OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE
NEW DELHI DISTRICT, PATIALA HOUSE COURTS, NEW DELHI

CIRCULAR

In compliance of the directions of the Ld. Principal District & Sessions Judge, New Delhi District, PHC, New Delhi, Judgment dated 09-02-2026 passed by the Hon'ble Supreme Court of India in Civil Appeal Nos. 909-910 of 2026 title " The Deputy Commissioner and Special Land Acquisition Officer Vs M/s S.V Global Mill Limited", and connected matters has been uploaded on the official website i.e. newdelhi.dcourts.gov.in.

Therefore, it is requested to kindly peruse the abovesaid Judgment dated 09-02-2026 from the official website for kind information & necessary compliance.

(Deepali Sharma)
Officer-in Charge, General Branch
District Judge, Commericial Court -03
New Delhi District, PHC, New Delhi.

No. 2732-2737 /Genl./NDD/PHC/2026 Dated, Delhi the 8/9/2026

Copy to :-

1. The Ld. Registrar General Hon'ble High Court of Delhi, New Delhi for information.
2. All the Ld. Judicial Officers at PHC, New Delhi.
3. Ld. Officer-in Charge, Computer Branch, PHC, New Delhi with the request to direct the concerned official to upload the same on the website of New Delhi District Courts as per rules.
4. P.S to the Ld. Principal District & Sessions Judge, NDD, PHC, New Delhi for information.
5. Administrative Officer (Judicial), PHC, to circulate the aforesaid judgment through WhatsApp. Group of Ld. Judicial Officers of New Delhi District.
6. Dealing Assistant, R & I Branch for uploading the same on LAYERS.

Officer-in Charge, General Branch
District Judge, Commericial Court -03
New Delhi District, PHC, New Delhi.

2026 INSC 138

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2026
(arising out of (@SLP (C) No(s). 215-216 of 2023

THE DEPUTY COMMISSIONER AND SPECIAL
LAND ACQUISITION OFFICER … APPELLANT(S)

VERSUS

M/S S.V. GLOBAL MILL LIMITED … RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). OF 2026
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CIVIL APPEAL NO(S). OF 2026
(@SLP(C) No. 17856/2025)
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(@SLP(C) No. 18963/2025)

J U D G M E N T

M. M. Sundresh, J.

1. Leave granted.

2. Heard the learned Senior Counsel and the learned counsel appearing for the parties. Additionally, we have had the pleasure of listening to Mr. R. Venkataramani, learned Attorney General for India, who made his

submissions at our request. Documents filed, judgments relied upon, and the written submissions have been perused and duly taken on record.

3. We are dealing with a batch of matters wherein the High Courts, *vide* the impugned judgments, have dismissed the first appeals filed by the appellant(s) under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as **"the 2013 Act"**) as being barred by limitation.

4. The primary issue before us is on the interplay of Section 74 read with Section 103 of the 2013 Act, on the one hand, and Sections 5 and 29(2) of the Limitation Act, 1963 (hereinafter referred to as **"the 1963 Act"**) on the other. The incidental issue is on the application of the Land Acquisition Act, 1894 (hereinafter referred to as **"the 1894 Act"**) as against the 2013 Act in cases where land acquisition proceedings were initiated under the 1894 Act, but the award has been passed after the commencement of the 2013 Act.

LAND RIGHTS: A HISTORICAL PERSPECTIVE

"Land is the foundation of all wealth and progress." — Mahatma Gandhi

5. Land has always occupied a unique and enduring position in the lives of human beings. It is not merely a means of livelihood, but the very foundation of social, economic, cultural, and political existence. It represents power, independence, and a sense of belonging. A piece of land is not just soil under one's feet. It is where families are born, crops are grown, and collective memories of generations are embedded. Thus, to own land means dignity, security, and a voice in society.

6. Conscious of the deep-rooted significance of land, the framers of the Constitution placed the Right to Property amongst the cherished fundamental rights under Article 19(1)(f) of the Constitution of India, 1950 (hereinafter referred to as the **"Constitution"**), drawing lessons from the Government of India Act, 1935, and inspired by the promise of human dignity in the Universal Declaration of Human Rights, 1948. In fact, the Right to Property has been one of the most contested rights in Indian constitutional history, resulting in several constitutional amendments. It

has also formed the foundation of several landmark judicial decisions that have shaped India's constitutional jurisprudence. Thus, one can say that no other right has been debated, reshaped, and rewritten as much as this one.

7. However, new challenges emerged in independent India, where a few owned vast tracts of land while many remained landless. This imbalance led to agrarian and land reform measures, creating a conflict between private property rights and the State's obligation to promote social justice. To enable these reforms, the 44th Constitutional Amendment Act, 1978, removed the Right to Property from the list of fundamental rights and repositioned it as a constitutional right under Article 300A of the Constitution, which mandates that "no person shall be deprived of his property save by authority of law."

8. Article 300A of the Constitution reflects the constitutional commitment to the rule of law by ensuring that deprivation of property cannot occur arbitrarily and must be backed by valid law. It seeks to strike a delicate balance between societal needs and the rights of individuals, particularly in matters of land acquisition. While the State may acquire land for a public

purpose, such power is not to be exercised arbitrarily or unjustly, but within the statutory umbrella. American jurist Joseph Story beautifully captures the essence of the aforesaid in the following words- *"That government can scarcely be deemed to be free where the rights of property are left solely dependent upon the will of a legislative body without any restraint."*

9. In this context, land acquisition laws assume critical importance. The history of land acquisition in India predates the Constitution and can be traced back to the Bengal Regulation I of 1824, when the British initiated land acquisition for the purpose of public welfare only in certain provinces. In Bombay, land acquisition was governed by the Building Act XVIII of 1839, while the Madras Act XX of 1852 governed acquisition in the Madras Presidency. The scope of what constituted 'public welfare' was expanded over the years in response to the developmental needs of the time. Thereafter, significant changes were brought in through enactments in the years 1857 and 1870. The 1870 enactment was subsequently replaced by the 1894 Act, which governed land acquisition for over a

century, undergoing several amendments from time to time. However, its inadequacies, particularly its failure to adequately protect landowners and displaced persons, became evident, and after more than a century, it was repealed and replaced by the 2013 Act, marking a shift towards a more welfare-oriented approach.

10. We may note that even while acquisitions continue under the 2013 Act in response to rapid urbanisation, industrialisation, and commercialisation, Article 300A of the Constitution stands quietly but firmly as a watchful guardian, reassuring the people that their bond with land is not forgotten by the law.

FRAMEWORK UNDER THE 2013 ACT

11. At present, acquisition of land in the country is governed by the 2013 Act, which continues the unique mechanism found in the erstwhile 1894 Act with some necessary modifications, facilitating more relief to the landowners by way of rehabilitation and resettlement entitlements. The Preamble to the 2013 Act makes this abundantly clear.

"Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

[Act 30 of 2013] [*26th September, 2013*]

An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto"

12. Therefore, the 2013 Act is not only an improved version of the 1894 Act, but also meant to provide more benefits while ensuring a robust mechanism for awarding just and fair compensation to the landowners. The 2013 Act takes into consideration various social factors and extends its benefits to affected persons of different categories, including farmers and weaker sections of society. It also provides for different parameters to be considered by the Collector in the determination of compensation. By strengthening the safeguards in favour of landowners, the scheme of the 2013 Act ensures that the State does not acquire land as a matter of routine

and can do so only in strict adherence to the procedure contemplated thereunder.

13. When dealing with a beneficial legislation such as the 2013 Act, Courts must make a conscious endeavour to give effect to its avowed objectives. This Court has reiterated the said principle on several occasions.

Union of India vs Prabhakaran Vijaya Kumar and Ors (2008) 9 SCC 527

> "**12. It is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of the Act and for the benefit of the person for whom the Act was made should be preferred. In other words, beneficial or welfare statutes should be given a liberal and not literal or strict interpretation** vide *Alembic Chemical Works Co. Ltd. v. Workmen* AIR 1961 SC 647 (AIR para 7), *Jeewanlal Ltd. v. Appellate Authority* (1984) 4 SCC 356 : 1984 SCC (L&S) 753 : AIR 1984 SC 1842] (AIR para 11), *Lalappa Lingappa v. Laxmi Vishnu Textile Mills Ltd.* [(1981) 2 SCC 238 : 1981 SCC (L&S) 316 : AIR 1981 SC 852] (AIR para 13), *S.M. Nilajkar v. Telecom District Manager* (2003) 4 SCC 27 : 2003 SCC (L&S) 380 (SCC para 12).
>
> 13. In *Hindustan Lever Ltd. v. Ashok Vishnu Kate* [(1995) 6 SCC 326 : 1995 SCC (L&S) 1385] this Court observed: (SCC pp. 347-48, paras 41-42)
>
>> "41. In this connection, we may usefully turn to the decision of this Court in Workmen v. American Express International Banking Corpn. [(1985) 4 SCC 71 : 1985 SCC (L&S) 940] wherein Chinnappa Reddy, J. in para 4 of the Report has made the following observations: (SCC p. 76)
>>
>>> **'4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations the**

imposture of literal construction must be avoided **and the prodigality of its misapplication must be recognised and reduced.** ***Judges ought to be more concerned with the "colour", the "content" and the "context" of such statutes*** (we have borrowed the words from Lord Wilberforce's opinion in *Prenn v. Simmonds* (1971) 1 WLR 1381 : (1971) 3 All ER 237 (HL). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, *Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court* (1980) 4 SCC 443 : 1981 SCC (L&S) 16 we had occasion to say: (SCC p. 447, para 6)

"6. … ***Semantic luxuries are misplaced in the interpretation of 'bread and butter' statutes. Welfare statutes must, of necessity, receive a broad interpretation.*** **Where legislation is designed to give relief against certain kinds of mischief, the court is not to make inroads by making etymological excursions."**

42. Francis Bennion in his *Statutory Interpretation*, 2nd Edn., has dealt with the Functional Construction Rule in Part XV of his book. The nature of purposive construction is dealt with in Part XX at p. 659 thus:

'A purposive construction of an enactment is one which gives effect to the legislative purpose by—

(a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose (in this Code called a purposive-and-literal construction), or

(b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose (in the Code called a purposive-and-strained construction).'…"

(emphasis supplied)

Delhi Development Authority v. Virender Lal Bahri, (2020) 15 SCC 328

> **"19. We must not forget that we are dealing with a beneficial legislation. The Preamble which has been referred to casts light on the object sought to be subserved by the 2013 Act in general, as well as by Section 24. We have already seen that land acquisition is to take place in a humane fashion, with the least disturbance to the owners of the land, as also, to provide just and fair compensation to affected persons. Viewed in the light of the Preamble, this legislation, being a beneficial legislation, must be construed in a way which furthers its purpose** [see Eera v. State (NCT of Delhi) (2017) 15 SCC 133, para 115: (2018) 1 SCC (Cri) 588] at paras 106, 128, 129 and 131]. **On the assumption, therefore, that two views are possible, the view which accords with the beneficial object sought to be achieved by the legislation, is obviously the preferred view."**
>
> (emphasis supplied)

14. Before we proceed to analyse the unique regime governing acquisition under the 2013 Act, we deem it appropriate to consider the incidental issue raised before us, which hinges on the interpretation of Section 24(1)(a) of the 2013 Act.

Section 24 of the 2013 Act

> "**24. Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases.—(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),—**
>
> (*a*) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(*b*) where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

(emphasis supplied)

15. Section 24 of the 2013 Act operates as a savings clause to preserve the land acquisition proceedings initiated under the 1894 Act in certain cases. On a reading of the said provision, it is clear that the Legislature has consciously crafted this provision bearing in mind the beneficial object behind the legislation to ensure that the interests of both the landowners and the beneficiary are adequately protected.

16. Sub-section (1) of Section 24 starts with a non-obstante clause. Clause (a) of sub-section (1) ensures that the benefits conferred under the 2013 Act are statutorily extended to the determination of compensation in cases

where the land acquisition proceedings were initiated under the 1894 Act, but no award was passed under Section 11 of the said Act. In other words, Section 24(1)(a) facilitates the continuation of the acquisition proceedings under the 2013 Act by taking off from the proceedings initiated under the 1894 Act, *qua* compensation, when no award has been passed under Section 11 of the 1894 Act.

17. Clause (a) of sub-section (1) of Section 24 leaves no room for any doubt by stating that all the provisions of the 2013 Act in relation to the determination of compensation shall apply. Therefore, each and every provision of the 2013 Act dealing with the determination of compensation, in any manner whatsoever, be it procedural or substantive, would *ipso facto* apply to a case where no award under Section 11 of the 1894 Act has been passed. We clarify that there is no question of rehabilitation and resettlement under the 1894 Act and, hence, there is neither any duty to award it nor a right to claim it under Section 24(1)(a) of the 2013 Act. A totally new benefit cannot be extended retrospectively in the absence of a statutory prescription. What is important to note is the expression 'relating

to the determination of compensation.' The aforesaid expression will have to be given maximum leverage as the benefits, except rehabilitation and resettlement entitlements, in any case, are to be extended under the 2013 Act as against the 1894 Act. The following decisions of this Court are apposite in this context:

Indore Development Authority v. Manoharlal (2020) 8 SCC 129

> **"191.** Section 24(1)(*a*) operates where no award is made in a pending acquisition proceeding; in such event all provisions of the new Act relating to determination of compensation would apply. Section 24(1)(*b*) logically continues with the second situation i.e. where the award has been passed, and states that in such event, proceedings would continue under the 1894 Act. **Section 24(2) — by way of an exception, states that where an award is made but requisite steps have not been taken for five years or more to take possession nor compensation has been paid then there is lapse of acquisition. If one of the steps has been taken, then the proviso can operate. Time is the essence. It is on the basis of time-lag that the lapse is provided and in default of payment for five years as provided on failure to deposit higher compensation is to be paid. It is based on that time-lag higher compensation has to follow. It is not the mere use of colon under Section 24(2) but the placement of the proviso next to Section 24(2) and not below Section 24(1)(*b*). Thus, it is not permissible to alter a placement of the proviso more so when it is fully in consonance with the provisions of Section 24(2). Section 24(2) completely obliterates the old *regime* to the effect of its field of operation. Under Section 24(1)(*a*), there is a partial lapse of the old *regime* because all proceedings, till the stage of award are preserved. The award, in such proceedings, made after coming into force of the 2013 Act has to take into account its provisions, for determination of compensation. Thus, proceedings up to the stage of the award are deemed final under the old Act. In the case under Section 24(1)(*b*), the old regime prevails. The proviso is an exception to Section 24(2) and in part**

the new *regime* for payment of higher compensation in case of default for 5 years or more after award.

xxx xxx xxx

366.1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act."

(emphasis supplied)

Haryana State Industrial and Infraastructure Development Corporation Limited v. Deepak Agarwal (2023) 6 SCC 512

"34. In the light of the above discussion and taking note of the legislative intention we have no hesitation to hold that the point of initiation of land acquisition proceedings under the LA Act for the purpose of Section 24(1) of the 2013 Act, is issuance and publication of Section 4(1) Notification in the Official Gazette of the appropriate Government.

xxx xxx xxx

39. Now, we will consider the other common questions involved in the captioned appeals**. They pertain to the questions as to whether Section 4 notification issued under the LA Act prior to 1-1-2014 (date of commencement of the 2013 Act) could continue or survive after 1-1-2014 and, as to whether Section 6 Notification under the LA Act could be issued after 1-1-2014.**

40. We think that while considering those questions we will have to bear in mind the purposes and the legislative history of the 2013 Act and also the intention of the legislature in drafting the same in the manner in which it now exists. We have already dealt with those aspects. **One crucial aspect discernible from Section 24(1)(a) has also to be taken note of in this context. The combined effect of Section 24(1) and clause (a) thereof is that if land acquisition proceeding under the LA Act was initiated prior to 1-1-2014, the date of coming into force of the 2013 Act, and if it was not culminated in an award under Section 11 of the LA Act, then all the provisions of the 2013 Act relating to the determination of compensation should apply to such acquisition proceedings. Thus, it is obvious that in case of non-passing of an award in terms of Section 11 of the LA Act where the acquisition proceedings have been initiated prior to 1-1-2014, all provisions under the 2013 Act relating to the determination of**

compensation alone would apply to such acquisition proceedings. In other words, it would mean that in such circumstances the land acquisition proceedings should continue, but all the provisions relating to the determination of compensation under the 2013 Act alone will be applicable to such proceedings, meaning thereby, the 2013 Act would come into play only at that stage.

41. There can be no doubt with respect to the position that between the initiation of land acquisition proceedings by issuance and publication of notice under Section 4(1) of the LA Act and the stage at which compensation for the acquisition calls for determination, there are various procedures to be followed to make the acquisition in accordance with the law.

42. The question is when Section 24(1) of the 2013 Act makes it clear with necessary implication that all provisions of the 2013 Act relating to the determination of compensation alone would be applicable to such proceedings initiated under the LA Act but, not culminated in an award, how the procedures are to be regulated during the intervening period till the proceedings reach the stage of determination of compensation. There cannot be any uncertainty on that aspect. The procedures to be undertaken and the manner in which they are to be regulated cannot remain uncertain. They are conducted either in the manner provided under the LA Act or in the manner provided under the 2013 Act. But then, in view of Section 24(1)(a), the provisions relating to the determination of compensation alone can be applied to such proceedings or in other words, there is only a restricted application of the provisions of the 2013 Act in relation to such proceedings.

43. The inevitable conclusion can only be that what is applicable to the various procedures to be undertaken during the period up to the stage of determination of compensation are those prescribed under the LA Act. We have no doubt that without such a construction, the provisions under Section 24(1)(a) would not work out, in view of the restrictive application of the 2013 Act."

(emphasis supplied)

18. Clause (b) of sub-section (1) of Section 24 of the 2013 Act clearly deals with a different category of cases where an award has been passed under

the 1894 Act. It states that proceedings under the 1894 Act would continue unabated, as though the same had not been repealed. The idea is to give finality to the awards already passed under the 1894 Act, as the passing of an award leads to the determination of the compensation, concluding the rights and liabilities of the parties. After such a determination, there is no question of extending the benefits under the 2013 Act. Any challenge thereto would be under the 1894 Act.

19. Sub-section (2) of Section 24 of the 2013 Act states that the proceedings initiated under the 1894 Act would stand lapsed in cases where an award had been passed five years or more prior to the commencement of the 2013 Act, but the possession of the land has not been taken, and the compensation has not been paid. When dealing with a case where the award has already been passed under the 1894 Act, the proceedings would continue under the erstwhile Act, unless the same falls under this sub-section. Therefore, this provision operates as an exception to sub-section (1) of Section 24 of the 2013 Act introduced by way of a non-obstante clause.

20. Keeping this in mind, we shall now proceed to analyse the unique aspects of the 2013 Act.

21. Whenever the land in any area is required for a public purpose, the appropriate Government shall publish a preliminary notification to that effect under Section 11 of the 2013 Act, followed by the publication of the declaration under Section 19 of the 2013 Act. Thereafter, an award is passed by the Collector under Section 23 of the 2013 Act.

Sections 23, 25 and 26 of the 2013 Act

> "**23. Enquiry and land acquisition award by Collector**.—On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 21, to the measurements made under section 20, and into the value of the land at the date of the publication of the notification, and into the respective interests of the persons claiming the compensation and rehabilitation and resettlement, shall make an award under his hand of—
>
> (*a*) the true area of the land;
>
> (*b*) the compensation as determined under section 27 along with Rehabilitation and Resettlement Award as determined under Section 31 and which in his opinion should be allowed for the land; and
>
> (*c*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him.
>
> "**25. Period within which an award shall be made.—The Collector shall make an award within a period of twelve months from the date of**

publication of the declaration under section 19 and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that the appropriate Government shall have the power to extend the period of twelve months if in its opinion, circumstances exist justifying the same:

Provided further that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned."

(emphasis supplied)

"**26. Determination of market value of land by Collector.—**(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

(*a*) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

(*b*) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or

(*c*) consented amount of compensation as agreed upon under sub-section (2) of Section 2 in case of acquisition of lands for private companies or for public private partnership projects,

whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under Section 11.

Explanation 1.—The average sale price referred to in clause (*b*) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in *Explanation* 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in *Explanation* 1 or *Explanation* 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in *Explanation* 1 or *Explanation* 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(*a*) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(*b*) the registered sale deeds or agreements to sell as mentioned in clause (*a*) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(*c*) the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority,

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1):

> Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area:
>
> Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice."
>
> (emphasis supplied)

22. Section 23 of the 2013 Act makes it clear that the Collector is required to determine the compensation along with rehabilitation and resettlement entitlements and, accordingly, pass an award, after duly considering the objections raised by the landowners under Section 15 of the 2013 Act. While doing so, the Collector performs a quasi-judicial role, as the aforesaid determination directly concerns the rights of the parties before him. He is duty bound to make the award within the period prescribed under Section 25 of the 2013 Act, being a period of 12 months from the date of publication of the declaration under Section 19 of the 2013 Act. The consequence of non-compliance is also clearly spelt out thereunder. The proviso to Section 25 of the 2013 Act is only an exception, conferring the power to extend the period prescribed, only to the appropriate

Government, upon being satisfied of the existence of circumstances justifying any delay. Suffice it is to state that this being a mandate on the Collector in the exercise of his statutory function, the question of applying the law of limitation does not arise.

23. Being an exhaustive provision, Section 26 of the 2013 Act leaves no room for ambiguity. The proviso to Section 26(1) explicitly states that the date to be reckoned for determination of the market value is the date of publication of the preliminary notification under Section 11 of the 2013 Act. Thus, it logically follows that when an award is passed as per Section 24(1)(a) of the 2013 Act, the relevant date for the aforesaid determination is the date of publication of the preliminary notification under Section 4 of the 1894 Act.

24. The proceedings until this stage constitute the first phase of the acquisition with the Collector playing a quasi-judicial role in determining the compensation. Upon such determination and passing of the award under Section 23 of the 2013 Act, the Collector becomes *functus officio* and does not have the power to revisit or modify the award passed by him. Thus, his

quasi-judicial role stands extinguished, and the substantive rights of the parties stand concluded *qua* him. The next phase of the proceedings lies before the Land Acquisition, Rehabilitation and Resettlement Authority established under Section 51 of the 2013 Act (hereinafter referred to as **"Authority"**) as dealt with hereinbelow.

Sections 51, 52, 53, 60, 61 and 63 of the 2013 Act

> **"51. Establishment of Land Acquisition, Rehabilitation and Resettlement Authority.—(1) The appropriate Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement, establish, by notification, one or more Authorities to be known as "the Land Acquisition, Rehabilitation and Resettlement Authority" to exercise jurisdiction, powers and authority conferred on it by or under this Act.**
>
> (2) The appropriate Government shall also specify in the notification referred to in sub-section (1) the areas within which the Authority may exercise jurisdiction for entertaining and deciding the references made to it under section 64 or applications made by the applicant under second proviso to sub-section (1) of section 64."
>
> (emphasis supplied)
>
> **"52. Composition of Authority.—(1) The Authority shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification, by the appropriate Government.**
>
> (2) Notwithstanding anything contained in sub-section (1), the appropriate Government may authorise the Presiding Officer of one Authority to discharge also the functions of the Presiding Officer of another Authority."
>
> (emphasis supplied)

"53. Qualifications for appointment as Presiding Officer.—(1) A person shall not be qualified for appointment as the Presiding Officer of an Authority unless,—

(a) he is or has been a District Judge; or

(b) he is a qualified legal practitioner for not less than seven years.

(2) A Presiding Officer shall be appointed by the appropriate Government in consultation with the Chief Justice of a High Court in whose jurisdiction the Authority is proposed to be established."

(emphasis supplied)

"60. Powers of Authority and procedure before it.—(1) **The Authority shall, for the purposes of its functions under this Act, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:—**

(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) discovery and production of any document or other material object producible as evidence;
(c) receiving evidence on affidavits;
(d) requisitioning of any public record;
(e) issuing commission for the examination of witnesses;
(f) reviewing its decisions, directions and orders;
(g) any other matter which may be prescribed.

(2) The Authority shall have original jurisdiction to adjudicate upon every reference made to it under Section 64.

(3) The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Authority shall have the power to regulate its own procedure.

(4) The Authority shall, after receiving reference under Section 64 and after giving notice of such reference to all the parties concerned and after affording opportunity of hearing to all parties, dispose of such reference within a period of six months from the date of receipt of such reference and make an award accordingly.

(5) The Authority shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award."

(emphasis supplied)

"61. Proceedings before Authority to be judicial proceedings.—All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Authority shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974)."

(emphasis supplied)

"63. Jurisdiction of civil courts barred.—No civil court (other than High Court under article 226 or article 227 of the Constitution or the Supreme Court) shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter."

(emphasis supplied)

25. Chapter VIII of the 2013 Act provides for the establishment of the Authority which is entrusted with the function of disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement and is the first judicial forum in the scheme of the 2013 Act.

26. The Authority comprises only one person who is qualified to be appointed to the said post if he has either been a District Judge in the past or is currently serving as one. Alternatively, a legal practitioner of 7 years' standing or more is qualified to hold the said post. Though the appointment is made by the Government, the same must be done in consultation with the Chief Justice of the concerned High Court as per Section 53 of the 2013 Act. The term 'consultation', employed in the said provision, indicates the primary role required to be played by the Chief Justice of the High Court in the appointment process. The said procedure of appointment shows the nature of the duties assigned to the Authority. None other than a legally trained person having one of the aforementioned qualifications would be eligible to be appointed as the Authority. Sections 60 and 61 of the 2013 Act throw more light on the nature of the Authority as a judicial entity.

27. The Authority has been vested with the same powers as those of a Civil Court under the Code of Civil Procedure, 1908 (hereinafter referred to as '**the CPC**') in respect of the matters enumerated under Section 60 of the 2013 Act. In other words, he exercises the power of an original forum. It

further goes on to state that the Authority is not bound by the procedure laid down in the CPC and has the power to regulate its own procedure, subject to the provisions of the 2013 Act and the Rules thereunder, while being guided by the principles of natural justice. This shows that the Authority exercises wider and distinct powers than those of the Collector and, thus, the role of the Collector is not comparable to that of the Authority.

28. The proceedings before the Authority are deemed to be judicial proceedings and the Authority is deemed to be a Civil Court under Section 61 of the 2013 Act. Having treated the Authority as a Civil Court, armed with further powers under the 2013 Act and the Rules thereunder, Section 63 of the 2013 Act rightly bars the jurisdiction of the Civil Court as regards disputes in respect of which the Collector or the Authority are empowered under the 2013 Act.

Section 64 of the 2013 Act

> "**64. Reference to Authority**.—(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land,

the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso."

(emphasis supplied)

29. Section 64 of the 2013 Act permits persons aggrieved by the award passed under Section 23 to file an application before the Collector requiring him to refer the matter to the Authority for his determination. The Collector is then required to make the reference to the Authority within a period of 30

days. The aforesaid application for reference must be filed by the landowners within the period stipulated under Section 64(2). However, the proviso permits the Collector to extend the said period by up to one year in a given situation, if he is satisfied of the existence of sufficient cause for the delay. It is pertinent to note that this power to extend the period is not a quasi-judicial function of the Collector. In other words, the Collector wears two hats under the scheme of the 2013 Act. While on the one hand, he passes an award under Section 23 which is in the nature of a quasi-judicial function, on the other hand, he is required to make a reference to the Authority under Section 64, which is in the nature of an executive function, though involving civil consequences.

30. Upon expiry of the one-year period, as provided under the proviso to Section 64 of the 2013 Act, there is no recourse available to the landowners since the statute does not empower the Collector to exercise the power conferred under Section 5 of the 1963 Act for condonation of delay. The question of exercising that power does not arise even otherwise as at best, the Collector's action can be termed as an executive one. We further note

that the statute does not provide any right of appeal if the landowner has failed to seek a reference within the stipulated time period. It also does not supply any power to the Court to grant an extension in seeking a reference. Accordingly, the right of a landowner to seek a reference is extinguished under the statute on the expiry of the stipulated time period.

31. At this juncture, it is apposite to note that when the power to condone delay by invoking Section 5 of the 1963 Act is not even available to a Tribunal in the ordinary course, certainly, the Collector, not being a Court, cannot exercise the same.

Sakuru v. Tanaji, (1985) 3 SCC 590

> "V.B. Eradi, J.— In this appeal filed by special leave granted by this Court against the judgment dated April 12, 1978 of a learned Single Judge of the High Court of Andhra Pradesh, the sole question arising for decision is whether the provisions of Section 5 of the Limitation Act, 1963 can be invoked for condoning the delay in the filing of an appeal before the Collector under Section 90 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Act 21 of 1950 (hereinafter called "the Act").
>
> xxx xxx xxx
>
> **3. After hearing both sides we have unhesitatingly come to the conclusion that there is no substance in this appeal and that the view taken by the Division Bench in *Venkaiah case* [AIR 1978 AP 166 : (1977) 2 APLJ (HC) 382] is perfectly correct and sound. It is well settled by the decisions of this Court in *Town Municipal Council* v. *Presiding Officer, Labour Court* [(1969) 1 SCC 873 : (1970) 1 SCR 51], *Nityananda M. Joshi v. Life Insurance Corporation of India* [(1969) 2 SCC 199 : (1970) 1 SCR 396] and**

Sushila Devi v. Ramanandan Prasad **[(1976) 1 SCC 361 : (1976) 2 SCR 845] that the provisions of the Limitation Act, 1963 apply only to proceedings in "courts" and not to appeals or applications before bodies other than courts such as quasi-judicial tribunals or executive authorities, notwithstanding the fact that such bodies or authorities may be vested with certain specified powers conferred on courts under the Codes of Civil or Criminal Procedure. The Collector before whom the appeal was preferred by the appellant herein under Section 90 of the Act not being a court, the Limitation Act, as such, had no applicability to the proceedings before him. But even in such a situation the relevant special statute may contain an express provision conferring on the appellate authority, such as the Collector, the power to extend the prescribed period of limitation on sufficient cause being shown by laying down that the provisions of Section 5 of the Limitation Act shall be applicable to such proceedings**. Hence it becomes necessary to examine whether the Act contains any such provision entitling the Collector to invoke the provisions of Section 5 of the Limitation Act for condonation of the delay in the filing of the appeal. The only provision relied on by the appellant in this connection is Section 93 of the Act which, as it stood at the relevant time, was in the following terms:

> 93. Limitations.—Every appeal and every application for revision under this Act shall be filed within sixty days from the date of the order against which the appeal or application is filed and the provisions of the Indian Limitation Act, 1908 shall apply for the purpose of the computation of the said period.

On a plain reading of the section it is absolutely clear that its effect is only to render applicable to the proceedings before the Collector, the provisions of the Limitation Act relating to "computation of the period of limitation". The provisions relating to computation of the period of limitation are contained in Sections 12 to 24 included in Part III of the Limitation Act, 1963. Section 5 is not a provision dealing with "computation of the period of limitation". It is only after the process of computation is completed and it is found that an appeal or application has been filed after the expiry of the prescribed period that the question of extension of the period under Section 5 can arise. We are, therefore, in complete agreement with the view expressed by the Division Bench of the High Court in *Venkaiah case* [AIR 1978 AP 166 : (1977) 2 APLJ (HC) 382] that Section 93 of the Act did not

have the effect of rendering the provisions of Section 5 of the Limitation Act, 1963 applicable to the proceedings before the Collector.

4. Our attention was drawn to the fact that subsequent to the decision of the High Court, the State Legislature has enacted the Andhra Pradesh Tenancy Laws (Amendment) Act, 1979 — Act 2 of 1979, whereby Section 93 of the Act has been amended and the provisions of Section 5 of the Limitation Act, 1963 have now been expressly made applicable to appeals and revisions preferred under Sections 90 and 91 of the Act. We see no force in the contention advanced on behalf of the appellant that the said amendment is clarificatory in nature. The provisions of Section 93 as they stood prior to this amendment were free from any ambiguity and called for no clarification. The legislature has also not given any indication of any intention to clarify but, on the other hand, what has been done by it is to amend the section with only prospective effect. The amended provisions of Section 93 are, therefore, of no assistance to the appellant in this case which is governed by the section as it was originally enacted."

(emphasis supplied)

Officer on Special Duty (Land Acquisition) v. Shah Manilal Chandulal, (1996) 9 SCC 414

"K. Ramaswamy, J.— Leave granted.

2. A short but an important question of law arises for decision in these appeals. By a notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short "the Act") published in the State Gazette on 20-2-1984, the Government acquired the land for public purpose. The Land Acquisition Officer (for short "the LAO") made his award under Section 11 on 28-2-1989. The respondents were present at the time when the award was announced. **On 10-6-1989 they applied for reference under Section 18. After giving an opportunity of hearing, by order dated 9-1-1990, the LAO rejected the application for reference on the ground that it was barred by limitation, i.e., beyond six weeks from the date of the award. In writ petitions the High Court of Gujarat in the impugned order dated 13-3-1992 in Special Civil Application No. 2296 of 1990 and batch held that Section 5 of the Limitation Act applies to the proceedings before the Collector and that, therefore, reasons given to condone the delay for filing the application were valid. The reasons were that they had applied for certified copy of**

the award and after its supply and in consultation with the counsel, the reference application came to be filed. Accordingly, the High Court condoned the delay and directed the LAO to make the reference. These appeals thus are filed against the said order.

3. Section 18(1) envisages that any interested person who has not accepted the award may, by application in writing to the Collector, require him to refer the dispute raised in the application for the determination of the court. Under sub-section (2), the grounds on which objection to the award is taken have to be stated in the application. However, under the proviso to sub-section (2) every such application shall be made: (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award; (b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire. It would thus be clear that if the interested person was present at the time the Collector made the award, he should make the application within six weeks from the date of the award of the Collector. In other cases, it should be made within six weeks after the receipt of the notice from the Collector/LAO under Section 12(2) or within six months from the date of the Collector's award, whichever period shall first expire. Admittedly, the application for reference is beyond six weeks under clause (a) of proviso to sub-section (2) of Section 18.

4. The question, therefore, is: whether Section 5 of the Limitation Act would apply? The High Court relied upon sub-section (3) of Section 18 which was made by way of a local amendment, i.e., the Land Acquisition (Maharashtra Extension and Amendment) Act 38 of 1964 which reads thus:

> "Any order made by the Collector on an application under this section shall be subject to revision by the High Court, as if the Collector were a Court subordinate to the High Court within the meaning of Section 115 of the Code of Civil Procedure, 1908."

5. It would appear that the High Court of Gujarat has taken a consistent view that, by operation of sub-section (3), as the Collector was designated to be a court subordinate to the High Court under Section 115, Civil Procedure Code (for short "CPC"), Section 5 of the Limitation Act (26 of 1963) stands attracted. Though sub-section (3) of Section 18, by virtue of

local amendments, treated the Collector as court for a limited purpose of exercising revisional jurisdiction under Section 115, CPC to correct errors of orders passed by the Collector under Section 18, he cannot be considered to be a court for the purpose of Section 5 of the Limitation Act. Section 5 of the Limitation Act stands attracted only when LAO acts as a court.

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9. It would thus be clear that one of the conditions precedent to make a valid reference to the court is that the application under Section 18(1) shall be in writing and made within six weeks from the date of the award when the applicant was present either in person or through counsel, at the time of making of the award by the Collector under clause (a) of proviso to sub-section (2). The Collector, when he makes the reference, acts as a statutory authority.

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11. The question emerges: whether the LAO/Collector acts as a court? Section 3(d) defines 'Court' to mean the principal civil court of original jurisdiction or a principal judicial officer within any special local limits appointed thereunder to perform the functions of the court under the Act. 'Collector' has been defined in clause 3(c) to mean the Collector of district and includes a Deputy Commissioner etc. appointed by the appropriate Government to perform the functions of the Collector under the Act. He is variously called the Collector/LAO. It would thus be clear that the Act made a distinction between the Collector and the court. The Collector/LAO performs the statutory functions under the Act including the one making the award under Section 11 and referring a written application made under Section 18(1) of the Act to the court and complies with Sections 19 and 20 of the Act. The dichotomy of the Collector and the court cannot be lost sight of.

12. In *Nityananda, M. Joshi* v. *LIC* [(1969) 2 SCC 199], a Bench of three Judges of this Court was to consider whether the Industrial Tribunal is a court within the meaning of the Industrial Disputes Act when it entertains application under Section 33-C(1) and (2) of the Industrial Disputes Act, 1947. It was held that Article 137 of the Schedule to the Limitation Act applies to an application referable under the CPC and it contemplates an application to the court as provided in the Third Schedule to the Limitation Act. Section 4 of the

Limitation Act also refers to the closure of the court. Section 5 of the Limitation Act applies only to a court which is to entertain an application or an appeal after the prescribed period has expired on its satisfying that the applicant had sufficient cause for not preferring the appeal or making application. The labour court was held not a court within the Limitation Act when it exercises the power under Section 33-C(1) and (2) of the Industrial Disputes Act, 1947.

13. In *Sushila Devi* v. *Ramanandan Prasad* [(1976) 1 SCC 361], the question arose whether the Collector to whom application under Section 3 of the Kosi Area (Restoration of Lands to Raiyats) Act 30 of 1951 is made, is a court under Section 5 of the Limitation Act? The said Act by operation of Section 15 of that Act makes certain provisions of the CPC applicable when it conducts certain proceedings before it. This Court had held that Collector is not a court when he conducts the proceedings under the Act. Therefore, Section 5 of the Limitation Act does not apply. In *Mohd. Ashfaq* v. *State Transport Appellate Tribunal* [(1976) 4 SCC 330 : AIR 1976 SC 2161], under Section 58 of the Motor Vehicles Act (4 of 1939) and under sub-section (2) proviso and sub-section (3), application for renewal of the permit would be made and power is given to the RTA to condone the delay if the application is made after the expiry but within 15 days of the period. The question arose: whether Section 5 of the Limitation Act would apply by operation of sub-section (2) of Section 29 of the Limitation Act? This Court had held that since the limitation of 15 days was prescribed, if the application is not made within that limitation, the RTA is not a court under Section 5 and it has no power to condone the delay.

14. In *Kaushalya Rani* v. *Gopal Singh* [AIR 1964 SC 260 : (1964) 4 SCR 982 : (1964) 1 Cri LJ 152], the question arose: whether Section 417(4) of Criminal Procedure Code is a special law within the meaning of Section 29(2) of the Limitation Act and whether Section 5 of the Limitation Act does not apply? It was held that Section 417(4) is a special law and Section 5 of the Limitation Act does not apply in view of the specific limitation provided under that Act for filing of an appeal by a private complainant. In *Inder Singh Rekhi* v. *Delhi Development Authority* [(1988) 2 SCC 338], Article 137 of the Schedule to the Limitation Act, 1963 would apply to an application filed in a civil court. When application under Section 20 of the Arbitration Act was filed, the question arose as to when the limitation began to run. This Court had held that the cause of action arose on 28-2-1983 when the final bill was not prepared and the application under Section 20 was filed within three years from that date. It is seen that in that case the application under Section 20 of the Arbitration Act is

to an established civil court. Therefore, the ratio therein has no application to the facts presently before us.

15. In *Prabhakar Vasudev Gadgil* v. *P.Y. Deshpande* [AIR 1983 Bom 342 : 1982 Mah LJ 76], the question similar to the one presently under consideration had directly arisen. Section 5 of the Limitation Act was applied for condonation of the delay in seeking to make a reference under Section 18. It was contended that by operation of sub-section (3) as also applicable to States of Maharashtra and Gujarat, the Collector is a court which is amenable to revisional jurisdiction under Section 115, CPC and that, therefore, Section 5 of the Limitation Act would apply. The Division Bench negatived the contention and held that the Collector is not a court under CPC attracting the provisions of the Limitation Act. The contra view taken by that court was held to be not a good law and accordingly the same was overruled. The same question had arisen in Kerala where there is no specific local provision like Section 18(3), locally amended by Maharashtra and Gujarat. Contention was raised that by operation of sub-section (2) of Section 29 of the Limitation Act, Section 5 stands attracted since there is no express exclusion of the limitation under the Act. Therefore, the delay was condonable. The Division Bench negatived the contention and held that the Collector is not a court under Section 5 of the Limitation Act. Sub-section (2) of Section 29 did not apply. Same is the view of the A.P. High Court in *Special Dy. Collector Land Acquisition* v. *K. Kodandaramacharlu* [AIR 1965 AP 25 : (1964) 2 An WR 225].

16. In *Jokkim Fernandez* v. *Amina Kunhi Umma* [1973 Ker LT 138], a Full Bench of that Court per majority had held that sub-section (2) of Section 29 and Section 5 of the Limitation Act do not apply to the proceedings under the Kerala Buildings (Lease and Rent Control) Act and that, therefore, the Tribunal is not a court under Section 5 of the Limitation Act. In *CIT (Agricultural)* v. *Thalayar Rubber Industries Ltd.* [1981 Ker LT 398 (FB)], the Court was concerned with the question whether the Appellate Tribunal under the Agricultural Income Tax Act is a court under Section 5 read with Section 29(2) of the Limitation Act in respect of an application for reference. The Full Bench had held that the appellate authority is not a court under Section 5. The delay therefore, could not be condoned.

17. It is to be remembered that the Land Acquisition (Amendment) Act (68 of 1984) was enacted prescribing the limitation to exercise the power under Sections 4, 6 and 11 and also excluded the time occupied due to stay granted

by the courts. Taking cognizance of the limitation prescribed in proviso to sub-section (2) of Section 18, the provisions of the Limitation Act were not expressly extended. Though Section 29(2) of the Limitation Act is available, and the limitation in proviso to sub-section (2) of Section 18 may be treated to be special law, in the absence of such an application by Land Acquisition (Amendment) Act (68 of 1984), the Act specifically maintains distinction between the Collector and the court and the Collector/LAO performs only statutory duties under the Act, including one while making reference under Section 18. It is difficult to construe that the Collector/LAO while making reference under Section 18, as statutory authority still acts as a court for the purpose of Section 5 of the Limitation Act.

18. **Though hard it may be, in view of the specific limitation provided under proviso to Section 18(2) of the Act, we are of the considered view that sub-section (2) of Section 29 cannot be applied to the proviso to sub-section (2) of Section 18. The Collector/LAO, therefore, is not a court when he acts as a statutory authority under Section 18(1). Therefore, Section 5 of the Limitation Act cannot be applied for extension of the period of limitation prescribed under proviso to sub-section (2) of Section 18. The High Court, therefore, was not right in its finding that the Collector is a court under Section 5 of the Limitation Act.**"

(emphasis supplied)

M.P. Steel Corporation v. Commissioner of Central Excise, (2015) 7 SCC 58

"Whether the Limitation Act applies only to courts and not to tribunals?

11. A perusal of the Limitation Act, 1963 would show that the bar of limitation contained in the Schedule to the Act applies to suits, appeals, and applications. "Suit" is defined in Section 2(*l*) as not including an appeal or an application. The word "court" is not defined under the Act. However, it appears in a number of its provisions [*see* Sections 4, 5, 13, 17(2), 21]. A perusal of the Schedule would show that it is divided into three divisions. The First Division concerns itself with suits. Articles 1 to 113, all deal with "suits".

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14. A perusal of Section 3(2) shows that "suits" are understood as actions begun in courts of law established under the Constitution of India.

15. In the Schedule, the Second Division concerns itself with appeals. These appeals under Articles 114 to 117, are either under the Civil Procedure Code, the Criminal Procedure Code, or intra-court appeals so far as the High Courts are concerned. These appeals again are only to "courts" established under the Constitution.

16. Equally, in the Third Division, all applications that are referred to are under Articles 118 to 137 only to "courts", either under the Civil Procedure Code or under other enactments.

17. Sections 13, 21 and Articles 124, 130 and 131 of the Limitation Act are again important in understanding what is meant by the expression "court"....

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21. **Effect of substituting or adding new plaintiff or defendant**. **—…**

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It will be seen that suits and appeals that are covered by the Limitation Act are so covered provided court fees prescribed for such suits or appeals are paid. Under Section 13, set out hereinabove, this becomes clear. That is why time is excluded in cases where leave to file a suit or an appeal as a pauper is granted in the circumstances mentioned in the section. "Courts" that are mentioned in this section are therefore courts as understood in the strict sense of being part of the Judicial Branch of the State.

18. Section 21 also makes it clear that the suit that the Limitation Act speaks of is instituted only by a plaintiff against a defendant. Both plaintiff and defendant have been defined as including persons through whom they derive their right to sue and include persons whose estate is represented by persons such as executors, administrators or other representatives. This again refers only to suits filed in courts as is understood by the Code of Civil Procedure….

19. When it comes to applications, again Articles 124, 130 and 131 throw a great deal of light. Only review of judgments by a "court" is contemplated in the Third Division in the Schedule. Further, leave to appeal as a pauper again can be made either to the High Court or only to any other court vide Article 130. And by Article 131, a revision petition filed only before courts under the Code of Civil Procedure or the Code of Criminal Procedure are referred to. On

a plain reading of the provisions of the Limitation Act, it becomes clear that suits, appeals and applications are only to be considered (from the limitation point of view) if they are filed in courts and not in quasi-judicial bodies.

20. Now to the case law. A number of decisions have established that the Limitation Act applies only to courts and not to tribunals. The distinction between courts and quasi-judicial decisions is succinctly brought out in *Bharat Bank Ltd.* v. *Employees* [1950 SCR 459 : 1950 SCC 470 : AIR 1950 SC 188] . This root authority has been followed in a catena of judgments. This judgment refers to a decision of the King's Bench in *Cooper* v. *Wilson* [(1937) 2 KB 309 : (1937) 2 All ER 726 (CA)] . The relevant quotation from the said judgment is as follows : (*Bharat Bank Ltd. case* [1950 SCR 459 : 1950 SCC 470 : AIR 1950 SC 188] , SCR p. 477 : AIR p. 195, para 24)

> " 'A true judicial decision presupposes an existing dispute between two or more parties, and then involves four requisites : (*1*) The presentation (not necessarily orally) of their case by the parties to the dispute; (*2*) if the dispute between them is a question of fact, the ascertainment of the fact by means of evidence adduced by the parties to the dispute and often with the assistance of argument by or on behalf of the parties on the evidence; (*3*) if the dispute between them is a question of law, the submission of legal argument by the parties, and (*4*) a decision which disposes of the whole matter by a finding upon the facts in dispute and an application of the law of the land to the facts so found, including where required a ruling upon any disputed question of law. A quasi-judicial decision equally presupposes an existing dispute between two or more parties and involves (*1*) and (*2*), but does not necessarily involve (*3*) and never involves (*4*). The place of (*4*) is in fact taken by administrative action, the character of which is determined by the Minister's free choice.' (*Cooper case* [(1937) 2 KB 309 : (1937) 2 All ER 726 (CA)] , KB pp. 340-41)"

21. <u>Under our constitutional scheme of things, the judiciary is dealt with in Chapter IV of Part V and Chapter V of Part VI. Chapter IV of Part V deals with the Supreme Court and Chapter V of Part VI deals with the High Courts and courts subordinate thereto. When the Constitution uses the expression "court", it refers to this court system. As opposed to this court system is a system of quasi-judicial bodies called tribunals. Thus, Articles 136 and 227 refer to "courts" as distinct from "tribunals". The question in this case is whether the Limitation Act extends beyond the</u>

court system mentioned above and embraces within its scope quasi-judicial bodies as well?

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30. While discussing *CST v. Parson Tools and Plants* (1975) 4 SCC 22 : 1975 SCC (Tax) 185 : (1975) 3 SCR 743 , this Court held : (*Consolidated Engg. Enterprises v. Irrigation Deptt.* (2008) 7 SCC 169 , SCC pp. 183-84, paras 25-26)

> *25.* "… In appeal, this Court held that (*1*) if the legislature in a special statute prescribes a certain period of limitation, then the Tribunal concerned has no jurisdiction to treat within limitation, an application, by excluding the time spent in prosecuting in good faith, on the analogy of Section 14(2) of the Limitation Act, and (*2*) the appellate authority and the revisional authority were not 'courts' but were merely administrative tribunals and, therefore, Section 14 of the Limitation Act did not, in terms, apply to the proceedings before such tribunals…."
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> (emphasis supplied)

31. In a separate concurring judgment Raveendran, J. specifically held : (*Consolidated Engg. Enterprises case v. Irrigation Deptt.* (2008) 7 SCC 169 , SCC p. 190, para 44)

> *44.* "It may be noticed at this juncture that the Schedule to the Limitation Act prescribes the period of limitation only to proceedings in courts and not to any proceeding before a tribunal or quasi-judicial authority. *Consequently Sections 3 and 29(2) of the Limitation Act will not apply to proceedings before the tribunal*. This means that the Limitation Act will not apply to appeals or applications before the tribunals, unless expressly provided."
>
> (emphasis supplied)

32. Obviously, the ratio of *Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker* (1995) 5 SCC 5 does not square with the observations of the three-Judge Bench in *Consolidated Engg. Enterprises v. Irrigation Deptt.* (2008) 7 SCC 169. In the latter case, this Court has unequivocally held that *CST v. Parson Tools and Plants* (1975) 4 SCC 22 : 1975 SCC (Tax) 185 : (1975) 3 SCR 743 is an authority for the proposition that the Limitation Act will not

apply to quasi-judicial bodies or tribunals. To the extent that *Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker* (1995) 5 SCC 5 is in conflict with the judgment in *Consolidated Engg. Enterprises case v. Irrigation Deptt.* (2008) 7 SCC 169, it is no longer good law.

33. The sheet anchor in *Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker* [(1995) 5 SCC 5] was Section 29(2) of the Limitation Act.…

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A bare reading of this section would show that the special or local law described therein should prescribe for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule. This would necessarily mean that such special or local law would have to lay down that the suit, appeal or application to be instituted under it should be a suit, appeal or application of the nature described in the Schedule. We have already held that such suits, appeals or applications as are referred to in the Schedule are only to courts and not to quasi-judicial bodies or tribunals. It is clear, therefore, that only when a suit, appeal or application of the description in the Schedule is to be filed in a court under a special or local law that the provision gets attracted. This is made even clearer by a reading of Section 29(3).....

When it comes to the law of marriage and divorce, the section speaks not only of suits but other proceedings as well. Such proceedings may be proceedings which are neither appeals nor applications thus making it clear that the laws relating to marriage and divorce, unlike the law of limitation, may contain proceedings other than suits, appeals or applications filed in courts. This again is an important pointer to the fact that the entirety of the Limitation Act including Section 29(2) would apply only to the three kinds of proceedings mentioned all of which are to be filed in courts."

(emphasis supplied)

Sections 69 and 70 of the 2013 Act

"**69. Determination of award by Authority.—(**1) In determining the amount of compensation to be awarded for land acquired including the Rehabilitation and Resettlement entitlements, the Authority **shall take into consideration whether the Collector has followed the parameters set out under section 26 to section 30 and the provisions under Chapter V of this Act.**

(2) In addition to the market value of the land, as above provided, the Authority shall in every case award an amount calculated at the rate of twelve per cent per annum on such market value for the period commencing on and from the date of the publication of the preliminary notification under Section 11 in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.—In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded.

(3) In addition to the market value of the land as above provided, the Authority shall in every case award a solatium of one hundred per cent over the total compensation amount."

(emphasis supplied)

"70. Form of award.—(1) Every award under this Chapter shall be in writing signed by the Presiding Officer of the Authority, and shall specify the amount awarded under clause first of section 28, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of clause (2), and clause (9) of respectively, of section 2 of the Code of Civil Procedure, 1908 (5 of 1908)."

(emphasis supplied)

32. Once the reference is made by the Collector under Section 64 of the 2013 Act and notice has been issued to the necessary parties under Section 66, Section 69 kicks into operation, empowering the Authority to award just and fair compensation to the landowners. Such an award to be passed includes not only monetary compensation, but also rehabilitation and

resettlement entitlements. While doing so, the Authority is bound by the provisions of the 2013 Act and the Rules thereunder.

33. An award passed by the Authority under Section 69 of the 2013 Act partakes the character of a decree, *qua* the operative part, while in its entirety, it becomes a judgment. Thus, a clear distinction is drawn between the award of the Collector and that of the Authority. An award passed by the Collector cannot be called a decree even though it accrues a right to the claimant and the Collector is bound by it. Thus, an award passed by the Authority becomes a decree, whereas the one passed by the Collector does not. In other words, the proceedings before the Authority mark the initiation of judicial proceedings for the very first time under the scheme of the 2013 Act, making them original proceedings. This is also one of the reasons why the Collector does not have discretion to invoke Section 5 of the 1963 Act in entertaining a reference application beyond the one-year period provided for in the proviso to Section 64(2).

Section 74 of the 2013 Act

> **"74. Appeal to High Court.—(1) The Requiring Body or any person aggrieved by the Award passed by an Authority under section 69 may file an appeal to the High Court within sixty days from the date of Award:**
>
> **Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.**
>
> (2) Every appeal referred to under sub-section (1) shall be heard as expeditiously as possible and endeavour shall be made to dispose of such appeal within six months from the date on which the appeal is presented to the High Court.
>
> *Explanation.*—For the purposes of this section, "High Court" means the High Court within the jurisdiction of which the land acquired or proposed to be acquired is situated."
>
> (emphasis supplied)

34. Section 74 of the 2013 Act provides for a statutory right to appeal against the award passed by the Authority under Section 69. The existence of such an appellate remedy reinforces that the proceedings before the Authority are original in nature and the award passed by it is a judgment and a decree. Further, Section 74 explicitly permits the requiring body or any person aggrieved by the award of the Authority to approach the High Court. Thus, one cannot presume that appeals under the said provision are only filed by one set of parties.

35. However, Section 74 provides a period of 60 days from the date of the award for filing an appeal before the High Court. The computation of the said 60 days would be from the date of the receipt of the said award by the aggrieved person. The proviso to Section 74 allows for an appeal to be filed within a further period of 60 days. It does not extend the period of limitation provided for filing the appeal, but brings a delayed filing within the ambit of Section 74(1). This being a mere proviso, cannot be interpreted to mean otherwise. A proviso can only be understood in the context of the main provision and not *vice versa*. On the issue of interpretation of a proviso, the following decisions would be apposite:

The Guardians of the Poor of the West Derby Union and The Metropolitan Life Assurance Society & Ors. 1897 AC 647 (House of Lords)

> "Now that being so, what is the meaning of the proviso? I have not been able to satisfy my own mind that it can be read or ought to be read in the sense suggested by Rigby L.J., which has met with the approval of my noble and learned friend the Lord Chancellor; **but I am perfectly clear that if the language of the enacting part of the statute does not contain the provisions which are said to occur in it, you cannot derive these provisions by implication from a proviso…**
>
> Consequently, my Lords, so far from seeing any reason for departing from the language of the Act if it were capable of one or other of the two constructions, my inclination certainly would be to put upon it the construction that would make it permissive, rather than the construction that would make it

compulsory. But the truth is there is nothing to be found in the enacting part of the provision, as I have said, which can reasonably have the effect contended for: it is said to be found in the proviso. The argument is this: The proviso shews that the Legislature contemplated that the loan could be paid off but for the proviso against the will of the person who had lent the money, and has in the proviso protected only those who had lent the money previous to the passing of the Act. My Lords, I am not satisfied that the proviso has that meaning and operation only. I am not going to repeat the reasons which have been given for thinking that it may be a perfectly sensible proviso to guard against the particular evil suggested; but I do not care to rest upon that, and I desire not to rest upon it. **If I thought the proviso as senseless as has been suggested, supposing the construction I put upon the Act is adopted, I should come to the same conclusion, and I think any other conclusion would be in the highest degree dangerous. I decline to read into any enactment words which are not to be found there, and which would alter its operative effect because of provisions to be found in any proviso. Of course a proviso may be used to guide you in the selection of one or other of two possible constructions of the words to be found in the enactment, and shew when there is doubt about its scope, when it may reasonably admit of doubt as to its having this scope or that, which is the proper view to take of it; but to find in it an enacting provision which enables something to be done which is not to be found in the enactment itself on any reasonable construction of it, simply because otherwise the proviso would be meaningless and senseless, would, as I have said, be in the highest degree dangerous.** And for this reason: one knows perfectly well that it not unfrequently happens that persons are unreasonably apprehensive as to the effect of an enactment when there is really no question of its application to their case; they nevertheless think that some Court may possibly hold that it will apply to their case, and they suggest if it is not intended to be applicable no harm would be done by inserting a proviso to protect them; and, accordingly, a proviso is inserted to guard against the particular case of which a particular person was apprehensive, although the enactment was never intended to apply to his case, or to any other similar cases at all. If the construction contended for were adopted the result would be this: Having put in a proviso which was thought to be needless in order to satisfy certain persons, or a particular class of persons, and allay their fears, you would have the enactment so construed against the intention of the Legislature as to impose a liability upon a number of people who were not so apprehensive, or perhaps were not present, and therefore either did not think it necessary or were not in a position to protect

their own interests by a proviso. My Lords, I am satisfied that many instances might be given where provisoes could be found in legislation that are meaningless because they have been put in to allay fears when those fears were absolutely unfounded, and when no proviso at all was necessary to protect the persons at whose instance they were inserted…

LORD SHAND. My Lords, I am also of opinion that the judgment appealed from should be affirmed, and I agree in all that has been said as to what may be called the enacting part of this clause. Without going again into the reasons for this opinion, I think it is clear that the first part — the enacting part — of the clause merely provides for an authority or sanction being given, as a protection to the ratepayers, against those who are managing the poor funds for them. I can see nothing from beginning to end of that clause which I should hold, if there were no proviso there, to confer a power to interfere with the securities given, so as to compel the person who had lent the money to accept the repayment of it at any time, notwithstanding the fact that the document upon which he lent it provided for its being paid by instalments over a series of years.

My Lords, when one comes to the proviso, I agree with your Lordships that it cannot be held to control the substantive enactment. I agree with what has been said by my noble and learned friend opposite (Lord Herschell) on that subject. I am, therefore, of opinion that the judgment appealed from ought to be affirmed."

(emphasis supplied)

Dwarka Prasad v Dwarka Das Saraf (1976) 1 SCC 128

"18. We may mention in fairness to Counsel that the following, among other decisions, were cited at the Bar bearing on the uses of provisos in statutes: *CIT v. Indo-Mercantile Bank Ltd*., AIR 1959 SC 713 : 1959 Supp (2) SCR 256, 266 : (1959) 36 ITR 1; *Ram Narain Sons Ltd. v. Asstt. CST,* AIR 1955 SC 765 : (1955) 2 SCR 483, 493 : (1955) 6 STC 627 ; *Thompson v. Dibdin* (1912) AC 533, 541 : 81 LJKB 918 : 28 TLR 49] ; *Rex v. Dibdin* 1910 Pro Div 57, 119, 125] and *Tahsildar Singh v. State of U.P.* AIR 1959 SC 1012 : 1959 Supp (2) SCR 875, 893 : 1959 Cri LJ 1231 . The law is trite. **A proviso must be limited to the subject-matter of the enacting clause. It is a settled rule of construction that a proviso must prima facie be read and considered in relation to the principal matter to which it is a proviso. It is not a separate**

or independent enactment. 'Words are dependent on the principal enacting words to which they are tacked as a proviso. They cannot be read as divorced from their context' (*Thompson v. Dibdin*, 1912 AC 533). If the rule of construction is that prima facie a proviso should be limited in its operation to the subject-matter of the enacting clause, the stand we have taken is sound. To expand the enacting clause, inflated by the proviso, sins against the fundamental rule of construction that a proviso must be considered in relation to the principal matter to which it stands as a proviso. A proviso ordinarily is but a proviso, although the golden rule is to read the whole section, inclusive of the proviso, in such manner that they mutually throw light on each other and result in a harmonious construction.

> **"The proper course is to apply the broad general Rule of construction which is that a section or enactment must be construed as a whole, each portion throwing light if need be on the rest.**
>
> **The true principle undoubtedly is, that the sound interpretation and meaning of the statute, on a view of the enacting clause, saving clause, and proviso, taken and construed together is to prevail. (Maxwell on Interpretation of Statutes, 10th Edn., p. 162)"**

(emphasis supplied)

36. There is not much difference between the main provision contained in Section 74(1) and its proviso. Thus, Section 74 provides only one period of limitation, meaning thereby that the other one mentioned under the proviso gets subsumed within the period provided under Section 74(1).

Section 103 of the 2013 Act

> **"103. Provisions to be in addition to existing laws.—**The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force."

37. Section 103 actually throws more light on the peculiar structure of the legislation. There is no difficulty in holding that the 2013 Act is a special Act. It may also be called a complete code to an extent, especially when an award passed by the Authority becomes a decree, and the jurisdiction of the Civil Court is barred. However, Section 103 also facilitates adequate borrowing from other enactments. In fact, the completeness of the 2013 Act comes from such borrowing. We have absolute clarity in our understanding of Section 103, as it explicitly states that the provisions of the 2013 Act shall be in addition to and not in derogation of any other law in force. Thus, this provision is self-explanatory.

38. The language of the provision is both positive and negative as it states that the provisions of the 2013 Act are in addition to the existing laws, while further clarifying that it is not in derogation of the same. Once we understand Section 103 as it is, it defines the nature of the entire enactment. The following decisions of this Court clarify the meaning of the expression, "in addition to and not in derogation of":

KSL and Industries Ltd v Arihant Threads Ltd & Ors - (2015) 1 SCC 166

"36 [Ed. : Para 36 corrected vide Official Corrigendum No. F.3/Ed.B.J./61/2014 dated 25-11-2014.] . Sub-section (2) was added to Section 34 of the RDDB Act w.e.f. 17-1-2000 by Act 1 of 2000. **There is no doubt that when an Act provides, as here, that its provisions shall be in addition to and not in derogation of another law or laws, it means that the legislature intends that such an enactment shall coexist along with the other Acts. It is clearly not the intention of the legislature, in such a case, to annul or detract from the provisions of other laws. The term "*in derogation of*" means "*in abrogation or repeal of*". The *Black's Law Dictionary* sets forth the following meaning for "derogation":**

> **"derogation.—The partial repeal or abrogation of a law by a later Act that limits its scope or impairs its utility and force."**

It is clear that sub-section (1) contains a non obstante clause, which gives the overriding effect to the RDDB Act. Sub-section (2) acts in the nature of an exception to such an overriding effect. It states that this overriding effect is in relation to certain laws and that the RDDB Act shall be in addition to and not in abrogation of, such laws. SICA is undoubtedly one such law.

37. The effect of sub-section (2) must necessarily be to preserve the powers of the authorities under SICA and save the proceedings from being overridden by the later Act i.e. the RDDB Act.

38. We, thus, find a harmonious scheme in relation to the proceedings for reconstruction of the company under SICA, which includes the reconstruction of debts and even the sale or lease of the sick company's properties for the purpose, which may or may not be a part of the security executed by the sick company in favour of a bank or a financial institution on the one hand, and the provisions of the RDDB Act, which deal with recovery of debts due to banks or financial institutions, if necessary by enforcing the security charged with the bank or financial institution, on the other.

xxx xxx xxx

49. The term "not in derogation" clearly expresses the intention of Parliament not to detract from or abrogate the provisions of SICA in any way. This, in effect must mean that Parliament intended the proceedings under SICA

for reconstruction of a sick company to go on and for that purpose further intended that all the other proceedings against the company and its properties should be stayed pending the process of reconstruction. While the term "proceedings" under Section 22 of SICA did not originally include the RDDB Act, which was not there in existence. Section 22 covers proceedings under the RDDB Act."

(emphasis supplied)

Pioneer Urban Land and Infrastructure Ltd. & Anr. v Union of India & Ors. (2019) 8 SCC 416

"25. It is significant to note that there is no provision similar to that of Section 88 of RERA in the Code, which is meant to be a complete and exhaustive statement of the law insofar as its subject-matter is concerned. Also, the non obstante clause of RERA came into force on 1-5-2016, as opposed to the non obstante clause of the Code which came into force on 1-12-2016. Further, the amendment with which we are concerned has come into force only on 6-6-2018. Given these circumstances, it is a little difficult to accede to arguments made on behalf of the learned Senior Counsel for the petitioners, that RERA is a special enactment which deals with real estate development projects and must, therefore, be given precedence over the Code, which is only a general enactment dealing with insolvency generally. **From the introduction of the Explanation to Section 5(8)(f) of the Code, it is clear that Parliament was aware of RERA, and applied some of its definition provisions so that they could apply when the Code is to be interpreted. The fact that RERA is *in addition to and not in derogation of* the provisions of any other law for the time being in force, also makes it clear that the remedies under RERA to allottees were intended to be additional and not exclusive remedies**. Also, it is important to remember that as the authorities under RERA were to be set up within one year from 1-5-2016, remedies before those authorities would come into effect only on and from 1-5-2017 making it clear that the provisions of the Code, which came into force on 1-12-2016, would apply in addition to RERA."

(emphasis supplied)

Section 105 of the 2013 Act

"105. Provisions of this Act not to apply in certain cases or to apply with certain modifications.—(1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of Section 106 the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament."

Clause 22 of the Statement of Objects and Reasons of the 2013 Act

"22. Certain Central Acts dealing with the land acquisition have been enlisted in the Bill. The provisions of the Bill are in addition to and not in derogation of these Acts. The provisions of this Act can be applied to these existing enactments by a notification of the Central Government."

(emphasis supplied)

39. Section 105 of the 2013 Act makes the provisions of the Act inapplicable to certain other enactments in the Fourth Schedule, subject to sub-section (3) which states that by way of a notification, the Central Government can direct certain provisions of the said Act to apply to such enactments. This is in consonance with Clause 22 of the Statement of Objects and Reasons of the 2013 Act which clearly indicates that the provisions of the 2013 Act are in addition to and not in derogation of certain Central Acts dealing with land acquisition. Though the said provision specifically deals with the enactments relating to land acquisition, one can understand the scheme of the said Act through this provision, as no specific embargo with respect to the application of other Acts has been provided under the 2013 Act. Therefore, this provision, when read with Section 103, would only reiterate our view expressed earlier.

Section 114 of the 2013 Act

> "114. Repeal and saving.—(1) The Land Acquisition Act, 1894 (1 of 1894) is hereby repealed.
>
> (2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of Section 6 of

the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals."

40. Under Section 114, the repeal of the 1894 Act is made subject to the application of Section 6 of the General Clauses Act, 1897. Though this provision is not of much relevance, it does help us to understand the reason behind the inclusion of Section 24(1)(a) in the 2013 Act.

41. To sum up:-

From the above analysis, we hold that the 2013 Act is a special law and a complete code to a large extent, but does not bar any assistance from the other enactments to give effect to its avowed object. After all, we must not lose sight of the fact that the right to get fair compensation is enshrined under Article 300A of the Constitution and when the statute itself provides so, it must be given effect to by the Court, notwithstanding any other possible technical interpretation. In other words, the provisions of the 2013 Act are meant to give effect to its object and, therefore, any *contra* interpretation would result in its destruction, and must be avoided by the Court.

THE LAW OF LIMITATION

42. Conceptually, the modern law of limitation did not exist in ancient India in a codified or structured form. Instead, only the law of prescription was applied primarily to matters relating to land, as the society was largely agrarian in nature. Over the years, the need for a more systematic approach to limitation became apparent. The Indian legal system, as it exists today, is largely based on the English legal system, which itself drew heavily from Roman law. Consequently, the modern law of limitation in India is the result of historical development and the assimilation of English and Roman legal principles.

43. A comprehensive statute of limitation was introduced in the Roman Empire by Emperor Theodosius, way back in 424 AD, prescribing a uniform time limit for actions. Such actions were classified into two broad categories, namely *actiones perpetuae*, which could be brought at any time, and *actiones temporales*, which were subject to fixed time limits. In other words, for the first category, the period of limitation was, in fact, put

on hold till such action was taken, while for the other, it was so fixed, extinguishing any such right thereafter.

44. In England, during the reign of Henry VIII, fixed periods of limitation were introduced, operating as a bar against initiating real actions thereafter. This principle was extended to personal actions through the James Statute and was further developed with greater rigour after 1834.

45. In British India, Provincial Courts were governed by Regulations on the law of limitation. For the first time, the Limitation Act of 1845 was introduced, by which the then existing Regulations were replaced. After another attempt in the year 1848, the Limitation Act of 1859, for the first time, brought in a uniform law of limitation applicable to both Chartered and non-Chartered Courts.

46. The Limitation Act of 1859 was repealed by the enactment of the Limitation Act of 1871. The concept of 'sufficient cause' saw its genesis therein. Under Section 5(b), courts were empowered to admit appeals after the period of limitation upon satisfaction of a sufficient cause. Section 6

excluded the application of the Limitation Act, 1871 if any other law prescribed a different period of limitation.

"Limitation Act, 1871

[*Act 9 of 1871*] [*24th March, 1871*]

Repealed by Act 15 of 1877

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 24th of March 1871.*)

An Act for the Limitation of Suits and for other Purposes.

PREAMBLE

Whereas it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring ownership by possession; It is hereby enacted as follows:—

4. Dismissal of suits &c. instituted, &c., after period of limitation.— Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall he dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted in ordinary cases when the plaint is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(*a*).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The appellate court must dismiss the suit.

(*b*).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

5. *a*. Proviso where court is closed when period expires.— If the period, of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

b.**Proviso as to appeals and applications for review**.— Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

6. Different periods of limitation prescribed by local laws.— When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially, prescribed for any suits, appeals or applications, nothing herein contained shall affect such law.

Appeals from decree of High Court on original side.— And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction."

47. The Limitation Act of 1871 was repealed by the enactment of the Limitation Act of 1877. While Section 5 of the erstwhile Act, referred *supra,* was incorporated without any modification, Section 6 barred the application of the Limitation Act, 1877 to a special law when a period of limitation is specifically prescribed by such special law.

"5. Proviso where Court is closed when period expires.—If the period of limitation prescribed for any suit, appeal, or application expires on a day when the Court is closed, the suit, appeal, or application may be instituted, presented, or made on the day that the Court re-opens:

Proviso as to appeals and applications for review. **—***Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefore, when the appellant or applicant satisfies the*

Court that he had sufficient cause for not presenting the appeal or making the application within such period.

6. Special and local laws of limitation.—When, by any special or local law now or hereafter in force in British India, *a period of limitation is specifically prescribed for any suit, appeal or application, nothing herein contained shall affect or alter the period so prescribed."*

The Limitation Act, 1908

48. Notably, the provision under Section 6 of the earlier legislations no longer retained its original form and was consciously changed by the Legislature. For the first time, the expression 'expressly excluded' was introduced under Section 29 in respect of the application of the Limitation Act, 1908 (hereinafter referred to as the **"1908 Act"**) to special or local laws. Section 29 makes it clear that unless an express exclusion is made in the special or local law, Sections 4, 9 to 18 and 22 of the 1908 Act would apply to the same. On the contrary, the Limitation Act of 1871 and the Limitation Act of 1877 simply excluded the application of the said Acts if a period of limitation was provided under the special or local law.

PART V

Savings And Repeals

"29. (1) Nothing in this Act shall affect Section 25 of the Indian Contract Act, 1872 (9 of 1872).

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the First Schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that Schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—

(a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law; and

(b) the remaining provisions of this Act shall not apply.

(3) Nothing in this Act shall apply to suits under the Indian Divorce Act (4 of 1869).

(4) Sections 26 and 27 and the definition of "easement" in section 2 shall not apply to cases arising in territories to which the Indian Easements Act, 1882 (5 of 1882), may for the time being extend."

(emphasis supplied)

3rd Report of the Law Commission of India

49. The Law Commission of India took up the task of revising the Limitation Act of 1908, and the recommendations made by it in its 3rd Report of 1956 which led to the enactment of the 1963 Act. The Committee entrusted with the said task comprised men of erudition and eminence such as M. C. Setalvad, (Chairman), K. Srinivasan, Durga Das Basu, M. C. Chagla, K. N. Wanchoo, G. N. Das, P. Satyanarayana Rao, N. C. Sen Gupta, V. K. T.

Chari, D. Narsa Raju, G. S. Pathak, and G. N. Joshi. The following are the relevant excerpts from the Report:

> **"3rd Report of the Law Commission of India on Limitation Act, 1908**
> [M. C. SETALVAD, (Chairman), K. SRINIVASAN, DURGA DAS BASU, M. C. CHAGLA, K. N. WANCHOO, G. N. DAS, P. SATYANARAYANA RAO, N. C. SEN GUPTA, V. K. T. CHARI, D. NARSA RAJU, G. S. PATHAK, G. N. JOSHI]
>
> PART I - PRELIMINARY
>
> **Chapter I - Introduction:**
>
> The utility of a statute of limitation has never been a matter of serious doubt or dispute. It has been said that the statute of limitation is a statute of repose, peace and justice. It is one of repose because it extinguishes stale demands and quiets title; in the words of John Voet, controversies are restricted to a fixed period of time lest they should become immortal while men are mortal. It secures peace as it ensures security of rights; and it secures justice, as by lapse of time evidence in support of rights may have been destroyed. There can thus be no doubt that it rests on sound policy. The operation of the law of prescription has been explained by Lord Plunket in a striking metaphor. He stated that Time holds in one hand a scythe and in the other, an hour-glass. The scythe mows down the evidence of our rights, while the hour-glass measures the period which renders that evidence superfluous. Commenting on this, a learned author observes that the metaphor could have been completed by adding, so far as India is concerned, that the frame-work of the hour-glass would certainly decay, the glass be broken, and the sand escape.
>
> xxx xxx xxx
>
> 9. We recommend that a new definition of the word "application" so as to include any petition, original or otherwise, should be added. The object is to provide a period of limitation for original petitions and applications under special laws as there is no such provision now. Consequential alterations in the definition of the word 'applicant' should also be made.
>
> xxx xxx xxx

22. The expression "period prescribed" occurring in Section 4 has been construed differently by different courts. Some courts take the view that it means only the periods of limitation prescribed in the Schedule to the Act and does not attract the extensions of the periods of limitation under the Sections, which is obviously not correct. As. the expression occurs in other sections also, it would be better if a new definition clause for "period prescribed" is inserted to the effect that it means the period of limitation computed in accordance with the provisions of the Act. We recommend accordingly.

xxx xxx xxx

Section 5.

26. We are of opinion that instead of leaving it to the different States or the High Courts to extend the application of section 5 to applications other than those enumerated in the section, a uniform rule should be adopted applying it to all applications except those arising under order XXI of the Code of Civil Procedure relating to execution. In the case of special or local laws, it would be open to such laws to provide that section 5 will not be applicable.

xxx xxx xxx

Section 29

58. Section 29(1) provides that Section 25 of the Contract Act which permits a barred debt to be regarded as valid consideration for a contract, is not affected by the Limitation Act. This may be retained.

59. The combined operation of sub-clauses (a) and (b) of sub-section 2 is that so far as special and local laws are concerned, only sections 4, 9 to 18 and 22 of the Act apply and that too subject to such modifications as may be prescribed. We consider that there is no need for this restriction and that the principles contained in sections 4 to 25 should be made applicable to all special and local laws, leaving it open to the legislature to exclude the application of any or all of these sections, in any given case."

(emphasis supplied)

50. The Report succinctly highlighted the need for a comprehensive change to the 1908 Act. The ambiguity surrounding the expression 'period prescribed' was clarified by providing a new definition for the same. Furthermore, while dealing with Section 29, the Committee was of the opinion that the restriction contained under the 1908 Act was no longer required. Thus, it recommended that Sections 4 to 24 should be made applicable to all special and local laws while keeping the window open for the Legislature to exclude their application in a given case. Accordingly, the 1963 Act came to be enacted.

51. With the above-stated understanding of the history of the law of limitation, we shall now venture into the relevant provisions of the 1963 Act.

The Limitation Act, 1963

52. The 1963 Act is an endeavour to consolidate various laws on limitation. It is meant to create a uniform framework for the exercise of certain rights. If the period of limitation expires, so does the right. Therefore, specific periods of limitation have been provided under the Schedule for different categories of actions, namely— suits, appeals and applications.

Section 2(j) of the 1963 Act

> **"2. Definitions.—In this Act, unless the context otherwise requires,—**
>
> **(*j*) "period of limitation" means the period of limitation prescribed for any suit, appeal or application by the Schedule, and "prescribed period" means the period of limitation computed in accordance with the provisions of this Act;"**
>
> (emphasis supplied)

53. Section 2(j) of the 1963 Act defines 'period of limitation' and 'prescribed period'. It clarifies that the period of limitation means the period as mentioned in the Schedule *qua* filing of any suit, appeal or application. For example, a period of three years has been fixed for suits relating to accounts, contract, declaration, decrees and instruments. This period cannot be altered. On the other hand, prescribed period would mean the period of limitation as computed in accordance with the provisions of the 1963 Act. Therefore, in effect, there is not much of a difference between the period of limitation and prescribed period. Rather, prescribed period is the period of limitation after computation. Courts are not expected to deal with the period of limitation *qua* a suit, but shall certainly go into the manner in which the same is computed with due assistance from the other provisions. However, the situation is different while applying the period of

limitation to an appeal or an application which may be filed during the pendency of a suit or an appeal. With the aforesaid understanding, we shall consider the other provisions.

Section 5 of the 1963 Act

> **"5. Extension of prescribed period in certain cases.—Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.**
>
> *Explanation*.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."
>
> (emphasis supplied)

54. Before analysing Section 5 of the 1963 Act, we would like to take note of the 89th Report of the Law Commission of India.

89th Report of the Law Commission of India

55. In 1983, the Law Commission of India took up a *suo motu* revision of the 1963 Act. Section 5 of the said Act has been discussed elaborately in Chapter 5 of its Report. A clear view has been expressed that Section 5

does not apply to the initiation of a suit. Relevant excerpts are extracted hereunder.

"CHAPTER 5

SECTION 5: EXTENSION OF THE PRESCRIBED PERIOD FOR SUFFICIENT CAUSE

5.1. Section 5 empowers the court, for "sufficient cause", to entertain an appeal or application (except an application for execution) filed after expiry of the prescribed period. A number of points require to be considered with reference to this section. The section does not apply to suits.

I. Suits

5.2. Section 5, as stated above, does not apply to suits. We have considered the question whether the section should be amended so as to include within its ambit suits filed after the prescribed period. Delving into the old records relating to the drafting of the Indian Limitation Bill, 1908, we discovered that this question was considered at that distance of time also. When the draft of the Indian Limitation Bill 1908 was circulated for comments, Dr. Hari Singh Gaur commented as under:

> **"I am not sure if a suit may not be also included in the clause; if the intending plaintiff is wrongfully confined by the defendant, why he should lose his suit? Section 18 'fraud' does not cover such a case."**

However, the Divisional Judge, Nagpur, was apprehensive that if the ambit of the clause was enlarged, it would lead to unsavoury practices; false grounds were often invented when the litigant found that he was out of time. In most cases they were, accordingly to him, based on purely personal incidents or conditions which his adversary was not expected to refute.

5.3. Though there is some merit in Dr. Hari Singh Gour's suggestion, we think that enlarging the scope of section 5 to cover suits would do more harm than good to the administration of justice. The rapport between the lawyer and his rural client is generally so well established that a visit to

the family lawyer on the weekly market day is always on the agenda of a villager. Such being the style of functioning of village folks, it is improbable that the munshi to the lawyer would allow his client's case to go by default by asking him to wait till the last day of limitation. If, as contemplated by Dr. Hari Singh Gour, a plaintiff may be prevented from reaching his lawyers on the last day of limitation by scheming defendants, he could as well as prevented by other causes like breakdown of the bus service, floods, illness, etc the authorship of which cannot be imputed to the defendants.

In view of the above, we do not recommend extention of the principle of section 5 to suits."

(emphasis supplied)

56. The Report makes it clear that Section 5 of the 1963 Act does not apply to a suit. Rather, it applies only to an appeal or an application. Section 5 of the 1963 Act must be construed with respect to an appeal or an application during its pendency or an application pending the suit, or any other petition. In other words, it does not apply to original proceedings. This view is fortified by the very heading of the provision itself, which provides for the extension of the prescribed period in "certain cases".

57. The provision gives adequate discretion to the Court to condone the delay while facilitating and aiding justice to the parties. It provides only for an extension of the prescribed period. Therefore, the prescribed period which

is the period of limitation arrived at after computation, can be extended by the Court on satisfaction of sufficient cause.

Computation of Period of Limitation

58. Part III of the 1963 Act speaks of the computation of the period of limitation. An extension under Section 5 is distinct and different from exclusion as provided under this Part. For computation of the period of limitation, what is relevant is only the exclusion of certain time periods as provided under Sections 12 to 24. Therefore, once the Court is satisfied that a case is made out for exclusion of time, the resultant period becomes the period of limitation. However, this is not so in the case of the application of Section 5. In other words, the application of Section 5 results in the extension of the period of limitation and cannot bring the delay within the fold of the period of limitation, whereas the application of Part III results in exclusion, which brings the same within the fold of the period of limitation. Therefore, Section 5, on the one hand and Sections 12 to 24, on the other, operate in different fields.

Section 29 of the 1963 Act

> **"29. Savings.—(**1) Nothing in this Act shall affect Section 25 of the Indian Contract Act, 1872 (9 of 1872).
>
> **(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law.**
>
> (3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law.
>
> (4) Sections 25 and 26 and the definition of "easement" in Section 2 shall not apply to cases arising in the territories to which the Indian Easements Act, 1882 (5 of 1882), may for the time being extend."
>
> (emphasis supplied)

59. Much has been said and argued on this provision. This provision throws light on the interplay between the 1963 Act and special or local laws. It comes into play when the period of limitation is prescribed by a special or local law. This provision applies to a suit, an appeal, or an application. The first part of this provision speaks of the application of Section 3 over which there is no quibble. It gives due recognition to the period of limitation provided under the special or local law and imports it into the Schedule. In

fact, it provides for an automatic change in the Schedule by the invocation of Section 3. However, for determination of the period of limitation, Sections 4 to 24, pertaining to extension and exclusion, shall apply. Thus, Section 29(2) is the provision that triggers the activation of Sections 4 to 24. This applies ordinarily to every special or local law, unless such law contains an express exclusion of the 1963 Act. To put it differently, the intention to exclude Sections 4 to 24 of the 1963 Act has to be clear, apparent and manifest. Therefore, the language of Section 29(2), indicates the intention of the Legislature to extend the application of Sections 4 to 24 to all special or local laws. A specific exclusion alone would take away its application. The application of Sections 4 to 24 can be excluded by such laws either individually or in totality. The provisions pertaining to the exclusion of time can also be applied at different stages. Suffice it is to state that Sections 4 to 24 will not apply only when their exclusion is expressly provided by such special or local law. In other words, there is a debarment of the exercise of any implied exclusion as a matter of rule. However, it can be done by the Court only in exceptional situations and

that too, when the person claiming so discharges the burden of proving the same through the scheme of the legislation. Mere incorporation of a specific period of limitation under the special or local law does not amount to express exclusion of the 1963 Act. Rather, it must indicate that Sections 4 to 24 of the 1963 Act are excluded. As a matter of rule, the said words must be present in the special or local law. Otherwise, it would amount to nullifying Section 29(2) of the 1963 Act.

60. When the Legislature has consciously incorporated Section 29(2) in the 1963 Act, its application cannot be ousted in an indirect manner. Applying this provision only for the purpose of extension while ignoring exclusion cannot be sustained in the eye of law. Also, one part of this provision alone cannot be followed while failing to adhere to the other part. When one can say that, the first part of this provision, which imports the period of limitation of the special or local law into the Schedule, can be accepted, the other carved part cannot be ignored. Hence, a piecemeal application of this provision shall not be permitted.

61. Section 29(2) is not limited to the current laws but also covers laws that may be enacted in the future while they are in force and therefore must be interpreted harmoniously with other provisions rather than in isolation. When two enactments are to be interpreted, a court must construe them together, ensuring that both can co-exist and be given effect. Both must operate as a helping hand to each other and therefore, an approach that may lead to a conflict must be avoided. Reading a special or local law by ignoring Section 29(2) would be contrary to the object of the 1963 Act, making it seem as though the said provision does not exist in the statute.

62. To sum up:-

From the aforesaid analysis of the provision, we hold that the compliance of Section 29(2) of the 1963 Act is mandatory, with the exception arising only by way of an express exclusion. Therefore, in the absence of the same, Sections 4 to 24 of the said Act can be read into such special or local law. This, we say so, notwithstanding the principle governing harmonious construction as Section 29(2) is a very unique provision which seeks to be taken note of in the interpretation of other statutes.

SUBMISSIONS OF THE ATTORNEY GENERAL FOR INDIA

63. The Learned Attorney General for India submitted that Section 29(2) of the 1963 Act requires that necessary attention be given by the Legislature while legislating with respect to periods of limitation in special legislations. Sections 4 to 24 cannot be ordinarily excluded. Such exclusion must be express, indicating that the Parliament really intended to exclude the provisions of the 1963 Act, after due deliberation. He further submitted that in many special or local legislations, there is a primary limitation period and a secondary limitation period, with the latter being set out in a proviso. Such proviso must guardingly say that Section 5 is expressly excluded in order to curtail its application. When a law has serious economic and financial implications affecting public interest at large, the rigor of a provision with a limited period to seek relief may warrant a relaxation.

64. He further submits that on a proper reading of Section 24(1)(a) of the 2013 Act and in consonance with the view taken in the case of **Deepak Agarwal *(supra)*,** Section 74 is not applicable to the present batch of matters, as

except for provisions relating to the determination of compensation, no other part of the 2013 Act applies. Thus, matters will have to be relegated under the 1894 Act.

SUBMISSIONS OF THE APPELLANTS

65. For the sake of brevity, we shall summarise the submissions advanced by the learned Senior counsel and the learned counsel appearing for the appellants, rather than dealing with them separately.

66. On the incidental issue, it is submitted that only the provisions relating to determination of compensation would apply to cases where acquisition proceedings were initiated under the 1894 Act, but the award was passed after the commencement of the 2013 Act, and not the provisions relating to rehabilitation and resettlement. This was the intention of the Legislature, as is evident from the fact that the Rajya Sabha consciously removed the words 'rehabilitation and resettlement' from one of the initial drafts which had used the words 'determination of compensation, rehabilitation and resettlement'.

67. On the main issue, it is contended that Section 74 of the 2013 Act does not contain any express exclusion of the application of the provisions of the 1963 Act. In particular, it does not exclude the applicability of Section 5 thereof. A mere prescription of a period of limitation, howsoever peremptory or imperative the language may be, is not sufficient to displace the applicability of Section 5 of the 1963 Act.

68. Much has been argued on Section 103 of the 2013 Act. It is submitted that Section 103 indicates that the 2013 Act is not a complete Code in itself and, in fact, facilitates borrowing from the 1963 Act. The decisions relied upon by the learned counsel appearing for the respondents on the interplay of Section 29(2) with Section 5 of the 1963 Act, on the one hand, and provisions of special enactments with specified periods of limitation, on the other, pertain to entirely different subjects. Furthermore, a *pari materia* provision contained in one statute cannot automatically be read into another. Except for the Consumer Protection Act, 1986, there is no statute containing a *pari materia* provision to Section 103 of the 2013 Act. Even in the decision of this Court in **New India Assurance v. Hilli Multi**

Purpose Cold Storage Pvt. Ltd, (2020) 5 SCC 757 which dealt with the Consumer Protection Act, 1986, though a *pari materia* provision to Section 103 of the 2013 Act exists, this Court has not specifically examined its interplay with Section 29(2) of the 1963 Act. Thus, the decisions relied upon by the learned counsel for the respondents must be examined in their proper context. The object of the 2013 Act must be accorded primacy and being a beneficial legislation, must be interpreted liberally. Where two interpretations are possible, the one that advances the legislative intent must be preferred. Moreover, Section 74 of the 2013 Act must not be construed only from the standpoint of the State or the beneficiary, but also from the standpoint of the landowners as well.

SUBMISSIONS OF THE RESPONDENTS

69. The learned Senior counsel and the learned counsel appearing for the respondents submitted that the contention of the appellants that an appeal against an award passed after the commencement of the 2013 Act would be governed by the 1894 Act and not the 2013 Act as the land acquisition proceedings in the present batch of matters have been initiated under the

1894 Act, is negated by the view expressed in the cases of **Indore Development Authority** ***(supra)*** and **Deepak Agarwal** ***(supra)***, which have clarified that in the event the award is passed after the commencement of the 2013 Act, then there would be continuity of the acquisition proceedings under the 2013 Act.

70. It is further submitted that the 2013 Act is a comprehensive and self-contained Code. Time is of the essence and forms the schematic basis of this legislation, which aims to give quick and speedy relief to the concerned parties. Strict timelines have been provided for every stage of the land acquisition process, including appeals. The separate and distinct adjudicatory mechanism, the bar on the jurisdiction of Civil Courts, and the absence of an appeal to the Supreme Court in consonance with the provisions of the CPC, satisfy the test for a self-contained Code laid down under **Girnar Traders (3) v. State of Maharashtra, (2011) 3 SCC 1.** The 2013 Act being a self-contained Code, Section 5 of the 1963 Act certainly stands excluded *qua* Section 74 of the 2013 Act.

71. Furthermore, Section 74 of the 2013 Act satisfies the two necessary conditions to attract Section 29(2) of the 1963 Act. Firstly, the 2013 Act is a special law, and secondly, Section 74 prescribes a period of limitation different from the Schedule of the 1963 Act. Thus, the unfettered power to condone delay, subject to the demonstration of sufficient cause, available under Section 5 of the 1963 Act, is consciously and deliberately excluded. This Court, while considering *pari materia* provisions in other enactments, has given a purposive interpretation to the expression, 'expressly excluded', occurring in Section 29(2) of the 1963 Act, and held that the express exclusion can be inferred either from the explicit language of the special law or can be necessarily implied from the scheme and object of the special law. There is no question of distinguishing the said decisions on the basis of the objectives behind and the nature of relief available under the enactments dealt with therein, as what is relevant is the interpretation given by the Court. Thus, the High Courts have rightly held in the impugned judgments that on a conjoint reading of Section 74 of the 2013

Act with Sections 5 and 29(2) of the 1963 Act, Section 5 of the 1963 Act is excluded by implication.

72. Even assuming that the appellant could seek refuge under Section 5 of the 1963 Act, the law does not permit a different yardstick to be applied for government instrumentalities and, thus, delay due to interdepartmental correspondence is an insufficient cause for condonation of delay. The extent of impact is also irrelevant, as one has to see the law as available under the statute.

73. Finally, it is submitted that the award passed by the Authority under Section 69 of the 2013 Act is in accordance with law and no additional or excess compensation has been awarded. Accordingly, the impugned judgments require no interference.

DISCUSSION

74. We have dealt with the provisions contained in both the enactments *in extenso* already. We have also dealt with the principles of law. Upon such analysis, we reiterate that the 2013 Act is a unique piece of legislation. The

Collector is given two different and distinct roles up to a certain stage of the acquisition process. The first role is to facilitate the acquisition on behalf of the Government, and the other is with respect to the determination of the compensation. For both these roles, there is no question of application of any provisions of the 1963 Act, as the Collector either acts as a statutory authority on the executive side or as a quasi-judicial authority while determining the compensation or as an authority dealing with rights having civil consequences while making a reference. In all these three acts, there is no role that is exclusively judicial. As we have already discussed, only when the issue of compensation is decided by the Authority, who is a legally trained person entitled to exercise the powers of a Civil Court, followed by the declaration of an award deemed to be a decree, does an out-and-out judicial forum enter the picture. The proceedings before him are original in nature, with two parties appearing before him, of which even the Collector is a party, since it is his award that is under challenge. There is a reason why the Authority is expected to exercise an element of fair play by following the principles of natural

justice which would otherwise inhere in a party before it. It is only the Court that is given the inherent power of formulating its own procedure when it is not provided under the statute. Thus, the reference made by the Collector to the Authority, which is akin to the institution of a suit before a Civil Court, does not attract the application of Section 5 of the 1963 Act. However, an application filed during the pendency of the reference, being akin to an application filed during the pendency of a suit, would attract the application of Section 5 of the 1963 Act. For example, when a party to a reference dies, and an application for bringing the legal representatives on record is filed belatedly, Section 5 of the 1963 Act would have to be pressed into service. Such a situation might also arise in appellate proceedings. To that extent, there is no bar.

75. Section 74 of the 2013 Act provides for a first appeal, both, on facts and on law. This appellate proceeding before the High Court is nothing but a continuation of the original proceedings before the Authority. As already discussed earlier, Section 74 provides a period of 60 days for filing an appeal before the High Court, with an additional period of 60 days as per

the proviso. The proviso does not extend the period of limitation, but merely brings a delayed filing within the ambit of the main provision. Being a mere proviso, it cannot be interpreted to mean an extension of the period of limitation.

76. Thus, Section 74, along with its proviso, deals with only one period of limitation, which is 60 days. The proviso merely facilitates an appellant to file the appeal within a further period of 60 days which, in effect, brings the same within the fold of the initial 60 days. This provision, as a whole, does not involve an exercise of the power conferred to the Court under Section 5 of the 1963 Act. However, we must note that the 2013 Act does not take away from its purview the application of Sections 4 to 24 of the 1963 Act. We do not find any express exclusion contained in Section 74 of the 2013 Act. The 2013 Act being a subsequent legislation, it is obvious that the Legislature was conscious not to take away the application of Sections 4 to 24 of the 1963 Act from its purview.

77. As Section 74 of the 2013 Act does not exclude the application of Sections 4 to 24 of the 1963 Act, a limited interpretation of Section 5 of the 1963

Act alone cannot be given. What applies to exclusion shall apply to extension as well. In our considered view, the High Court, while exercising the power under Section 74 of the 2013 Act, is certainly entitled to draw its power from the sources available under the 1963 Act. We cannot introduce words that are not available in Section 74 through an imaginary interpretation in holding the existence of an express exclusion. It is a conscious decision made by the Legislature, and its knowledge must be inferred and implied. Thus, we are inclined to hold that there is not much difference between the main provision contained in Section 74(1) and its proviso. There is only one period mentioned for filing the appeal, meaning thereby that the other one mentioned under the proviso gets subsumed within the period provided under Section 74(1).

78. Furthermore, the intention of Section 103 of the 2013 Act is also to be seen, which clarifies that it is in addition to and not in derogation of the existing laws. It facilitates adequate borrowing from other enactments. In fact, the completeness of the 2013 Act comes from such borrowing, including from the 1963 Act. Any interpretation of Section 74 of the 2013

Act, barring the application of other enactments which would include the 1963 Act, would make Section 103 of the 2013 Act redundant and otiose. When the Legislature introduces a provision, there can be no interpretation in ignorance of it. Such an ignorant interpretation would also be dangerous, as it would amount to striking down the very provision itself even without a challenge.

79. Thus, we hold that the 1963 Act applies to the 2013 Act. Any interpretation to the contrary would result in a situation as if both Section 29(2) of the 1963 Act and Section 103 of the 2013 Act have vanished from the respective statutes, which is wholly impermissible in law. We must also remain conscious that any interpretation having the impact of destroying a right in seeking an adjudication on merits, should be eschewed unless it appears so on the very face of it. Even when two interpretations are possible, the one that facilitates the filing of an appeal must be approved.

80. Having understood Section 74 of the 2013 Act, we are inclined to hold that the issue being determination of just, fair and adequate compensation by the First Appellate Court having the trappings of the original one and

keeping in mind the object and the intent of the enactment which Courts are duty-bound to give effect to rather than indulging in its destruction, a liberal approach has to be adopted, both, when dealing with a case coming under the proviso or on an application of Section 5 of the 1963 Act.

81. Thus, we have no hesitation in setting aside the impugned judgments rendered by the High Courts which have held that Section 5 of the 1963 Act has no application to Section 74 of the 2013 Act, particularly in view of the fact that the period of limitation provided under Section 74 must be read into the Schedule by the invocation of Section 3 of the 1963 Act.

82. We may note that, except in a few cases before us, the delay in filing the first appeals is not substantial. We do not wish to remit the matters to the High Courts for deciding the applications for condonation of delay, as such an exercise might further prolong the litigation. Therefore, in the interest of justice, all the applications seeking condonation of delay are to be allowed, particularly when the High Courts have not substantially gone into the merits of the appeals and in light of the law governing limitation.

Hence, we are inclined to allow these appeals by condoning the delay in filing the respective appeals before the High Courts.

83. Accordingly, the impugned judgments are set aside, and the applications for condonation of delay in filing the first appeals under Section 74 of the 2013 Act are allowed. The High Courts are expected to adjudicate on merits, except to the extent of observations made pertaining to the incidental issue.

84. At this juncture, we deem it necessary to flag certain concerns as to how collusion takes place with the active connivance of the officials. The very appeals before us, approximately 530 in number, are classic examples of such official connivance. As a matter of fact, we find that in most of these cases, even copy applications had not been filed within the time prescribed, pursuant to the judgments delivered by the Reference Court. Even after this judgment was reserved, numerous matters similar to the present ones have come and continue to come before us, from across the country. This clearly indicates the lackadaisical approach in filing appeals before the High Courts under Section 74 of the 2013 Act and the pan-India impact of

the same. Incidentally, we also find a delay in the filing of most of the present appeals reiterating the callousness and casual approach of the acquiring bodies. We are also conscious of the fact that an alleged collusion might involve different persons, including the office of the acquiring body and that of their counsel. The delay also exhibits a clear lack of coordination between the two offices.

85. Accountability is an important facet in a constitutional democracy governed by the rule of law. When an instrumentality of the State and its officials act with such connivance and collusion, it not only undermines the administration of justice but also erodes public confidence in the legal system. The repeated failure to pursue remedies within time cannot be brushed aside as mere negligence and calls for fixing responsibility on the erring officials. Even assuming that all the cases may not involve an act of collusion, there is certainly abject carelessness and indifference, especially when disputes involve substantial amounts of money. In most of these cases, it has not been brought to our notice whether any action has been initiated and, thereafter, taken against the officers concerned. Certainly,

the malice must be addressed by creating a better management and monitoring system. Accordingly, the appellant(s) are directed to undertake appropriate measures to avoid any delay in the filing of appeals before the High Court or Special Leave Petitions before this Court in the future.

Sheo Raj Singh v. Union of India, (2023) 10 SCC 531

"35. We find that the High Court in the present case assigned the following reasons in support of its order:

xxx xxx xxx

35.4. Further, a distinction should be drawn between inordinate unexplained delay and explained delay, where in the present case, the first respondent had sufficiently explained the delay on account of negligence on part of the government functionaries and the government counsel on record before the Reference Court.

35.5. The officer responsible for the negligence would be liable to suffer and not public interest through the State. The High Court felt inclined to take a pragmatic view since the negligence therein did not border on callousness.

xxx xxx xxx

41. Having bestowed serious consideration to the rival contentions, we feel that the High Court's decision [*Union of India v. Sheo Raj*, 2011 SCC OnLine Del 5511] to condone the delay on account of the first respondent's inability to present the appeal within time, for the reasons assigned therein, does not suffer from any error warranting interference. As the aforementioned judgments have shown, such an exercise of discretion does, at times, call for a liberal and justice-oriented approach by the courts, where certain leeway could be provided to the State. **The hidden forces that are at work in preventing an appeal by the State being presented within the prescribed period of**

limitation so as not to allow a higher court to pronounce upon the legality and validity of an order of a lower court and thereby secure unholy gains, can hardly be ignored. Impediments in the working of the grand scheme of governmental functions have to be removed by taking a pragmatic view on balancing of the competing interests."

(emphasis supplied)

JUDGMENTS RELIED UPON BY THE PARTIES

86. Numerous judgments have been relied upon by the Bar. While we are conscious of the fact that most of these judgments deal with different enactments, though containing *pari materia* provisions as the one under Section 74 of the 2013 Act, with little modification, we would like to discuss the same. Some of the heavily relied upon judgments, along with the provisions that the Court was concerned with therein, are listed in the table below.

Sl.	Judgment	Provision
1.	Kaushalya Rani v. Gopal Singh 1963 SCCOnline SC 41	Section 417 of the Code of Criminal Procedure, 1898
2.	Vidyacharan Shukla v. Khubchand Baghel 1963 SCC OnLine SC 122	Section 116-A of The Representation of People Act, 1951
3.	Hukumdev Narain Yadav vs Lalit Narian Mishra (1974) 2 SCC 133	Section 81, 82 and 86 of The Representation of People Act, 1951
4.	Mangu Ram v. Municipal Corporation Delhi, (1976) 1 SCC 392	Section 417 of the Code of Criminal Procedure, 1898

5.	Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker, (1995) 5 SCC 5	Section 18 of the Kerala Rent Control Act, 1965
6.	Union of India v. Popular Construction Company 2001 (8) SCC 470	Section 34(3) of the Arbitration and Conciliation Act, 1996
7.	Commissioner of Customs, Central Excise, Noida v. Punjab Fibres Ltd Noida (2008) 3 SCC 73	Section 35-H of the Central Excise Act, 1944
8.	Consolidated Engineering Enterprises v. Principal Secretary Irrigation Department (2008) 7 SCC 169	Section 34 of the Arbitration and Conciliation Act, 1996
9.	Chhattisgarh State Electricity Board v. Central Electricity Regulatory Commission and Ors (2010) 5 SCC 23	Section 125 of the Electricity Act, 2003
10.	Ketan V. Parekh v. Special Director, Directorate of Enforcement (2011) 15 SCC 30	Section 35 of the Foreign Exchange Management Act, 1999
11.	Bengal Chemists & Druggists Association v. Kalyan Choudhary (2018) 3 SCC 41	Section 421 of the Companies Act, 2013
12.	New India Assurance Co. Ltd. v. Hilli Multi Purpose Cold Storage Pvt. Ltd, (2020) 5 SCC 757	Section 13 of the Consumer Protection Act, 1986
13.	Kalpraj Dharamshi v. Kotak Investment Advisors Ltd., (2021) 10 SCC 401	Section 61 of the Insolvency and Bankruptcy Code, 2016
14.	National Spot Exchange Ltd. v. Dunar Foods Ltd. (Resolution Professional), (2022) 11 SCC 761	Section 61 of the I&B Code, 2016
15.	Mohd. Abaad Ali & Anr. vs. Directorate of Revenue Prosecution Intelligence, (2024) 7 SCC 91	Section 378 of the Criminal Procedure Code, 1973

87. At the outset, we have no hesitation in holding that any *pari materia* provision contained in any other legislation, similar to the one under the 2013 Act, may not have the same meaning and, therefore, a word of caution is required for the Court while dealing with the interpretation of such provisions. The reason is rather simple. Such an approach might destroy the very object enshrined under the 2013 Act, being a welfare legislation. In other words, interpretation of a word or a provision must be made contextually with respect to each statute and, therefore, importing any understanding to a different statute would be fraught with dangerous consequences. Our view is fortified by the following decisions:

D.N. Banerji v. P.R. Mukherjee AIR 1953 SC 58 : (1952) 2 SCC 619

> "(12) These remarks are necessary for a proper understanding of the meaning of the terms employed by the statute. It is no doubt true that the meaning should be ascertained only from the words employed in the definitions, but the set-up and context are also relevant for ascertaining what exactly was meant to be conveyed by the terminology employed. As observed by Lord Atkinson in - 'Keates v. Lewis Merthyr Consolidated Collieries Ltd.' [(1911) A. C. 641]: (AC p. 642) **In the construction of a statute it is, of course, at all times and under all circumstances permissible to have regard to the state of things existing at the time the statute was passed, and to the evils which, as appears from its provisions, it was designed to remedy." If the words are capable of one meaning alone, then it must be adopted, but if they are susceptible of wider import, we have to pay regard to what the statute or the particular piece of legislation had in view. Though the definition may be more or less the same in two different statutes, still the objects to be**

achieved not only as set out in the preamble but also as gatherable from the antecedent history of the legislation may be widely different. The same words may mean one thing in one context and another in a different context. This is the reason why decisions on the meaning of particular words or collection of words found in other statutes are scarcely of much value when we have to deal with a specific statute of our own; they may be helpful, but cannot be taken as guides or precedents."

(emphasis supplied)

M/s MSCO. Pvt. Ltd. vs. Union of India & Ors., (1985) 1 SCC 51

"**4.** The expression 'industry' has many meanings. It means 'skill', 'ingenuity', 'dexterity', 'diligence', 'systematic work or labour', 'habitual employment in the productive arts', 'manufacturing establishment' etc. **But while construing a word which occurs in a statute or a statutory instrument in the absence of any definition in that very document it must be given the same meaning which it receives in ordinary parlance or understood in the sense in which people conversant with the subject-matter of the statute or statutory instrument understand it. It is hazardous to interpret a word in accordance with its definition in another statute or statutory instrument and more so when such statute or statutory instrument is not dealing with any cognate subject. *Craies on Statute Law*, Sixth Edn.) says thus at page 164 :**

> **"In construing a word in an Act caution is necessary in adopting the meaning ascribed to the word in other Acts. "It would be a new terror in the construction of Acts of Parliament if we were required to limit a word to an unnatural sense because in some Act which is not incorporated or referred to such an interpretation is given to it for the purposes of that Act alone." *(Macbeth & Co.* v. *Chislett* [1910 AC 220, 223 : 79 LJKB 376 : 102 LT 82 (HL)])"**

(emphasis supplied)

State of Gujarat v. Mansukhbhai Kanjibhai Shah, (2020) 20 SCC 360

"30. The counsel for the respondent has contended that the term "university" needs to be read in accordance with Sections 2(*f*), 3 and 23 of the UGC Act, wherein a "deemed university" is different from a "university",

stricto sensu. However, we do not subscribe to such contention for the reasons provided below.

31. The contention of the respondent is that the term "university" needs to be read in accordance with the UGC Act, wherein only those universities covered under Section 2(*f*) of the UGC Act are covered under the PC Act. **Such an interpretation by importing the technical definition under a different Act may not be feasible herein. It is a settled law that technical definitions under one statute should not be imported to another statute which is not in pari materia with the first.** The UGC Act and the PC Act are enactments which are completely distinct in their purpose, operation and object. The Preamble of the UGC Act states that it is

> "An Act to make provision for the coordination and determination of standards in universities, and for that purpose, to establish a University Grants Commission".

On the other hand, the PC Act is an enactment meant to curb the social evil of corruption in the country. **As such, the extension of technical definitions used under one Act to the other might not be appropriate, as the two Acts are not in pari materia with one another.**

32. The above principle of law was recently applied by a 3-Judge Bench of this Court in *Bangalore Turf Club Ltd.* v. *ESI Corpn.* [(2014) 9 SCC 657 : (2014) 3 SCC (L&S) 1], where an argument was advanced by the counsel that the interpretation of the term "shop" under the ESI Act should be determined in light of the definition of the same under the relevant Shops and Commercial Establishments Act. Negativing this contention of the counsel, the Court went on to hold that: (SCC pp. 685-86, paras 52-53 & 58-59)

> "*52*. An argument raised by the appellants herein is the issue relating to the "doctrine of pari materia". It is contended that since the ESI Act does not define the term "shop", the said definition may be ascertained in the light of the definitions under the relevant Shops and Commercial Establishments Act as enacted by the respective State Legislatures, since the purpose and object of both the enactments are one and the same.
>
> ***53*. For the above purpose, it would be necessary to look into the concept of "doctrine of pari materia" and further ascertain**

whether the given statutes are in fact pari materia with the ESI Act. It is settled law that two statutes are said to be in pari materia with each other when they deal with the same subject-matter. The rationale behind this rule is based on the interpretative assumption that words employed in legislations are used in an identical sense. However, this assumption is rebuttable by the context of the statutes. According to Sutherland in *Statutes and Statutory Construction*, Vol. 2, 3rd Edn.:

> **'Statutes are considered to be in pari materia to pertain to the same subject-matter when they relate to the same person or things, or to the same class of persons or things, or have the same purpose or object.'**

xxx xxx xxx

58. It can be concluded that though the ESI Act, the 1948 Act and the 1961 Act deal with labour and workmen, in essence and spirit they have a different scope and application. The Acts do not appear to have any overlap in their fields of operation and have mutually exclusive schemes. Therefore, the argument that the Acts are pari materia with each other, must fail.

59. This Court must also address the issue that arose in the course of the arguments that the word "shop" has been used in the impugned notifications as well as the 1948 Act and the 1961 Act and therefore assistance may be taken from the latter statutes to interpret the notification. This argument, in light of the above discussion, does not appeal to us."

It is for the same reasoning that we are of the opinion that the High Court's reliance on the judgment of this Court in *Orissa Lift Irrigation Corpn. Ltd.* v. *Rabi Sankar Patro* [(2018) 1 SCC 468], was not appropriate, as the same was with reference to enactments relating to administration/regulation of universities, and is unconnected with the Objects of the PC Act."

(emphasis supplied)

Gujarat Urja Vikas Nigam Limited v. Amit Gupta, (2021) 7 SCC 209

> **"55.** A textual comparison of the provisions of Section 60(5) of IBC with Section 446(2) of the Companies Act, 1956 would reveal some similarities of expression, with textual variations. For the purposes of the present proceedings, it suffices to note that clause (c) of Section 60(5) confers jurisdiction on NCLT to entertain or dispose of "any question of priorities or any question of law or facts arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under the Code". Section 446(2)(d) of the Companies Act, 1956 and Section 280(d) of the Companies Act, 2013 use the expression any question of priorities or any other question whatsoever whether of law or fact. These words bear a striking resemblance to the provisions of Section 60(5)(c) of IBC. **But textually similar language in different enactments has to be construed in the context and scheme of the statute in which the words appear. The meaning and content attributed to statutory language in one enactment cannot in all circumstances be transplanted into a distinct, if not, alien soil. For, it is trite law that the words of a statute have to be construed in a manner which would give them a sensible meaning which accords with the overall scheme of the statute, the context in which the words are used and the purpose of the underlying provision.** Therefore, while construing of Section 60(5), a starting point for the analysis must be to decipher parliamentary intent based on the object underlying the enactment of IBC. The Statement of Objects and Reasons leading up to the enactment to IBC conveys a strong sense of the intent of the legislature….."
>
> (emphasis supplied)

C. Bright v. District Collector, (2021) 2 SCC 392

> **"8. A well-settled rule of interpretation of the statutes is that the use of the word "shall" in a statute, does not necessarily mean that in every case it is mandatory that unless the words of the statute are literally followed, the proceeding or the outcome of the proceeding, would be invalid. It is not always correct to say that if the word "may" has been used, the statute is only permissive or directory in the sense that non-compliance with those provisions will not render the proceeding invalid [State of U.P. v. Manbodhan Lal Srivastava, AIR 1957 SC 912] and that when a statute uses the word "shall", prima facie, it is mandatory, but the Court may**

ascertain the real intention of the legislature by carefully attending to the whole scope of the statute [State of U.P. v. Babu Ram Upadhya, AIR 1961 SC 751] . **The principle of literal construction of the statute alone in all circumstances without examining the context and scheme of the statute may not serve the purpose of the statut**e [RBI v. Peerless General Finance & Investment Co. Ltd., (1987) 1 SCC 424]."

(emphasis supplied)

88. We refrain from dealing with each and every relied upon judgment as broadly two different views have been taken by this Court. While the first set of judgments is in favour of the respondents, starting with **Hukumdev** ***(supra),*** the other view in favour of the appellants emanates from **Mangu Ram** ***(supra)*** which distinguishes **Kaushalya Rani** ***(supra)*** since it was a case that dealt with the 1908 Act. We also take note of the fact that in **Hukumdev** ***(supra),*** this Court has distinguished **Vidyacharan** ***(supra)*** since it also dealt with the 1908 Act.

89. We shall first deal with the law as laid down by **Hukum Dev** ***(supra)***, followed in the subsequent decisions of this Court.

"17. Though Section 29(2) of the Limitation Act has been made applicable to appeals both under the Act as well as under the Code of Criminal Procedure, no case has been brought to our notice where Section 29(2) has been made applicable to an election petition filed under Section 81 of the Act by virtue of which either Sections 4, 5 or 12 of the Limitation Act has been attracted. Even assuming that where a period of limitation has not been fixed for election petitions in the Schedule to the Limitation Act which is different from that fixed

under Section 81 of the Act, Section 29(2) would be attracted, and what we have to determine is whether the provisions of this Section are expressly excluded in the case of an election petition. **It is contended before us that the words "expressly excluded" would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. As usual the meaning given in the Dictionary has been relied upon, but what we have to see is whether the scheme of the special law, that is in this case the Act, and the nature of the remedy provided therein are such that the Legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If on an examination of the relevant provisions it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our view, even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the Court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. The provisions of Section 3 of the Limitation Act that a suit instituted, appeal preferred and application made after the prescribed period shall be dismissed are provided for in Section 86 of the Act which gives a peremptory command that the High Court shall dismiss an election petition which does not comply with the provisions of Sections 81, 82 or 117…**.

18. It was sought to be contended that only those provisions of the Limitation Act which are applicable to the nature of the proceedings under the Act, unless expressly excluded, would be attracted. But this is not what Section 29(2) of the Limitation Act says, because it provides that Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law. If none of them are excluded, all of them would become applicable. Whether those Sections are applicable is not determined by the terms of those Sections, but by their applicability or inapplicability to the proceedings under the special or local law. A person who is a minor or is insane or is an idiot cannot file an election petition to challenge an election, nor is there any provision in the Act for legal representation of an election petitioner or respondent in that petition who dies, in order to make Section 16 of the Limitation Act applicable. **The applicability of these provisions has, therefore, to be Judged not from the terms of the**

Limitation Act but by the provisions of the Act relating to the filing of election petitions and their trial to ascertain whether it is a complete code in itself which does not admit of the application of any of the provisions of the Limitation Act mentioned in Section 29(2) of that Act."

(emphasis supplied)

90. On a reading of the aforementioned judgment, we find that express exclusion is the general rule and implied exclusion is only an exception that comes into play depending on the nature and scheme of the concerned legislation. Therefore, the onus lies heavily on the party claiming an implied exclusion to show the same. We have no qualms in holding that a case of implied exclusion has not been made out insofar as the 2013 Act is concerned, owing to its unique scheme. However, on facts, we find that in **Hukumdev** ***(supra),*** this Court was concerned with a unique legislation being the Representation of the People Act, 1951 which contains an express provision in the form of Section 86 which states that if one misses the bus of limitation, then any election petition filed thereafter shall be dismissed summarily. Therefore, the legislation itself clearly mentions the consequences of a belated filing. Hence, the said judgment is clearly distinguishable insofar as its facts are concerned.

91. In the other judgments relied upon by the parties, this Court was dealing with different enactments such as the Arbitration and Conciliation Act, 1996, the Central Excise Act, 1944, the Customs Act, 1962, the Electricity Act, 2003, the Insolvency and Bankruptcy Code, 2016, the Foreign Exchange Management Act, 1999, the Special Courts (Trial of Offences relating to transaction in Securities) Act, 1992, the Consumer Protection Act, 1986, the Code of Criminal Procedure, 1898 and the Code of Criminal Procedure, 1973 and even the Representation of the People Act, 1951.

92. These enactments travel on totally different fields involving different parties, different mechanisms and different authorities. In some cases, the appeals were preferred before the statutory authorities for distinct reliefs under the respective enactments. In many of them, this Court was concerned with statutory rights, and the respective statutes being dealt with did not contain any provision as contained in Section 103 of the 2013 Act. A statute involving financial implications and, in some cases, a penalty, also stands on a totally different footing. There, the issue would be one of action taken, while we are concerned with the entitlement of a party.

93. In **Popular Construction** ***(supra),*** as distinguished in **Consolidating Engineering Enterprises** ***(supra)*** and taken note of in **Kalpraj** ***(supra),*** the issue was with respect to the application of the law of limitation to a proceeding under Section 34 of the Arbitration and Conciliation Act, 1996, which is purely a commercial dispute between two individuals.

94. In **New India Assurance Company** ***(supra),*** the facts are totally different. This Court was dealing with a complaint given for the first time before the consumer forum. Therefore, the said proceedings were original in nature. On the contrary, we are dealing with the application of Section 5 of the 1963 Act to an appeal against a deemed decree. Furthermore, neither the scope of Section 29(2) of the 1963 Act nor that of Section 3 of the Consumer Protection Act, 1986 which is a *pari materia* provision to Section 103 of the 2013 Act, was considered and discussed in the said decision. Thus, we are inclined to state that the said decision, not having considered the issues dealt with by us, cannot be termed as a binding precedent. Reference can be made to the following decisions:

Sarva Shramik Sanghatana (KV), Mumbai vs. State of Maharashtra & Ors. (2008) 1 SCC 494

"14. On the subject of precedents Lord Halsbury, L.C., said in *Quinn* v. *Leathem* [1901 AC 495 : (1900-1903) All ER Rep 1 (HL)] : (All ER p. 7 G-I)

> "Before discussing *Allen* v. *Flood* [1898 AC 1 : (1895-1899) All ER Rep 52 (HL)] and what was decided therein, there are two observations of a general character which I wish to make; and one is to repeat what I have very often said before—**that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, *but are governed and qualified by the particular facts of the case* in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all."**
>
> (emphasis supplied)

We entirely agree with the above observations.

15. In *Ambica Quarry Works* v. *State of Gujarat* [(1987) 1 SCC 213] (vide SCC p. 221, para 18) this Court observed:

> **"*18*. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."**

16. In *Bhavnagar University* v. *Palitana Sugar Mill (P) Ltd.* [(2003) 2 SCC 111] (vide SCC p. 130, para 59) this Court observed:

> "*59*. … It is also well settled that *a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision*."
>
> (emphasis supplied)

17. As held in *Bharat Petroleum Corpn. Ltd.* v. *N.R. Vairamani* [(2004) 8 SCC 579 : AIR 2004 SC 4778] a decision cannot be relied on without disclosing the factual situation. In the same judgment this Court also observed: (SCC pp. 584-85, paras 9-12)

> **"*9*. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. *Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context*. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes**. In *London Graving Dock Co. Ltd.* v. *Horton* [1951 AC 737 : (1951) 2 All ER 1 (HL)] (AC at p. 761), Lord MacDermott observed: (All ER p. 14 C-D)
>
> > 'The matter cannot, of course, be settled merely by treating the *ipsissima verba* of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished Judge, …'
>
> *10*. In *Home Office* v. *Dorset Yacht Co. Ltd.* [1970 AC 1004 : (1970) 2 WLR 1140 : (1970) 2 All ER 294 (HL)] Lord Reid said,
>
> > 'Lord Atkin's speech … is not to be treated as if it were a statutory definition. It will require qualification in new circumstances.' (All ER p. 297*g*)
>
> Megarry, J. in *Shepherd Homes Ltd.* v. *Sandham (No. 2)* [(1971) 1 WLR 1062 : (1971) 2 All ER 1267], observed: (All ER p. 1274*d*)
>
> > 'One must not, of course, construe even a reserved judgment of even Russell, L.J. as if it were an Act of Parliament;'
>
> And, in *British Railways Board* v. *Herrington* [1972 AC 877 : (1972) 2 WLR 537 : (1972) 1 All ER 749 (HL)] Lord Morris said: (All ER p. 761*c*)

‘There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.’

11. Circumstantial flexibility, *one additional or different fact may make a world of difference between conclusions in two cases*. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Lord Denning in the matter of applying precedents have become locus classicus: (*Abdul Kayoom* v. *CIT* [AIR 1962 SC 680] , AIR p. 688, para 19)

‘**Each case depends on its own facts and a close similarity between one case and another is not enough because *even a single significant detail may alter the entire aspect*, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.’**

* * *

‘*Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches*. My plea is to keep the path to justice clear of obstructions which could impede it.’ ”

(emphasis supplied)

18. We have referred to the aforesaid decisions and the principles laid down therein, because often decisions are cited for a proposition without reading the entire decision and the reasoning contained therein. In our opinion, the decision of this Court in *Sarguja Transport case* [(1987) 1 SCC 5 : 1987 SCC (Cri) 19 : AIR 1987 SC 88] cannot be treated as a Euclid's formula.”

95. In **Mohd. Abaad Ali** ***(supra)*** which has followed **Mangu Ram** ***(supra)*** while distinguishing **Hukum Dev** ***(supra),*** this Court was dealing with the Code of Criminal Procedure, 1973, which is a general law applicable to criminal proceedings only.

96. As repeatedly mentioned in our judgment, we are concerned with a special law which provides for just and fair compensation, along with the relief of rehabilitation or resettlement. Therefore, without discussing the decisions relied upon by the parties any further, we only say that one must see the exclusive mechanism provided under a statute to be used for achieving the goal. Suffice it is to state that after the exhaustive and threadbare analysis of the provisions available under both the 2013 Act and the 1963 Act, we find that the decisions cited by the Bar do not have any application to the present batch of matters and therefore, deserve to be discarded.

CONCLUSION

97. We conclude as follows:

(i) Section 24(1)(a) of the 2013 Act is applicable to all those cases where awards are passed after the commencement of the 2013 Act.

(ii) For passing the award under Section 24(1)(a), the provisions of the 2013 Act alone will have to be followed, except for the rehabilitation and resettlement entitlements.

(iii) The first appeals before the High Courts should be treated as ones under Section 74 of the 2013 Act and not under Section 54 of the 1894 Act.

(iv) Section 74 of the 2013 Act does not bar the application of Section 5 of the 1963 Act.

(v) Consequently, all the applications seeking condonation of delay in preferring the first appeals before the High Courts under Section 74 of the 2013 Act stand allowed.

(vi) All the impugned judgments are set aside insofar as the issue of application of Section 5 of the 1963 Act is concerned.

(vii) The respective State Governments will have to take necessary measures and issue appropriate directions to the officers dealing with the appeals under Section 74 of the 2013 Act against the awards

passed after the commencement of the 2013 Act to ensure that the appeals are filed as provided under Section 74 of the 2013 Act.

(viii) High Courts shall avoid a pedantic approach as against a pragmatic one in dealing with the applications seeking condonation of delay.

98. Accordingly, the appeals stand disposed of in the aforesaid terms.

99. Pending application(s), if any, shall also stand disposed of.

……..J.
(M. M. SUNDRESH)

.....……..J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
FEBRUARY 09, 2026