

DISTRICT JUDICIARY  
ANANTHAPURAMU

**LAW ON LIMITATION**

PAPER PRESENTATIONS

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## BRIEF NOTES ON LIMITATION ON SUITS, APPEAL SUITS AND APPLICATIONS AND COMPUTATION OF PERIOD OF LIMITATION

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### Preamble :

In India, the limitation on suits, appeal suits, and petitions is governed by the Limitation Act, 1963, which specifies different time frames depending on the type of claim, with common periods including 3 years for most contract-related claims, 12 years for suits related to immovable property possession, and a 90-day window for most appeals to the High Court from a lower court decision.

The law relating to Law of Limitation in India is the Limitation Act, 1859 and subsequently Limitation Act, 1963 which was enacted on 5th of October, 1963 and which came into force from 1st of January, 1964 for the purpose of consolidating and amending the legal principles relating to limitation of suits and other legal proceedings.

Key points about limitations in India:

- Governing Law** : The Limitation Act, 1963.
- Different time frames** : Depending on the type of claim, the limitation period can vary, from a few months to several years.
- Immovable property suits** : Generally have a longer limitation period, often around 12 years.
- Appeals** : Most appeals to the High Court must be filed within 90 days of the lower court's decision.

Examples of limitation periods:

- **Suit for recovery of money due on a contract** : 3 years
- **Suit for possession of immovable property** : 12 years
- **Suit for compensation for tort (personal injury)** : 1 year
- **Appeal to High Court from a District Court** : 90 days

Important points to look after into:

**Cause of action** : The limitation period starts from the date the "cause of action" arises, which is the date when the right to sue accrues.

**Condonation of delay:** In certain situations, the court may condone a delay in filing an appeal or application, if there are sufficient cause.

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The Limitation Act, 1963 provides the period for filing Civil Suits. The Civil Suits are required to be filed within the time period (Limitation) as provided in the schedule of The Limitation Act, 1963.

The purpose and object of the Limitation Act is to limit a period within which certain litigations/suits are to be filed, as law protects diligent and vigilant persons. Law does not protect people who are careless and not vigilant about their rights (equity aids the vigilant and not the indolent).

The purpose of The Limitation Act is that the disputes/grievances cannot be kept in suspense for indefinite period and therefore, it is scheduled in the act, the period within which the people have to approach the Courts of law.

The Suits cannot be filed beyond the limitation period as stated in The Limitation Act, 1963. The Limitation period provided for filing suits as stated in the Act cannot be extended nor the delay in filing the suits beyond the Limitation period can be condoned by the courts.

***Note: That a suit is different from an appeal and there is a different limitation for filing an appeal against an order/judgment and appeal can be filed beyond the limitation period provided under the act by filing an application seeking condonation of delay stating reasonable grounds for such delay beyond the limitation period.***

The question often comes to the mind of general public as to when the limitation period starts running for filing a Civil Suit. The limitation period starts as and when the cause of action lastly arose for example, in case of a money recovery suit, the date on which the money was to be returned as stated in the Contract/Agreement/Cheque, is the date from which the limitation period starts.

As per the schedule prescribing limitation, there is a limitation of 3 years for filing Suits relating to recovery of money and suits under a contract. There is a limitation period of 12 years for suit relating to possession of immovable property and 1 year for suits arising out of torts. In case of appeals and applications, there is a period of 30 to 90 days from the date of order/judgment.

The word limitation in its literal term means a restriction or the rule or circumstances which are limited. The law of limitation has been prescribed as the time limit which is given for different suits & proceedings to the aggrieved person within which they can approach the court for redress or justice. The basic concept of limitation is relating to fixing or prescribing of the time period for barring legal actions. According to Section 2 (j) of the Limitation

Act,1963, '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.

The Law of Limitation is an adjective Law and it can be said that the rules of the Law of Limitation are generally concerned with the rules of procedure and which do not create any rights in favour of any particular person nor do they define or create any cause of action. It has been simply prescribed that the remedy can be exercised only for a limited fixed period of time and not subsequently.

The rules of limitation are not meant to destroy the rights of the parties. They are meant to see that the plaintiff do not take dilatory tactics but seeks remedy within the period stipulated by the legislature. The rules of limitation thus will only bar the remedy but does not extinguish the right. The right continues to exist even through remedy is barred by limitation. Therefore, a debtor may pay the time barred debt and cannot claim it back on the plea that it was barred by limitation.

The Limitation Act is applicable to the suits brought by the plaintiff; they do not apply to a right setup by the defendant in defence. A defendant will not be precluded from setting up a right by way in defence, even if he could not have done so as plaintiff by way of substantive claim. But the principle that limitation ordinarily does not bar the defence is not applicable in the case of set off and counter claim. Any claim by way of set off or a counter claim shall be treated as a separate suit and shall be deemed to have been instituted in the case of set off, on the same day that as the suit in which the set off is claimed and in the case of counter-claim on date on which the counter claim is made in court.

Whereas a longer period of 12 years has been prescribed for different kinds of suits relating to immovable property, trusts and endowments, a period of 3 years has been prescribed for the suits relating to accounts, contracts and declarations, suits relating to decrees and instruments and as well as suits relating to movable property.

A period varying from 1 to 3 years has been prescribed for suits relating to torts and miscellaneous matters and for suits for which no period of limitation has been provided elsewhere in the Schedule to the Act.

It is to be taken as the minimum period of seven days of the Act for the appeal against the death sentence passed by the High Court or the Court of Session in the exercise of the original jurisdiction which has been raised to 30 days from the date of sentence given.

The Limitation Act, 1963 has a very wide range considerably to include almost all the Court proceedings. The definition of 'application' has been extended to include any petition,original

or otherwise. The change in the language of Section 2 and Section 5 of the Limitation Act, 1963 includes all the petition and also application under special laws.

The new Act has been enlarged with the definition of 'application', 'plaintiff' and 'defendant' as to not only include a person from whom the application is received, Plaintiff or defendant as the case may be derives his title but also a person whose estate is represented by an executor, administrator or other representatives.

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**Scheme of the 137 Articles is as follows:**  
**Articles 1 to 113 Suits; Articles 114 to 117 Appeals**  
**Articles 118 to 137 Applications.**

Suits are divided into 10 classes:

1. Suits relating to accounts (Art. 1 to 5)
2. Suits relating to Contracts (Art. 6 to 55)
3. Suits relating to declarations (Art. 56 to 58)
4. Suits relating to decrees and instruments (Art. 59 to 60)
5. Suits relating to immovable property (Art. 61 to 67)
6. Suits relating to movable property (Art. 63 to 71)
7. Suits relating to tort (Art. 72 to 91)
8. Suits relating to trusts and trust property (Art. 92 to 96)
9. Suits relating to miscellaneous matters (Art. 97 to 112)
10. Suits for which there is no prescribed period (Art. 113)

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**LIMITATION OF SUITS, APPEALS AND APPLICATIONS**

**Section 3**

(1) Subject to the provisions contained in Sections 4 to 24, every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

(2) For the purpose of this Act-- a suit is instituted ---

- in an ordinary course, when the plaint is presented to the proper officer;
- in case of a pauper , when the application for leave to sue as a pauper is made; and
- in the case of a claim against a company which is being wound up by the court, when claimant first sends in his claim to the official liquidator;
- any claim by way of set off or counter claim, shall be treated as a separate suit and shall be deemed to have been instituted--
- in the case of set-off, on the same date as the suit in which the set off is pleaded
- in case of counter-claim, on the date on which the counter claim is made in the court.

**Section 3 of the Limitation Act** enjoins a court to dismiss any suit instituted, appeal preferred and application made, after the period of limitation prescribed therefore by the Schedule irrespective of the fact whether the opponent had set up the plea of limitation or not.

It is the duty of the court not to proceed with the application if it is made beyond the period of limitation prescribed.

The court had no choice and if in construing the necessary provision of the Limitation Act or in determining which provision of the Limitation Act applies, the subordinate court comes to an erroneous decision, it is open to the court in revision to interfere with that conclusion as that conclusion led the court to assume or not to assume the jurisdiction to proceed with the determination of that matter.

Section 3 limits the time after which a suit or other proceeding would be barred. The right to sue and the commencement of the running of time for purpose of the limitation depend on the date when the cause of action arose. Cause of action is a fact or combination of facts that gives a person the right to seek judicial redress or relief against another. Section 3 bars only the institution of suits, application and appeals, and the period within which the same has to be filed. But so far the defence is concerned there is no such limitation. There can be no period of limitation for acts which the courts are bound to perform.

Section 2 (j) Prescribed Period- “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. *The limitation Act does not extinguish a right but it only bars the remedy.*

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

**Section 4** - Expiry of prescribed period when court is closed -- Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be Instituted, preferred or made on the day when the court reopens.

Section 4 has nothing to do with period of limitation. It does not add to the period of Limitation. It only extends the concession that is notwithstanding that the period of limitation expires on a day when the court is closed suit appeal or application may be filed on the day on which the court reopens.

**Section 5-** Extension of prescribed period in certain cases-- Any appeal or any application other than an application under any of the provisions of order 21 of the CPC, may be admitted after the prescribed period, if the appellant or applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

This Section applies to Criminal Appeal as well. Delay in filing Criminal Appeal should be excused when where it was erroneously filed in another court. Criminal Procedure Code is not a special law within the meaning of Section 29 but it is a general law relating to procedure.

**Appeal under Criminal Procedure Code** – The delay in filing appeal against acquittal can be condoned under section 5. But sufficient cause must be established to condone the delay by the appellate court.

*Application for setting aside ex-parte decree cannot be allowed without condoning the delay.*  
In this case no application was filed for condonation of delay in filing a petition under Order 9 R 13 of CPC.

Condonation of delay in filing appeal can be decided only after hearing both the parties. Order 22, Rule 9 (3) the consideration of condonation of delay under section 5 of the Limitation Act and for setting aside abatement under order 22 CPC are entirely different and the court always liberally considers the latter though in some cases the court may refuse to condone the delay in filing the appeal.

A competent civil court has power to pass an interim order of injunction pending hearing of application under Section 5 of the Limitation Act. *Examination of witnesses not necessary-* The application for condonation of the delay is not required to be considered on the basis of the evidence of witnesses. The application is to be decided on affidavits. Application for condonation of the delay under S.5 ought not to be dismissed by a non-speaking order.

Section 5 of the Limitation Act empowers the court to admit an application, to which its provisions are made applicable, even when presented after the expiry of the specified period of limitation if it is satisfied that the applicant had sufficient cause for not presenting it within time. The court therefore had jurisdiction to determine whether there was sufficient cause for the appellants not making the application for the setting aside of the abatement of the suit in time and, if so satisfied, to admit it.

**NOTE:** As held by Apex Court, the incorrect statement made in the application seeking condonation of delay itself is sufficient to reject the application without any further inquiry as to whether the averments made in



the application reveal sufficient cause to condone the delay. That a party taking a false stand to get rid of the bar of limitation should not be encouraged to get any premium on the falsehood on his part by condoning delay.

Section 5 of the Limitation Act provides for extension of prescribed period of limitation in certain cases and confers jurisdiction upon the court to admit any application or any appeal after the prescribed period if it is satisfied that the appellant or applicant had sufficient cause for not preferring such appeal or application within the prescribed period.

It was also held that even if the sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by section 5. This aspect of the matter naturally introduces the consideration of all facts and it is at this stage the diligence of the party of its bona fides may fall for consideration.

*As whole order 21 CPC relating to execution has been specifically excluded from the purview of the section 5 of limitation act .*

**SECTION 6-INDICATES LEGAL DISABILITY-**

(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefore in the third column of the Schedule.

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.

(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.

(5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been available to that person had he not died.

**Explanation** - For the purposes of this section 'minor' includes a child in the womb. This section will not grant indulgence to a minor entitled to prefer an appeal; it provides only for suits or applications for execution of decree. Section 6 does not cover a case of an application under O 21 R 90 CPC to set aside a sale held in execution of a decree. Nor does it apply to an application for the readmission of an appeal under O 41 R 10 of the CPC. Sections 6,7 and 8 from a group, they supplement each other and are not exclusive.

**Section 7-- Disability of one of several persons—**

Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all; but when no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

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Limitation cannot run unless the cause of action has arisen. A cause of action normally accrues when there is in existence a person who can sue and another can be sued, and when all the facts happened which are material to be proved to entitle the plaintiff to succeed. Where time has begun to run owing to the right to sue having accrued to a person not laboring under any legal disability, the subsequent disability of himself or his son or other representative is not a ground of exemption from the operation of the ordinary rule.

**8. Special exceptions.—**

Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period of limitation for any suit or application.

**9. Continuous running of time.—**

Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it: Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the period of limitation for a suit to recover the debt shall be suspended while the administration continues.

**Section 10-** Suits against trustees and their representatives- Notwithstanding anything contained in the foregoing provisions of this Act, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, or the proceeds thereof or for an account of such property or proceeds, shall be barred by any length of time.

**11. Suits on contracts entered into outside the territories to which the Act extends.—**

(1) Suits instituted in the territories to which this Act extends on contracts entered into in the State of Jammu and Kashmir or in a foreign country shall be subject to the rules of limitation contained in this Act.

(2) No rule of limitation in force in the State of Jammu and Kashmir or in a foreign country shall be a defence to a suit instituted in the said territories on a contract entered into in that State or in a foreign country unless—

(a) the rule has extinguished the contract; and

(b) the parties were domiciled in that State or in the foreign country during the period prescribed by such rule.

**Section 12 - Exclusion of time in legal proceedings –**

(1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

(2) In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.

(3) Where a decree or order is appealed from or sought to be revised or reviewed, or when an application is made for leave to appeal from a decree or order the time requisite for obtaining a copy of the judgment on which the decree or order is founded shall also be excluded.

(4) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

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A suit for recovery of loan has to be filed within three years of the date of granting the loan. Hand note receipt was dated 5.9.1991 and the suit filed on 5th September 1994 would be

within time because the date of hand note i.e. 5.9.1991 has to be excluded for computing the period of limitation.

The suit for recovery of money based on promissory note was filed on 16.04.2003. The note was executed on 12.04.2000. So, the suit has to be filed on 12.04.2003 as the date of execution of the promissory note has to be excluded in view of s. 12 of the Limitation Act. But from 12.04.2003 to 15.04.2003 there were general holidays. So, the suit filed on 16.04.2003 is not barred by limitation.

**NOTE:** Time requisite for obtaining the certified copy of the judgment and decree will be excluded.

The delay caused by the carelessness for negligence of the party in applying for a copy are in paying the money required for making the copy cannot be excluded from computation. Time between judgment and signing of decree – Generally there is an interval of time between the delivery of the judgment and signing of the decree. In computing the time requisite for obtaining a copy of the decree or an order any time taken by the court to prepare the decree or order before application for copy thereof is made shall not be excluded. The interval between judgment and signing the decree cannot be excluded as the time requisite without regard to the date of application for copies. In other words that it is only the time required if the application is made that can be excluded as the time requisite.

**Section 13-** Exclusion of time in cases where leave to sue or appeal as a pauper is applied for- In *computing the period of limitation* prescribed for any suit or appeal in any case where an application for leave to sue or appeal as a pauper has been made and rejected, the time during which the applicant has been prosecuting in good faith his application for such leave shall be excluded, and the court may, on payment of the court-fees prescribed for such suit or appeal, treat the suit or appeal as having the same force and effect as if the court-fees had been paid in the first instance.

**Section 14-** Exclusion of time of proceeding bona fide in court without jurisdiction –

(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of the appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court of other cause of a like nature.

**Explanation** - For the purpose of this section, -

- 1) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;
- 2) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;
- 3) misjoinder of parties or of causes of action shall be deemed to be a cause of alike nature with defect of jurisdiction.

The policy of the section is to afford protection to a litigant against the bar of limitation when he institutes a proceeding which by reason of some technical defect cannot be decided on merits and is dismissed. But, when the party seeking the benefit of this section has failed to get the relief in earlier proceedings not because of any defect in jurisdiction or some other cause of like nature he cannot get the benefit of section 14. When the plaintiff has concurrent remedies and has availed one remedy and has become unsuccessful he cannot get the benefit of section 14 when instituting the second alternative remedy though section 14 does apply to appeal, the principle underlying it can be invoked in aid of sufficient cause contemplated by section 15.

The benefit of this provision is not available in criminal proceeding. Execution proceeding is a civil proceeding within the meaning of S.14, the primary requirement for seeking exclusion u/s 14 is that the matter was prosecuted before a court suffering from defect in jurisdiction. Further it is necessary that the same plaintiff should be in both the suits it is not necessary that the plaintiff must have been prosecuting the previous proceeding as a plaintiff, it is sufficient if as a defendant he was urging the same case as he after words prefers as a plaintiff. It is also

necessary that the defendant must be the same in both the proceeding. Due diligence in good faith needs to be established. The definition of good faith is given under S. 2 (4) of the Limitation Act, which requires the thing to be done with due care and attention. S.14 will not help a party who is guilty of negligence lapse or in action. This Section also does not apply where the previous suit was abandoned or withdrawn by the plaintiff and then a fresh suit has been filed after the period of limitation.

There is a fundamental distinction between discretion to be used under Section 5 of the Limitation Act and exclusion of time provided under Section 14 of the Limitation Act. Whereas the exclusion under Section 5 is discretionary, under S/14 it is mandatory. If the initial filing is due to carelessness the subsequent prosecution of the suit cannot be said in good faith. The benefit of this section can be availed only when there is initial want of jurisdiction. Where the plaintiff chooses to withdraw his suit under O 23 R 1 CPC he is not entitled to the benefit of Section 14 of the Limitation Act in a subsequent suit on the same cause of action. If a suit is withdrawn by the plaintiff under O 23 R 1 with permission to bring another suit, and a fresh suit is instituted, the plaintiff is bound by the limitation in the same manner as if the first suit had not been instituted. This is so even if the court expresses its opinion that Section 14 shall apply.

The policy of the Section is to afford protection against the bar of limitation to a man pursuing his claim in a wrong forum. The following condition must be satisfied for the application of this Section--

- Both the prior and subsequent proceeding are civil proceeding prosecuted by the same party
- The prior proceeding had been prosecuted with due diligence
- The failure of the prior proceeding was on account of jurisdiction or subjects of like nature
- The prior proceeding and the later proceeding should be of the like nature.
- It applies only to proceedings before Court

**For example:**

First Respondent obtained a decree in a suit and the said decree was put in execution vide Execution Petition No. 705 of 1977. Respondent no 2 to 6 are the heirs and legal representative of Respondent no.1. The said execution petition was dismissed by an order dated 8.7.1996.

The Judgment Debtor suffered another decree passed in original suit no. 274/82 regarding which Execution Petition No. 271 of 1986 was filed. A sale Certificate was issued in respect of suit property.

Respondent No 1 to 5 filed a second execution petition. Appellants were impleaded as Respondent 16-17. They raised objection inter alia on ground of Limitation. The said objection petition was rejected.

An appeal was preferred which was held to be not maintainable by the 1st Appellate Court by an order dated 5.10.2015. However, the merit of the case was also considered.

Aggrieved by the order Execution 2nd Appeal was preferred before the Hon'ble High Court. It was held that the impugned order was not correct in entering into merit of the case despite holding that the appeal was not maintainable.

A revision petition was filed along with a petition under Section 5 of the Limitation Act for condonation of delay. However application under Section 5 was withdrawn and an application under Section 14 was filed. High Court held that the said application was not maintainable in the facts and circumstance of the case and the expression 'cause of like nature' has to be read generalissimos with expression 'defect of jurisdiction' and that so construed the expression 'other cause of like nature' must be interpreted so as to convey something analogous to the preceding words 'from defect of jurisdiction'.

Apex Court allowed the appeal negating the reasoning given by the High Court that Section 14 can be allowed in cases of Jurisdictional error and not otherwise.

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Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction. On analysis of the said section, it becomes evident that the following conditions must be satisfied before Section 14 can be pressed into service:

- 1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;
- 2) The prior proceeding had been prosecuted with due diligence and in good faith;
- 3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;
- (4) The earlier proceeding and the latter proceeding must relate to the same matter in issue and;
- (5) Both the proceedings are in a court

The policy of the section is to afford protection to a litigant against the bar of limitation when he institutes a proceeding which by reason of some technical defect cannot be decided on merits and is dismissed. While considering the provisions of Section 14 of the Limitation Act, proper approach will have to be adopted and the provisions will have to be interpreted so as to advance the cause of justice rather than abort the proceedings. It will be well to bear in mind that an element of mistake is inherent in the invocation of Section 14.

In fact, the section is intended to provide relief against the bar of limitation in cases of mistaken remedy or selection of a wrong forum. On reading Section 14 of the Act it becomes clear that the legislature has enacted the said section to exempt a certain period covered by a bona fide litigious activity. Upon the words used in the section, it is not possible to sustain the interpretation that the principle underlying the said section, namely, that the bar of limitation should not affect a person honestly doing his best to get his case tried on merits but failing because the court is unable to give him such a trial, would not be applicable to an application filed under Section 34 of the Arbitration and Conciliation Act of 1996.

The principle is clearly applicable not only to a case in which a litigant brings his application in the court, that is, a court having no jurisdiction to entertain it but also where he brings the suit or the application in the wrong court in consequence of bona fide mistake or (sic of)law or defect of procedure. Having regard to the intention of the legislature this Court is of the firm opinion that the equity underlying Section 14 should be applied to its fullest extent and time taken diligently pursuing a remedy, in a wrong court, should be excluded.

There must be no pretended mistake intentionally made with a view to delaying the proceeding or harassing the opposite party. In the light of these proceedings the question will have to be considered whether appellant prosecuted the matter in the court with due diligence and good faith. The definition of “good faith” as found in S.2(4) of the Limitation Act would indicate that nothing shall be deemed to be in good faith which is not done with due care and caution.

**Note: Benefit under Section 14 is not available in a Criminal Proceeding.**

The second suit is not a continuation of the first suit and the limitation is to be computed afresh with respect to the second suit. It is only the period in which the plaintiff prosecuted the suit bona-fide in another court is relevant and which can be excluded.

Section 14 provides for exclusion of period, whereas Section 5 provides for condonation of delay.



**Reference :** In a case of Commissioner, M.P. Housing Board and Ors v. M/S Mohan Lal and Company, 2016 SCC, the Apex Court as follows:

“That filing of an application under Section 11 of the Arbitration and conciliation Act 1996, for an appointment of arbitrator is totally different than an objection to award under Section 34 of the 1996 Act as one is at the stage of initiation and another is at the stage of culmination. Thus, proceedings do not relate to “same matter in issue” and therefore Section 14 shall not apply.

**Section 15-** Exclusion of time in certain other cases

(1) *In computing the period of limitation* for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(2) *In computing the period of limitation* for any suit of which notice has been given, or for which the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

**Explanation -** In excluding the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be counted.

(3) In computing the period of limitation for any suit or application for execution of decree by any receiver or interim receiver appointed in proceedings for the adjudication of a person as an insolvent or by any liquidator or provisional liquidator appointment in proceedings for the winding up of a company, the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of appointment of such receiver or liquidator, as the case maybe, shall be excluded.

(4) In computing the period of limitation for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

(5) In computing the period of limitation for any suit the time during which the defendant has been absent from India and from the territories outside India under the administration of the Central Government, shall be excluded. In computing the period of limitation, where a suit has been filed or an application for stay has been made, the time during which there was a stay order of the against the filing of suit or execution application shall be excluded.

Where a plaintiff is required to give notice to the Government u/s 80 Civil Procedure Code he is entitle to exclude the period of notice in computing the period of limitation prescribed for the suit.

A receiver including an interim receiver or a liquidator including a provisional liquidator appointed in a proceeding for adjudication of a person as an insolvent or in proceeding for the winding up of a company as the case may be, is entitled, in view of sub-sec. (3), the exclusion of the period between the date of application and the date of appointment and also additional period of three months thereafter in computing the period of limitation for filing suit or execution as such receiver or liquidator. As such receiver or liquidator needs sufficient time to acquaint himself with the affairs of the estate or of the company, as the case may be, and its assets and liabilities before he can take steps for filing a suit or for giving him a period of three months after his appointment to file a suit or a petition for execution.

Two condition have to be fulfilled in order to obtain the benefit of S. 15 (4) namely :

The suit should be one for possession by the purchaser at a sale in execution of the decree, and it should be a suit and not an application if this two conditions are fulfilled then the time during which a proceeding for setting aside the sale deed been prosecuted shall be excluded.

**For example ::** The plaintiff company filed a suit on 15th November 1965 for recovery of a sum of money from the defendant company on account of the tax liability of the latter discharged by the plaintiff before 15th November 1962. The defendant, a foreign company, was attending the general meetings of the plaintiff company through its representatives.

Held: Section 15(5) of the Limitation Act, 1963 can be viewed in one of the two ways i.e. that that provision does not apply to incorporated companies at all or alternatively that the incorporated companies must be held to reside in places where they carry on their activities and thus being present in all those places. Hungerford is an investment company. It had invested large sums of monies in Turner Morrison. Its Board of Directors used to meet in India now and then. It was (through its representatives) attending the general meeting of the

shareholders of Turner Morrison. Under those circumstances, it must be held to have been residing in this country and consequently was not absent from this country. Hence Section 15(5) cannot afford any assistance to Turner Morrison to save the bar of limitation.

**SECTION 16-** EFFECT OF DEATH ON OR BEFORE THE ACCRUAL OF RIGHT TO SUE

(1) Where a person who would, if he were living, have a right to institute a suit or make an application dies before the right accrues, or where a right to institute a suit or make an application accrues only on the death of a person, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting such suit or making such application.

(2) Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, or where a right to institute a suit or make an application against any person accrues on the death of such person, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute such suit or make such application.

(3) Nothing in sub-section (1) or sub-section (2) applies to suits to enforce rights of preemption or to suit for the possession of immovable property or of a hereditary office.

“Before the right accrues” – The death must occur before the right to sue or make an application accrues. If the right accrues in the life-time of the deceased, limitation begins to run from the date of accrual, and it matters not whether by a will proved or by any other means a legal representative comes into existence or not. The intention of Section 16 is to limit the time during which an action may be brought and not to take away the rights of a person who is a possible defendant to an action and it is not intended to accure any right of action against such a person. The expression ‘capable of suing’ is the equivalent of ‘not being under legal disability to sue’. It does not refer to an incapacity arising from want of means or absence or other physical cause.

Section 16 confines to rights of action accruing after death. It makes it applicable to rights of action accruing either simultaneous on death or thereafter of the person suing or sued. In order to attract the applicability of Section 16, it is necessary that the death must occur before the right to institute a suit or make an application accrues. If the right to institute a suit or

make an application accrues in the life time of the deceased the limitation shall begin to run from the date of the accrual of cause of action and the provisions of Section 16 would not apply.

**SECTION 17--** EFFECT OF FRAUD OR MISTAKE

(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,--

(a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or

(b) the knowledge of the right or title on which the suit or application is founded is concealed by the fraud of any such person as aforesaid; or

(c) the suit or application is for relief from the consequences of a mistake; or

(d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him; the period of limitation shall not begin to run until plaintiff or applicant has discovered the fraud or the mistake or with reasonable diligence could have discovered the it; or in the case of a concealed document, applicant first had the means of producing the concealed document or compelling its production; Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against or set aside any transaction affecting, any property which-

i. in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or

ii. in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or

iii. in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.

(2) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:

Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.

**Note :** This section does not apply to criminal cases. According to the Hon'ble Supreme Court in Pallav Sheth v. Custodian (2001) 7 SCC 549, the provision of this section embodies fundamental principles of justice and equity, vis., that a party should not be penalized for failing to adopt legal proceedings when the facts or material necessary for him to do so have been willfully concealed from him and also that a party who has acted fraudulently should not gain the benefit of limitation running in his favor by virtue of such fraud.

If the plaintiff claims exemption on the ground of fraud on the part of the defendant he must prove the fraud. In such a case it is for the plaintiff to give in the first instance clear proof of the fraud alleged by him. The court will not presume it from the mere existence of suspicious circumstances.

**Reference :** Recently in 2018, the Hon'ble Supreme Court in P. Radha Bai v. P. Ashok Kumar, examined the applicability of Section 17 of the Limitation Act, 1963 for condonation of a delay caused on the account of alleged fraud played on the objector (party challenging the award) beyond the period prescribed under Section 34 (3) of the Arbitration and Conciliation Act of 1996.

According to the Hon'ble Court, Section 17 does not encompass all kinds of frauds and mistakes. Section 17(1)(b) and (d) only encompasses only those fraudulent conduct or act of concealment of documents which have the effect of suppressing the knowledge entitling a party to pursue its legal remedy. Once a party becomes aware of the antecedent facts necessary to pursue a legal proceeding, the limitation period commences.

### **SECTION 18-** EFFECT OF ACKNOWLEDGMENT IN WRITING

(1) Where before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derived his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.

**Explanation** - For the purposes of this section, -

- a. an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set-off, or is addressed to a person other than a person entitled to the property or right;
- b. the word "signed" means signed either personally or by an agent duly Authorized in this behalf; and
- c. an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.

It is not necessary that an acknowledgment within Section 18 must contain a promise pay or should amount to a promise to pay.

The acknowledgment must be unqualified so as to create fresh cause of action. The acknowledgment must be of existing liability. It must be an acknowledgment of debt as such and must involve an admission of a subsisting relationship of debtor and creditor; and an intention to continue it until it is lawfully determined must also be evident. The acknowledgment must be made before the expiry of the period of limitation. An acknowledgment of barred liability is not material. Thus where the debt has already become time-barred, acknowledgment cannot create fresh period of limitation. An acknowledgment without signature is no acknowledgment. It will be sufficient if the acknowledgment is signed by the agent and not by the debtor.

Acknowledgment should be by a person who has personal liability to pay. Acknowledgment does not create a new debt it only extends the period of limitation. Acknowledgment must relate to a definite liability in respect of the right claimed. Explanation (b) to S.18 has explained that the writing containing the acknowledgment need not be signed by the debtor himself; it would be sufficient if the signature is that of the agent. Agents authority may be by way of a power of attorney or it may be gathered from the surrounding circumstance of the case.

An unregistered document, registration of which is compulsory, can be used for the collateral purpose of proving acknowledgment of liability for the purpose of extending time under S.18 of the Limitation Act.

Application to Execution Proceedings – Section 18 does not apply to execution of decree. So, even in case of consent decree for specific performance of contract, the execution has to be filed within 12 years of the date on which the decree becomes executable.

SECTION 19- EFFECT OF PAYMENT ON ACCOUNT OF DEBT OR OF INTEREST ON LEGACY

Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly Authorized in this behalf, a fresh period of limitation shall be computed from the time when payment was made:

Provided that, save in the case of payment of interest made before the 1<sup>st</sup> day of January,1928, an acknowledgment of the payment appears in the hand-writing of, or in a writing signed by the person making the payment.

Explanation - For the purposes of this section, -

- a. where mortgaged land is in the possession of the mortgagee, the receipt of the rent of produce of such land be deemed to be a payment;
- b. "debt" does not include money payable under a decree or order of a court.

A payment saves limitation under this section if it is made by a person liable to pay it a purchaser of equity of redemption is a person liable to pay the mortgage the debt therefore,if under a mortgage decree of sale of the mortgaged property to which he is a party through exempted from person liability he pays interest as such, such payment gives a fresh period of limitation for execution of the decree.

A payment by one of the two joint debtors would save limitation against the other debtor also. In order to attract Section 19, payment has to be made within the period of limitation and not that the acknowledgment of such payment has to be made within the period of limitation. It will suffice if it is signed before the suit is commenced.

Under Section 19 it is the payment which extends the limitation and such payment has to be proved in a particular way, namely, a written or signed acknowledgment. That is the only mode of proof of such payment.

**SECTION 20** - EFFECT OF ACKNOWLEDGMENT OR PAYMENT BY ANOTHER PERSON

(1) The expression "agent duly Authorized in this behalf" in sections 18 and 19 shall in the case of a person under disability, include his lawful guardian, committee or manager or an agent duly Authorized by such guardian, committee or manager to sign the acknowledgment or make the payment.

(2) Nothing in the said sections renders one of several joint contractors, partners, executors or mortgagees chargeable by reason only of a written acknowledgment signed by, or of a payment made by, or by the agent of, any other or others of them.

(3) For the purposes of the said sections, -

a. an acknowledgment signed or a payment made in respect of any liability by, or by the duly Authorized agent of, any limited owner of property who is governed by Hindu Law, shall be a valid acknowledgment or payment, as the case may be, against a reversionary succeeding to such liability; and

b. where a liability has been incurred by, or on behalf of a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly Authorized agent or, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family.

The word 'chargeable' in Section 20 means every kind of chargeability and includes liability as to property it is not limited to personal liability only. Section 20 of the Limitation Act is explanatory of Sections 18 and 19 of the Act and does not constitute an exception in the case of either of these sections.

Section 20 of the Limitation Act shows that for the purpose of Section 20, the payment made by a guardian must be held to be a payment by an agent duly authorized on his behalf.

**SECTION 21**-- EFFECT OF SUBSTITUTING OR ADDING NEW PLAINTIFF OR DEFENDANT

(1) Where after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was made a party:

Provided that were the court is satisfied that the omission to include a new plaintiff or defendant was due to a mistake in good faith it may direct that the suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date.



(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to assignment or devolution of any interest during the tendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

If some of them institute a suit within time and the other plaintiffs are added after the period of limitation, the claim of the original plaintiffs, would be barred. Order I Rule 10(2) CPC provides for the addition of (1) necessary parties(2) proper parties. In adding necessary parties Section 21 of the Limitation Act has to be taken into account, but in adding proper party Section 21 has no application.

The proviso to sub-section (1) of Section 21 clothes the court with the direction to condone the delay in filing the application for addition of parties after the period of limitation provided the same is made bona-fide and good cause is shown therefore.

#### SECTION 22--- CONTINUING BREACHES AND TORTS

In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during the breach or the tort, as the case may be, continues.

According to Section 22 of the Limitation Act, 1963 in the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or the tort, as the case may be, continues. This section speaks about continuing breach of contract and not of successive breach of contract.

The expression 'Continuing breach of contract or continuing tort' means that, if an act or omission on the part of an accused continued the breach of contract or wrongs, and if that act or omission continues from day to day, then a fresh cause of action de die in diem (from day to day) causes for a fresh offence every day on which the act or omission continues.

Section 22 of the Limitation Act relates to continuing breach of contract and also to continuing tort which this section provides for a suit for compensation for acts not actionable without special damage. The law of Limitation recognized that liabilities for payments of damages and/or compensation may continue to accrue day to day newly in respect of continuing breach of contracts and torts.

The continuing tort means continuing 'wrong'. Section 22 refers to a continuing wrong or tort. A continuing wrong creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an

injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. An infringement of a trade mark is a continuing wrong.

Reference : In a case of Bengal Waterproof Ltd. v. Bombay Waterproof Mfg. Co., AIR 1997 SC 1398, it has been held that after filing the first suit based on the infringement of trade mark and passing off action till the date of suit, a second suit is filed for continuous acts of infringement of trade mark subsequent to the filing of the earlier suit is not barred.

SECTION 23 – SUITS FOR COMPENSATION FOR ACTS NOT ACTIONABLE WITHOUT SPECIAL DAMAGE

In the case of suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results there from, the period of limitation shall be computed from the time when the injury results.

The provisions of Section 23 are applicable even in cases of special or local laws, unless expressly barred or excluded in accordance with Section 29 of the Limitation Act.

The Section 23 of the Limitation Act is applicable to suits based on both torts and contracts. It deals with a suit for compensation for an act which does not give rise to a cause of action. The expression ‘cause of action’ is not defined by the Limitation Act. However, it means every fact which it would be necessary for the plaintiff to prove if traversed in order to support his right to the judgment of the court.

To avail the benefit of Section 23 of the Limitation Act, it must be proved that some specific injury has occurred to the plaintiff. The word ‘specific’ means that can be specified and the word ‘injury’ includes a legal injuries.

SECTION 24 – COMPUTATION OF TIME MENTIONED IN INSTRUMENT

All instruments shall for purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

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**COMPUTATION OF PERIOD OF LIMITATION**

Section 12-24 of Limitation Act, 1963 provides for computation of the period of limitation. They either exclude time of reckoning the period of limitation or postpone starting point of limitation. Sections 12-15 of the Limitation Act provide for the exclusion of time in computing the period of limitation prescribed by law.

Those provisions, inter alia, exclude the following periods:

1. The day on which the period of limitation is to be reckoned.
2. The day on which the judgment/order/award is pronounced.
3. The time spent in obtaining the copy of decree/order/award/sentence.
4. The time spent in prosecuting an application to sue as an indigent person.
5. The time spent in proceedings taken bona fide (in good faith) in court having no jurisdiction.
6. The time during which stay or injunction operated.
7. The time spent in giving notice or for obtaining consent or sanction required by law.
8. The time during which there was receiver or liquidator.
9. The time during which proceedings to set aside sale were pending (in a suit for possession).
10. The time during which the defendant had been out of India.

Sections 16-23 of the Limitation Act, 1963 provide for postponement of limitation. For the application of the law of limitation, there must be a completed cause of action. In other words, there must be a person who can sue, a person who can be sued, and a cause of action on which a suit, appeal or application can be filed. Moreover, such person should be in a position to institute such proceeding without any hindrance, obstruction or impediment.

1. The period of limitation will not start running till there is a person who can sue or who can be sued. In the following cases, there is a postponement of limitation, i.e. the period of limitation will not start running.
2. In case of fraud or mistake, the period of limitation will not start running till such fraud or mistake is discovered.
3. In case of right or liability, a fresh period of limitation will start running from the date of acknowledgment in writing of such right or liability by the party.
4. In case of debt, payment will provide afresh period of limitation from the time of such payment.

5. Where after the institution of a suit, a new plaintiff or defendant is added or substituted, the suit shall be deemed to be instituted against him when he was made a party. But if the court is satisfied that such omission was due to bona-fide mistake, the suit shall be deemed to have been instituted on an earlier date.

6. In case of continuing breach of contract or tort a fresh period of limitation begins to run every moment till breach or tort continues.

7. In a suit for compensation for an act not actionable without special damage, the period of limitation will be computed from the time the injury result.

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**WORKSHOP – NO.1**  
**DT. 26.04.2025.**

**SESSIONS NO.2 AND 3**

**DISTRICT UNIT, ANANTHAPURAMU DISTRICT**

**PAPER PRESENTATION ON THE TOPICS OF**

**CONDITIONS AS TO TIME AND LIMITATION UNDER DIFFERENT STATUTES.**

**DIFFERENT RELIEFS WITH DIFFERENT PERIOD OF LIMITATION AND**

**AMENDMENTS OF PLEADINGS – THE ASPECT OF LIMITATION,**

**PRESENTED BY**

**T. VASUDEVAN,**  
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**PAPER PRESENTATION ON**

**DIFFERENT RELIEFS WITH DIFFERENT  
PERIOD OF LIMITATION**

# **DIFFERENT RELIEFS AND PERIOD OF LIMITATION**

The word limitation in its literal term means a restriction or the rule or circumstances which are limited. **The law of limitation has been prescribed as the time limit which is given for different suits & proceedings** to the aggrieved person within which they can approach the court for redress or justice. The basic concept of limitation is relating to fixing or prescribing of the time period for barring legal actions. According to Section 2 (j) of the Limitation Act, 1963, '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.

## **A. HISTORICAL BACKGROUND / EVOLUTION**

The concept of limitation has roots in **Roman law**, emphasizing the need for timely legal actions to ensure justice and societal order. In India, the **Limitation Act of 1859** was the first codified law addressing limitation periods. Subsequent revisions in **1871**, **1877**, and **1908** refined these provisions. The current **Limitation Act of 1963** further streamlined the laws, introducing **Section 9** to explicitly state the principle of continuous running of time.

## **B. PURPOSE AND LEGISLATIVE INTENT**

The law of limitation was enacted with the legislative intent to prevent stale disputes or grievances from coming to court where resolution or redressal is not sought within the prescribed time. The law of limitation bars the remedy of the plaintiff but does not extinguish their right. The law is intended to ensure that parties do not engage in dilatory tactics and instead seek their remedy expeditiously. **(Balakrishnan v. M.A. Krishnamurthy, (1987) 7 SCC 123. )**

### **C. SALIENT FEATURES OF LIMITATION ACT, 1963**

- ❑ The **Law of Limitation is a Procedural Law.**
- ❑ It is **Lex Fori** (the law of the court in which a proceeding is brought) and is founded on Public Policy.
- ❑ The word limitation in its literal terms means **a restriction** or the rule or circumstances which are limited. The law of limitation is prescribed as the time limit given for different suits to the aggrieved person within which they can approach the court for redress or justice.
- ❑ The Law of Limitation ensures that the parties do not resort to dilatory tactics and avail the remedy promptly.

### **D. STRUCTURE OF THE LIMITATION ACT**

- ❑ The Limitation Act came into force on **1<sup>st</sup> January 1964.**
- ❑ **It extends to the whole of India.**
- ❑ It contains a total of 5 parts.
- ❑ There are in total 32 sections in the act.
- ❑ It contains 137 Articles in the act which provide for periods of limitation.

#### **Articles - 137 in total contains three divisions namely:**

- ❑ First Division - Suits (Article 1-113)
- ❑ Second Division - Appeals (Articles 114-117)
- ❑ Third Division - Applications (Articles 118-137).

### **E. NATURE OF THE LIMITATION ACT**

The Limitation Act is majorly an adjective law, but it provides for **both the substantial and procedural features of any statute.** In the case of **A.S. Krishnappa Chettair v. Nahiappa Chettiar (1964)**, it was held by Supreme Court of India that the 'Limitation Act' is basically a piece of adjective or procedural law and not substantive law.

The **Limitation Act is exhaustive** with respect to all matters expressly dealt with in it. It cannot be extended by analogy. Ordinarily, the act applies only to civil cases except in the matter expressly and specifically provided for that purpose.



## F. OPERATION OF THE LIMITATION ACT

Section 31 of the 'Limitation Act' provides for the **retrospective and prospective effect of the act**. The Supreme Court in **Thirumalai Chemicals Ltd v. Union of India (2011)** observed that statutes of limitation are retrospective so far as they apply to all legal proceedings brought after their operations for enforcing causes of action accrued earlier.

## G. PERIODS OF LIMITATION

- ❑ The law of limitation specifies the statutory time frame within which a person may initiate a legal proceeding, or a **legal action can be brought**.
- ❑ According to **Section 2 (j) of the Limitation Act, 1963**, '**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.
- ❑ If a suit is filed after the expiry of the time prescribed it will be barred by the limitation.
- ❑ It means that a suit brought before the court after the expiry of the time within which a legal proceeding should have been initiated will be restricted.

## H. DIFFERENT RELIEFS AND TIME LIMITATION TO CLAIM

<i>Nature of suits/Relief</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
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### SUITS RELATING TO ACCOUNTS

1. For the **balance due** on a mutual, open and **Three years** current account, where The close of the year in which the last item admitted or proved is

- there have been reciprocal demands between the parties. entered in the account; such year to be computed as in the account.
2. Against a factor for an account **Three years** When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
3. By a principal against his agent **for movable property received by the latter and not accounted for.** **Three years** When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
4. Other suits by principals against agents for neglect or misconduct. **Three years** When the neglect or misconduct becomes known to the plaintiff.
5. For an account and a share of the profits of a dissolved partnership. **Three years** The date of the dissolution.

### SUITS RELATING TO CONTRACTS

6. For a seaman's wages. **Three years** The end of the voyage during which the wages are earned.
7. **For wages** in the case of any other person **Three years** When the wages accrue due.
8. **For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.** **Three years** When the food or drink is delivered.
9. For the price of lodging. **Three years** When the price becomes payable.

10. **Against a carrier for compensation for losing or injuring goods** **Three years** When the loss or injury occurs.
11. **Against a carrier for compensation for non-delivery of, or delay in delivering, goods.** **Three years** When the goods ought to be delivered.
12. **For the hire of animals, vehicles, boats or household furniture.** **Three years** When the hire becomes payable.
13. **For the balance of money advanced in payment of goods to be delivered.** **Three years** When the goods ought to be delivered.
14. **For the price of goods sold and delivered where no fixed period of credit is agreed upon.** **Three years** The date of the delivery of the goods.
15. **For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.** **Three years** When the period of credit expires.
16. **For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.** **Three years** When the period of the proposed bill elapses.
17. **For the price of trees or growing crops sold by the plaintiff to the defendant** where no fixed period of credit is agreed upon. **Three years** The date of the sale.
18. **For the price of work done by the plaintiff** **Three years** When the work is done.

**for the defendant at his request**, where no time has been fixed for payment.

- 19. For money payable for money lent.** **Three years** When the loan is made  
Like suit when the lender has given a
- 20. cheque for the money.** **Three years** When the cheque is paid.  
For money lent under an agreement that it shall be payable on demand.
- 21.** **Three years** When the loan is made.
- 22.** **Three years** When the demand is made.  
For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable.
- 23.** **Three years** When the money is paid  
For money payable to the plaintiff for money paid for the defendant.
- 24.** **Three years** When the money is received.  
For money payable by the defendant to the plaintiff for money received by the defendant, for the plaintiff's use.
- 25.** **Three years** When the interest becomes due.  
For money payable for interest upon money due from the defendant to the plaintiff.
- 26.** **Three years** When the accounts are stated in writing signed by the defendant or his agent duly authorized in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable  
For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.

at a future time, and then when that time arrives.

- For compensation for breach of a promise to do anything at a specified time,** or upon the happening of a specified contingency. **Three years** When the time specified arrives or the contingency happens.
- 27.
- On a single **bond, where a day is specified for payment.** **Three years** The day so specified.
- 28.
- On a single **bond, where no such day is specified.** **Three years** The date of executing the bond.
- 29.
- On a bond subject to a condition **Three years** When the condition is broken.
- 30.
- On a bill of exchange or promissory note payable at a fixed time after date. **Three years** When the bill or note falls due.
- 31.
- On a bill of exchange payable at sight, or after sight, but not at a fixed time. **Three years** When the bill is presented.
- 32.
- On a bill of exchange accepted payable at a particular place. **Three years** When the bill is presented at that place.
- 33.
- On a bill of exchange or promissory note payable at a fixed time after sight or after demand **Three years** When the fixed time expires.
- 34.
- On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue. **Three years** The date of the bill or note.
- 35.

36. On a promissory note or bond payable by installments **Three years** The expiration of the first term of payment as to the part then payable ; and for the other parts, the expiration of the respective terms of payment.
37. On a promissory note or bond payable by installments, which provides that, if default be made in payment of one or more installments, the whole shall be due. **Three years** When the default is made, unless where the payee or obligee waives the benefit of the provision and then when fresh default is made in respect of which there is no such waiver.
38. On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen. **Three years** The date of the delivery to the payee.
39. On a dishonored foreign bill where protest has been made and notice given. **Three years** When the notice is given.
40. By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance. **Three years** The date of the refusal to accept.
41. By the acceptor of an accommodation-bill against the drawer. **Three years** When the acceptor pays the amount of the bill.
42. **By a surety against the principal debtor.** **Three years** When the surety pays the creditor.
43. **By a surety against a co-surety.** **Three years** When the surety pays anything in excess of his own share.
44. (a) **On a policy of insurance** when the **Three years** The date of the death of the deceased, or where

- sum insured is payable after proof of the death has been given to or received by the insurers.
- the claim on the policy is denied, either partly or wholly, the date of such denial.
- (b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.
- Three years** The date of the occurrence causing the loss, or where the claim on the policy is denied, either partly or wholly, the date of such denial.
45. By the assured to recover premia paid under a policy voidable at the election of the insurers.
- Three years** When the insurers elect to avoid the policy.
46. Under the Indian Succession Act, 1925 (39 of 1925), section 360 or section 361, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.
- Three years** The date of the payment or distribution.
47. For money paid upon an existing consideration which afterwards fails.
- Three years** The date of the failure.
48. For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-sharers.
- Three years** The date of the payment in excess of the plaintiff's own share.

49. By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution. **Three years** When the right to contribution accrues.
50. By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate. **Three years** The date of the payment.
51. **For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.** **Three years** When the profits are received.
52. **For arrears of rent.** **Three years** When the arrears become due.
53. By a vendor of immovable property for personal payment of **unpaid purchase-money.** **Three years** The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
54. **For performance of a specific contract.** **Three years** The date fixed for the performance, or, if no such date is fixed, when the plaintiff has noticed that performance is refused.
55. **For compensation for the breach of any contract,** express or implied not herein specially provided for **Three years** When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is



continuing) when it ceases.

### SUITS RELATING TO DECLARATIONS

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

### SUITS RELATING TO DECREES AND INSTRUMENTS

59. To **cancel or set aside an instrument or decree** or for the rescission of a contract. **Three years** When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.
60. To set aside a transfer of property made by the guardian of a ward—
- (a) by the ward who has attained majority **Three years** When the ward attains majority.
- (b) by the ward's legal representative—
- (I) When the ward dies within three years from the date of attaining majority; **Three years** When the ward attains majority.

(ii) When the ward dies before attaining majority.

**Three years** When the ward dies.

## SUITS RELATING TO IMMOVABLE PROPERTY

### 61. By a mortgagor—

(a) to redeem or recover possession of immovable property mortgaged; **Thirty years** When the right to redeem or to recover possession accrues.

(b) to recover possession of immovable property mortgaged and afterwards transferred by the mortgagee for a valuable consideration ; **Twelve years** When the transfer becomes known to the plaintiff,

(c) to recover surplus collections received by the mortgagee after the mortgagee has been satisfied. **Three years** When the mortgagor re-enters on the mortgaged property.

62. To enforce payment of money secured by a mortgagee or otherwise charged upon immovable property. **Twelve years** When the money sued for becomes due.

### 63. By a mortgagee—

(a) for foreclosure, **Thirty years** When the money secured by the mortgagee becomes due.

(b) for possession of immovable property mortgaged. **Twelve years** When the mortgagee becomes entitled to possession.

64. For possession of immovable property based on previous possession and not on title, when the plaintiff while in possession of the property has been dispossessed. **Twelve years** The date of dispossession.

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

*Explanation* :For the purposes of this article

—

(a) where the suit is by a remainderman, a reversion-er (other than a landlord) or a devisee, the possession of the defendant shall be deemed to become adverse only when the estate of the remainder man, reversioner or devisee, as the case may be, falls into possession ;

(b) where the suit is by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies ;

(c) where the suit is by a purchaser at a sale in execution of a decree when the judgment-debtor was out of possession at the date

of the sale, the purchaser shall be deemed to be a representative of the judgment-debtor who was out of possession.

66. For possession of immovable property when the plaintiff has become entitled to possession by reason of any forfeiture or breach of condition. **Twelve years** When the forfeiture is incurred or the condition is broken.
67. **By a landlord to recover possession from a tenant** **Twelve years** When the tenancy is determined.

#### SUITS RELATING TO MOVABLE PROPERTY

68. **For specific movable property** lost, or acquired by theft, or dishonest misappropriation or conversion. **Three years** When the person having the right to the possession of the property first learns in whose possession it is.
69. For other specific movable property. **Three years** When the property is wrongfully taken.
70. To recover movable property **deposited or pawned** from a depository or pawnee **Three years** The date of refusal after demand.
71. To recover movable property deposited or pawned, and afterwards bought from the depository or pawnee for a valuable ;consideration. **Three years** When the sale becomes known to the plaintiff.

## SUITS RELATING TO TORT

- |     |  |                 |   |
|-----|--|-----------------|---|
| 72. | <b>For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force</b> for the time being in the territories to which this Act extends. | <b>One year</b> | When the act or omission takes place.   |
| 73. | <b>For compensation for false imprisonment.</b>  | <b>One year</b> | When the imprisonment ends.   |
| 74. | <b>For compensation for a malicious prosecution</b>  | <b>One year</b> | When the plaintiff is acquitted or the prosecution is otherwise terminated.   |
| 75. | <b>For compensation for libel</b>  | <b>One year</b> | When the libel is published.  |
| 76. | <b>For compensation for slander</b>  | <b>One year</b> | When the words are spoken or, if the words are not actionable in themselves, when the special damage complained of results. |
| 77. | For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.   | <b>One year</b> | When the loss occurs.   |
| 78. | For compensation for inducing a person to break a contract with the plaintiff.   | <b>One year</b> | The date of the breach.   |
| 79. | For compensation for an illegal, irregular or excessive distress.  | <b>One year</b> | The date of the distress.   |
| 80. | <b>For compensation for wrongful seizure of</b>  | <b>One year</b> | The date of the seizure.  |

**movable property  
under legal process.**

81. By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855 (12 of 1855). **One year** The date of the death of the person wronged.
82. By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855 (13 of 1855). **Two years** The date of the death of the person killed.
83. Under the Legal Representatives' Suits Act, 1855 (12 of 1855) against an executor, an administrator or any other representative. **Two years** When the wrong complained of is done.
84. **Against one who, having a right to use property for specific purposes, perverts it to other purposes.** **Two years** When the perversion first becomes known to the person injured thereby.
85. For **compensation for obstructing a way or a water course.** **Three years** The date of the obstruction.
86. For **compensation for diverting a water course.** **Three years** The date of the diversion.
87. For **compensation for trespass upon immovable property.** **Three years** The date of the trespass
88. For **compensation for infringing copyright** or any other exclusive privilege. **Three years** The date of the infringement.

89. To restrain waste. **Three years** When the waste begins.
- For **compensation for injury caused by an injunction wrongfully obtained.**
90. **Three years** When the injunction ceases.
91. For compensation,—
- (a) for wrongfully taking or detaining any specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion ; **Three years** When the person having the right to the possession of the property first learns in whose possession it is.
- (b) for wrongfully taking or injuring or wrongfully detaining any other specific movable property. **Three years** When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.

## SUITS RELATING TO TRUSTS AND TRUST PROPERTY

- To recover possession of immovable property** conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration. **92.** **Three years** When the transfer becomes known to the plaintiff.
- To recover possession of movable property conveyed** or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration. **93.** **Three years** When the transfer becomes known to the plaintiff.
- To set aside a transfer of immovable property** comprised in a Hindu, Muslim or Buddhist religious or charitable **94.** **Twelve years** When the transfer becomes known to the plaintiff.

endowment, made by a manager thereof for a valuable consideration.

- 95.** **To set aside a transfer of movable property** comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration. **Three years** When the transfer becomes known to the plaintiff.

- 96.** By the manager of a Hindu, Muslim or Buddhist religious or charitable endowment to recover possession of movable or immovable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration. **Twelve years** The date of death, resignation or removal of the transferor or the date of appointment of the plaintiff as manager of the endowment, whichever is later.

### SUITS RELATING TO MISCELLANEOUS MATTERS

- 97.** To enforce a **right of pre-emption** whether the right is founded on law or general usage or on special contract. **One year** When the purchaser takes under the sale sought to be impeached, physical possession of the whole, or, part of the property sold, or, where the subject-matter of the sale does not admit of physical possession of the whole or part of the property, when the instrument of sale is registered.



- By a person against whom <sup>1</sup>[an order under rule 63 or rule 103] of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908) or an order under section 28 of the Presidency Small Cause Courts Act, 1882 (15 of 1882), has been made, to establish the right which he claims to the property comprised in the order.
- 98.** **One year** The date of the final order.
- To set aside a sale by a civil** or revenue court or a sale for arrears of Government revenue or for any demand recoverable as such arrears.
- 99.** **One year** When the sale is confirmed or would otherwise have become final and conclusive had no such suit been brought.
- To alter or set aside any decision or order of a civil court in any proceeding other than a suit or any act or order of an officer of Government in his official capacity.
- 100.** **One year** The date of the final decision or order by the court or the date of the act or order of the officer, as the case may be.
- Upon a judgment, including a foreign judgment, or a recognizance.
- 101.** **Three years** The date of the judgment or recognizance.
- For property which the plaintiff has conveyed while insane
- 102.** **Three years** When the plaintiff is restored to sanity and has knowledge of the conveyance.
- To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.
- 103.** **Three years** The date of the trustee's death or if the loss has not then resulted, the date of the loss.
- To establish a periodically recurring right.
- 104.** **Three years** When the plaintiff is first refused the enjoyment of the right.

- 105. By a Hindu for arrears of maintenance. of Three years** When the arrears are payable.

- For a legacy or for a share of a residue bequeathed by a testator or for a distributive share of the property of an intestate against an executor or an administrator or some other person legally charged with the duty of distributing the estate. **Twelve years** When the legacy or share becomes payable or deliverable.

- 107. For possession of a hereditary office. Twelve years** When the defendant takes possession of the office adversely to the plaintiff.

*Explanation:* A hereditary office is possessed when the properties thereof are usually received, or (if there are no properties) when the duties thereof are usually performed.

- Suit during the life of a Hindu or Muslim female by a Hindu or Muslim who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re-marriage. **Twelve years** The date of the alienation.

- 109. By a Hindu governed by Mitakshara law to set aside his father's alienation of ancestral property. Twelve years** When the alienee takes possession of the property.

- By a person excluded from a joint family property to enforce a right to share therein. **Twelve years** When the exclusion becomes known to the plaintiff.
- 110.**

- By or on behalf of any local authority for possession of any public street or road or any part thereof** from which it has been dispossessed or of which it has discontinued the possession. **Thirty years** The date of the dispossession or discontinuance.
- 111.**

- Any suit** (except a suit before the Supreme Court in the exercise of its original jurisdiction) by or **on behalf of the Central Government or any State Government**, including the Government of the State of Jammu and Kashmir. **Thirty years** When the period of limitation would begin to run under this Act against a like suit by a private person.
- 112.**

### SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD

- Any suit for which no period limitation is provided** else where of in this Schedule. **Three years** When the right to sue accrues.
- 113.**

### APPEALS

- |             | <i>Description of appeal</i>                                | <i>Period of limitation</i> | <i>Time from which period begins to run</i> |
|-------------|---|-----------------------------|---|
| <b>116.</b> | <b>Under the Code of Civil Procedure, 1908 (5 of 1908)—</b> |                             |   |
|             | (a) to a High Court from any decree or order;               | <b>Ninety days</b>          | The date of the decree or order             |

- |             |   |                    |   |
|-------------|---|--------------------|---|
|             | <b>(b) to any other court from any decree or order.</b>     | <b>Thirty days</b> | <b>The date of the decree or order.</b> |
| <b>117.</b> | From a decree or order of any High Court to the same Court. | <b>Thirty days</b> | The date of the decree or order.        |

## APPLICATIONS

<i>Description of application</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
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### APPLICATIONS IN SPECIFIED CASES

- |             |   |                    |  |
|-------------|---|--------------------|--|
| <b>118.</b> | For <b>leave to appear and defend</b> in a suit under <b>summary procedure.</b>   | <b>Ten days</b>    | When the summons is served.  |
| <b>119.</b> | <b>Under the Arbitration Act, 1940 (10 of 1940)—</b>  |                    |  |
|             | (a) for the filing in court of an award;  | <b>Thirty days</b> | The date of service of the notice of the making of the award.                              |
|             | <b>(b) for setting aside an award or getting an award remitted for reconsideration.</b>   | <b>Thirty days</b> | The date of service of the notice of the filing of the award.                              |
| <b>120.</b> | Under the Code of Civil Procedure, 1908 (5 of 1908), <b>to have the legal representative of a deceased</b> plaintiff or appellant or of a deceased defendant or respondent, made a party. | <b>Ninety days</b> | The date of death of the plaintiff, appellant, defendant or respondent as the case may be. |
| <b>121.</b> | Under the same Code for an order <b>to set aside an abatement.</b>  | <b>Sixty days</b>  | The date of abatement.   |

- To restore a suit or appeal** or application for review or revision **dismissed for default** of appearance or for want of prosecution or for failure to pay costs of service of process or to furnish security for costs.
- 122.** **Thirty days** The date of dismissal.
- To set aside a decree passed *ex parte*** or to re-hear an appeal decreed or heard *ex parte*.
- 123.** **Thirty days** The date of the decree or where the summons or notice was not duly served, when the applicant had knowledge of the decree.
- Explanation:* For the purpose of this article, substituted service under rule 20 of Order V of the Code of Civil Procedure, 1908 (5 of 1908) shall not be deemed to be due service.
- For a review of judgment by a court other than the Supreme Court.
- 124.** **Thirty days** The date of the decree or order.
- To record an adjustment or satisfaction of a decree.**
- 125.** **Thirty days** When the payment or adjustment is made.
- For the payment of the amount of a decree by installments.
- 126.** **Thirty days** The date of the decree.
- To set aside a sale in execution of a decree,** including any such application by a judgment-debtor.
- 127.** **[Sixty] days** The date of the sale.

- 128.** **For possession** by one dispossessed of immovable property and disputing the right of the decree-holder or **purchaser at a sale in execution of a decree.** **Thirty days** The date of the dispossession.
- 129.** For possession after removing resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree. **Thirty days** The date of resistance or obstruction.
- 130. For leave to appeal as a pauper—**
- (a) to the High Court; **Sixty days** The date of decree appealed from.
- (b) to any other Court. **Thirty days** The date of decree appealed from.
- 131.** To any court for the exercise of its powers of revision under the Code of Civil Procedure, 1908 (5 of 1908), or the Code of Criminal Procedure, 1898 (5 of 1898). **Ninety days** The date of the decree or order or sentence sought to be revised.
- 132.** To the High Court for a certificate of fitness to appeal to the Supreme Court under clause (1) of article 132, article 133 or sub-clause (c) of clause (1) of article 134 of the Constitution or under any other law for the time being in force. **Sixty days** The date of the decree, order or sentence.
- 134.** **For delivery of possession by a purchaser of immovable property** **One year** When the sale becomes absolute.

**at a sale in execution  
of a decree.**

135. For the enforcement of a **decree granting a mandatory injunction** **Three years** The date of the decree or where a date is fixed, for performance, such date.

136. **For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court.** **Twelve years** <sup>2</sup>[When] the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default, in making the payment or delivery in respect of which execution is sought, takes place:

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

### **OTHER APPLICATIONS**

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

### **G. STARTING POINT OF LIMITATION**

- The time from which the limitation begins depends on the **facts and circumstances** of the case.
  
- It usually starts from the date once the **summons or notice is served**, or the date on that the decree or judgment is passed, or the date on that the event that forms the idea of the suit takes place. The Supreme Court in **Trustee's Port Bombay v. The Premier Automobile (1971)**

held that the starting point of limitation is the accrual of the cause of action.

## **H. PLEA OF LIMITATION: DUTY OF COURT**

- The **Court is under an obligation to dismiss a suit** if it is filed beyond the time prescribed by the Limitation Act. The provisions of Section 3 are mandatory, and the Court will not proceed with the suit if it is barred by time.

## **I. LIMITATION BARS REMEDY**

- Section 3 lays down the general rule that if any suit, appeal or application is brought before the court after the expiry of the prescribed time then the court shall dismiss such suit, **appeal or application as time barred**.
- The law of limitation only bars the judicial remedy and does not extinguish the right. In other words, the statute of limitation prescribes only the period within which legal proceedings must be initiated. In the case of **Punjab National Bank and Ors v. Surendra Prasad Sinha (1992)** the Supreme Court held that the rules of limitation are not meant to destroy the rights of the parties. Section 3 only bars the remedy but does not destroy the right which the remedy relates to.

## **J. CASE LAWS**

- **Punjab National Bank and Ors v. Surendra Prasad Sinha (1992):** In the case, the **Supreme Court** clarified that statutory limitations serve to prevent the enforcement of legal remedies after a set time, without nullifying the underlying rights. Section 3 of the Limitation Act **bars remedies but preserves the enforceability of rights**, emphasizing that while access to legal recourse may expire, the fundamental entitlements endure beyond the specified time frame.
- **Bombay Dyeing and Manufacturing Company v. the State of Bombay (1957):** Supreme Court established a crucial legal principle



that the statute of limitations acts as a **bar to legal remedies rather than extinguishing underlying rights**. This means that while the passage of time may prevent someone from seeking a remedy through legal action, it does not nullify or erase their fundamental legal entitlements or claims.

## **K. CONCLUSION**

The Limitation Act, 1963, operates to limit the temporal scope within which legal actions can be initiated, preserving substantive rights while barring legal remedies once the prescribed period has expired. Understanding the distinction between the right and the remedy under the Act is crucial for both legal practitioners and individuals involved in potential legal disputes.

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Collected from open website source, compiled and submitted by:

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**PAPER PRESENTATION ON**

**CONDITIONS AS TO TIME AND LIMITATION**  
**UNDER DIFFERENT STATUTES.**

## **CONDITIONS AS TO TIME AND LIMITATION UNDER DIFFERENT STATUTES.**

**SUBJECT-SPECIFIC LEGISLATION GOVERNING LIMITATION** is **there** in India, apart from the “the Limitation Act, 1963”. The Limitation Act, 1963 establishes certain time frames for filing the suits or appeals in courts. It also prescribes certain lifespan for legal remedies. Apart from it **some** Subject-specific legislations are there prescribing specific limitation periods for legal actions brought pursuant to that specific legislation, some of them are:

### **1. LIMITATION PERIODS IN EXECUTION PROCEEDINGS UNDER C.P.C AND C.R.P. TO REMEMBER**

<b>Description of application</b>	<b>Period of limitation</b>
For <b>Written statement</b> , set-off and counter-claim	<b>Thirty days but with reasons</b> to be recorded in writing, <b>be extended upto ninety days</b>
For <b>delivery of possession by Court Auction Purchase</b> under Order 21 rule 95 CPC	<b>One year</b> from the date of confirmation of Sale
For the <b>payment of the amount due under decree by installments</b> under Or 21 R 11(2) CPC	<b>30 days</b> from the date of decree
<b>To set aside sale in execution of decree</b> including E.A. By J D. Or 21 R 89, 90 and Sec 47 CPC	<b>60 days</b> from the date of sale
<b>Note:</b> For an EA under Or 21 R 89 CPC the <b>time for deposit is 30 days from the date of sale.</b>	Supreme Court decision in <b>1990 (1) M.L.J. 36 to 40</b>

<b>To set aside sale</b> in cases relating to debts due on <b>Mortgage Decree</b>	<b>Any time before confirmation Of sale</b> as per Or 34 R 5 CPC.
For <b>execution of decree</b> granting <b>perpetual injunction</b>	<b>No time limit prescribed.</b>
Time limit for <b>detention of an arrested JD in court premises</b> under custody of officer of court.	<b>Not exceeding 15 days.</b> 1 st proviso to Or 21 R 40 CPC. Form No. 14 A
Time limit for <b>deposit of 1/4 th sale proceeds</b>	<b>Immediately after declaration of sale.</b> If DH is the purchaser may be dispensed with
Time limit for <b>deposit of 3/4 th sale proceeds</b> and S.C. Charges (rule 94) or amount required for stamps	<b>15 days from the date of sale</b> Or 21 R 85 CPC.
Time limit for <b>payment (deposit) of any batta</b> in execution except sale warrant batta.	Within <b>2 days</b> or period if so fixed by the judge. (Rule 144 C.R.P.)
Time for <b>payment of sale proclamation</b> batta along with S.P. Copies and Tom Tom charges. (Movables)	within <b>2 days</b> from the date of order. Mandatory provision. Rule 187 CRP.
Time for <b>payment of sale warrant batta.</b>	<b>A week before date fixed for sale.</b> Mandatory provision Rule 187 CRP.
<b>Return of decree</b> of other courts entered in CR 15 <b>if execution is not levied</b> in execution court.	<b>Within 3 days after expiry of 1 year</b> Time from the date of receipt of other court decree. (Date of transmission is not the criteria. Rule 138 CRP)
<b>Time for sale</b> (Or 21 R 68 CPC)	For immovables after expiry of <b>15 days</b> from the date on

	which the copy of proclamation is affixed on the court notice board.  <b>For movables it is 7 days.</b>
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## **2. THE GENERAL CLAUSES ACT, 1897**

### **PERIOD OF LIMITATION-WHEN COURT IS CLOSED( SEC. 10 )**

When a court is closed on a certain day and the period of limitation expires on that day, then any suit, appeal or application **shall be taken up to the court** on the day on which it reopens.

## **3. MOTOR VEHICLE ACT 1988**

The issue of delay in filing a claim petition before the Motor Accident Claims Tribunal (MACT) is governed by specific provisions of the Motor Vehicles Act, 1988. The Act provides for a limitation period and conditions under which delays may be condoned.

### **KEY LEGAL PROVISIONS**

#### **□ Limitation Period:**

Under Section 166(3) of the Motor Vehicles Act, 1988, a claim for compensation must be filed within six months from the date of the accident. The Tribunal may entertain applications filed after this period but not later than twelve months if sufficient cause is shown for the delay [Purohit & Company VS Khatoonbee - Supreme Court \(2017\)](#)[Chappati Narayanan VS V. V. Koran - Kerala \(2002\)](#).

#### **□ Judicial Precedents:**

Hon'ble Supreme Court of India **Gohar Mohammed Case reported in 2022 ACJ 2771**, held that” **if the claimant fails to exercise the option in**

**terms of Section 166(1) within six months, the report submitted under Section 166(4) may be treated as a Claim Application”.**

Further in between **Malaravan v. Praveen Travels Private Limited. the Hon'ble Madras High Court on 18-08-2023, reported in 2023(2) TNMAC Page 416**, their Lord ship in paragraph 27 hold that “ **proceeding itself is initiated based on the Report filed by the Police Authorities. In effect, the Petition under Section 166 is only a reminder to the Hon'ble Claims Tribunal to perform its duty under Rule 21 of Annexure XIII of the Central Motor Vehicle Rules”.**

**Recently**, the Hon'ble Madras High Court in between **Thomas Daniel vs Selvi on 2 April, 2024 C.R.P. (MD) No. 761 of 2024** while considering the aspect of Motor accident claim and the law of limitation as provided under section 166(4) of the Act ruled that “A reading of [Section 166\(4\)](#) shows that if any report of the accident is forwarded to it under [Section 159](#), the same shall be treated as an application for compensation. It is no more the discretion of the police. Rule 4(A)(5)(1) of the Tamil Nadu Rules read with the Central Rules make it mandatory. It has now become a statutory duty of the Police to send a report. **It is pertinent to point out that the amendment under [Section 166\(4\)](#) does not speak about the Interim Accident Report (IAR), First Accident Report (FAR) and Detailed Accident Report (DAR) but speaks about “any report that has been sent by the police”.** **Therefore, even if an FIR is sent by the police to the Tribunal, the same should be treated a Claim Petition.**”

#### **4. CONSUMER PROTECTION ACT. 2019**

Chapter-IV of The Consumer Protection Act, 2019 under **Section 69 deals** with Limitation Period. **A complaint** filed under the Consumer Protection Act, 2019 (Consumer Protection Act) before a District Forum, the State Consumer Commission, or the National Consumer Commission will not be admitted unless it is filed **within two years** from the date on which the

cause of action arose. A complaint filed outside of the two-year limitation period may be entertained upon a showing of sufficient cause for not filing within the limitation period, **provided the court records its reasons for condoning the delay** . Specific timelines are prescribed for filing of appeals from the District Forum to the State Consumer Commission and from the State Consumer Commission to the National Consumer Commission. It reads as follows:

\*69. (1) The District Commission, the State Commission or the National Commission shall not admit a complaint unless it is filed **within two years** from the date on which the cause of action has arisen.

(2) Notwithstanding anything contained in sub-section (1), **a complaint may be entertained after the period** specified in sub-section (1), **if the complainant** satisfies the District Commission, the State Commission or the National Commission, as the case may be, that he **had sufficient cause for not filing** the complaint within such period:

Provided that no such complaint shall be entertained unless the District Commission or the State Commission or the National Commission, as the case may be, records its reasons for condoning such delay.

## **5. COMMERCIAL COURTS ACT. 2015**

**Chapter III-A of Commercial Courts Act** deals with some limitation periods while dealing PRE-INSTITUTION MEDIATION AND SETTLEMENT. This statute provides for constitution of commercial courts in India for adjudicating commercial disputes of specified value. It provides for mandatory pre-institution mediation before institution of a suit not praying for urgent interim relief. (Section 12A (1), Commercial Courts Act, 2015 (Commercial Courts Act).) The period during which parties were engaged in pre-institution mediation is specifically excluded while calculating limitation under the Limitation Act (section 12A (3), Commercial Courts Act). The statute further provides for strict timelines for filing appeals from an order of the Commercial Court to the Commercial Appellate Division or the High Court. It reads as follows:

**12A\*. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.**

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre institution mediation.

(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (2) shall complete the process of **mediation within a period of three months** from the date of application made by the plaintiff under sub-section (1): 19 of 1987

Provided that the period of mediation may be extended for a **further period of two months** with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section(4) of section 30 of the Arbitration and Conciliation Act, 1996.”\*



## **6. INSOLVENCY AND BANKRUPTCY CODE.**

The Insolvency and Bankruptcy Code consolidates the laws relating to re-organization and corporate insolvency resolution of corporate persons, partnership firms, and individuals in a time bound manner. To compute the period of limitation specified for a suit or application, the period of moratorium (at the time of which all proceedings against the corporate debtor remains suspended) is specifically excluded. (Section 14, Insolvency and Bankruptcy Court.) There are additional strict timelines for filing appeals from an order of the Adjudicating Authority to the National Company Law Appellate Tribunal.

In a recent ruling in **Bank of Maharashtra v. Mr. Anand Ghadigaonkar and Mr. Ketan Karkhanis**, C.P. (IB) No. 740/MB/2023 and C.P. (IB) No. 943/MB/2023, under SARFAESI Act, held that “the notice issued under S. 13 is crucial as it triggers the PG’s liability and sets the timeline for repaying the outstanding debt. Further, under R. 7(1) of the Insolvency and Bankruptcy Rules, 2019, financial creditors (‘FCs’) must issue a demand notice to the PG to initiate the CIRP. **The Limitation Act, 1963, as applied through s. 238A of the IBC stipulates a three-year limitation period for filing any application, which begins from the date of default**”.

## **7. ARBITRATION ACT:**

**Section 43** of the Arbitration and Conciliation Act, 1996 (Arbitration Act) stipulates that the Limitation Act is applicable to arbitration proceedings in the same manner as it applies to court proceedings. The date from which the right to sue accrues may vary from case to case and typically depends upon the agreement between the parties containing the arbitration clause. Unless otherwise agreed between the parties, the date on which the arbitration is deemed to have commenced is the date on which a request for the dispute to be referred to arbitration is received by the opposing party. (Sections 21 and 43(2), Arbitration Act.)

In the recent case of [Arif Azim Co Ltd v. Aptech Ltd](#) Reported in **2024 SCC OnLine SC 215**, decided on 01-03-2024, a three-judge Bench of the Hon'ble **Supreme Court** decided that "the limitation period for filing an application under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of arbitrator is **three years** from the date of notice of invocation of arbitration under Section 21 of the Act. The Court held that the notice invoking arbitration shall be issued within three years from the date of accrual of the cause of action".

## **8. THE MEDIATION ACT, 2023**

Chapter-V of The Mediation Act, 2023 while dealing Mediation Proceedings under **Section 18** provides Time-limit for completion of Mediation as **one hundred and twenty days** and it can be extended for a further period as agreed by the parties, but not exceeding sixty days. This law reads as follows:

**18. (1) Notwithstanding anything contained in any other law for the time being in force, mediation under this Act shall be completed within a period of one hundred and twenty days from the date fixed for the first appearance before the mediator.**

(2) The period for mediation mentioned under sub-section (1) may be extended for a **further period** as agreed by the parties, but **not exceeding sixty days**.

## **9. HINDU MARRIAGE ACT 1955**

**Section 13-B** of this Act apart from Section 14 deals with the limitation periods under which the parties can approach the court and the court can entertain the application for grant of the reliefs provided under this Hindu Marriage Act 1955 and this Sections are reads as follows:-

13B. Divorce by mutual consent.—(1) Subject to the provisions of this Act a petition for dissolution of marriage by

a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976 (68 of 1976), on the ground that they have been living separately for a period of **one year or more, that they have not been able to live together** and that they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made **not earlier than six months after the date of the presentation of the petition** referred to in sub-section (1) **and not later than eighteen months after the said date**, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.]

**14. No petition for divorce to be presented within one year of marriage.**—(1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, 4[unless at the date of the presentation of the petition one one year has elapsed] since the date of the marriage:

**Provided that the court may**, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented [before one year has elapsed] since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the condition that the

## **10. INDUSTRIAL DISPUTES ACT**

The limitation period for disputes under the ID Act initiated before the Labour Court or Industrial Tribunal is generally **Three years** as per **Section 2A (3) Of ID Act**. The application must be submitted to the applicable litigation forum i.e., the Labour Court or the Industrial Tribunal, within three years: For claims relating to termination of employment, from the date of discharge, dismissal, retrenchment, and other types of termination of employment.

For claims that arose during employment, the time limit starts from the date the act or omission leading to the claim occurred. For continuing acts or omissions, it is the date when the last act or omission occurred. Based on various amendments to state (provincial) employment laws, a judge may accept a delay in submitting the application to the Labour Court or Industrial Tribunal if there is a reasonable justification for doing so.

## **11. LAND ACQUISITION ACT 1894**

The another important facet of limitation period prescribed is in **section 18 of the Act of 1894** is the date of reckoning of such limitation period. The proviso to sub section (2) prescribed three dates of commencement of limitation which are:-

- (a) if the person making it was **present or represented before the collector** at the time when he made his award **the application shall be made within 6 weeks** from the date of the collector's award;
- (b) **in other cases, within 6 weeks** of the receipt of the notice from the collector under Section 12(2), or within 6 months from the date of the collector's award, whichever, period shall first expire.

The Hon'ble Supreme Court of India in the case of ***State Of Punjab v. Mst. Qaisar Jehan Begum and Anr. AIR 1963 SC 1604***, held that “the

date of award shall be interpreted to mean knowledge of award and such knowledge does not mean a mere knowledge of the fact that an award has been made but it should relate to the essential contents of the award". The view of the courts across the country has remained static that the application for reference under section 18 of the Act of 1894 shall be made within the limitation prescribed in the Act and there is no scope for condonation of such delay. The reference can be made to the judgments passed in the case of *State of Karnataka v. Laxuman*, (2005) 8 SCC 709, *Harbans Singh v. State of Punjab RFA No. 2513 of 1992*, *Raghuwansh Chaprana and others v. State of Haryana and others RFA No. 805 of 2006* and *Gram Panchayat, Bajghera v. State of Haryana and others RFA No. 5204 of 2015*.

Therefore, in view of the aforesaid pronouncement by the Hon'ble Supreme Court of India, it is clear beyond any cloud of doubt that once the person who failed to file either application for reference under section 18 of the Act of 1894 or application for re-determination of compensation based on award of Reference Court within the period of limitation provided under the respective provisions, cannot belatedly file such applications and delay cannot be condoned. .

### **JURISDICTION OF CIVIL COURTS UNDER NEW ACT OF 2013**

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 under **section 64 bars** the Jurisdiction of civil courts..Under this law, **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.

## **CONDONATION OF THE DELAY**

Condonation of delay is a **discretionary remedy** exercised by courts wherein, upon an application made by a party who wishes to have an appeal or application admitted after the prescribed period, the court may condone (overlook) the delay if the party provides a “**sufficient cause**” that hindered them from filing the appeal or application on time.

**Section 5 of the Limitation Act, 1963** enunciates the principle of condonation of delay. It states: Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 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”

### **Application of SECTION 5 of Limitation Act, TO OTHER STATUTES:**

Honorable High Court of Telangana and Andhra Pradesh (AT HYDERABAD) in between **DESAM VENKATESWARA REDDY V/S SPECIAL DEPUTY COLLECTOR & COMPETENT AUTHORITY, GAIL, G. KONDURU VILLAGE, VIJAYAWADA, KRISHNA DISTRICT** reported in 2014 Law Suit (Hyd) 227 held that “**where any period of limitation is prescribed under any special or local Law, Section 5 of the Limitation Act, 1963 applies to the proceedings under those special or local Law also**”.

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**PAPER PRESENTATION ON**

**AMENDMENTS OF PLEADINGS**

**AND**

**THE ASPECT OF LIMITATION,**

# **AMENDMENTS OF PLEADINGS AND THE EFFECT OF THE LAW OF LIMITATION**

**Pleadings** are statements in writing where each side in a case tells the other what they believe and what their arguments will be in court. They have to give all the important details so the other side can prepare their own arguments. It's really important that all the important facts and details are included in these statements and the court can only consider what's in these statements when making a decision.

But sometimes, a party might need to change or add something to their statement before or during the trial i.e. amendment of pleadings. Rule 17 of Order VI talks about how this can be done.

## **I. PURPOSE OF AMENDMENT OF PLEADINGS**

The purpose of amending pleadings is **to make sure that the real issues in the case** are addressed and that justice is served. However, there are conditions for making these changes, such as not causing harm to the other party and following the time limits set by the court.

## **II. LAW AS TO AMENDMENT OF PLEADINGS**

**Order VI, Rule 17** of the Code of Civil Procedure deals with amending pleadings. Pleadings are the statements made by the Plaintiff or the Defendant in their respective claims and responses. An amendment can involve altering, modifying, or deleting something in these statements. **Order VI Rule 17 reads as under:**

**"17. Amendment of pleadings** - The Court may **at any stage** of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just and all such amendments shall be made as may be necessary **for the purpose of determining the real**



**questions in controversy between the parties:**

Provided that **no application for amendment shall be allowed after the trial has commenced**, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

### **III. REASONS FOR AMENDMENT OF PLEADINGS**

Amending pleadings is crucial in the Indian legal system, especially in civil cases. Pleadings are formal written statements that parties use to present their case to the court, including facts, issues and legal arguments. Allowing amendments to these statements is essential for several reasons:

**Ensuring Justice:** Amendment of pleadings helps ensure that justice is served. It allows parties to correct errors or omissions in their defence, making their case presentation more effective. It also helps address new issues that may arise during the trial, ensuring that the real matters in dispute are properly addressed.

**Resolving Disputes:** Amendments to pleadings help parties identify and resolve key issues in a dispute more effectively. This leads to more accurate and fair dispute resolution, saving time, reducing the need for additional evidence or hearings and promoting settlements between parties.

**Avoiding Delays:** Allowing parties to amend their pleadings before the trial begins helps prevent delays. By addressing problems or omissions early on, the risk of delays due to introducing new evidence or arguments is reduced. This speeds up case resolution, lightens the burden on the justice system and improves efficiency.

**Promoting Fairness:** Amending pleadings promotes fairness in the justice system. It prevents one party from gaining an unfair advantage over the other by allowing both sides an equal opportunity to present their case.

## **IV. CONSIDERATIONS FOR AMENDING PLEADINGS**

While amending pleadings is permitted under the Indian Code of Civil Procedure (CPC), specific conditions must be met, including:

- ❑ **Necessity for Dispute Resolution:** The proposed amendment must be necessary to resolve the dispute between the parties. The court assesses whether the change is essential to ensure the proper resolution of the issues in dispute and the delivery of justice.
- ❑ **Absence of Prejudice to the Other Party:** Amendments should not unfairly prejudice the other party. The court examines whether the proposed change would harm the opposing party through delays, increased costs, or substantive alterations to the case.
- ❑ **Good Faith:** The requested amendment must be made in good faith. The court considers whether the party seeking the change has a legitimate reason and isn't attempting to deceive the court or gain an unfair advantage.
- ❑ **Compliance with Time Limits:** Proposed amendments must adhere to any court-imposed deadlines. Parties must file these changes within the time frames specified by the court for pleading submissions.

## **V. WHAT CAN BE AMENDED IN PLEADINGS**

In legal proceedings in India, there are specific aspects of pleadings that can be amended:

- ❑ **Plaint Filed by the Plaintiff:** The plaintiff, who initiates the legal action, can amend the contents of the plaint, which is the formal document outlining their claims and allegations.
- ❑ **Written Statements Filed by the Defendant:** The defendant, in response to the plaintiff's claims, can amend their written statements. These statements present the defendant's version of events and defenses.

## **VI. CONDITIONS FOR GRANTING PERMISSION**

To obtain permission for amending pleadings, certain conditions must be met:

- No Injustice to the Other Party:** The amendment should not cause unfair harm or prejudice to the opposing party.
- Necessary for Determining Real Controversy:** The proposed amendment must be necessary to determine the actual dispute between the parties.
- Avoiding Multiplicity of Suits:** When the amendment serves to avoid the need for multiple separate lawsuits.

## **VII. WHEN AMENDMENT CAN BE REFUSED**

Conversely, there are circumstances when the court may refuse to grant permission for amending pleadings:

- Not Necessary for Determining Controversy:** If the amendment is not essential for resolving the core dispute between the parties.
- Introduction of Completely New Case:** If the proposed amendment completely changes the case's essence and introduces an entirely new set of facts or claims.
- Negligence:** If the plaintiff or defendant has been negligent in seeking the amendment.
- Unjust Alteration or Modification:** If the proposed changes are deemed unfair or unjust.
- Violation of Legal Rights or Injustice:** If the amendment violates the legal rights of the other party or results in injustice.
- Needless Complications:** When the amendment would unnecessarily complicate the case.
- Excessive Delay:** If there has been undue delay in filing the suit or requesting the amendment.
- Change in Nature of Disputes:** If the proposed amendment significantly alters the nature of the disputes in the case.
- Malafide Intention:** When the amendment is sought with a malicious or wrongful intention.

- **Missed Opportunities:** If parties had ample opportunities to request amendments but failed to do so.

These conditions and considerations on amendment of pleadings help maintain fairness and efficiency in the legal process while ensuring that justice is served in Indian courts.

## **VIII. CAUSES FOR AMENDMENT :**

In general amendment of pleading arose in the following circumstances so as to enable the parties to put forth their case/claim for effective determination. Those circumstances are

### **ADDITION OF PARTIES ORDER 1 RULE 10 C.P.C**

Addition of new parties, as already indicated constitutes amendment in the broad sense. Statutorily such amendments do not relate back to the date of institution of the Suit.

### **ADDITION OF PROPERTIES**

Different shades of alteration in the properties involved in the suit also will amount to amendment in the broadest sense. Alteration may be by correcting a mis-description. Like correcting a mis-description of parties such an alteration essentially will be under Section 153 of the Code and will relate back to the date of institution of the Suit containing the mis-description. Another variety of alteration may be by addition of more properties.

### **CORRECTING THE OMISSION OR ERRORS IN PLEADINGS:**

Under **Order 6 Rule 17 as well as U/Sec 153** of the Code of Civil Procedure, Omission in pleadings and the discrepancy in the description either the parties or the property can be rectify way of amendment of pleadings.

### **IMPLEADING LEGAL HEIRS OF DECEASED PARTY ( ORDER 22 )**

**U/O 22 R 3 and 4 of CPC**, if a party dies pending the litigation, the illegal representative such deceased party are entitled to join as plaintiffs or defendants so as to continue or to contest such litigation by placing their plea and proof.

**FOR ADDITIONAL OR ALTERNATIVE RELIEF:**

**U/O 6 Rule 17 of CPC as well as U/sec 22** of the Specific Relief Act 1963, the plaintiff who instituted the suit is entitled to seek any additional or alternative reliefs apart from the reliefs already prayed.

**IX. EFFECTS OF AMENDMENT OF PLEADINGS AND THE DOCTRINE OF RELATION BACK**

The doctrine of **relation back means** “the doctrine that an act done at a later time is, under certain circumstances treated as though it occurred at an earlier time”. Application of this doctrine to the matter of amendment would **simply mean that ordinarily an amendment made to a pleading will relate back to the date when the original pleading was filed.** It will be deemed by applying the doctrine that the amendment in the plaint was there on the date of institution of the Suit. **Thus in its application it is intimately connected with the question of Limitation of the Suit.** The doctrine is not of universal application. It cannot be applied to all manner of amendments irrespective of its true nature. A clear statutory expression of the doctrine in the matter of court-fee can be read in Section 149 of the Code.

When an amendment is permitted in a legal case, that amendment is generally considered to relate back to the date when the suit was originally filed. In the case of **Brij Kishore v. Smt. Mushtari Khatoon**, court held that the court should primarily consider the pleadings as they exist after the amendment has been made and disregard the unamended portions. In other words, the court should focus on the pleadings as they stand after the amendment and not take into account the unamended parts when making determinations in the case.

## **IS THIS DOCTRINE APPLIES TO ALL AMENDMENTS**

In **SAMPATH KUMAR Vs AYYAKANNU AND ANOTHER, AIR 2002 S.C. 3369**, (2002) 7 SCC 559 decided by the Supreme Court observed :-

**Firstly**, since “the basic structure of the suit is not altered by the proposed amendment and only the nature of relief is sought to be changed allowing the amendment would curtail multiplicity of legal proceedings.

**Secondly**, the question of delay in seeking the amendment, in the case almost 11 years after the date of the suit, should be decided not by calculating the period from the date of the suit alone but by reference to the stage of the suit. Pre-trial amendments are allowed more liberally than those sought to be made after commencement or conclusion of trial. In the latter case question of prejudice to the<sup>14</sup> opposite party may arise and has to be answered by reference to facts and circumstances of each case. Mere delay cannot be a ground for refusing a prayer for amendment.

**Thirdly**, the merits of the averments sought to be incorporated by way of amendment are not to be judged at the stage of allowing the prayer for amendment.

**Fourthly, an amendment once incorporated relates back to the date of suit. However the doctrine of relation back in the context of amendment of pleadings is not one of Universal Application** and in appropriate cases the Court is competent while permitting the amendment to direct that the amendment permitted by it shall not relate back to the date of the

suit and that it shall operate from the date of filing of the application for amendment.

**Fifthly**, since the defendant allegedly has perfected his title his right should not be allowed to be defeated by permitting the new relief to relate back to the date of the suit which would amount to excluding a period of about 11 years in calculating the period of prescriptive title.

Thus to avoid multiplicity of legal proceedings as well as to avoid prejudice to the defendant the relief of declaration of title and recovery of possession was allowed to be inserted by amendment operative only from the date of the application for amendment. It is clear enough from this judgment that addition of further or proper relief flowing from the existing pleadings may amount to correction of an error, defect within Section 153 of the Code. In such a case doctrine of relation back will apply.

## **X. LIMITATION AND IT'S IMPACT AFTER AMENDMENT:**

Amendment of pleadings when a suit is debarred by the Limitation Act is subject to certain considerations and principles as established by **various court cases:**

### **CASE LAW AS GUIDE:**

**Courts, as a rule, decline to allow amendments if a fresh suit on the amended claim would be barred by limitation on the date of the application** and when the pleadings itself reveal that the claim raised is time-barred (**Ashok Kumar Kalra v. Wing Cdr. Surendra Agnihotri and Ors., 2 SCC 394 (2020)**; **South Konkan Distilleries and Anr. v. Prabhakar Gajanan Naik and Ors., 14 SCC 632 (2008)**).

**In Revajeetu Builders and Developers v. Narayanaswamy and Sons and Others, some key principles were outlined for considering applications for amendments:**

- The amendment should be necessary for a fair resolution of the case.

- ❑ The request for amendment should be made in good faith.
- ❑ The amendment should not cause irreparable harm to the other party.
- ❑ Rejecting the amendment should not lead to injustice or multiple lawsuits.
- ❑ The proposed amendment should not fundamentally change the nature of the case.
- ❑ **Generally, amendments should be declined if a fresh lawsuit on the amended claims would be time-barred.**

**L.J. Leach & Co. Ltd. v. Jardine Skinner & Co: Reported in AIR 1957 S.C. 357** as well as in between Thilak D. John Vs S.Kayappan reported in **AIR 2001 S.C. 699**, the Supreme Court has stated that if an application for amending pleadings is debarred by the Limitation Act, it can be a ground for rejecting the application. **However, the court also has discretionary power to allow the amendment if it deems it necessary to secure the ends of justice.**

**South Konkan Distilleries & Anr v. Prabhakar Gajanan Naik & Ors Reported in AIR 2009 SC 1177** It is a settled principle that the court can disallow an application for amendment if, on the date of filing the application, it is barred by limitation. Nevertheless, **this does not mean the court cannot grant the application. The court retains discretionary power to allow the amendment if it believes it is necessary to serve the interests of justice.**

**Pankaja & Anr v. Yellappa (D) by LRs & Ors** Reported in **AIR 2004 S.C. 4102**, The Hon'ble Supreme Court held that **there is no fixed principle that dictates whether the court can reject an application for amendment when it is barred by limitation.** The court's decision depends on the specific factual background of the case. If the facts and circumstances demonstrate that the amendment is necessary to determine the cause of action and avoid further litigation, the court should allow the application.

**Ragu Thilak v. S. Rayappan AIR 2001 S.C. 699** The issue of limitation in an application for amendment varies from case to case. **In some**



**instances, the issue of limitation becomes a matter of dispute in the suit itself. In such cases, the application for amendment may be allowed to help resolve the case.**

Hon'ble Supreme Court further in between **Shiva Gopal Sah Vs. Sitaram Saraugi** Reported in **AIR 2007 S.C. 1478** ruled that **the prayer of amendments of pleadings be considered even in where the proposed amendments were barred by time. However to consider those amendments there has to be a valid basis made out in the application and that application should with a bonafide and the part of applicant with reasonable explanation for delay.**

Further Hon'ble Supreme Court in between **L.C.Hanumanthappa Vs H.B. Sivakumar** reported in **AIR 2015 S.C.3364** ruled that **even if the relief claimed by way amendment of pleadings discloses the expiry of limitation to seek such relief, those amendments can be considered subject to the plea of law of limitation.**

## **XI. WHAT IF LIMITATION IS MIXED QUESTION:**

The Honored Supreme Court in the case of **Narne Rama Murthy v. Ravula Somasundaram and Ors. (2005) 6 SCC 614** observed as follows:

“5. We also see no substance in the contention that the suit was barred by limitation and that the courts below should have decided the question of limitation. When limitation is the pure question of law and from the pleadings itself it becomes apparent that a suit is barred by limitation, then, of course, it is the duty of the court to decide limitation at the outset even in the absence of a plea. **However, in cases where the question of limitation is a mixed question of fact and law and the suit does not appear to be barred by limitation on the face of it, then the facts necessary to prove limitation must be pleaded, an issue raised and then proved.** In this case the question of limitation is intricately linked with the question

whether the agreement to sell was entered into on behalf of all and whether possession was on behalf of all. It is also linked with the plea of adverse possession. Once on facts it has been found that the purchase was on behalf of all and that the possession was on behalf of all, then, in the absence of any open, hostile and overt act, there can be no adverse possession and the suit would also not be barred by limitation. The only hostile act which could be shown was the advertisement issued in 1989. The suit filed almost immediately thereafter.”

## **XII. WHAT IF FAILED TO AMEND WITHIN TIME**

According to **Order VI, Rule 18** of the Civil Procedure Code: If a party obtains an order for leave to amend but fails to amend within the time specified in the order, or if no specific time is provided, within fourteen days from the date of the order, they will not be allowed to amend after this prescribed time unless the court extends the time.

In other words, **if a party does not act promptly** to make the amendments within the specified or default time frame, **they may lose the opportunity to amend their pleadings unless the court decides to grant an extension.** This rule helps ensure the orderly progression of legal proceedings.

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Collected from open website source, compiled and submitted by:

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**Paper presentation on  
Limitation in criminal cases in respect of offences under IPC/BNS  
and other Special Laws.**

by  
Ramineni Ashok Kumar,  
Civil Judge (Jr.Division), Madakasira.

Chapter XXXVI of the Criminal Procedure Code was introduced to provide limitation period for launching criminal prosecution with respect to offences not punishable with imprisonment for a term exceeding three years. The Chapter comprises of Sections 467 to 473. The rationale behind the inclusion of period of limitation in the Criminal Procedure Code is to ensure that criminal prosecution system does act quickly. In addition to the applicable provisions for criminal proceedings as prescribed in the Limitation Act and the Criminal Procedure Code, there are various special statutes like the Police Act 1861, the Trade Marks Act, 1999, the Geographical Indication of Goods (Registration and Protection) Act 1999, the Negotiable Instruments Act, 1881, Factories Act, 1948 and the Army Act, 1950, wherein the limitation period is governed by the period prescribed in such special statute and not as prescribed under the Criminal Procedure Code.

Prior to the 42<sup>nd</sup> Law Commission Report dated 2.6.1971 ("Report of 1971") issued by the Ministry of Law, Government of India, only specific statutes had limitation periods prescribed for certain offences and the Criminal Procedure Code contained no general provision of limitation for prosecution. Pursuant to conducting an extensive study of criminal laws of various countries including codes of Argentina, Austria, Ceylon, Columbia, France, Germany, Japan, Norway, Russia and Yugoslavia wherein it was generally found that law of limitation has been prescribed not only for initiating prosecution but also for execution of sentences passed by the Courts, the Law Commission of India, realized that it would be good for the criminal justice system to provide provisions of limitation for the prosecution of criminal offences of a certain type in general law.

The Law Commission of India noted that the reasons to justify the introduction of provisions prescribing limitation in general law for criminal cases are

similar to those which justify such provisions as prescribed in civil law such as likelihood of evidence being curtailed, failing memories of witnesses and disappearance of witnesses. Such a provision, in the opinion of the Law Commission of India, was to quicken diligence, prevent oppression and in the public interest, to bring an end to the legal battle. The Law Commission of India also felt that the Courts would be relieved of the burden of adjudicating inconsequential claims.

Paragraphs 24.3 and 24.4 of the Report of 1971 are material and reads as follows:

24.3 - In civil cases, the law of limitation in almost all countries where the rule of law prevails, Jurists have given several convincing reasons to justify the provision of such a law; some of those which are equally applicable to criminal prosecutions may be referred to here:

- (1) the defendant ought not to be called on to resist a claim when "evidence has been lost, memories have faded, and witnesses have disappeared";
- (2) the law of limitation is also a means of suppressing fraud, and perjury, and quickening diligence and preventing oppression;
- (3) it is in the public interest that there should be an end to litigation. The statute of limitation is a statute of repose;
- (4) a party who is insensible to the value of civil remedies and who does not assert his own claim with promptitude has little or no right to require the aid of the state in enforcing it.
- (5) the Court should be relieved of the burden of adjudicating inconsequential or tenuous claims";

"24.4 Theoretically, all the aforesaid reasons apply with equal force in the field of the criminal law. Evidence is as much likely to become stale in criminal cases as in civil cases. Memory, if it fades, would irrespective of the nature of the proceeding, subject to the qualification that a serious criminal injury perpetrated on a victim may remain fixed in his memory for a very long time".

The Law Commission provided the following explanation for extending limitation to original prosecutions:

24.11- It seems to us that there is a strong case for having a period of limitation for offences which are not very serious. For such offences, considerations of fairness to the accused and the need for ensuring freedom from prosecution after a lapse of time should outweigh other considerations. Moreover, after the expiry of a certain period the sense of social retribution loses its edge and the punishment does not serve the purpose of social retribution. The deterrent effect of punishment which is one of the most important objectives of penal law is very much impaired if the punishment is not inflicted promptly and if it is inflicted at a time when it has been wiped off the memory of the offender and of other persons who had knowledge of the crime.”

Paragraphs 24.13 to 24.14, 24.21 to 24.26 of the Report of 1971, which may be relevant and interesting to refer to, read thus :

**24.13** - At present no Court can throw out a complaint solely on the ground of delay, because, as pointed out by the Supreme Court, "the question of delay in filing a complaint may be a circumstance to be taken into consideration in arriving at the final verdict, but by itself, it affords no grounds for dismissing the complaint". It is true that unconscionable delay is a good ground for entertaining grave doubts about the truth of the complainant's story unless he can explain it to the satisfaction of the Court. But it would be illegal for a Court to dismiss a complaint merely because there was inordinate delay.

**24.14.-** We, therefore, recommend that the principle of limitation should be introduced for less serious offences under the Code. We suggest that, for the present, offences punishable with fine only or with imprisonment up to three years should be made subject to the law of limitation. The question of extending the law to graver offences may be taken up later on in the light of the experience actually gained.

**24.21** – A Few matters of detail may now be considered. First, as in civil cases, in computing the period of limitation for taking cognizance of an offence, the day from which such period is to be reckoned should be excluded. It may, in this connection be noted that Section 29, Limitation Act, 1963, (which applies the provisions of that Act to other laws), may not suffice to apply the corresponding provision (Section

12) of that Act to prosecution, as section 12 is confined to suits and applications. Though some judicial decisions regarding a complaint as an 'application, and so falling within section 29, Limitation Act, it is better to have a specific provision.

**24.22-** Secondly, as in civil cases, in computing the period of limitation for taking cognizance of offence, the time during which any person has been prosecuting with the due diligence another prosecution whether in a Court of first instance or in a Court of appeal or revision, against the offender, should be excluded, where the prosecution relates to the same facts and is prosecuted in good faith in a Court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

**24.23-** Thirdly, in the case of a continuing offence, a fresh period of limitation should begin to run at every moment of the time during which the offence continues; and we recommend the insertion of a provision to that effect.

**24.24-** Impediments to the institution of a prosecution have also to be provided for. Such impediments could be (a) legal, or (b) due to conduct of the accused, or (c) due to the Court being closed on the last day.

As regards legal impediments, two aspects may be considered, first, the time for which institution of prosecution is stayed under a legal provision, and secondly, prosecutions for which previous sanction is required, or notice has to be given, under legal provision. Both are appropriate cases for a special provision for extending the period of limitation. We recommend that, where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, than, in computing the period of limitation for taking cognizance of that offence, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

**24.25-** We also recommend that where notice of prosecution for an offence has been given, or where for prosecution for an offence the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, then in computing the period of limitation for taking cognizance of the offence, the period of such notice

or, as the case may be, the time required for obtaining such consent or sanction, shall be excluded.

**24.26-** As illustrations of impediments caused by the conduct of the accused, we may refer to his being out of India, and his absconding or concealing himself. Running of the period of limitation should be excluded in both cases.” Thereafter, Joint Parliament Committee (“JPC”) accepted the recommendations of the Report of 1971 for prescribing limitation period for certain criminal offences. The relevant excerpts from the JPC’s Report dated November 30, 1972 read as under:

“Clauses 467 to 473 (new clauses) - These are new clauses prescribing periods of limitation on a graded scale for launching a criminal prosecution in certain cases. At present, there is no period of limitation for criminal prosecution and a Court cannot throw out complaint or a police report solely on the ground of delay although inordinate delay may be a good ground for entertaining doubts about the truth of the prosecution story. Periods of limitation have been prescribed for criminal prosecution in the laws of many countries and the Committee feels that it will be desirable to prescribe such periods in the Code as recommended by the Law Commission.”

The JPC in respect of proposed Chapter XXXVI further made the following observations in favour of prescribing limitation to criminal proceedings, which is reproduced here as under:

1. “Prescribing limitation on criminal offences becomes necessary owing to the fact that the sense of social retribution, which is one of the objectives of criminal law loses its edge after the expiry of a prolonged period.
2. The period of limitation would put pressure on organs of criminal prosecution to make efforts to ensure the detection and punishment of the crime expeditiously.
3. A person cannot be kept under continuous apprehension that he may be prosecuted at any time. People will have no peace of mind if period of limitation does not exist for petty offences.
4. The testimony of witnesses will become weaker because of lapse of memory and evidence becomes uncertain, which makes the deterrent effect of punishment

impaired. Long delay may lead to destruction of evidence and this may tend to the prejudice of justice.”

By providing period of limitation for certain offences, the effort was to make the criminal justice system more orderly, efficient and just. The object of the Criminal Procedure Code in putting a bar of limitation on prosecutions was clearly to prevent the parties from filing cases after a long time, as a result of which, material evidence may disappear and also to prevent abuse of the process of the Court by filing vexatious and belated prosecutions long after the date of the offence. It was in pursuance of the aforesaid particular object that Chapter XXXVI was inserted in the Criminal Procedure Code. The larger purpose of Sections 467 to 473 of the Criminal Procedure Code would indicate that the question of limitation is not only justifiable but also has to be decided within the parameters of those sections by the Court taking cognizance of the offence.

2. Interruption and tolling of limitation period under the Limitation Act. Interruption means any act that causes hindrance in a continuous activity.

Relevant provisions pertaining to the limitation provided for criminal prosecution is prescribed in Chapter XXXVI - Limitation for taking cognizance of Certain offences of the Criminal Procedure Code, which are prescribed in Sections 467 to 473 of the Criminal Procedure Code the details of which are as under:

(I) Section 467 of the Criminal Procedure Code defines period of limitation for taking cognizance of offence.

(II) Section 468 of the Criminal Procedure Code prescribes the period of limitation for taking cognizance of offences punishable with imprisonment for less than three years and classified according to the quantum of sentence that can be imposed in each category.

(III) Section 469 of the Criminal Procedure Code then spells out the point of commencement of the limitation period in the three categories specified in the earlier Section.

(IV) Section 467 – Definitions- For the purposes of this Chapter, unless the context otherwise, requires, “period of limitation” means the period specified in section 468 for taking cognizance of an offence”.

(V) Section 468 - Bar to taking cognizance after lapse of the period of limitation:



(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be:

- a. six months, if the offence is punishable with fine only;
- b. one year, if the offence is punishable with imprisonment for a term not exceeding one year;
- c. three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with more severe punishment or, as the case may be, the most severe punishment”.

Section 469 - Commencement of the period of limitation:

(1) The period of limitation, in relation to an offence, shall commence:

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

(VI) Sections 470 and 471 of the Criminal Procedure Code provides for the exclusion of time in certain cases and of the date on which the Court is closed.

(VII) Section 472 of the Criminal Procedure Code with respect to continuing offences, spells out the rule that a fresh limitation period shall begin to run at every moment of the time during which the offence continues.

(VIII) Section 473 of the Criminal Procedure Code lays down a material provision concerning extension of the limitation period in certain cases and even overriding the bar of limitation.

Section 470 - Exclusion of time in certain cases:

(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a Court from which defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation: In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) In computing the period of limitation, the time during which the offender:

(a) has been absent from the India or from any territory outside India which is under the administration of the Central Government, or

(b) has avoided arrest by absconding or concealing himself, shall be excluded.

Section 471 - Exclusion of date on which Court is closed: Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court reopens.

Explanation. A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

Section 472 - Continuing offence: In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

Section 473 - Extension of period of limitation in certain cases:

Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may make cognizance of an offence after the expiry of the period of limitations, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.

In addition, where the legislature wanted to treat certain offences under the Criminal Procedure Code differently, it provided for limitation in the penal provision itself, for instance, Section 198(6) and 199(5) of the Criminal Procedure Code which provide for limitation concerning prosecution for offences against marriage and prosecution for defamation respectively.

### **Bharatiya Nyaya Sanhita (BNS), 2023:**

The BNS, which came into effect on 1.7.2024, introduced several reforms in the criminal justice system, including modifications to penalties and procedures. While the BNS retains the general framework of limitation periods as established in the Criminal Procedure Code it also brings specific changes:

**Enhanced Penalties:** The BNS has increased penalties for certain offences. For instance, imprisonment has been extended for 33 crimes, and penalties have been amended upwards for 83 crimes. Additionally, minimum punishments have been introduced for 23 crimes. These changes may influence the classification of offences and, consequently, their limitation periods.

**Classification of Offences:** The BNS revises the classification of certain offences, which could affect their categorization under the Criminal Procedure Code's limitation provisions. It's essential to assess whether offences under the BNS fall within the same categories as under the IPC to determine applicable limitation periods accurately.

**Continuing Offences:** The BNS addresses the concept of continuing offences differently. While the IPC recognized certain offences as continuing, allowing the limitation period to reset with each act, the BNS may have altered these provisions. For example, in cases of cruelty under Section 498-A of the IPC, the limitation period was considered to commence from the last act of cruelty. It's crucial to

examine how the BNS treats such offences to determine the correct limitation period.

The enactment of the BNS has brought significant changes to India's criminal law landscape, affecting various aspects, including the classification of offences and penalties. While the general framework for limitation periods remains anchored in the Criminal Procedure Code, practitioners and legal experts must closely analyze the BNS's provisions to understand their impact on criminal proceedings. This includes reassessing the classification of offences, understanding new definitions, and determining how these changes influence the initiation of criminal cases within prescribed time limits.

**Provisions of other Indian special statutes governing limitation in criminal prosecution:**

**(i) Limitation period prescribed under the Negotiable Instruments Act, 1881 (“NI Act”).**

As per Section 138 of the NI Act, where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of the NI Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both. Further, the above provisions would be attracted provided that:

(a) the cheque has been presented to the bank within a period of three months from the date on which it is drawn or within the period of its validity, whichever is earlier;

The payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within thirty days of the receipt of

information by him from the bank regarding the return of the cheque as unpaid; and the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice. Further, pursuant to sending notice to the drawer of cheque by the payee as per action contemplated in Section 138 (c) of the NI Act, as per Section 142 of the NI Act, the complaint is to be filed with the Metropolitan Magistrate or a Judicial Magistrate of First Class for taking cognizance of offence punishable under Section 138 of the NI Act within thirty days from the date of expiry of the notice period, within whose local jurisdiction, the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated.

**(ii) Limitation period prescribed under the Police Act, 1861 (“the Police Act”)**

Under Section 42 of the Police Act, it is prescribed that all actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of the Police Act, or under the general police-powers shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action end of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the District in which the act was committed, one month at least before the commencement of the action.

**(iii) Limitation period prescribed under the Army Act, 1950 (“Army Act”)**

As per Section 122 of the Army Act, the period of limitation for trial is prescribed and it provides that no trial by Court- martial of any person subject to the Army Act for committing any offence shall be commenced after the expiry of a period of three years and such period shall commence:

- a) on the date of the offence; or
- b) where the commission of the offence was not known to the person aggrieved by the offence or to the authority competent to initiate action, the first day on which

such offence comes to the knowledge of such person or authority, whichever is earlier; or

c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the authority competent to initiate action, whichever is earlier.

(iv) **Limitation period prescribed under the Factories Act, 1948 (“Factories Act”)**: Section 106 of the Factories Act prescribes that the Court shall not take cognizance of any offence punishable under such Act until and unless the complaint is made within three months from the date on which alleged commission of the offence came to the notice/knowledge of an Inspector.

**Non- applicability of the provisions of Chapter XXXVI of the Cr.P.C.:**

The provisions of Chapter XXXVI of the Criminal Procedure Code have been made inapplicable to certain economic offences as mentioned under the Economic Offences (Inapplicability of Limitation) Act 1974, by their character do not come into light as soon as they are perpetrated and often require long investigations or adjudication to discover such offences and may cross the period of limitation. In the said process, if the period of limitation is prescribed, it may enable the offenders to escape prosecution under these Acts.

Hence it was proposed to make the provisions of Chapter XXXVI of the Criminal Procedure Code inapplicable to offences under the Acts which are enumerated in the Schedule to the Economic Offences (Inapplicability of Limitation) Act, 1974. As per the Schedule I - Schedule of the Economic Offences (Inapplicability of Limitation) Act, 1974, Chapter XXXVI of the Criminal Procedure Code which prescribes the period of limitation for taking cognizance of the offences does not apply to various Acts, which are reproduced here as under:

“SCHEDULE 1

THE SCHEDULE

1. The Indian Income-tax Act, 1922 (11 of 1922).

[1-A. Clause (a) of Section 63 of the Copyright Act, 1957 (14 of 1957).]

2. The Income-tax Act, 1961 (43 of 1961).

[2-A. The Interest-tax Act, 1974 (45 of 1974).]

[2-B. The Hotel-Receipts Tax Act, 1980 (54 of 1980).]

[2-C. The Expenditure-tax Act, 1987 (35 of 1987).]

3. The Companies (Profits) Surtax Act, 1964 (7 of 1964).
4. The Wealth-tax Act, 1957 (27 of 1957).
5. The Gift-tax Act, 1958 (18 of 1958).
6. The Central Sales Tax Act, 1956 (74 of 1956).
7. The Central Excises and Salt Act, 1944 (1 of 1944).
8. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955).
9. The Customs Act, 1962 (52 of 1962).
10. The Gold (Control) Act, 1968 (45 of 1968).
11. The Imports and Exports (Control) Act, 1947 (18 of 1947).
12. The Foreign Exchange Regulation Act, 1947 (7 of 1947).
13. The Foreign Exchange Regulation Act, 1973 (46 of 1973).
14. The Capital Issues (Control) Act, 1947 (29 of 1947).
15. The Indian Stamp Act, 1899 (2 of 1899).
16. The Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962).
17. The Emergency Risks (Factories) Insurance Act, 1962 (63 of 1962).
18. The Emergency Risks (Goods) Insurance Act, 1971 (50 of 1971).
19. The Emergency Risks (Undertakings) Insurance Act, 1971 (51 of 1971).
20. The General Insurance Business (Nationalisation) Act, 1972 (57 of 1972)
21. The Industries (Development and Regulation) Act, 1951 (65 of 1951).”

The Limitation Act, 1963, generally doesn't apply to criminal proceedings, except for specific provisions like those in Articles 114, 115, 131, and 132, which address appeals under the Code of Criminal Procedure.

**General Rule:** The Limitation Act, 1963, is primarily concerned with civil matters and doesn't apply to criminal proceedings unless there are express provisions to that effect.

**Exceptions:**

There are specific exceptions to this general rule, such as Articles 114, 115, 131, and 132, which deal with appeals under the Code of Criminal Procedure.

**Conclusion:**

In today's time, as far as criminal legal system is concerned, limitations are applied to most crimes by most countries, although the most serious crimes are not included within the limitation period. It should be noted, however, the limitation law is no assurance as to time of trial and its conclusion but only when the criminal law can be set in motion. This is where the constitutional right to a speedy trial therefore comes into picture as an aid. Criminal statutes of limitations undoubtedly serves several purposes, most of which relate to achieving the efficacy of criminal law administration. The principal reason for legal time limits is to shield the accused from the burden of defending himself against charges of long completed act. This is primarily because, over a period of time, witnesses upon whom the accused (or the victim) may have to rely, either die or move away and records are lost, especially if the occurrence of the event seemed insignificant at the time of happening, and hence the need of limitation period in criminal cases. In addition to this, the period of limitation ensures that no undue pressure is put on the system of the criminal prosecution and the offender is prosecuted and convicted quickly. The deterrent effect that the criminal justice system aims at, will also stand defeated in case the punishment has not been granted before the memory of the offence gets washed-off from the heads of those affected by it. It is however sometimes difficult to determine limitation on criminal offences due to their complex nature.

In India, clearly the principle of public policy has been followed while providing statute of limitation for criminal offences, in order to safeguard the interests of its people. As noted, the cardinal principle of limitation relates to fixing or prescribing the time period for barring legal actions. Having said that, observing the long investigations and procedures that are required to be followed while dealing with criminal offences as well as fear in the minds of victims and their vested interests hinder the investigation and prosecution. A proper balance is therefore sought to be maintained under Indian law including by providing for a reasonable limitation period (distinct limitation periods for taking cognizance of various offences depending upon the gravity of those offences interlinked with the punishments), not applying limitation period to serious offences, making provisions



for the commencement of the limitation period from the date of knowledge, exclusion of time in certain cases, making special provisions with respect to continuing offences by providing for a fresh limitation period at every moment of the time during which the offence continues and laying down a material provision concerning extension of the limitation period in certain cases. The law in India, it is believed, is clearly in consonance with the concept of fairness of trial, as enshrined in Article 21 of the Constitution of India, as it aims to strike a balance between the interests of the complainant/state and the interests of the accused.

Quite notably, the Criminal Procedure Code has given a wide range of powers to the Court while determining the period of limitation for launching prosecution in certain cases. As noted above, the Criminal Procedure Code particularly empowers the Court to have discretion on matters for extending the period of Limitation for instituting a prosecution, where “sufficient reasoning” has been provided, and the Court is convinced that granting such extension is necessary in the interest of justice. However, this can sometimes lead to unwanted delays and multiplicity of proceedings, which does not serve the purpose of rules of limitation. To tackle this issue, certain grounds have been established by way of judicial precedents in order to determine the circumstances where the Court can grant extension beyond the period of limitation as mentioned under Section 468.

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