for the benefit of Section 4 of the Act as it doesn't cover the condonable period specified under the said Arbitration and Conciliation Act.

v. Section 6 of the Act postpones the starting point of time:-

till the disability i.e., minority, insanity or idiocy ceases or

till ceasing of multiple disabilities if he suffers subsequent disability before the ceasing of first disability or

till the death of the said person with disability enabling the legal representatives to file the suit within the prescribed period from the date of death and the legal representative also has benefit of the above two circumstances if he is entitled.

vb. The Hon'ble High Court of Andhra Pradesh in K. Venkataratnam Vs. K. Krishnamurthy reported in AIR 1977 AP 95 to the effect that "14.The legal position under Section 6 of the Limitation Act is to the effect that where the decree-holder happens to be minor, he is entitled to apply for execution within three years after attaining majority. Even if the guardian of the minor fails to execute the decree passed in favour of the minor the right to the minor to execute the decree within three years after attaining majority is not affected. But where a decree is passed in favour of minor's father, the limitation starts from the date of decree and even if the decree-holder dies leaving behind him the minor the limitation continues to run from the date of decree and as such the execution petition filed by the minor beyond the period of limitation from the date of the decree, but within three years after attaining majority becomes barred by limitation, since nothing stops the limitation when once it begins to run."

vc. The Hon'ble High Court of Andhra Pradesh in Sri Venugopala Swamy Varu Temple Vs. V. Visweswara Prasad reported in AIR 1969 AP 24 to the effect that "24.It need not be disputed that the subsequently born son cannot take advantage of Section 6, if he happens himself to be minor in view of the fact that he was born subsequent to the accrual of the cause of action it need not also be doubted that the privilege which Section 6 conifers on a minor, who happens to be suffering from that disability at the time the cause of action arose, is a personal privilege and not attached to the cause of action and, therefore, it cannot be transmitted to anyone else. It cannot, however, be ignored that a suit by the existing coparcener in such a case is a suit not only on his behalf but on behalf of all other members existing as well as those who come into existence in future. It would thus be a representative suit. Even if the suit is taken to be time-barred as against a

subsequently born son, it does not get time-barred in so far as the coparcener who was living at the time when the cause of action had accrued; and when the son present succeeds, the benefit goes to all the members of the family. When that is so, I fail to see why the subsequently born son should be denied the facility or instituting a suit within the same limitation as is available to the coparcener who was minor and was living at the time of the accrual of cause of action. I have, therefore, no hesitation in falling a line with the view expressed by the decisions of the Privy Council, the several High Courts and by Somayya, J. It must be remembered that it was not necessary for Viswanatha Sastri, J., to decide this question expressly in that suit. His Lordship observed that, whichever view was adopted, the rights of defendants 3 to 5 became barred when the plaintiffs brought the suit. The said decision therefore, cannot be taken as deciding anything contrary to what was held by Somayya, J."

vi. Section 7 of the Act provides similar relief as provided under Section 6 of the Act in case of one of the group of persons who are jointly entitled to sue or appeal or make an application is under such disability and the group can't give valid discharge without the consent of the said person under disability, then the entire group is entitled for the benefit under Section 6. But, if the remaining group can give valid discharge without the concurrence of the said person under disability, time starts to run against them all.

vib. The Hon'ble High Court of Madras in Devineni Subbarao Vs. Devineni Pattabhiramayya and ors reported in AIR 19454 Mad 496 held that "It seems to us well established that although a suit by the younger of two brothers filed within three years of his attaining majority would be barred by limitation if the elder brother had failed to sue within three years of his majority, if the former was a manager of the family, Section 7 of the Limitation Act would not operate as a bar if the adult brother was not the manager of the family during the relevant period. In the present case in view of our finding that the elder brother, the third defendant, was the manager of the family and was an adult during the whole of the relevant period, a suit by the younger brother must fail, even though brought within three years of his attaining majority, having regard to the provisions of Section 7 of the Limitation Act."

vic. The Hon'ble High Court of A.P in P. Sainath Reddy and others V. G. Narayana Reddy reported in AIR 1982 AP 247 (DB) held that "21.S.7 extends the period of limitation to some cases

where there is a joint decree in favour of persons who are under any such disability as is mentioned in S.6. Section 7 contemplates a legal capacity to give discharge without the concurrence of the person under a disability. For instance, a partner or a karta of a Hindu joint family has power to realise the whole of the decretal debt without the consent of the other decree holders. But, a guardian of a minor cannot, without the permission of the Court realise monies payable to a minor decree-holder under a decree of Court, by reason of the provisions of O.32, R.6, C.P.C.

22. In the instant case, there are four joint decree-holders, out of whom, two are minors and are represented by their mother, 3rd decree-holder, as guardian and neither of the major decree-holders, viz., the mother and the step-mother, could give a valid discharge on behalf of the minor decree-holders. Therefore, the provisions of the latter part of S.7 of the Limitation Act are applicable to the facts of this case and the time for execution would stand extended till the disability of the minor decree-holders ceased. Admittedly, the minor decree-holders were minors on the date of filing of the execution petition. If so, the application for execution is not barred by limitation."

vii. Section 8 of the Act gives exceptions to Section 6 & 7 of the Act i.e., it limits the fresh period of limitation not more than 3 years or actual remaining prescribed period whichever is more from the date of cessation of disability or death of the person with disability. Example:- a suit for recovery of possession based on title is 12 years as per Article 65 of the Schedule of the Act. A who is a minor is the owner of X property. B took illegal possession of the X property on 01-01-1992. Generally A can bring a suit for recovery of possession within 12 years i.e., on or before 01-01-2004. But, A is a minor as on 01-01-1992 and suppose he becomes major on 01-01-2004. He won't get 12 years from 01-01-2004 and he will get not more than 3 years from 01-01-2004. Let suppose A becomes major on 01-01-1998 he can file the suit within 6 years from the date of his majority since as per original prescribed period the limitation is 12 years and it ends by 01-01-2004. Let suppose A becomes major on 01-01-2003 he can file the suit within 1 year as per original prescribed period or if he chooses to avail the benefit under Section 6 of the Act restricted by Section 8 of the Act, he can file the suit within 3 years from 01-01-2003. **Further, the benefit under Section 6 or 7 of the Act is also not applicable to the suits filed to enforce the right of pre-emption.**

viib. The Hon'ble Supreme Court of India in Darshan Singh and others Vs. Gurdev Singh reported in AIR 1995 SC 75 held that under Sections 6 & 7 of the Act the litigant is entitled to a fresh starting period of limitation from the date of cessation of disability, but, in view of Section 8 the fresh period of limitation is limited to three years from the date of cessation of disability.

viic. The Hon'ble Supreme Court of India in Bailochan Kanan Vs. Basant Kumar Naik reported in AIR 1999 SC 876 to the effect that suit by a minor for recovery of possession of property after attaining majority, the limitation is 3 years from the date of majority.

viid. The Hon'ble High Court of Andhra Pradesh in Nandlal Vs Rajjulal reported in 1978 (1) ALT 266 to the effect that a suit filed by minors for possession after three years after attaining majority is barred by limitation.

viii. Section 10 of the Act gives exemption from the applicability of Limitation Act in case of a trust property transferred without consideration or for accounts with regard to trust property. Example:- If X property is given to 'A' trustee for management of the same for the welfare of 'B' person, but, A transfers the same to 'C' person by way of gift, then B can file a suit for declaration and recovery of possession from 'C' and for accounts at any point of time as there is no limitation.

The Hon'ble High Court of A.P in Muddana Ranga Rao Vs. Thirumareddy Varahalamma reported in 1983 (1) APLJ granted past and future maintenance from the year, 1961 even though suit filed in the year 1974 for reconveyance of the property which was conveyed in lieu of maintenance in favor of brother in law of the plaintiff who failed to maintain her.

ix. Section 11 of the Act excludes the applicability of the foreign law of limitation with regard to a contract entered outside of India or in Jammu and Kashmir, but, sued in India even as a defense unless the said rule extinguished the contract or the parties resided in the said country or place during the period prescribed by such rule.

x. Section 12 to 24 is under the Chapter III gives you the circumstances where the party can seek exclusion of the period while computing the limitation:-

xi. Section 12 excludes the day from which the period is to be calculated, in case of appeal or revision or review the date of said Judgment or order or decree, the time spent in obtaining the copy of the same.

xib. The Hon'ble Supreme Court of India in M/s. Saketh India Limited and others Vs. M/s. India Securities Limited reported in AIR 1990 SC 1090 to the effect that "The aforesaid principle of excluding the day from which the period is to be reckoned is incorporated in Section12 (1) and (2) of the Limitation Act, 1963. Section 12(1) specifically provides that in computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded. Similar provision is made in sub- section (2) for appeal, revision or review. The same principle is also incorporated in Section 9 of General Clauses Act, 1897 which, inter-alia, provides that in any Central Act made after the commencement of the General Clauses Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word 'from', and, for the purpose of including the last in a series of days or any other period of time, to use the word 'to'. Hence, there is no reason for not adopting the rule enunciated in the aforesaid case which is consistently followed and which is adopted in the General Clauses Act and the Limitation Act. Ordinarily in computing the time, the rule observed is to exclude the first day and to include the last. Applying the said rule, the period of one month for filing the complaint will be reckoned from the day immediately following the day on which the period of 15 days from the date of the receipt of the notice by the drawer, expires. Period of 15 days, in the present case, expired on 14th October, 1995. So the cause of action for filing a complaint would arise from 15th October, 1995. That day(15th October) is to be excluded for counting the period of one month. Complaint was filed on 15th November, 1995. The result would be that the complaint filed on 15th November is within time." Similar principle laid by the Hon'ble High Court of A.P in Venkayala Bhadram V. Noni Venkata Rao reported in 2002 (1) An.W.R 367 (AP) with regard to a suit filed based on a promissory note.

xic. The Hon'ble Supreme Court of India in A Rajendra v. Gonugunta Madhusudhan Rao & Ors. reported in 2025 INSC 447 held Section 12 (2) is not applicable to exclude the time taken for preparing the certified copy in case of a free certified copy given under the law without making an application.

xid. The Hon'ble High Court of A.P in Bansilal Vs. Badarinarayana reported in 1970 (1) APLJ 46 held that one applicant can file two successive applications for the certified copies of the decree and judgment separately and exclude the time taken for computing the period of limitation with a condition that overlapping time shall be excluded once only.

xie. The Hon'ble High Court of A.P in A. Narasimha Rao Vs. M. Seetharamanjaneyulu reported in 1990 (1) ALT 385 held that Limitation of appeal begins to run from the date when carbon copy was made ready and affixed on notice board of registry and time taken by the Advocate to receive the copy cannot be excluded.

xif. The Hon'ble High Court of A.P in Syed Qamanuddin Ahmed Vs. Special Deputy Collector reported in 1981(2) ALT 136 to the effect that even though Judgment pronounced at an early hour on the last date before vacation, if the copy application is made on the reopening day the vacation can't be excluded in computing the limitation since the party has opportunity to file a copy application as the Judgment was pronounced at an early hour of the last date.

xii. Section 13 excludes the period spent in filing an application for leave to sue or to file an appeal as pauper even if the same is rejected **if it is prosecuted in good faith**.

xiii. Section 14 (1) in case of a suit excludes the period spent in prosecuting a civil proceeding if it relates to same matter in issue, prosecuted in good faith in a Court which is unable to entertain the same due to defect in jurisdiction or other cause of like nature etc.,

14 (2) in case of application excludes the period spent in prosecuting a civil proceeding if it is against same party and for same relief, prosecuted in good faith in a Court which is unable to entertain the same due to defect in jurisdiction or other cause of like nature etc.,

14 (3) in case of a second suit filed after obtaining permission to withdraw with liberty on the ground of defect of jurisdiction or other cause of like nature under Order XXIII Rule 1 of CPC, the benefit under Section 14(1) is applicable not withstanding Order XXIII Rule 2 of CPC says that the second suit shall be bound by law of limitation. Which means if the party could prove that he obtained the permission to withdraw giving liberty to file a fresh suit on the ground of defect of jurisdiction or cause of like nature then he can have the benefit of Section 14 (1) of the Act.

As per the explanations to Section 14 of the Act while calculating the period spent includes the date of institution to the date of ending of the same has to be included.

Plaintiff who is a defendant resisting the appeal also takes the benefit under Section 14 (1) of the Act if he files a fresh suit.

Misjoinder of parties can be treated as a cause of like nature with defect of jurisdiction.

xiiib. The Hon'ble Supreme Court of India in Kirpal Singh V. Govt. Of India and Ors reported in 2024 INSC 944 10 held that "We may hasten to add that when the substantive remedies under Sections 34 and/or 37 of the Arbitration Act are by their very nature limited in their scope due to statutory prescription, it is necessary to interpret the limitation provisions liberally, or else, even that limited window to challenge an arbitral award will be lost. The remedies under Sections 34 and 37 are precious. Courts of law will keep in mind the need to secure and protect such a remedy while calculating the period of limitation for invoking these jurisdictions." and by applying Section 14 of the Act excluded even the period from the date of return of the application before the Hon'ble High Court to the date of Advocate taking the said returned bundle and coming to know that application under Section 34 of the Arbitration Act ought to have been filed before the Hon'ble District Court.

xiiic. The Hon'ble High Court of A.P in K. Rama Murthy (died) per L.Rs. And others V. A. Ramaswamy (died) per L.Rs and others reported in 2007 (5) ALT 525 (DB) to the effect that In order to meet ends of justice and to avoid multiplicity and duplicity of litigation, liberal interpretation be given to operation of Section 14 of the the Act and that Section 14 be treated as an exception to general principle.

xiv. Section 15 (1) of the Act excludes the time during which the institution of the suit or execution petition was stayed by order of any Court.

15(2) excludes the time of the notice, the time spent for obtaining mandatory sanction or consent from the concerned Government including the date of making application to the date of receipt of order.

15(3) excludes the time taken in the proceedings in which a receiver or interim receiver is appointed from the date of initiation of proceedings till the 3 months after appointment of the receiver in instituting the suit or execution petition by the said receiver.

15(4) excludes the time taken during which a proceeding to set aside the sale has been prosecuted while computing the limitation in a suit or proceeding for possession filed by the purchaser of a property in an execution petition.

15(5) excludes the time during which the defendant is absent from India and from the territories under the administration of India.

xivb. The Hon'ble Supreme Court of India in United Finance Corporation Vs. M.S.M. Haneefa (Dead) Through Lrs reported in AIR 2017 SC 498 interpreted Article 134 of the schedule i.e., the starting point of time is when the sale becomes absolute, but not when the sale is confirmed and excluded the period till the closure of Civil Revision Petition filed against the order of dismissal of the application by the Judgment debtor to set aside the sale on the ground of low price by giving benefit under Section 15 of the Act and held the application filed under Order XXI Rule 95 of CPC for delivery of possession is within time.

xivc. The Hon'ble Supreme Court of India in M/s. Disha Constructions & Ors Vs. State of Goa & Anr reported in AIR 2012 SC 1769 held that "16. In our view, proper interpretation of Section 15(2) of the Act would be that in computing the period of limitation, the period of notice, provided notice is given within the limitation period, would be mandatorily excluded. That would mean a suit, for which period of limitation is three years, would be within limitation even if it is filed within two months after three years, provided notice has been given within the limitation period. In such a case, the period of notice cannot be counted concurrently with the period of limitation. If it is done, then period of notice is not excluded. Any other interpretation would be contrary to the express mandate of Section 15(2) of the Act."

xv. Section 16 (1) excludes the time till there is a capable legal representative for filing the suit or application on behalf of the predecessor who dies before the right accrues or right accrues only on the death of the predecessor.

16(2) similarly excludes the time till there is a capable legal representative of the defendant for suing or making an application if the right to sue accrues before the death of such defendant or only on the death of such defendant.

Akin to Section 8 of the Act, 16(3) makes (1) & (2) not applicable to the suit filed for enforcement of right of pre-emption.

Section 16 is complementary to Section 9 of the Act. Once time begins to run no subsequent disability stops the same. But in my opinion Section 16 dictates the starting point of time is having capable legal representative for the filing the said suit or application when the right accrues or right accrues only on the death of the said predecessor.

xvi. Section 17 of the Act stops running of the time until the plaintiff or applicant discovers the fraud or the mistake or could with reasonable diligence would have discovered or in the case of concealed document until he has means to produce the said document or compel the production of such document.

17(2) gives power to the Court to extend the period of limitation on application by the Decree holder the time during which the Judgment debtor by fraud or force prevented the execution of a decree or order within the period of limitation providing that the said application is filed within one year from the date of discovery of fraud or cessation of force.

xvib. The Hon'ble Supreme Court of India in Saranpal Kaur Anand Vs. Praduman Singh Chandhok reported in 2022 (8) SCC 401 held that "The provisions of Section 17(1) embody fundamental principles of justice and equity, viz. that a party should not be penalised for failing to adopt legal proceedings when the facts or the documents have been wilfully concealed from him and also that a party who had acted fraudulently should not be given the benefit of limitation running in its favour by virtue of such frauds. Pallav Sheth v. Custodian and Others, (2001) 7 SCC 549. However it is important to remember that Section 17 does not defer the starting point of limitation merely because the defendant has committed a fraud. Section 17 does not encompass all kinds of frauds, but specific situations covered by clauses (a) to (d) to Section 17(1) of the Limitation Act. Section 17(1)(b) and (d) encompass only those fraudulent documents or acts of concealment of documents which have the effect of suppressing knowledge entitling the party to

pursue his legal remedy. Once a party becomes aware of antecedent facts necessary to pursue legal proceedings, the period of limitation commences.

11. Therefore in the event the plaintiff makes out a case that falls within any or more of the four clauses to sub-section (1) to Section 17 of the Limitation Act, the period of limitation for filing of the suit shall not begin to run until the plaintiff or applicant has discovered the fraud/ mistake or could with reasonable diligence have discovered it or if the document is concealed till the plaintiff has the means of producing the concealed document or compelling its production a fortiori."

xvic. The Hon'ble Supreme Court of India in C.S. Ramaswamy Vs. V.K. Senthil reported in 2022 INSC 1046 while dealing with an application under Order VII Rule 11 of CPC held that "7.8 Even the averments and allegations in the plaint with respect to fraud are not supported by any further averments and allegations how the fraud has been committed/played. Mere stating in the plaint that a fraud has been played is not enough and the allegations of fraud must be specifically averred in the plaint, otherwise merely by using the word "fraud", the plaintiffs would try to get the suits within the limitation, which otherwise may be barred by limitation. Therefore, even if the submission on behalf of the respondents – original plaintiffs that only the averments and allegations in the plaints are required to be considered at the time of deciding the application under Order VII Rule 11 CPC is accepted, in that case also by such vague allegations with respect to the date of knowledge, the plaintiffs cannot be permitted to challenge the documents after a period of 10 years. By such clever drafting and using the word "fraud", the plaintiffs have tried to bring the suits within the period of limitation invoking Section 17 of the limitation Act. The plaintiffs cannot be permitted to bring the suits within the period of limitation by clever drafting, which otherwise is barred by limitation."

xvii. Section 21 (1) provides that the suit in respect of newly added plaintiff or defendant is deemed to have been instituted on the date when he was made as party unless the Court finds that the omission to include them is a bonafide mistake in good faith and treats it was instituted at an earlier date.

21(2) excludes the applicability of the sub-section (1) where a party is added or substituted on account of assignment or devolution of interest during pendency of the suit or parties transposed during pendency of the suit.

xviib. The Hon'ble Supreme Court of India in Ramalingam Chettiar Vs. T.K. Pattabiraman and another reported in 2001 (4) SCC 96 held that "S. 21 of the Limitation Act contemplates two situations - one under the substantive provision which provides that where after filing of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been brought on the day when he was added or substituted as a party in the suit. The second situation contemplated under the proviso to the substantive provision is where the court is satisfied that a new plaintiff or defendant was omitted to be added or substituted due to a mistake in good faith, the court may direct that the suit, as regards the newly added or substituted party, shall be deemed to have been instituted on any earlier date. Thus, under the proviso, if the Court is satisfied, it can direct that the suit as regards newly added or substituted plaintiff or defendant shall be deemed to have been instituted on an earlier date. In such a case, the court after substituting or adding a party in the suit is required to pass a separate/further order that the suit as regards the newly added defendant or plaintiff shall be deemed to have been instituted with effect from the date the suit was laid. Merely adding or substituting a plaintiff or defendant by the Court is not enough. In the absence of any order that the impleadment of a newly added or substituted party shall take effect from the date of institution of a suit, the period of limitation so far as the newly added or substituted shall run from the date of their impleadment in the suit.

We have looked into the records but do not find any order having passed under the proviso to S. 21 of the Limitation Act that the impleadment of the State of Tamil Nadu would take effect from the date of institution of the suit. In the absence of such an order by the trial Court, the suit filed by the respondent was barred by limitation as contemplated under S. 59 of the Act."

xviii. Section 23 gives the starting point of limitation as the time of occuring of injury in suits for compensation when the cause of action arises only when the act results actual specific injury.

xix. Section 24 only stipulates that all the instruments for the purpose of the Act shall be deemed to be made with reference to Gregorian calendar for the purpose of computation of limitation.

xx. In case of the appeals or applications other than the applications under Section 5 of the Limitation Act gives power to the Courts to admit them even after prescribed period on the condition that if the party shows that he has got sufficient cause for not filing the same within the prescribed period.

xxb. The Hon'ble Supreme Court of India in Pathapati Subba Reddy (Died) by L.Rs. & Ors. v. The Special Deputy Collector (LA) reported in [2024] 4 S.C.R. 243 laid down the following principle while considering the application under Section 5 of the Act:-

"i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision."

xxc. The Hon'ble Supreme Court of India in G. Ramegowda Vs. Special Land Acquisition Officer reported in 1988 (2) SCC 142 while considering the applications or appeals filed by the Government for condoning the delay should be considered liberally "8. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by the Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of the Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.

The law of limitation is, no doubt, the same for a private citizen as for Governmental-authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where the Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.

Therefore, in assessing what, in a particular case, constitutes 'sufficient cause' for purposes of Section 5 it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the Government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red-tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of the Government must have 'a little play at the joints'. Due recognition of these limitations on Governmental functioning-of course, within a reasonable limits-is necessary if the judicial approach is not rendered unrealistic. It would, perhaps, be unfair and unrealistic to put Government and private parties on the same footing in all respects in such matters. Implicit in the very nature of Governmental functioning is procedural delay incidental to the decision making process." The similar principle was laid down in Special Tehisldar, Land Acquisition Kerala v. K.V. Aiyusuma, reported in 1996 (10) SCC 634.

xxi. Sections 25 to 27 of the Act are not relating to computation of limitation and on efflux of time and adverse usage they extinguish the rights of the present owner or create a burden on the

tenement and gives right to the person in possession or user on completion of the period fixed in those sections.

xxib. Section 25 of the Act is with regard to acquiring right of easement by prescription i.e., a right for unobstructed light or air or drawing of water or using way from another's land is enjoyed for 20 years without interruption as of right then the property for whose benefit it is being used will get the easementary right by way of prescription. Section 26 of the Act gives a situation for exclusion of the period if the right of easement so enjoyed is under the occupation of person having only life interest or in terms of years exceeding three years from the granting thereof on condition that the said reversioner or servient tenement owner files the suit within three years from the date of determination of such life interest or term.

xxic. Section 27 of the Act if the period within which a person can file a suit for possession of the property under the Act is completed then his right to the property extinguishes. Which means after expiry of limitation period computed as per the Act to file a suit for possession of a property, then the person will lose his right also over the said property.

The Hon'ble Supreme Court of India in Vasantha (Dead) Thr. L.R. vs Rajalakshmi @ Rajam (Dead) Thr. Lrs. Reported in 2024 INSC 109 held that "21. This Court in Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan (2-Judge Bench)25, reiterating the observations made in P.T. Munichikkanna Reddy v. Revamma (2-Judge Bench)26 in respect of the concept of adverse possession observed that efficacy of adverse possession law in most jurisdictions depends on strong limitation statutes by operation of which, right to access the court expires through efflux of time. As against the rights of the paper-owner, in the context of adverse possession, there evolves a set of competing rights in favour of the adverse possessor who has, for a long period of time, cared for the land, developed it, as against the owner of the property who has ignored the property. Modern statutes of limitation operate, as a rule, not only to cut off one's right to bring an action for the recovery of property that has been in the adverse possession of another for a specified time but also to vest the possessor with title. The intention of such statutes is not to punish one who neglects to assert rights but to protect those who have maintained the possession of property for the time specified by the statute under a claim of right or colour of title." So the main intention of the framers is to protect the possessor who is in settled possession of the property for the period

which extinguishes the remedy and as well as right putting an end to the dispute of ownership and for smooth transfer of right of property. The same is in the interest of the state at large by giving definitive rights in the property.

In the above decision itself the Hon'ble Supreme Court held the following ingredients to prove an adverse possession: "In Saroop Singh v. Banto (2-Judge Bench)23, this Court observed that Article 65 states that the starting point of limitation does not commence from the date when the right of ownership arises to the plaintiff but commences from the date the defendant's possession becomes adverse. Further relying on Karnataka Board of Wakf v. Govt. of India (2-Judge Bench)24, it observed that the physical fact of exclusive possession and the animus possidendi to hold as owner in exclusion to the actual owner are the most important factors that are to be accounted in cases related to adverse possession. Plea of adverse possession is not a pure question of law but a blend of fact and law. Therefore, a person who claims adverse possession should show : (a) on what date he came into possession; (b) what was the nature of his possession; (c) whether the factum of possession was known to the other party; (d) how long his possession has continued; and (e) his possession was open and undisturbed. A person pleading adverse possession has no equities in his favour. Since he is trying to defeat the rights of the true owner, it is for him to clearly plead and establish all facts necessary to prove his adverse possession."

xxii. Section 29(2) of the Act acts a bridge between the Act and the special or local laws, when a different period is fixed in special or local law other than the period fixed under the Act, the period fixed under the special or local law shall be treated as though fixed under the Act for the purpose of Section 3 and Section 4 to 24 are applicable in computing the period unless expressly excluded.

xxiii. With regard to the Articles in the schedule of the Limitation Act and most of the difficulties arise with regard to interpreting the third column of the schedule i.e., time from which the period begins to run and sometimes nature of the suit claim.

Some important judgments with regard to the Articles and fixing of starting point of time basing on the third column of the schedule are

37.	On a promissory note or bond payable by instalments which provides that if default be made in one or more instalments the whole shall be due	3 years	When the default is made unless the payee waives the benefit of the provision and then when the fresh default is made in respect of which there is no waiver.

The Hon'ble High Court of A.P in Ramagopal Commercial Corporation Vs. Gandubilli Venkata Ramana Murthy reported in 2000 (1) ALT 769 relied on the principle that "the suit instituted after the expiry of three years of the first default would not be barred by limitation in view of the payment of future instalments. The Court has held that Article 113 of the Limitation Act (Act 36 of 1963) applies and not Article 37. The Court has further held that only instalments falling within a period of three years before the institution of the suit are recoverable and beyond that are barred by limitation." The analogy applied by the Hon'ble High Court is based on the interpretation of Article 75 of old Limitation Act, 1908 "A bond or a promissory note payable by instalments coming within Article 75 of the Limitation Act is different from a bond executed by a prized subscriber to secure the payment of the future instalments. In the former the amount covered by the bond or promissory note is immediately payable, but for the instalment clause. In the latter case the prized subscriber's liability is only to pay the future instalments as and when they fall due. But the foreman is given the right by the default clause to claim all the future subscriptions in a lump. By the mere default of one or more of the future instalments the entire amount does not immediately and automatically falls due. As the default of the subscriber gives the foreman merely a right to claim the entire future subscriptions in a lump, until he exercises that right it does not become due and therefore limitation cannot run against him from the date of the default. Article 75 of the Limitation Act does not, therefore, apply to a suit for the recovery of the entire amount due in a lump."

The Hon'ble High Court of A.P in **Jillelamudi Dhanalakshmi Vs the Union Bank of India** reported in 1992(1) ALT 696 (D.B.) while dealing with Article 37 of the Limitation Act held that the period of three years begins to run when the default is made unless the payee or obligee waives the benefit. It was further held that when the first installment fell due on 30-6-1976, the limitation began to run from 30-6-1976 and the suit filed beyond three years is held to be barred by limitation.

54.	For specific performance of a contract	3 years	The date fixed for the performance or if no such date is fixed when the plaintiff has notice that performance is refused.

The Hon'ble Supreme Court of India in Sabbir (Dead) through Lrs Vs. Anjuman (since deceased) through Lrs reported in 2023 INSC 898 to the effect that even though date is not fixed whether the party who approached the Court for relief had shown due diligence in getting the contract completed has to be taken into consideration and when deciding the question of limitation it is mainly required to see the plaint allegations.

56.	To declare the forgery of an instrument issued or regtered	Three years	When the issue or registration becomes. known to the plaintiff.
57.	To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.	Three years	When the alleged adoption becomes known to the plaintiff.
58.	To obtain any other declaration.	Three years	When the right to sue first accrues.

The Hon'ble Supreme Court of India in N. Thajudeen Vs. Tamil Nadu Khadi and Village Industries Board reported in 2024 INSC 817 held that "The limitation provided under Articles 56 and 57 of the Schedule to the Limitation Act is in respect to declaration regarding forgery of an instrument issued or registered and validity of the adoption deed. Article 58 of the Schedule to the Limitation Act prescribes the limitation for decree of declaration of any other kind and therefore, the suit for declaration of title would essentially fall under Article 58 of the Schedule to the Limitation Act and the limitation would be three years from the date when the right to sue first accrues."

59.	To cancel or set aside an instrument or decree or for the rescision of a contract.	Three years	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.

The Hon'ble Supreme Court of India in Prem Singh and others V. Birbal and others reported in 2006 (5) SCC 353 to the effect that Article 59 would be attracted when coercion, undue influence, misappropriation or fraud is required to be proved.

65.	For possession of immovable property or any interest therein based on title	Twelve years	When the possession of the defendant becomes adverse to the plaintiff

The Hon'ble Supreme Court of India in N. Thajudeen Vs. Tamil Nadu Khadi and Village Industries Board reported in 2024 INSC 817 held that "In the case at hand, the suit is not simply for the declaration of title rather it is for a further relief for recovery of possession. It is to be noted that when in a suit for declaration of title, a further relief is claimed in addition to mere declaration, the relief of declaration would only be an ancillary one and for the purposes of limitation, it would be governed by the relief that has been additionally claimed. The further relief claimed in the suit is for recovery of possession based upon title and as such its limitation would be 12 years in terms of Article 65 of the Schedule to the Limitation Act."

113.	Any suit for which no period limitation is provided elsewhere in this Schedule.	Three years	When the right to sue accrues.

The Hon'ble Supreme Court of India in Gurwanthbhai Mulchand Shah and others V. Anton Elis Farel and others reported in 2006 (4) ALT 74 (SC) the residuary article 113 applies in a suit for permanent injunction and the Court has to decide when the right accrued basing on the pleadings and evidence in the case.

134.	For delivery of possession by a purchaser of immovable property at a sale in execution of a decree.	One year	When the sale becomes absolute.

The Hon'ble Supreme Court of India in United Finance Corporation Vs. M.S.M. Haneefa (Dead) Through Lrs reported in AIR 2017 SC 498 interpreted Article 134 of the schedule i.e., the starting point of time is when the sale becomes absolute, but not when the sale is confirmed and

excluded the period till the closure of Civil Revision Petition filed against the order of dismissal of the application by the Judgment debtor to set aside the sale on the ground of low price.

136.	For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court.	Twelve years	[2][When] the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default, in making the payment or delivery in respect of which execution is sought, takes place: **Provided** that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.

The Hon'ble Supreme Court of India in Dr. Chiranji Lal (D) By Lrs V. Hari Das (D) By Lrs reported in 2005 (4) SCJ 544 to the effect that "Merely because there is no direction by the Court to furnish the stamp papers for engrossing of the decree or there is no time limit fixed by law, does not mean that the party can furnish stamp papers at its sweet will and claim that the period of limitation provided under Article 136 of the Act would start only thereafter as and when the decree is engrossed thereupon. The starting of the period of limitation for execution of a partition decree cannot be made contingent upon the engrossment of the decree on the stamp paper. The engrossment of the decree on stamp paper would relate back to the date of the decree, namely, 7th August, 1981, in the present case. In this view the execution application filed on 21st March, 1994 was time barred having been filed beyond the period of twelve years prescribed under Article 136 of the Act. The High Court committed illegality in coming to the conclusion that it was not barred by limitation."

137.	Any other application for which no period of limitation is provided elsewhere in this division.	Three years	When the right to apply accrues.

Article 137 is the residuary provision for any kind of applications for which limitation is not provided under the Act. Order IX Rule 7 of CPC application is covered by this article.