

SRIKAKULAM DISTRICT : WORKSHOP – I

CHAIRPERSON

HON'BLE SRI JUSTICE SUBBA REDDY SATTI GARU

**JUDGE, HON'BLE HIGH COURT OF ANDHRA PRADESH,
AND ADMINISTRATIVE JUDGE, SRIKAKULAM**

NODAL OFFICER

MOULANA JUNAID AHMED

**PRINCIPAL DISTRICT JUDGE,
SRIKAKULAM**

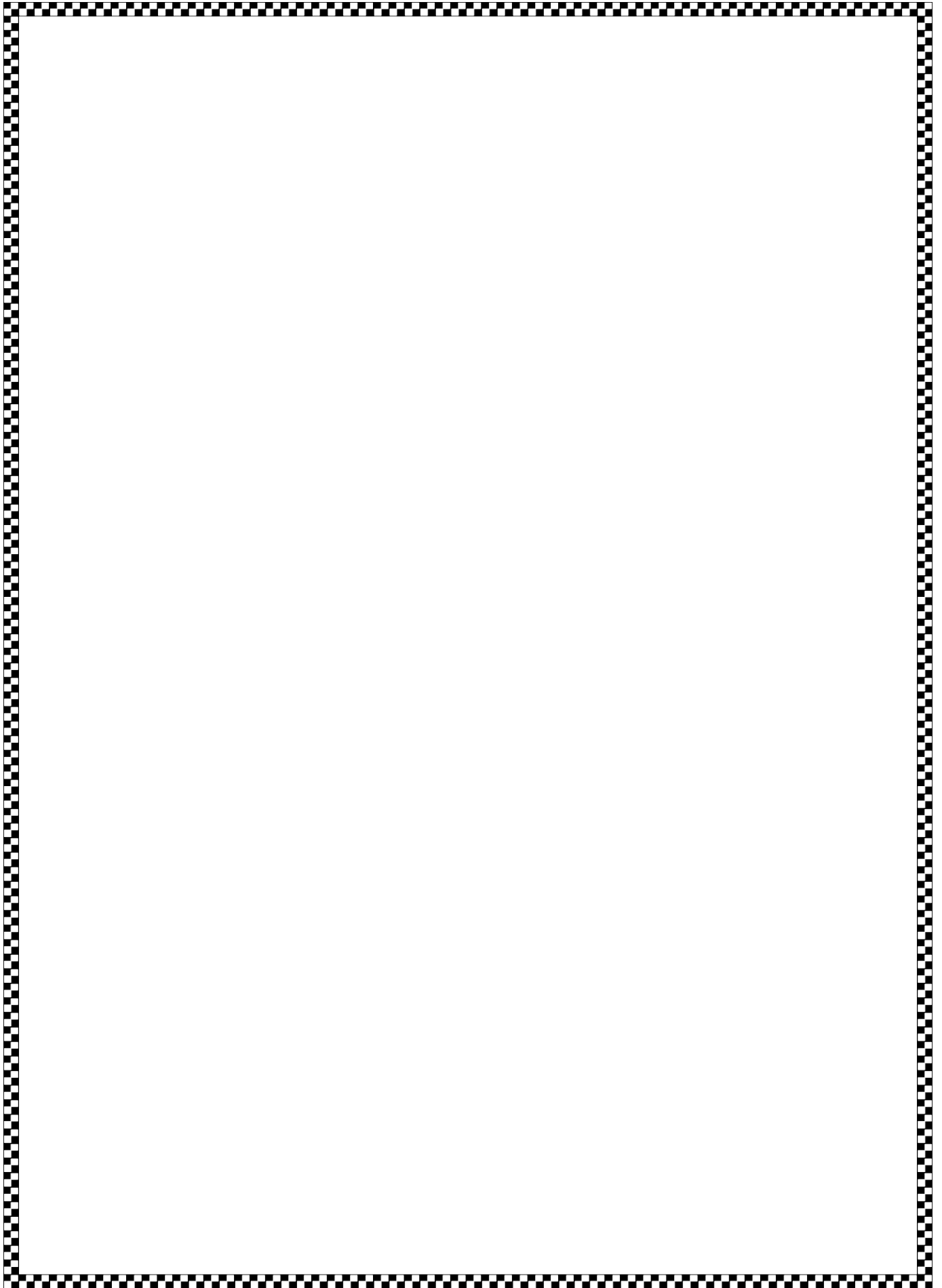
DATE : 10.05.2025

VENUE : DISTRICT COURT CONFERENCE HALL

SUBJECT: "LAW ON LIMITATION"

TOPICS :

- a). Limitation – Suits, Appeal Suits and applications.
- b). Computation of period of limitation..
- c). Conditions as to time and Limitation under different statues.
- d). Different reliefs with different period of limitation.
- e). Amendment of pleadings – the aspect of limitation.
- f). Limitation in Criminal cases in respect of offences under IPC / BNS and other Special Laws.



SESSION NO.I

TOPICS:

- a) Limitation – Suits, Appeal Suits and applications.
- b) Computation of period of limitation.

Paper Presentation by-

Sri. S.Mahendra Phani Kumar,
IV Additional District Judge,
Srikakulam.

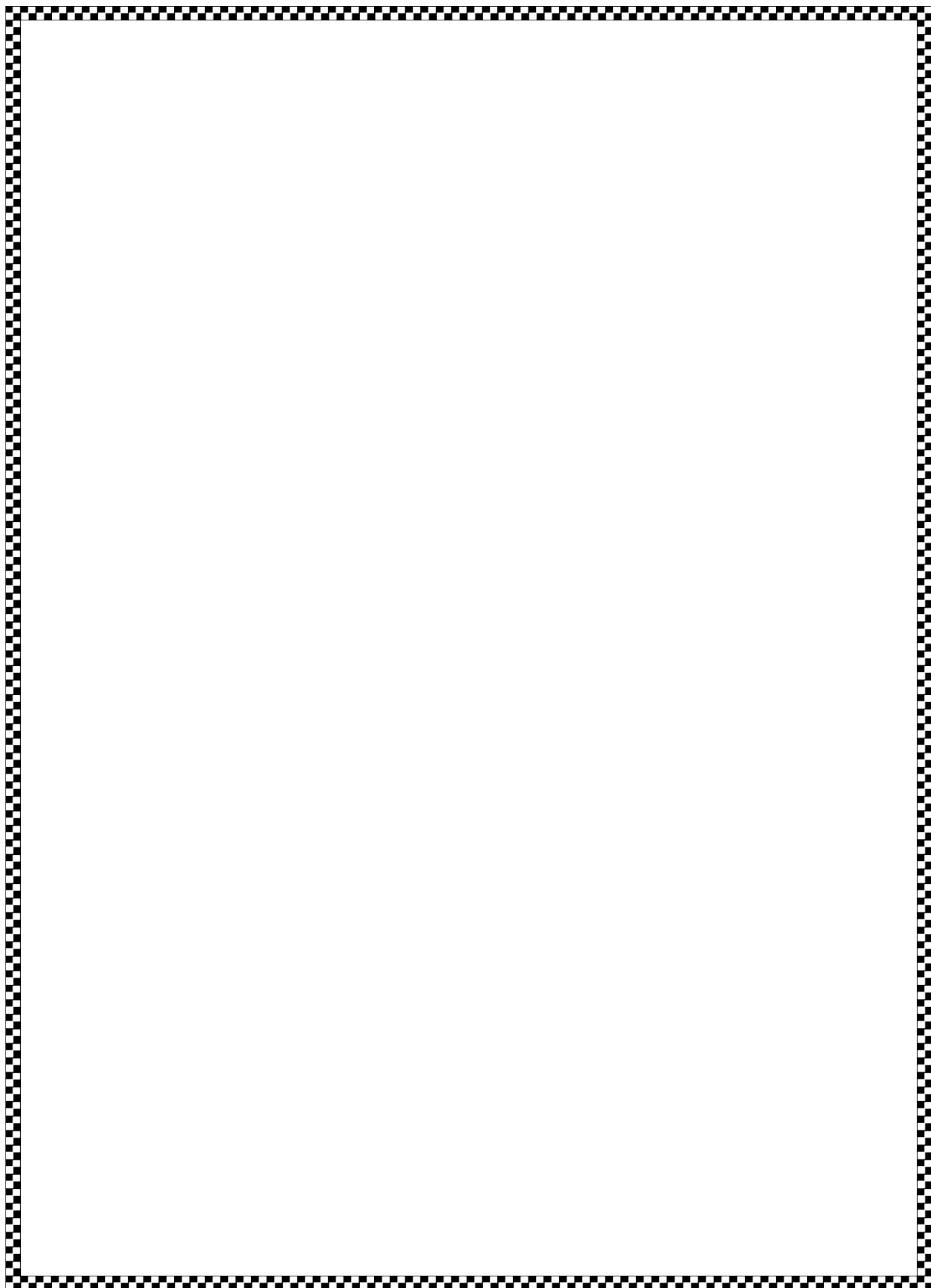
SESSION NO.II & III

TOPIC:

- c). Conditions as to time and Limitation under different statutes.
- d). Different reliefs with different period of limitation.
- e). Amendment of pleadings – the aspect of limitation.

Paper Presentation by-

Sri. P.Paresh Kumar.
Civil Judge (Junior Division),
Ichapuram.



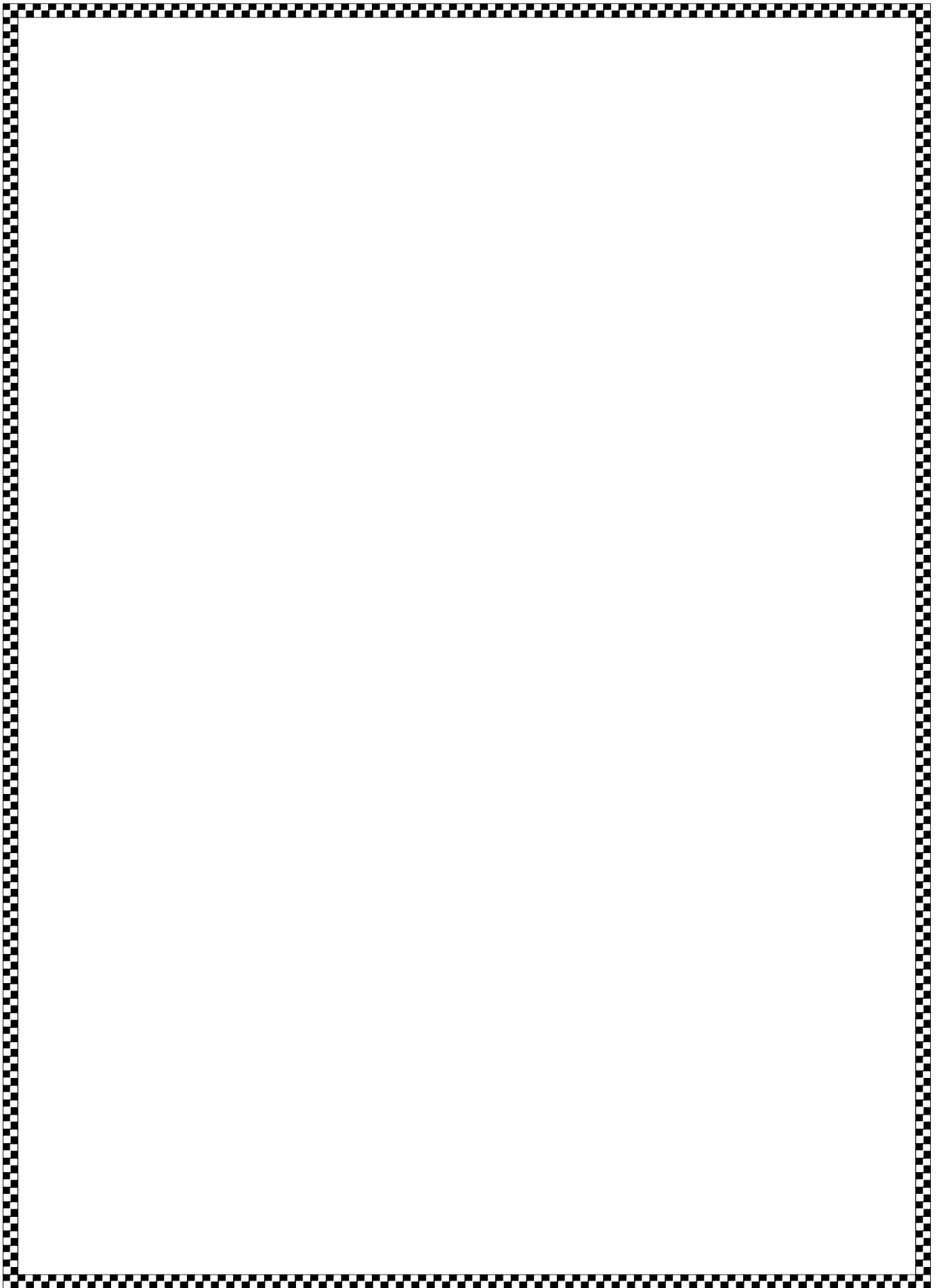
SESSION NO. IV

TOPIC:

- f). Limitation in Criminal Cases in respect of offences under IPC / BNS and other Special Laws.

Paper Presentation by-

Sri. Ch.Yugandhar,
Addl. Civil Judge (Senior Division),
Srikakulam.



SESSION- I

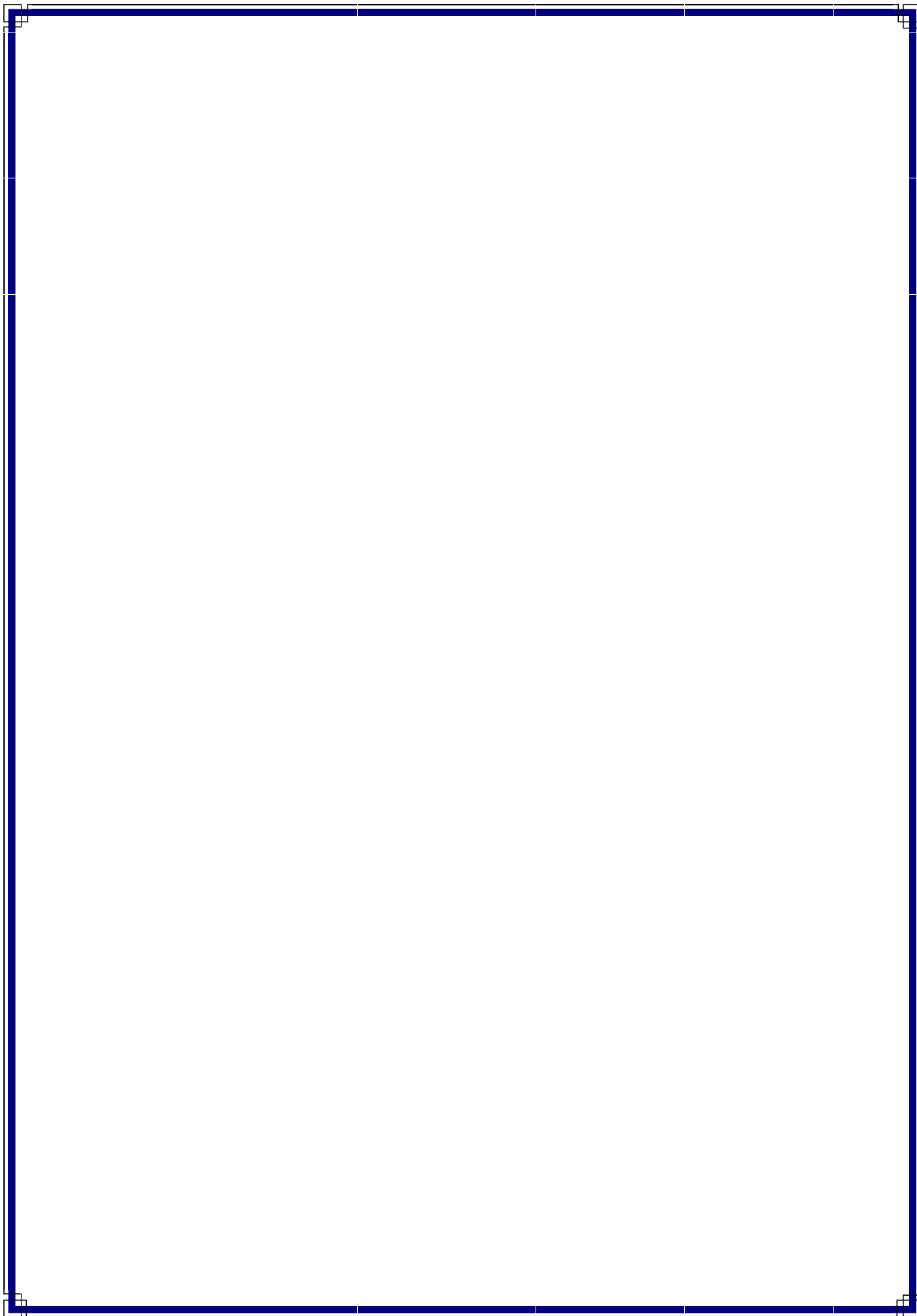
LAW ON LIMITATION

- 1. LIMITATION – SUITS, APPEAL SUITS AND APPLICATIONS.**
- 2. COMPUTATION OF PERIOD OF LIMITATION.**

Paper Presentation

by

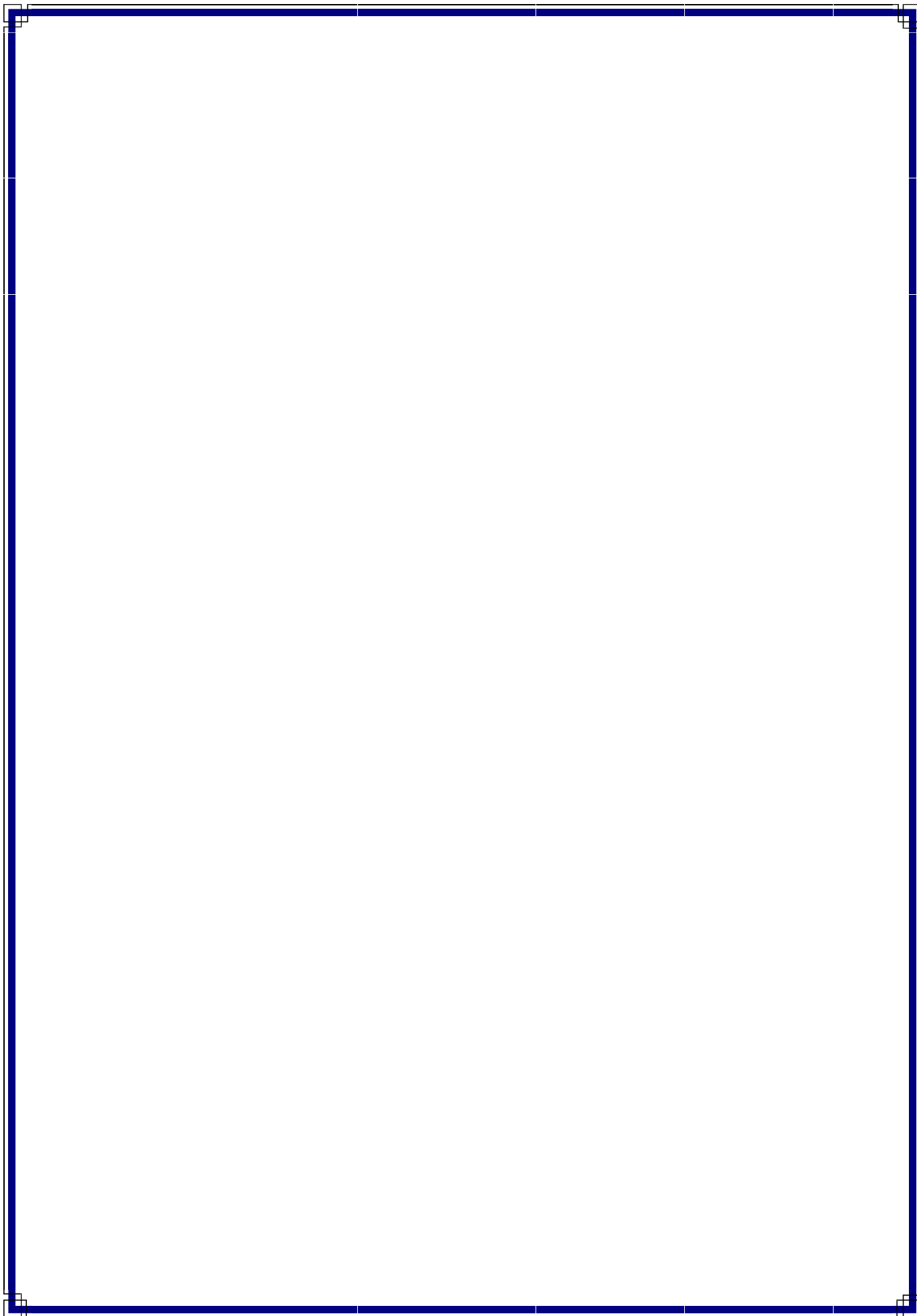
Sri. S.M.PHANI KUMAR,
IV Additional District Judge
SRIKAKULAM.



TOPICS

**1. Limitation – Suits, Appeal
Suits and applications.**

**2. Computation of period of
limitation.**



LIMITATION – SUITS, APPEAL SUITS AND APPLICATIONS.

‘interest reipublicae ut sit finis litium’,

which means that in the interest of the State is required that there should be a limit to litigation and also to prevent any kind of disturbance or deprivation of what may have been acquired in equity and justice or by way of long enjoyment or what may have been lost by a party’s own inaction, negligence or leaches (acquiescence).

1. Object of Limitation:

(a) 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.

(b) **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.**

(c) 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.

(d) The major purpose of the statute of the Limitation Act, 1963 is not to destroy or infringe the rights of an aggrieved person but to serve public in a better way and to save time. This statute is basically based on public policy for fixing a life span for the legal remedy which may be taken and to seek remedy in time with the purpose of general welfare.

(e) In the matter of **B.B. & D. Mfg. Co. v. ESI Corporation**,¹ it was observed by the Supreme Court that—***“The object of the Statutes of Limitations to compel a person to exercise his rights of action within a reasonable time as also to discourage and suppress stale, fake or fraudulent claims”.***

(f) ***“While this is so, there are two aspects of the Statutes of Limitation***

— the one concerns with the extinguishment of the right if a claim or action is not commenced within a particular time and the other merely bars the claim without affecting the right which either remains merely as a moral obligation or can be availed of to furnish the consideration for a fresh enforceable obligation. Where a statute prescribing the limitation extinguishes the right if affects substantive right while that which purely pertains to the commencement of action without touching the right is said to be procedural”.

(g) In **Balakrishnan Vs. M.A. Krishnamurthy** ², it was held by the Supreme Court ***“that the Limitation Act is based upon public policy which is used for fixing a life span of a legal remedy for the purpose of general welfare. It has been pointed out that the Law of Limitation are not only meant to destroy the rights of the parties but are meant to look to the parties who do not resort to the tactics but in general to seek remedy. It fixes the life span for legal injury suffered by the aggrieved person which has been enshrined in the maxim ‘interest reipublicae ut sit finis litium’ which means the Law of Limitation is for general welfare and that the period is to be put into litigation and not meant to destroy the rights of the person or parties who are seeking remedy. The idea with regards to this is that every legal remedy must be alive for a legislatively fixed period of time”.***

¹ AIR 1972 SC 1935

² (1998) 7 SCC 123

2. **The Law of Limitation is an adjective Law.**

(a) It is ***lex fori***. Lex Fori is a Latin term which means “the law of the forum”, which refers to the law of the jurisdiction where a legal action is brought. It means that the law that applies to a particular legal case is determined by the law of the court or jurisdiction where the case is being heard.

(b) Thus, 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.

(c) 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.

(d) 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.**

(e) 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.

3. The Limitation Act contains 32 Sections (Section 32 repealed) and 137 Articles.

Scheme of the Articles is as follows:

Articles 1 to 113	relating to	Suits
Articles 114 to 117	relating to	Appeals
Articles 118 to 137	relating to	Applications.

Suits are divided into 10 classes:

1	Suits relating to accounts (Art. 1 to 5) :	Period of limitation 3 years.
2	Suits relating to Contracts (Art. 6 to 55) :	Period of limitation 3 years.
3	Suits relating to declarations (Art. 56 to 58) :	Period of limitation 3 years.
4	Suits relating to decrees and instruments (Art. 59 to 60)	Period of limitation 3 years.
5	Suits relating to immovable property (Art. 61 to 67) :	Period of limitation 12 to 30 years.
6	Suits relating to movable property (Art. 63 to 71) :	Period of limitation 3 years.
7	Suits relating to tort (Art. 72 to 91) :	Period of limitation 1, 2 , or 3 years.
8	Suits relating to trusts and trust property (Art. 92 to96)	Period of limitation 1, 3, 12 or 30 years.
9	Suits relating to miscellaneous matters (Art. 97 to 112)	Period of limitation 1 year, 3 years, 12 years, or 30 years
10	Suits for which there is no prescribed period (Art. 113)	Period of limitation 3 years.
11	Appeals (Art. 114 to 117) :	30 days, 60 days, or 90 days
12	Applications (Art. 118 to 136) :	10 days, 30 days, 60 days or 90 days. 1 year, 3 years, or 12 years.

There is no uniform pattern of limitation for the suits under which the classifications has been attempted.

Suits for which there is no prescribed period have a limitation period of three years (Article 113, Limitation Act).

Applications for which no period of limitation is provided elsewhere in the division have a limitation of three years (Article 137, Limitation Act).

In case of a special law, the period of limitation prescribed in the special law would override the period specified in the Limitation Act.

Sections 86 and Section 87 of the Civil Procedure Code, requires the consent of the Central Government before suing foreign rulers, ambassadors and envoys. The Limitation Act, 1963 provides that when the time obtained for obtaining such consent shall be excluded for computing the period of limitation for filing such suits.

The Limitation Act, 1963 signifies that it does not make any racial or class distinction since both Hindu and Muslim Law are now available under the law of limitation as per the existing statute book. In the matter of **Syndicate Bank v. Prabha D. Naik³**, the Supreme Court has observed that the law of limitation under the Limitation Act, 1963 **does not make any racial or class distinction while making or indulging any law to any particular person.**

4. LIMITATION OF SUITS, APPEALS AND APPLICATIONS

(SECTIONS 3 TO 11)

Section 3 of Limitation Act

- (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.**

³ (AIR 2001 SC 1968)

(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.

5. Limitation for set off:

For example, a claim of equitable set-off may be raised by a defendant irrespective of whether it is within the prescribed limitation period. In a suit for recovery of money, the debtor (defendant) can claim that an earlier debt in respect of the same transaction (recoverable from the plaintiff) should be set-off against the plaintiff's claim. Here even if the earlier debt is barred

by limitation, at the discretion of the court, the debtor is permitted to set-off the debt due to the creditor by the amount of the debt due to them, a claim of equitable set-off has been held to be an exception to the law of limitation, since it constitutes an independent cause of action instituted on the same date as the suit for the recovery of money.

Read: 1) Lakshmichand and Balchand v. State of Andhra Pradesh⁴

2) Jitendra Kumar Khan and Ors. v. The Peerless General Finance and Investment Company Limited and Ors⁵;

3) Union of India v. Karam Chand Thapar and Bros. (Coal Sales) Ltd. and Ors⁶.

6. Limitation for Counter claims:

The law of limitation applies to counterclaims in the same manner as it applies to a claim or a suit. Counterclaims are treated as a plaint (civil suit) (referred to as a complaint in other jurisdictions, such as the US) and are therefore governed by the rules applicable to them. (Order VIII Rule 6(A)(4), *Code of Civil Procedure*, 1908 (CPC)). Counterclaims fall within the category of suits and are deemed to have been instituted on the date on which they are made in the court (section 3(2)(b)(ii), Limitation Act). The limitation period provided under the Limitation Act for a suit or claim also applies to a counterclaim.

Read: *Thomas Mathew v. Construction Engineer K.L.D.C. Limited*⁷,

7. Applicability of Law of Limitation to Amendments to Pleadings:

The CPC governs the procedure for filing civil proceedings in India. If a party wants to amend the pleadings filed by it in a suit,

⁴ 1987(1) SCC 19

⁵ 2013(8) SCC 769

⁶ 2004 (3) SCC 504

⁷ 2018(12) SCC 560

it may file an application under Order 6, Rule 17 of the CPC before the court in which the proceedings are pending. The application may be filed at any stage of the proceedings and allowed by the court at any stage of the proceedings. The court at its discretion may allow or disallow the application after examining whether the amendments being made are:

- Necessary for the purpose of determining the real questions in controversy between the parties.
- In cases where trial has already commenced, whether despite acting with due diligence, the party could not have filed the application before the commencement of such trial.

Courts generally, 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

Read: 1) *Ashok Kumar Kalra v. Wing Cdr. Surendra Agnihotri and Ors*⁸;

2) *South Konkan Distilleries and Anr. v. Prabhakar Gajanan Naik and Ors*⁹.,

8. Date on Which Proceedings Are Issued Date of Institution of a Suit

Section 3(2)(a)(i) of the Limitation Act states that a suit is instituted, in an ordinary case, when the plaint is presented to the proper officer. Under Order IV, Rule 1 of the Code of Civil Procedure, every suit must be instituted by presenting the plaint in duplicate to the court or court officer. It must abide by the rules for filing the plaint under Order VI and Order VII. The suit is instituted on the date when the plaint is filed in accordance with these provisions. However, non-compliance of Order IV is not fatal and an opportunity is ordinarily granted to the plaintiff to cure defects.

⁸ 2020(2) SCC 394

⁹ 14 SCC 632 (2008).

Read: *Ansal Properties & Infrastructure Ltd. v. Col. Y.L. Sud*¹⁰,

9. Electronic Filing of a Suit :

The Supreme Court has created draft *Model Rules for e-filing* which discuss the scope of limitation period for electronic filing. These have been adopted by some High Courts such as the Delhi High Court and the Kerala High Court, albeit with certain modifications. They state that the date of e-filing is the date when the action is electronically received in the registry within the prescribed time on any working day. For computing the time at which e-filing is made, Indian Standard Time (IST) applies. The provisions for limitation governing electronic filing are the same as those applicable to physical filing.

10. Decree not a nullity:

(a) Even if it is true that it is the duty of the court to take note of the provisions of S. 3 of the Limitation Act and to dismiss a suit when it is found that it is barred by limitation, if the court without taking note of the said provisions decides a suit on merits, the decree is not a nullity. It is merely an error of law which can be rectified in the manner provided by the code of Civil Procedure. The decree or order cannot be held to be a nullity.

Read: *Ittyavira Mathai v. Varkey Varkey*¹¹.

(b) 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 defense is concerned there is no such limitation. There can be no period of limitation for acts which the courts are bound to perform.

¹⁰ 2009 (5) DLT 390

¹¹ AIR 1964 SC 907

(c) The limitation Act **does not extinguish a right but it only bars the remedy**. In a case of **Bombay Dyeing & Mfg. Co. Ltd. v. State of Bombay**¹², it was held by the Supreme Court in Para 21, “It has been already mentioned that when a debt becomes time-barred, it does not become extinguished but only unenforceable in a court of law. Indeed, it is on that footing that there can be a statutory transfer of the debts due to the employees, and that is how the Board gets title to them. If then a debt subsists even after it is barred by limitation, the employer does not get, in law, a discharge there from. The modes in which an obligation under a contract becomes discharged are well-defined, and the bar of limitation is not one of them”.

(d) It is not open to the parties to waive or contract themselves the period of limitation. It is however open to the defendant to give consent even in respect of a time-barred claim. In considering whether a suit or proceeding is barred by limitation, the court will be entitled to look into admission of the parties.

Shrimant Shamrao Suryavanshi v. Pralhad Bhairoba Suryavanshi¹³, - 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.

11. Different Limitation Periods for Multiple Causes of Action:

Where the facts and circumstance of a claim result in more than one cause of action, it is possible for different limitation periods to apply depending on the cause of action pleaded. For instance, in a matter relating to damage or loss of goods, a breach

¹² AIR 1958 SC 328

¹³ (2002) 3 SCC 676

of obligations claim under the contract and a concurrent breach of duty owed to the plaintiff under law of tort may lead to liability under both. The Limitation Act prescribes separate periods for the preference of suit in tort, and for breach of obligations under contract. However, the limitation period available for both actions cannot run sequentially. The limitation periods instead run concurrently, from the very first occasion of legal injury to the plaintiff. In most matters involving concurrent liability, the plaintiff prefers the longer period of limitation available to them.

Read: P.K. Kalasami Nadar v. Alwar Chettiar and Ors., ¹⁴.

12. **Section 4 of Limitation Act:**

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.

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

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.

13. **Exclusion of Limitation due to Covid – 19 pandemic situation:**

The Hon'ble Apex Court by order dated 10th January 2022, the period from 15 February 2020, to 28 February 2022, was excluded for the purposes of limitation due to Covid-19 pandemic situation. (*In re: Cognizance for Extension of Limitation*;¹⁵.)

¹⁴ AIR 1962 Mad 44 (1962)

¹⁵ 2022 SCCOnline SC 27

14. Section 5 of Limitation Act:

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.

Explanation – The fact that appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be a sufficient cause within a meaning of the sub-section.

15. **Limitation Act 1963-- Sections 4 and 5-- Limitation-- Extension of period-- Section 5 of Act which deals with extension of prescribed period in certain cases, applies only to appeals or applications and not to suits.**--- No court of Tribunal can extend period of limitation for filing a suit--- Even if any cause beyond control of plaintiff is shown also, only extension is permitted under Section 4 of the Act, period coming under court holiday.

Generally, 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, whereas there was delay of two years in filing the application. (*Rajesh Kumar v. Smt. Indu Devi*¹⁶)

State of West Bengal v. W.B. Judicial Service Association,¹⁷ - In this division bench judgment, observed the following:

“The doctrine of equality and rigid adherence to the said doctrine notwithstanding, the Government can be classified as a distinct and separate group to warrant

¹⁶ 2016(4)JBCJ (HC)

¹⁷ 1990 (2) Cal. L.J. 73

different treatment in the section 5 of the Limitation Act”.

The court made reference to the decisions in **G. Ramegowda v. Special Land Acquisition Officer** ¹⁸ and **Collector, Land Acquisition v. Katiji** ¹⁹ to state the following reasons for adopting a liberal approach towards the Government:

- (1) If appeals or other proceedings initiated by the Government are lost, no person is individually affected; but what in the ultimate analysis suffers is public interest.
- (2) The decisions of the Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.
- (3) Government decisions are proverbially slow, encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. On account of impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with note- making file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand, though more difficult to approve.
- (4) Implicit in the very nature of Governmental functioning is procedural delay incidental to the decision-making process. It might therefore be somewhat unrealistic to exclude these factors which are peculiar to and characteristic of the functioning of the Government.
- (5) While a private person can take instant decision, a “bureaucratic organ hesitates and debates, consults and considers, speaks through paper, moves horizontally and vertically till at least it gravitates towards a conclusion—unmindful of time and personality.”

¹⁸ (1988(2)SCC142)

¹⁹ (AIR 1987 SC 1353)

- (6) A certain amount of *latitude* is, therefore, *not impermissible* and it is rightly said that those who bear the responsibility of the Government must have “*little play at the joints*”. It would perhaps be *unfair* and *unrealistic* to put Government and private parties *on the same footing* in all respects in such matters.

Also, in a concurrent decision, it was emphasised that

“It is well settled that the duty of the appellant in case of a time barred appeal to explain the delay sufficiently does not relate to the period prior to the date of limitation.” And as held in ***Collector, Land Acquisition v. Katiji*** ²⁰, **“refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that cause would be decided on merits after hearing the parties”**

16. Condonation of delay in filing appeal can be decided only after hearing both the parties.

(a) 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.

(b) A competent civil court has power to pass an interim order of injunction pending hearing of application under Section 5 of the Limitation Act.

17. Examination of witnesses not necessary-

(a) 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.

²⁰ (AIR 1987 SC 1353)

(i) **Manindra Land and Building Corporation v. Bhutnath Banerjee**²¹, -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.

(ii) **National Insurance company v. Smt. Runiya Binha**²², - O41 R3A

Requirement of filing condonation application along with the memo of appeal is mandatory.-- Court to grant condonation of delay in filing appeal only in exceptional cases.

(iii) **Special Tahsildar, Land Acquisition Kerala v. K.V. Aiyusuma**,²³.

In this case, the Government was seeking condonation of delay. The Supreme Court held that while it is true that section 5 envisages explanation of the delay to the satisfaction of the court and there should not be any distinction made between the State and the citizen. Nevertheless adoption of strict standard of proof would lead to grave miscarriage of public justice. Also, it would result in public mischief by skillful management of delay in the process of filing the appeal. Therefore, the approach of the court should be pragmatic but not pedantic.

(iv) **Pundik Jalam Patil v. Executive Engineer Jalgaon medium project**²⁴,

In this case the High Court had allowed the application filed by the respondent under section 5 of the Limitation Act, 1963 to condone the delay of 1724 days in filing appeals against the award passed by the Civil Judge in a land acquisition case. The Supreme Court however, held that:

(b) 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

²¹ (1964) 3 SCR 495 : AIR 1964 SC 1336)

²² 2008(3)JCR456 (Jarkhand)

²³ 1996(10) SCC 634

²⁴ 2009(1) JLJR 76 SC

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.

(c) 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.

The court referred to Ramlal and others v. Rewa Coalfields Ltd²⁵. wherein it was said 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 C.P.C. relating to execution has been specifically excluded from the purview of the section 5 of limitation act .

State amendment by the Andhra Pradesh by Notification, dated 30.11.1992:

Generally Section 5 of Limitation Act is not applicable to the execution proceedings. However, there is a state amendment in our state adding sub Rule (4) after Sub Rule (3) of Rule 106 of Order XXI.

“(4) the provisions of Section 5 of Limitation Act, 1963 shall apply to all applications under Sub Rule (3)”.

Therefore, by virtue of insertion of Sub Rule (4), Section 5 of Limitation Act can be extended to all the applications filed under Sub Rule (3) of Rule 106 of Order XXI.

Read: Sale Ranga Swamy Vs. Special Collector-cum- Land acquisition Officer S.S.P²⁶. in.

²⁵ [AIR 1962 SC 361]

²⁶ 2004 (3) ALD page 83

18. **Section 6 of Limitation Act:**
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 form a group, they supplement each other and are not exclusive.

19. **Section 7 of Limitation Act:**

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.

Explanation I: This Section applies to a discharge from every kind of liability including a liability in respect of any immovable property.

Explanation II: For the purposes of this section the manager of a Hindu undivided family governed by the Mitakshara law shall be deemed to be capable of giving a discharge, without the concurrence of the other members of the family only if he is in management of the Joint family property.

20. **Narayan v. Babasaheb²⁷,**

Facts of the case :

A Hindu man who was the original owner of the ancestral property died leaving his two sons, one being minor, along with

²⁷ 2016(2) JBCJ 415 (SC); (2016) 6 SCC 725

four daughters and his widow. A sale deed was executed by the widow (D2) in favor of one D1 on 20.1.1982 and on 28.11.1988 for the same property. In 1989, suit is filed by the sons and daughters for recovery of possession and setting aside the sale deed executed by their mother who has been arrayed D2 and the purchaser made party as D1. The first appellate court concluded that Article 60 of the Limitation Act, is not applicable to the case as the D2 is not the guardian appointed by the Court.

21. Question whether the suit was barred by limitation, being hit by:

Article 60 which prescribes a limitation of 3 years after the ward attains majority to set aside transfer of property made by Guardian of a ward?

OR

Article 109 which prescribes a limitation of 12 years when the suit is by a Hindu governed by Mitakshara Law to set aside alienation made by father of his ancestral property.

Held: Article 60 shall apply and not Article 109.

Reason:

After the death of Plaintiff's father, their mother D2 became their natural guardian. Simply because she was not formally declared a Guardian will not alter her legal status. But at the same time, section 8 (2)(a) of the Hindu Succession Act, 1956 requires the seller or the purchaser to obtain the permission of District court for the sale. Therefore, the limitation to file the present suit is governed by Article 60 and the limitation is 3 years from the date of attaining majority.

When there are several plaintiffs, what is the reckoning date of limitation? A reading of Section 7 makes it clear that when one of several persons who are jointly entitled to institute a suit or make an application for the execution of the decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against all of them but where no such discharge can be given, time will not run against all of them until one of them becomes capable of giving discharge.

Further, as per Explanation II appended to section 7, the manager of a Hindu undivided family governed by Mitakshara Law shall be deemed to be capable of giving a discharge without concurrence of other members of family only if he is in management of the joint family property. The three sisters though major on the date of institution of property, were not the manager or karta of the property. Therefore, explanation II will not be applicable.

22. Section 8 of Limitation Act:

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.

The combined effect of S. 6, and S. 8 read with the third column of the appropriate Article of the Limitation Act would be that a person under disability may sue within the same period as would otherwise be allowed from the time specified therefore in the third column of the schedule but the special limitation as an exception has been provided in s. 8 laying down that the extended period after cessation of disability would not be beyond three years of the cessation of disability or the death of the disabled person.

***Kolandavel Goukderv.Chinnapan*²⁸,**

Facts of the case:

Some joint family property was sold by the father acting for himself and on behalf of his minor sons in 1940 and the purchaser made further sale in 1942. Possession passed from father to the alienee on 17.8.1942. In this suit filed on 9.1.1958 by the sons (who had been born in 1928, 1931 and on 13.8.1937) it was contended that the period of limitation i.e 12 years (as provided by Article 126) should be counted from the date of the youngest son attaining majority or in the alternative, when the first son becomes the manager of the property after

²⁸ AIR 1965 Mad 541

the death of his father in April, 1948 so that he became capable of giving discharge on behalf of his brothers also. In the light of this, the period will start running against them all only from April, 1948.

Held: On a reading of Ss. 6, 7 and 8, it is clear that S. 8 imposes a limitation on the concession provided under Ss. 6 and 7 to a maximum of three years after cessation of the disability. Therefore, the period of three years would start running from the day of the eldest son attaining majority in 1946. Thus the suit is barred by limitation.

Section 8 is ancillary to and restrictive of the concession granted in Ss 6 and 7 and does not confer any substantial privilege. This section is in the nature of proviso to Ss 6 and 7.

23. Section 9 of Limitation Act:

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.

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.

24. Section 10 of Limitation Act:

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 if 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.

***Explanation* - For the purposes of this section any property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose and the manager of the property shall be deemed to be the trusted thereof.**

25. Section 11 of Limitation Act:

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 the State of Jammu and Kashmir or in a foreign country shall be 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 defense 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.

26. COMPUTATION OF PERIOD OF LIMITATION

Section 12 of Limitation Act:

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.**

***Explanation* - In computing under this section the time requisite for obtaining a copy of a decree or an order, any time taken by the court to prepare the decree or order before an application for copy thereof is made shall not be excluded.**

Example: In a suit for specific performance of agreement the date of performance mentioned in the agreement will be the date for reckoning the period of limitation of three years and that date has to be excluded for computing the period of limitation for three years which is the period of limitation for filing such a suit.

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.

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.

27. **Section 13 of Limitation Act:**

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.

27. Section 14 of Limitation Act:

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, -

- a. 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;**
- b. a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;**
- c. misjoinder of parties or of causes of action shall be deemed to be a cause of a like 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.**

J. Kumardasan Nair v. IRIC Sohan ²⁹

Facts of the case:

(a) 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.

(b) 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.

²⁹ AIR 2009 SC 1333

(c) Respondent Nos. 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.

(d) 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.

(e) 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.

(f) 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 as ***ejusdem generis*** 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'

(e) 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.

Consolidated Engg. Enterprises v. Irrigation Department ³⁰

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;

³⁰ (2008)7 SCC 169

- (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.

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 con-donation of delay.

Commissioner, M.P. Housing Board and Ors v. M/S Mohan Lal and Company,³¹ --- It has been held in this case 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.

28. **Section 15 of Limitation Act:**

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**

³¹ 2016 SCC Online SC 738

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 of 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 may be, 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

Turner Morrison & Co. Ltd. v. Hungerford Investment Trust Ltd.,³²

Facts of the case: 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

³² AIR 1972 SC 1311

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.

29. **Section 16 of Limitation Act:**

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 accurate 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.

30. **Section 17 of Limitation Act:**

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 of 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.

This section does not apply to criminal cases. According to the Hon'ble Supreme Court in, *Pallav Sheth v. Custodian* ³³, 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.

³³ (2001) 7 SCC 549

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.

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.

In cases where the suit is based on the fraud of the defendant or for relief from the consequences of a mistake, the period of limitation does not begin to run with regards to institution of the suit or application until the fraud or mistake has been discovered by the plaintiff, or until it could have been discovered with reasonable diligence (section 17, Limitation Act). This provision does not relate to all kinds of fraud, and only prevents a party from being penalised for failing to institute legal proceedings when facts or documents have been concealed from them willfully.

Read: *Saranpal Kaur Anand v. Praduman Singh Chandhok and Ors.*, Supreme Court³⁴,

31. Section 18 of Limitation Act:

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**

³⁴ **Civil Appeal No. 2573 of 2022.**

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 to pay or should amount to a promise to pay. **[Subbarsadya v. Narashimha³⁵,]**

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

³⁵ AIR 1936 Mad.939

debt has already become time-barred, acknowledgeable cannot create fresh period of limitation. An acknowledgment without signature is no acknowledgment. It will be sufficient if the acknowledgement is signed by the agent and not by the debtor. Acknowledgement should be by a person who has personal liability to pay. Acknowledgement does not create a new debt it only extends the period of limitation. Acknowledgement must relate to a definite liability in respect of the right claimed. Explanation (b) to S.18 has explained that the writing containing the acknowledgement 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 acknowledgement 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.

32. Section 19 of Limitation Act:

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 1st 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 acknowledgement 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 acknowledgement. That is the only mode of proof of such payment.

33. Section 20 of Limitation Act:

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.

34. Section 21 of Limitation Act:

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.

35. Section 22 of Limitation Act:

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. In ***Bengal Waterproof Ltd. v. Bombay Waterproof Mfg. Co.***³⁶, 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.

36. Section 23 of Limitation Act:

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.

³⁶ AIR 1997 SC 1398

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.

37. **Section 24 of Limitation Act:**

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.

PART- IV

ACQUISITION OF OWNERSHIP BY POSSESSION

38. **Section 25 of Limitation Act:**

ACQUISITION OF EASEMENT BY PRESCRIPTION:

- (1) Where the access and use of light or air to and for any building have been peaceable enjoyed there with as an easement, and as of right, without interruption and for twenty years, and where any way or watercourse or the use of any water or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an**

easement and as of right without interruption and for twenty years, the right to such access and use of light or air, way, watercourse, use of other easement shall be absolute and indefeasible.

- (2) Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein claim to which such period relates is contested.
- (3) Where property over which a right is claimed under sub-section (1) belongs to the Government that sub-section shall be read as if for the words "twenty years" the words "thirty years" were substituted.

Explanation - Nothing is an interruption within the meaning of the section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

39. Section 26 of Limitation Act:

EXCLUSION IN FAVOR OF REVERSIONARY OF SERVANT TENEMENT :

Where any land or water upon, over or from, which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or in terms of years exceeding three years from the granting thereof the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled on such determination to the said land or water.

40. **Section 27 of Limitation Act:**

EXTINGUISHMENT OF RIGHT TO PROPERTY:

At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

It is an exception to the general principle that the laws of limitation only bar remedy and does not extinguish title. This is not only a law of limitation but is also a law of prescription. It only extinguishes the title of a rightful owner but it does not specifically states as to where such right vests. But the title of the property cannot be left in the air. So on the extinguishment of the title of the rightful owner, such title to the property shall follow possession and person in possession as trespasser is to be treated to have acquired title by adverse possession. The right extinguished by Section 27 of the Limitation Act is the right which the lawful owner has and against whom a claim of adverse possession is made.

MadinaBegam v.. Shiv Murthy Prasad Pandey³⁷, – The decision of the 3 Judges Bench of the Hon'ble Supreme Court in ***Ahmadsahab Abdul Mulla (Dead) v. Bibijan and Others*** was followed in this case and the question “*whether the use of the expression “date” used in Article 54 of the Schedule to the Limitation Act is suggestive of a specific date in the Calendar?*” was addressed. The Apex Court held that the expression “date fixed for performance” is a crystallized notion. When a date is fixed it means that there is a definite date fixed for doing a particular act and, therefore, the expression “date” is definitely suggestive of a specified date in the Calendar.

Therefore, for a suit for specific performance of an agreement, if a date is fixed then non- compliance with agreement on the date would give a cause of action to file a suit for specific performance within three years from the date so fixed. But where no such date is fixed limitation of three years would begin when plaintiff has notice the defendant has refused performance of agreement.

³⁷ **2016 (4) JBCJ 63 SC**

41. Specific performance– Time is essence of contract – Limitation:

(i) The Hon'ble Apex Court in the judgment held in **between Chand Rani Vs. Kamal Rani** ³⁸ reported in the judgment it was held that

“it is a well accepted principle that in the case of sale of immovable property, time is never regarded as the essence of contract. In fact, there is a presumption against time being the essence of the contract. This principle is not in any way different from that obtainable in England. Under the Law of equity which governs the rights of the parties in the case of specific performance of contract to sell real estate, Law looks not at the letter but, at the substance of the agreement. It has to be ascertained whether under the terms of the contract the parties named a specific time within which completion was to take place, really and in substance it was intended that it should be completed within a reasonable time. An intention to make time the essence of the contract must be expressed in unequivocal language”.

(ii) The Hon'ble Apex Court held in **between Sarada Mani Kandappan Vs. S. Raja Lakshmi and others**,³⁹ dated **04.07.2011**. In the judgment it was held that

“the intention to make time stipulated for payment of balance consideration will be considered to be essence of contract where such intention is evident for the express terms or the circumstances necessitating the sale, set out in the agreement. If for example, the vendor discloses in the agreement of sale, the reason for the sale and the reason for stipulating that time prescribed for payment to be the essence of the contract, that is, say, need to repay a particular loan before a particular date or to meet an urgent time bound need (say medical or

³⁸ 1993 (1) SCC page 519,

³⁹ Judgment dated 04.07.2011

educational expenses of a family member). Time stipulated for payment will be considered to be the essence. Even if the urgent need for the money within the specified time is not set out, if the words used clearly show an intention of the parties to make time the essence of the contract with reference to payment, time will be held to be the essence of the contract”.

Specific performance –Court can extend time even after passing Decree for performance or deposit of balance sale consideration.

A suit for specific performance does not come to an end on passing of a decree and the Court which has passed the decree for specific performance retains the control over the decree even after the decree has been passed.

The Court does not cease to have the power to extend the time even though the trial court had earlier directed in the decree that payment of balance price to be made by certain date and on failure, the suit stand dismissed. The power exercisable under Section 28 of the Specific Relief Act is discretionary.

Read: Chanda (dead) through LRs. Vs. Rattni ⁴⁰

PART- V MISCELLANEOUS

42. Section 29 of Limitation Act:

SAVINGS:

- 1. Nothing in this Act shall affect Section 25 of the Indian Contract Act 1872.**
- 2. Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the schedule and for the purpose of determining any period of limitation**

⁴⁰ 2007 (4) SCJ page 142

prescribed for any suit, appeal or application by any special or local law, the provision contained in Sections 4 to 24 apply only insofar as , and to, the extent which, they are not expressly excluded by such special or local law.

- 3. Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law.**
- 4. Sections 25 and 26 and the definition of "easement" in section 2 shall not apply to cases arising in the territories to which the Indian Easements Act,1882 may for the time being extend**

In case of Special Laws the limitation as provided under the special law shall have application and not the limitation as provided under the Limitation Act. Another important point that has been made is that the provisions of the limitation Act Sections 4 to 24 shall stand excluded only when the Special Act excludes its operation.

43. ARTICLE 136 OF THE SCHEDULE OF THE LIMITATION ACT

Article 136 of the Limitation Act 1963 provides for a 12 year for any limitation for the execution of any decree or order of court. The period of limitation to commence from the time when the decree or order becomes enforceable or decree or 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 payment or delivery in respect of which execution is sought takes place: provided an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation. The test to be applied for determining whether the decree was capable of immediate execution is whether the performance of condition was entirely dependent on the will of the decree holder. If the execution was not within the power of the decree-holder but dependent on some extraneous circumstance then the period of limitation shall not commence till the presence that external circumstance.

44. Merger of Decree passed by appellate Court:

“What would be the date from which a decree becomes enforceable for execution thereof within the meaning of Article 136 of the Limitation Act, 1963?” According to the doctrine of merger, when an appeal is prescribed under the statute and an appeal is preferred before a higher forum and a passes a decree, the decree of the trial court merges with the decree of the decree of the appellate court and even if subject to the modification that may be made in appellate decree, the decree of the appellate court supersedes the decree of the trial court. In other words merger of the decree takes place irrespective of the fact whether appellate court affirms, modifies, or reverses the decree of the trial court.

It was held that once a decree is sought to be enforced for the purpose of execution thereof irrespective of being original or appellate, the date of the decree or any subsequent order would be considered to be the starting period for limitation.

Read: Chandi Prasad v. Jagdish Prasad ⁴¹

45. ADVERSE POSSESSION

In all suits for possession based on dispossession, whether the plaintiff had title or not, the burden of proof under the old Act was on the plaintiff to prove that he was in possession within 12 years of the suit. Under the present Act, a suit based on title, even if dispossession also is alleged, the defendant can succeed only if he proves that his possession had become adverse to the plaintiff beyond 12 years of the suit. Under the present Act, the plaintiff need prove only his title and he need not Show that he was in possession within 12 years of the suit.

(i) Kalliyani v. Kaliani⁴²,

It was held by the Hon’ble Court that it is well settled that a plaintiff, who is suing for possession of property in the occupation of another, cannot rest his case on title alone. He

⁴¹ 2004(8) SCC 724

⁴² 1969 KLT 362

must show that he has exercised rights of ownership by being in possession within 12 years of suit. The Court further went on to examine the question whether this principle would apply in a case where in answer to the claim for possession, the defendant sets up a tenancy, which is disputed by the plaintiff?

It was held by the Court that the question is which is the admission relied on to relieve the plaintiff from the burden of proving subsisting title. If the admission relied on by the parties is the admission in the written statement that the defendant was a lessee on the date of the suit, and has therefore admitted that the plaintiff was in constructive possession on the date of the institution of the suit, then perhaps there might be no logic in saying that lease must have originated within 12 years of the suit. Even if the lease set up was one granted before 12 years of the date of suit, if the allegation in the written statement is that the defendant continued in possession under the lease when the suit was filed, it might be difficult to say that there was no admission on the part of the defendant that the plaintiff was in possession within 12 years of the date of the suit.

Where the plaintiff alleges tenancy and the defendant admits the same or where the plaintiff or defendant allege tenancy and such tenancy is proved, the suit may, in essence, be one between landlord and tenant, and in such a case the plaintiff is not called on to prove possession within 12 years of suit—he would nevertheless have to prove that the tenancy has been duly determined so as to entitle him to present possession, and, in view of Article 139 that this determination was within 12 years before the suit. But where one of the parties alleges a tenancy but it is not substantiated in evidence, the principle to be applied is not the one applicable to a suit between landlord and tenant in the matter of limitation. No doubt, the admission by the defendant in such a suit that he is a tenant may amount to an admission that when the tenancy was created the landlord was in possession, so that he could put the tenant in possession. If the tenancy alleged happens to be one which commenced within 12 years of the suit, plaintiff may succeed on the strength of title, taking the admission of the defendant as proving the possession of the plaintiff within 12 years. The Court, however, observed that the principle cannot

be extended to cases where the admission implied in a plea of tenancy relates to a period more than 12 years prior to the date of suit.

(ii) **Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan,**⁴³

The Supreme Court observed that the law of adverse possession which ousts an owner on the basis of inaction within limitation is irrational, illogical and wholly disproportionate. The law as it exists is extremely harsh for the true owner and a windfall for a dishonest person who had illegally taken possession of the property of the true owner. The law ought not to benefit a person who clandestinely takes possession of the property of the true owner in contravention of law. The Supreme Court recommended the Union Government to seriously consider the urgent need of fresh look regarding the law on adverse possession and make suitable changes in the laws related thereto.

(iii) **Dharampal (dead) through LRs v. Punjab Waqf Board,**⁴⁴

The Supreme Court followed its Judgement given in *Gurudwara Sahib v. Gram Panchayat Village Sirthala and Others* and held that a plea of adverse possession cannot be set up by the plaintiff to claim ownership over the suit property but such plea can be raised by the defendant by way of defence in his written statement in answer to the plaintiff's claim. In the light of law laid down in the case of *Gurudwara Sahib* (supra), , the plea raised by the original appellant (Defendant No.1) in his counter-claim filed against the plaintiff wherein he sought a declaration of his ownership over the suit land only on the plea of "adverse possession" was held to be not permissible, in the present case. It was held so because a counter-claim is treated as a plaint under Order 8 Rule 6A(4) of the CPC.

The Court also addressed the question of what "adverse possession" is and on whom the burden of proof lies and lastly, what should be the approach of the Courts while dealing with

⁴³ 2009(1)JLJ 82 (SC)

⁴⁴ 2017(7) Supreme 156

such plea. The Court observed that in view of the several authorities of this Court, what can safely be said is that mere possession however long does not necessarily mean that it is adverse to the true owner. It means hostile possession which is expressly or impliedly in denial of the title of the true owner and in order to constitute adverse possession the possession must be adequate in continuity, in publicity and in extent so as to show that it is adverse to the true owner. The possession must be open and hostile enough so that it is known by the parties interested in the property. The plaintiff is bound to prove his title as also possession within twelve years and once the plaintiff proves his title, the burden shifts on the defendant to establish that he has perfected his title by adverse possession. Claim by adverse possession has two basic elements i.e. the possession of the defendant should be adverse to the plaintiff and the defendant must continue to remain in possession for a period of twelve years thereafter.

Read: Ravinder Kaur Grewal Vs. Manjit Kaur⁴⁵ held in

(iv) The Hon'ble Supreme Court in ***R.Hanumaiah and Another v. Secretary to Government of Karnataka, Revenue Department and Others***,⁴⁶, had made clear distinction between the claim of adverse possession over a private property and Government property and had observed that any loss of Government property is ultimately the loss to the community. Courts owe a duty to be vigilant to ensure that public property is not converted into private property by unscrupulous elements.

According to the Court many civil courts deal with suits for declaration of title and injunction against the Government in a casual manner, ignoring or overlooking the special features relating to government properties. Instances of such suits against the Government being routinely decreed, either ex parte or for want of proper contest, merely acting upon the oral assertions of plaintiffs or stray revenue entries are common. Whether the Government contests the suit or not, before suit for declaration of

⁴⁵ AIR 2019 SC 3827

⁴⁶ **2010(5) SCC 203**

title against a Government is decreed, the Plaintiff should establish, either his title by producing the title deeds which satisfactorily trace title for a minimum period of thirty years prior to the date of the suit (except where title is claimed with reference to a grant or transfer by the Government or a statutory development authority) or by establishing adverse possession for a period of more than thirty years.

(v) **D.N.Venkatarayappa and Another v. State of Karnatka and Others**⁴⁷,

Apart from actual and continuous possession which is among other ingredients of adverse possession, there should be necessary animus on the part of the person who intends to perfect his title by adverse possession. A person who under the bona fide belief thinks that the property belongs to him and as such he has been in possession, such possession cannot at all the adverse possession because it lack necessary animus for perfecting title by adverse possession." Therefore, it is clear that one of the important ingredients to claim adverse possession is that the person who claims adverse possession must have set up title hostile to the title of the true owner. It was held that in the absence of crucial pleadings regarding adverse possession and evidence to show that the petitioners have in uninterrupted and continuous possession of the land in question claiming the right title and interest of the original grantee, the petitioners cannot claim title by adverse possession. Adverse possession implies that it commenced in wrong and maintained against right.

(vi) **S.M. Karim v.Mst. Bibi Sakina**⁴⁸,

Adverse possession must be adequate in continuity, in publicity and extent and a plea is required at the least to show when the possession becomes adverse so that starting point of the limitation against a party can be found. Long possession is not necessarily adverse possession and the prayer clause is not a substitute for a plea.

(vii) **P. Lakshmi Reddy v. L. Lakshmi Reddy**⁴⁹,

⁴⁷ AIR 1997 SC 2930

⁴⁸ AIR 1964 SC 1254

⁴⁹ AIR 1957 SC 314

It is well settled that the ordinary classical requirement of adverse possession is that it should be *nec vi nec clam nec precario* (without force, without secrecy, without permission). In order to establish adverse possession of non-co-heir as against another it is not enough to show that one out of the is in sole possession and enjoyment of the profits of the properties.

Ouster of Non-possessing co-heirs by the co-heir in possession who claims possession should be made out. The possession of one Co-heir in law is considered possession of all the co-heirs. When co-heir is found to be in possession of the properties it is found to be the basis of a joint title. The co-heir in possession cannot render his possession adverse to the other co-heir, not in possession, merely by any secret hostile animus on his part in derogation of other co-heir's title. It is settled law that as between co-heirs there must be evidence of open assertion of hostile title, coupled with exclusive possession and enjoyment by any one of them to the knowledge of the others to constitute ouster.

(viii) **Karnatka Board of Wakf v. Govt of India and Others⁵⁰,**

In the eye of law an owner would be deemed to be in possession so long there is no intrusion. Non-use of property even for a long time would not affect his title. But the position will be altered when another person's takes possession of the property and asserts a right over it. Adverse possession is a hostile possession by clearly asserting hostile title in denial of the true owner. It is a well settled principle of law that a party claiming adverse possession must prove that his possession is *nec vi*, "*nec clam nec, nec precario*", that is peaceful, open and continuous. The possession must be adequate in continuity, extent and in publicity to show that their possession is adverse to the true owner. It must start with a wrongful disposition of a rightful owner and be actual, visible, exclusive, hostile and continuous over a statutory period. Adverse possession is not a pure question of law but is a blended question of law and fact. The person who claims adverse possession must show:

- On what date he came into possession.

⁵⁰ **2004 (10) SCC 779**

- What was the nature of possession.
- Whether the factum of possession was known to the other party.
- How long his possession has continued.
- His possession was open and undisturbed.

A person pleading adverse possession has no equities in his favor. Since he is trying to destroy the right of true owner, it is for him to plead and establish all facts necessary to establish his adverse possession.

(ix) **Dipnarayan Rai and Others v. Pundeo Rai and Others,**⁵¹

As regards co-owners, the law is that there can be no adverse possession by one co-owner unless there has been a denial of title and also to the knowledge of the others, and the same principal applies to the case of the transferee from a co-owner who professedly takes a transfer of the whole property from him. There can be no difference in principle whether the person is the original co-owner or has become a co-owner by virtue of transfer

(x) **Mohd. Zainulabudeen v. Sayed Ahmed Mohideen and Others,**⁵² .

It is well established that adverse possession of one co-heir against another is not enough to show that one out of them is in sole possession and enjoyment of the profits of properties, and that ouster of the none possession co-heir by the co-heir in possession who claims his possession to be adverse, should be made out. In such case one co-heir found to be in possession of the properties is presumed to be on the basis of joint title. The Supreme Court further reiterated the decision in P. Laxmi Reddy (supra) that the co-heir in possession cannot render his possession adverse to the other co-heir, not in possession, merely by any secrete hostile animus on his own part in the derogation of the co-heirs title. As held in **Shah Ahmad Mohiuddin Kmisul Qudari**⁵³, the Supreme Court also held that the possession of one co-owner is presumed to be the possession

⁵¹ AIR 1947 Pat 99

⁵² AIR 1990 SC 507

⁵³ AIR 1971 SC 2184,

of the all co-owners unless it is established that the possession of the co-owner is in denial of title of co-owners and the possession is in hostility to co-owners by exclusion of them.

(xi) The Hon'ble Supreme Court in ***Deva (dead) through LRs v. Sajjan Kumar (dead) through LRs***⁵⁴, held that mere long possession for a period of more than twelve years without intention to possess the suit property adversely to the title of the plaintiff and to his knowledge cannot result in acquisition of title by the defendant to the property in dispute. In order to establish adverse possession it is not enough to show that one is in sole possession and enjoying the property. Ouster of the non-possessing party by the party in possession, who claims his possession to be adverse, should be made out. It is the intention to claim adversely accompanied by such an invasion of the rights of the opposite party as gives him a cause of action which constitutes adverse possession. It is also well settled that limitation cannot begin to run against a person unless at the time when person is legally in a position to vindicate his title by action. Commencement of adverse possession implies that person in actual possession, at the time, with a notorious hostile claim of exclusive title so that true owner would then be in a possession to maintain an action.

46. SUITS ON THE BASIS OF POSSESSION AND SUITS BASED ON PROPRIETARY TITLE:

Under the present Act, all suits for possession of immovable property have been brought under two categories:-

1. Suits based only on the right of previous possession and not on proprietary title.
2. Suits based on proprietary title. .

In the first case, Art.64 applies and in the other case, Art.65 applies. In the former, time begins to run from the date of dispossession of the plaintiff or the discontinuance of possession. In the case of the latter, time begins to run when the possession of the defendant becomes adverse to the plaintiff. In the case of *Neelakanta Pillai vs. BharathiAmma*⁵⁵, it was held that Article 142 applies to a suit for recovery of

⁵⁴ AIR 2003 SC 3907

⁵⁵ 1971 KLT SN. 54

possession by a person who has been dispossessed, even on the strength of his prior possession.

47. ARTICLES 64 AND 65: DISTINCTION EXAMPLE- I

(a) In both cases, suit must be for possession. The same was the position under Articles 142 and 144 of the old Act. A suit for mere declaration of right to property is not a suit for possession, within the meaning of Art 64 or 65.

(b) Where possession is claimed in a suit as a consequence of the declaration, the suit would be covered by Art 65 and not by Art 58 of the present Act. Suits for possession mean suits in which possession is asked for as the primary relief. Where the primary relief is something other than possession, and possession is asked for as a consequence of the primary relief being granted, the article which applies is the appropriate article for the primary relief. e.g. Suits for pre-emption, Suit for redemption of usufructuary mortgage. It is not always the form of the relief claimed that will determine the real character of the suit. The question is what in substance does the plaintiff claim. A suit for possession does not invariably mean a suit for actual physical possession. It means a suit for such possession as the property is capable of the previous possession contemplated under Art. 64 is effective possession. By effecting possession is meant either actual possession or constructive possession. e.g. Possession through a tenant.

48. ARTICLES 64 AND 65: DISTINCTION EXAMPLE- II:

(a) Suit for possession based on prior possession and dispossession are generally referred to as suits based on possessory title as distinguished from suits based on proprietary title. Suits under Art. 64 are suits based on possessory title, while suits under Art. 65 are suits based on proprietary title. In a suit for possession based on possessory title, under Art.64, the plaintiff will be entitled to succeed as against all persons except the true owner. Whereas under Section 6 of the Specific Relief Act, if the plaintiff proves prior possession and dispossession within

six months of the suit, and such dispossession is otherwise than in due course of law, he will be entitled to recover possession notwithstanding that the defendant may be the true owner. The onus of proof is on the defendant to prove that he has got better title to the property than the plaintiff, in suits under Art. 64 as observed in ***Nair Service Society v. K.C. Alexander*** ⁵⁶

(b) Effective possession is necessary. By effective possession it is meant either actual possession or possession through a tenant, who must have paid rent voluntarily or under a decree to the person claiming possessory title. Mere paper adornment is not enough. Plaintiff failing to prove his proprietary title but proving his prior possession is entitled to recovery of possession if the defendant is found to be a trespasser. Person having possessory title can protect such title from invasion by trespassers. Such possessory title can be invoked against all persons except true owner. ***Philip and Others v. Sharia and Others***,⁵⁷

(c) Possessory title is inheritable, devisable and transferable. Earlier possessory title is better than possessory title obtained later. Held: "It will not be necessary for the plaintiff to establish his possession for the statutory period. The position is that as between two persons who are unable to make out a valid title the person who was having possession prior to the dispossession is really entitled to have the property restored to him from the trespasser. A trespasser does not have any right whatever to dispossess a person in possession. A trespasser cannot take the stand that the person whom he had thrown out from the property had no proprietary title and consequently the least concerned with any other interest in the property."

49. ARTICLES 64 AND 65 DISTINCTION EXAMPLE- III:

There was a difference of opinion as to whether Art. 142 (Art : 64) was confined to suits for possession on the ground of possessory title, or whether it was applicable to all cases of dispossession, whether the plaintiff was suing merely on his

⁵⁶ **AIR 1968 SC 1165).**

⁵⁷ **1987 (1) KLT 213**

possessory title or on his proprietary title also. The general trend of opinion was that the article would apply to all cases of dispossession, when the plaintiff sued on possessory or proprietary title. The contrary view was that Article 64 applies only to suits on possessory title and could not apply to suits on proprietary title even though it was a case of dispossession. Art. 64 of the new Act specifically say: 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. Art.65 applies to suits for possession based on title even though the plaintiff was dispossessed. Therefore the cardinal difference between Art.64 and 65 is that the former relates to suits based on possessory title and dispossession by the defendant while the latter is a suit based on title and it does not matter in such cases whether the plaintiff was dispossessed or not.

Murti Dussadhin and Others v. Surajdeo Singh and Othres⁵⁸,

A suit for possession based on title without any allegations of dispossession was governed by Art. 144 (Art. 65). In that case, the suit was for declaration of title and the plaintiff asserted that he was in possession. But an alternative relief was claimed that he should be put in possession if it is found that he should be deemed to have been dispossessed by reason of earlier proceedings under Cr.P.C.

Defendant did not deny it but claimed he had acquired occupancy rights. Neither party alleged dispossession or discontinuance of possession of the plaintiff. Held that Art.144 (Art.65) applied and that the case must proceed on the defendants' plea. (Under the present Act, all suits for possession based on title will be governed by Art.65)

Kesar Singh v. Balwant Singh⁵⁹,

A suit was filed by the Plaintiffs for the ejectment of the defendants who were the servants of the plaintiffs as they did not want their services any more. In such a case, the Hon'ble Supreme Court held that the bar of limitation under Article 142 cannot apply since originally the possession of the appellant and the other

⁵⁸ AIR 1965 SC 875

⁵⁹ [AIR 1967 SC 487]

defendant was clearly permissive, there can be no question of the application of Art. 142 in the present case and the appellant could only succeed if he could prove adverse possession under Art. 144 for over 12 years.

50. ARTICLES 64 AND 65 DISTINCTION EXAMPLE- IV :

Suits under Art.64 should be filed within 12 years of the date of dispossession. Suits based on proprietary title come under Art.65 even though the plaintiff was dispossessed. In such cases, the mere lapse of a period of 12 years from the date of dispossession will not make the suit time barred unless the defendant can prove that he has been in adverse possession continuously for "a period of 12 years before the suit. In suits under Art.64, the period of limitation start from the date of dispossession, While in suits under Art. 65 limitation period commences when the possession of the defendant becomes adverse to the plaintiff.

51. ARTICLES 64 AND 65 DISTINCTION EXAMPLE- (V) :

(a) Under the present Act, in cases under Art.64, the onus is on the plaintiff to prove that his dispossession took place within the period of limitation. Similarly in cases coming under Art.65, the onus will be on the defendant to prove that he was in adverse possession against the plaintiff for more than the statutory period.

(b) Under the old Act, Art. 142 applied to all cases of dispossession and discontinuance of possession, even in cases where the suit was filed by the true owner. Therefore even in such cases, the plaintiff was bound to prove dispossession within 12 years. Under the 1963 Act, suits for possession based on title come under Act.65 under which limitation runs from the time when the defendant's possession. Becomes adverse to the plaintiff and not from the time when the plaintiff was dispossessed as under Art.64. Therefore under the present Act, in a suit for possession based on title, the onus is no longer on the plaintiff to prove that his dispossession took place within the period of limitation.

(c) Under the new Act, in a suit for possession based on title, the onus of proof is on the defendant to prove at what point of time his possession became adverse to the plaintiff prior to the statutory period.

52. ARTICLES 64 AND 65 DISTINCTION EXAMPLE- (VI) :

Article 64: Applies in the case of immovable property alone.

Article 65: Applies in the case of immovable property or any interest therein. The interest in immovable property referred to in Art.65 must be such as is capable of being enjoyed by acts of ownership because unless it is so, there cannot be any adverse possession of such interest. Under the old Act also, the position was the same. Article 142 is limited to suits for possession of immovable property and Article 144 includes, in addition to suits for possession of immovable property, suits for possession of interest in immovable property.

Interest in Immovable Property: Interest in immovable property does not relate only to a personal liability. The following are some examples of interest in immovable property:

1. Right to collect assessment of lands endowed in favour of a shrine.
2. Right of occupancy tenant in the land.
3. Right to a watercourse.
4. Right to collect rent of the property.
5. Right to graze cattle on the land of another.

“Adverse possession” means Hostile possession which is expressly or impliedly in denial of the title of the true owner. Such possession must be actual and exclusive under a claim or right adequate in continuity in publicity and in extent so as to show that it is adverse to the true owner. The plea must be taken in the pleading and a specific averment

as to the point of time from which possession become adverse is necessary. Plea of adverse possession cannot be sustained in the absence of *animus possidendi*. Mere possession for the statutory period is not sufficient unless there is an assertion of hostile title possession be it of whatever length does not ripen of title.

Permissive Possession is not adverse and can be terminated at any time by the rightful owner. In the absence of evidence to support the plea of openness hostility are notoriety such possession will not establish adverse possession permissive possession cannot be converted into adverse possession unless it is proved that the person in possession asserted hostile title therein for a period of 12 years or more.

SECTION 6 OF THE SPECIFIC RELIEF ACT AND ARTICLES 64 AND 65 OF THE LIMITATION ACT.

If the owner of the property is dispossessed by force by a trespasser, the owner can institute a suit for possession under Section 6 of the Specific Relief Act without proving title. Period of limitation: 6 months. (Sec.6 (2) (a)). Even after the period of 6 months, he can bring a suit on title period of limitation is 12 years under Art. 65.

Even if a person is unlawful possession, he can bring a suit against a trespasser including the owner under section 6 of the Specific Relief Act. (On the ground of his dispossession otherwise than in due course of law). He can bring such a suit against the true owner only under Section 6. He cannot do so under Article 64 or 65 of the Limitation Act. What is saved under Section 6 (4) of the Specific Relief Act is only a suit based on title.

A person in unlawful possession can bring a suit against a trespasser who has no title to the property (i.e. not the owner) both under section 6 and under Article 64. That is a suit under Article 64 and it is saved by section 6 (4) of the Specific Relief Act. Such suit is only one based on previous possession and dispossession

and not on “title” within the meaning of Article 64 although it is a suit based on title within the meaning of Section 6 (4) of the Specific Relief Act. The word “Title” is used in Art. 64 and 65 in a restrictive sense as including only proprietary title as distinguished from possessory title, although the word title is wide enough to include both proprietary and possessory titles. A person who has not availed the remedy under Section 6 can bring a suit on title after the expiry of six months. There is no bar. Such a suit can be filed by the true owner against a trespasser or by a previous trespasser against a subsequent trespasser but a suit is not maintainable against the true owner.

Where a trespasser is forcibly evicted by the true owner and the trespasser obtains a decree against the true owner under Section 6, the true owner can institute a suit on title and the Article which applies is Art. 65. Suppose a true owner is ejected by a trespasser. True owner obtains a decree under Section 6 and gets possession in execution of the decree. Thereafter the trespasser cannot institute a suit against the true owner for possession since the trespasser has no title as against the true owner.

COMPUTATION OF PERIOD OF LIMITATION

Part III 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 acknowledgement in writing of such right or liability by the party.
4. In case of debt, payment will provide a fresh 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 bonafide mistake, the suit shall be deemed to have been instituted on an earlier date.

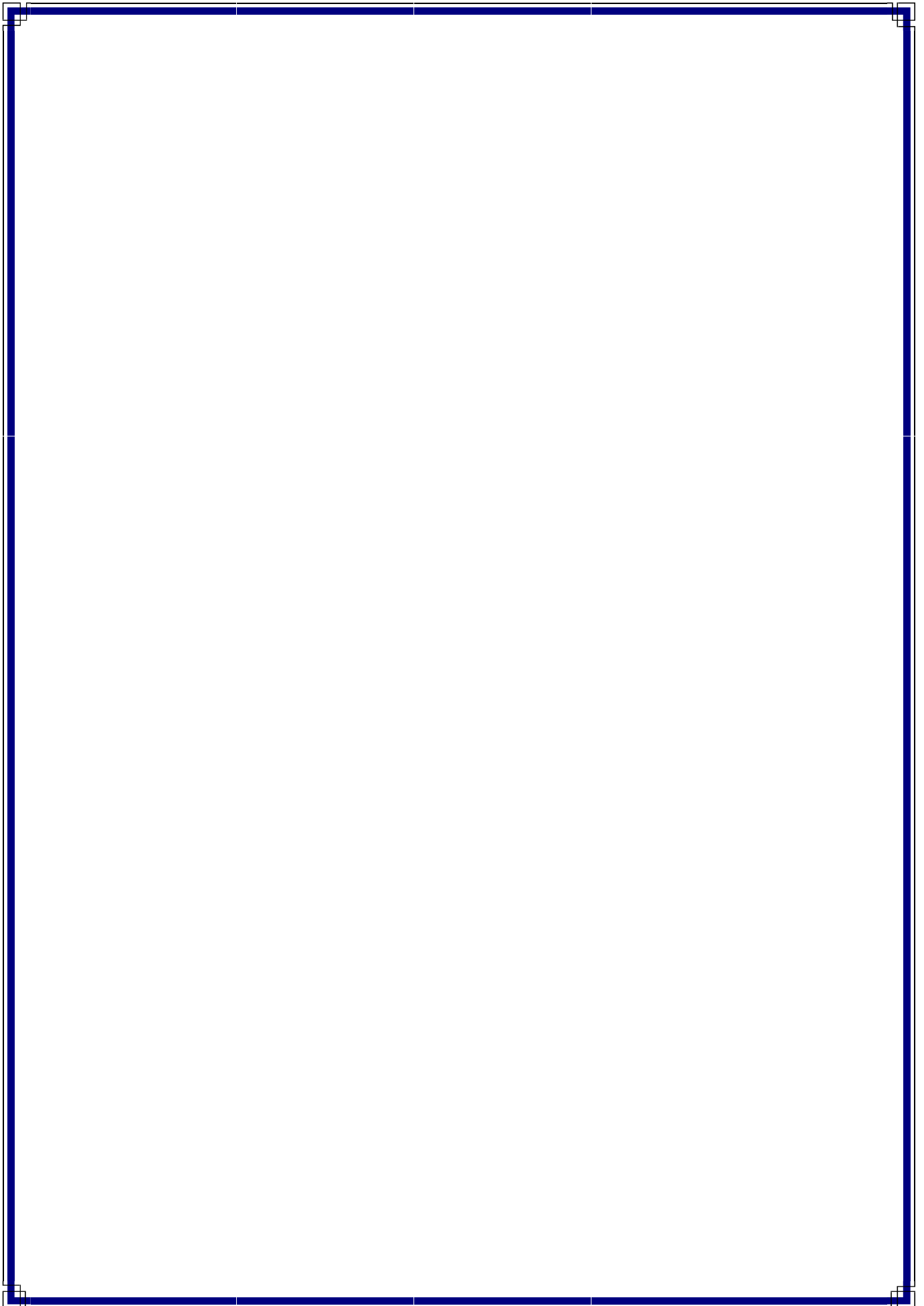
6. In case of continuing breach of contract or tort a fresh period of limitation begins to run every moment till breach or tort continues.

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.

Conclusion:

The main object of the Limitation Act is to impose a statutory bar after a certain period of time to put an end to the litigation. The Limitation Act is basically based on public policy for fixing a life span for the legal remedy, which may be taken and to seek remedy in time with the purpose of general welfare. The law of limitation is intended to ensure that parties do not engage in dilatory tactics and instead seek their remedy expeditiously. The law of limitation is not meant to destroy the rights of the parties, but is meant to regulate the availability of such remedy for a period fixed by the statute. The Limitation Act does not take away the right of any party over the subject matter, but it only bars the legal remedy. Therefore, utmost care and attention has to be paid by the Judicial Officers at the stage of numbering of the cases as well as during trial to curtail stale, frivolous and time barred litigations to save the valuable time of the court.

I convey my sincere thankfulness to the Hon'ble Administrative Judge, Srikakulam District and also the Hon'ble Principal District Judge, Srikakulam for giving me the opportunity to submit the paper on the topic **Law of Limitation – relating to Suits, Appeal Suits and applications.**



SESSION- II & III

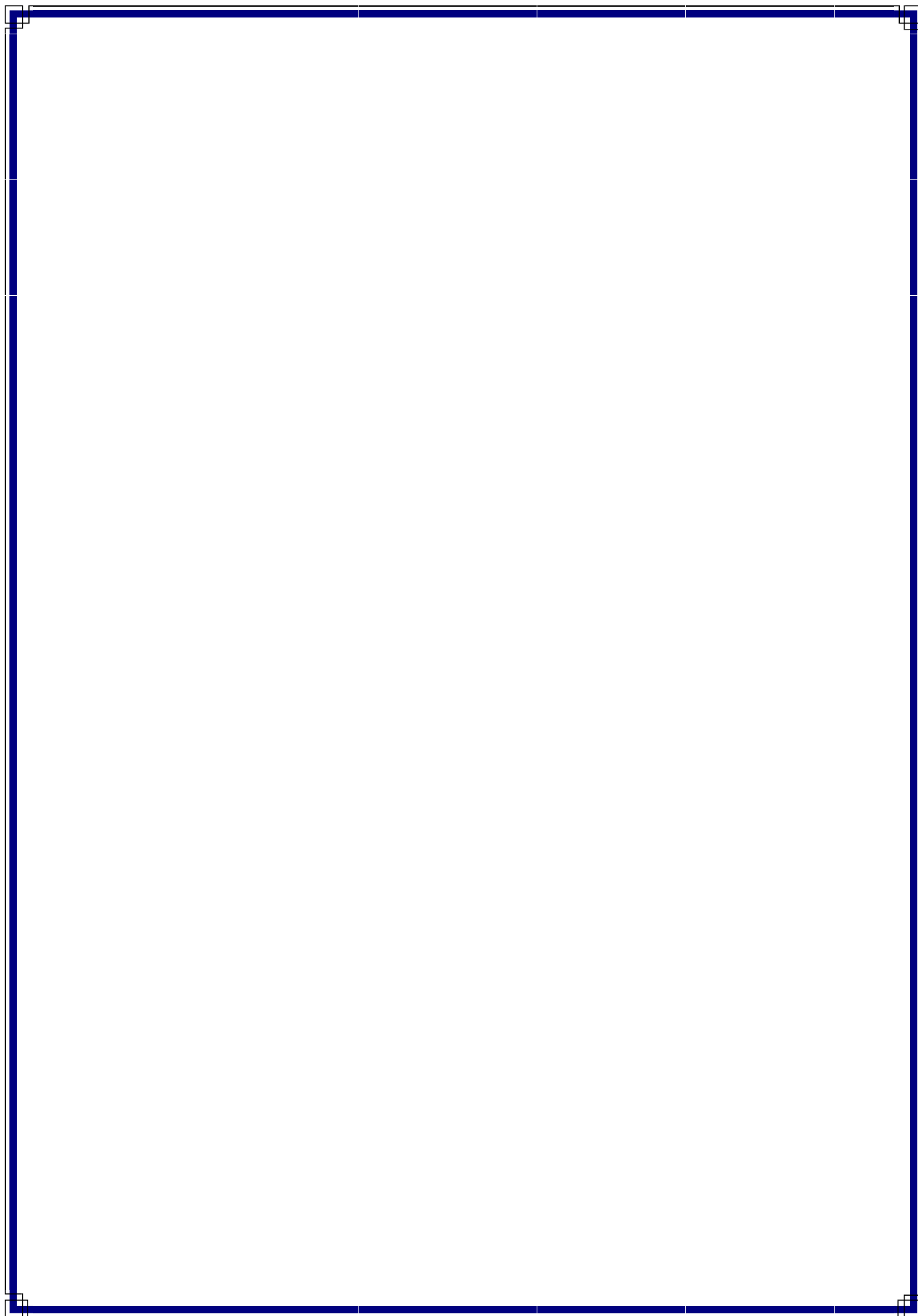
LAW OF LIMITATION

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

Paper Presentation

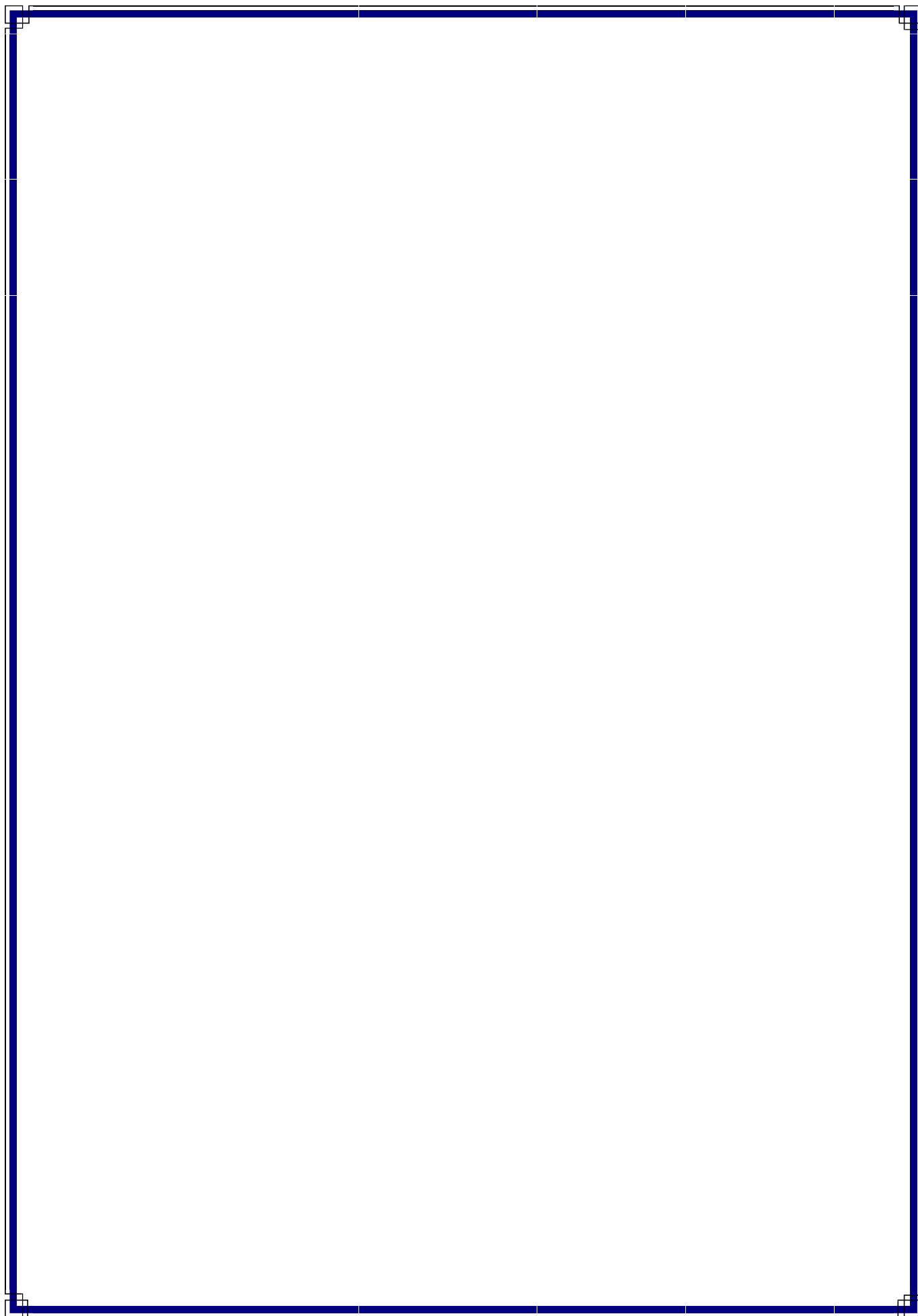
by

Sri. P.Paresh Kumar,
Civil Judge (Junior Division)
ICHAPURAM.



TOPICS

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



CONDITIONS AS TO TIME AND LIMITATION UNDER DIFFERENT STATUTES IN INDIA

Introduction:

Overview of Time and Limitation: Time and limitation are fundamental principles that govern the filing of legal claims in India. These principles ensure that legal disputes are resolved within a reasonable time frame, and they are essential to maintaining the integrity and efficiency of the justice system.

Importance of Time and Limitation: Time limits for filing cases, known as limitation periods, are crucial because they prevent the indefinite possibility of bringing lawsuits and ensure that legal matters are settled while evidence is still fresh.

1. The Limitation Act, 1963

General Overview: The Limitation Act, 1963, applies to all civil proceedings and prescribes specific time limits for various types of legal actions.

Key Features:

Section 3 - Bar of Limitation: No suit, appeal, or application shall be entertained if it is filed after the prescribed time limit.

Section 5 - Extension of Limitation: Courts can extend the limitation period if the applicant proves sufficient cause for delay.

Section 12 - Exclusion of Time in Legal Proceedings: Time spent in pursuing a legal remedy in a wrong court, or while awaiting a decision from a higher court, may be excluded from the limitation period.

Prescribed Time Periods:

For Contracts: 3 years from the date of breach (Article 54).

For Recovery of Money (Debt): 3 years from the date the debt is due (Article 19)**For Tort Claims: 1 year** from the date of the cause of action (Article 58).

2. BNSS 2023. TOTAL:68 AREAS: TIMELINES FIXED

SEC:	CONTENT
S.19	Assistant Public Prosecutors. (3) Without prejudice to provisions contained in sub-sections (1) and (2) , where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case after giving notice of fourteen days to the State Government:
S.84	Proclamation for person absconding. 84. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.
S.117	Seizure or attachment of property. (2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the said Court, within a period of thirty days of its being made.
S.119	Notice of forfeiture of property. 119. (1) If as a result of the inquiry, investigation or survey under section 116, the Court has reason to believe that all or any of such properties are proceeds of crime, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the source of income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be proceeds of crime and forfeited to the Central Government.

144	Order for maintenance of wives, children and parents. Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.
S.157	Procedure where person against whom order is made under section 152 appears to show cause. (3) If the Magistrate is not so satisfied, no further proceedings shall be taken in the case: Provided that the proceedings under this section shall be completed, as soon as possible, within a period of ninety days, which may be extended for the reasons to be recorded in writing, to one hundred and twenty days.
S.173	Information in cognizable cases. (ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf: (3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,— (i) proceed to conduct preliminary enquiry to ascertain whether there exists a <i>prima facie</i> case for proceeding in the matter within a period of fourteen days;
S.184	Medical examination of victim of rape. (6) The registered medical practitioner shall, within a period of seven days forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 193 as part of the documents referred to in clause (a) of sub-section (6) of that section.

S.187 Procedure when investigation cannot be completed in twenty-four hours.

(2) The Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration **whether such person has not been released on bail or his bail has been cancelled**, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial **forty days or sixty days** out of detention period of **sixty days or ninety days**, as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding.

Ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a **term of ten years or more**;

Sixty days, where the investigation relates to **any other offence**, and,

on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXV for the purposes of that Chapter.

(6) Notwithstanding anything contained in sub-section (1) to sub-section (5), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such **Executive Magistrate**, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term **not exceeding seven days** in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released

	on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub- section, shall be taken into account in computing the period specified in sub-section (3):
S.193	Report of police officer on completion of investigation (ii) the police officer shall, within a period of ninety days, inform the progress of the investigation by any means including through electronic communication to the informant or the victim; (9) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (8) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (3): Provided that further investigation during the trial may be conducted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may be extended with the permission of the Court.
S.218	Prosecution of Judges and public servants. Provided further that such Government shall take a decision within a period of one hundred and twenty days from the date of the receipt of the request for sanction and in case it fails to do so, the sanction shall be deemed to have been accorded by such Government:
S.230	Supply to accused of copy of police report and other documents In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:— ● the police report; ● the first information report recorded under section 173;

	● the statements recorded under sub-section ● of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding there from any part in regard to which a request for such exclusion has been made by the police officer under sub-section (7) of section 193; ● the confessions and statements, if any, recorded under section 183; ● any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (6) of section 193
S.232	Commitment of case to Court of Session when offence is triable exclusively by it. Provided that the proceedings under this section shall be completed within a period of ninety days from the date of taking cognizance, and such period may be extended by the Magistrate for a period not exceeding one hundred and eighty days for the reasons to be recorded in writing:
S.250	Discharge. 250. (1) The accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section 232.
S.251	Framing of charge. (1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which— (b) is exclusively triable by the Court, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge.
S.258	Judgment of acquittal or conviction. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may be extended to a period of forty-five days for reasons to be recorded in writing.
S.262	When accused shall be discharged. (1) The accused may prefer an application for discharge within a period of sixty days from the date of supply of copies of documents under section 230.

S.263	Framing of charge. (1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge.
S.272	Absence of complainant. 272. When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may after giving thirty days' time to the complainant to be present, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.
S.273	Compensation for accusation without reasonable cause. (3) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall undergo simple imprisonment for a period not exceeding thirty days.
S.279	Non-appearance or death of complainant. (1) If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, after giving thirty days' time to the complainant to be present, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case to some other day:
S.290	Application for plea bargaining. (1) A person accused of an offence may file an application for plea bargaining within a period of thirty days from the date of framing of charge in the Court in which such offence is pending for trial. (4) When the Public Prosecutor or the complainant of the case and the accused appear on the date fixed under sub-section (3), the Court shall examine the accused in camera, where the other party in the case shall not be present, to satisfy itself that the accused has filed the application voluntarily and where—

	(a) the Court is satisfied that the application has been filed by the accused voluntarily, it shall provide time, not exceeding sixty days, to the Public Prosecutor or the complainant of the case and the accused to work out a mutually satisfactory disposition of the case which may include giving to the victim by the accused the compensation and other expenses during the case and thereafter fix the date for further hearing of the case;
S.330	No formal proof of certain documents. (1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused or the advocate for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document soon after supply of such documents and in no case later than thirty days after such supply:
S.346	Power to postpone or adjourn proceedings. (2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody: Provided that no Court shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:
S.356	Inquiry, trial or judgment in absentia of proclaimed offender. (1) Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person, and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect as if he was present, under this Sanhita and pronounce the judgment: Provided that the Court shall not commence the trial unless a period of ninety days has lapsed from the date of framing of the charge. (2) The Court shall ensure that the following procedure has been complied with before proceeding under sub-section (1), namely:—

	issuance of two consecutive warrants of arrest within the interval of at least thirty days; publish in a national or local daily newspaper circulating in the place of his last known address of residence, requiring the proclaimed offender to appear before the Court for trial and informing him that in case he fails to appear within thirty days from the date of such publication, the trial shall commence in his absence;
S.388	Imprisonment or committal of person refusing to answer or produce document. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the Presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 384 or section 385.
S.392	Judgment. The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court by the presiding officer immediately after the termination of the trial or at some subsequent time not later than forty- five days of which notice shall be given to the parties or their advocates,— by delivering the whole of the judgment; or by reading out the whole of the judgment; or by reading out the operative part of the judgment and explaining the substance of the judgment in a language which is understood by the accused or his advocate. (4) Where the judgment is pronounced in the manner specified in clause (c) of sub-section (1), the whole judgment or a copy thereof shall be immediately made available for the perusal of the parties or their advocates free of cost: Provided that the Court shall, as far as practicable, upload the copy of the judgment on its portal within a period of seven days from the date of judgment.

S.399	Compensation to persons groundlessly arrested. (3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.
S.400	Order to pay costs in non- cognizable cases. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees, witnesses and advocate's fees which the Court may consider reasonable.
S.419	Appeal in case of acquittal. (5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.
S.435	Abatement of appeals. (2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant: Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.
S.464	Suspension of execution of sentence of imprisonment. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may (a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three installments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days;

S.472

Mercy petition in death sentence cases.

A convict under the sentence of death or his legal heir or any other relative may, if he has not already submitted a petition for mercy, file a mercy petition before the President of India under article 72 or the Governor of the State under article 161 of the Constitution **within a period of thirty days** from the date on which the Superintendent of the jail,—

The petition under sub-section (1) may, initially be made to the Governor and on its rejection or disposal by the Governor, the petition shall be made to the President within a period of **sixty** days from the date of rejection or disposal of such petition.

The Superintendent of the jail or officer in charge of the jail shall ensure, that every convict, in case there are more than one convict in a case, also files the mercy petition **within a period of sixty days** and on non-receipt of such petition from the other convicts, Superintendent of the jail shall send the names, addresses, copy of the record of the case and all other details of the case to the Central Government or the State Government for consideration along with the said mercy petition.

The Central Government shall, on receipt of the mercy petition seek the comments of the State Government and consider the petition along with the records of the case and make recommendations to the President in this behalf, as expeditiously as possible, **within a period of sixty days from the date of receipt of comments of the State Government** and records from Superintendent of the Jail.

S.480

When bail may be taken in case of non-bailable offence.

(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but—

such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life; such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but less than seven years:

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is a child or is a woman or is sick or infirm:

Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason: Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation or **for police custody beyond the first fifteen days** shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court:

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded **within a period of sixty days** from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

S.483 Special powers of High Court or Court of Session regarding bail.

A High Court or Court of Session may direct,—
that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 480, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

S.497	Order for custody and disposal of property pending trial in certain cases. (2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide. (5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter.
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3. The Consumer Protection Act, 2019

Limitation Period for Consumer Disputes: The Consumer Protection Act, 2019, provides for a limitation period within which a complaint must be filed.

Section 38 - Time Limit for Filing a Complaint: A complaint must be filed within two years from the date of the cause of action.

Extension of Limitation: The period may be extended if the complainant is able to prove that they were unable to file within the stipulated time due to a reasonable cause.

4. The Arbitration and Conciliation Act, 1996

Limitation in Arbitration Proceedings: Arbitration, as a mode of dispute resolution, also has specific time frames that need to be adhered to.

Section 34 - Time Limit to File an Appeal Against Arbitral Award: An application to challenge an arbitral award must be made within three months from the date of the award.

Section 29A - Time Limit for Completion of Arbitration Proceedings: The entire arbitration process must be completed **within a 12-month period**, though this can be extended by **6 months** with mutual consent.

5. The Negotiable Instruments Act, 1881

Limitation in Negotiable Instruments: The Negotiable Instruments Act deals with the issuance and enforcement of negotiable instruments such as promissory notes, bills of exchange, and cheques.

Section 138 - Dishonor of Cheque for Insufficient Funds or Stop Payment

Section 138 specifies that if a cheque is dishonored due to insufficient funds or if the payment is stopped by the drawer, the drawer (the person who issued the cheque) can be held liable for committing an offense.

The limitations or conditions under Section 138 are as follows:

Dishonor of the Cheque: The cheque must be dishonored due to reasons like insufficient funds or if the drawer has stopped payment.

Notice Requirement: The payee (the person to whom the cheque is issued) must send a written notice to the drawer within **30 days** of receiving the information about the dishonor of the cheque. This notice must demand the payment of the cheque amount.

Time to Pay After Notice: The drawer has **15 days** to make the payment after receiving the notice. If the payment is not made within these 15 days, it is considered an offense under Section 138.

Limitation for Filing a Complaint:

A complaint under Section 138 can only be filed within **one month** after the 15- day period has expired, i.e., **45 days** from the date of receiving the dishonor notice.

Section 142 - Cognizance of Offenses: Section 142 lays down the procedure for taking cognizance of the offense and its limitations:

Limitation for Filing a Complaint:

A complaint under Section 138 can be filed only within **one month** from the date of the expiration of the 15 days given to the drawer to make the payment after receiving the notice.

Cognizance by Magistrate:

The Magistrate may take cognizance of the offense only if the complaint is made within this limitation period of **one month** from the date the cause of action arises. A delay beyond this period would lead to the dismissal of the case unless there are exceptional reasons for the delay.

Key Limitations Under Section 138 & 142:

30 days to issue a notice after the dishonor.

15 days to pay the amount after receiving the notice.

1 month to file a complaint after the 15-day period.

Magistrate's Cognizance can only be taken within **1 month** of the expiration of the 15 days.

6. The Companies Act, 2013

Limitation Periods for Corporate Matters: The Companies Act prescribes limitation periods for filing petitions, appeals, and other legal actions related to corporate governance.

Section 241 - Petition for Oppression and Mismanagement: A petition for oppression or mismanagement must be filed **within three years** from the date of the alleged act of oppression or mismanagement.

Section 247 - Valuation of Shares: A petition for determining the fair value of shares under the Companies Act must be made **within a reasonable time** frame, often linked to specific agreements or events.

7. The Civil Procedure Code, 1908 (CPC)

Prescribed Time Limits for Civil Actions: The CPC outlines various rules regarding time limitations for different civil actions.

Order VII, Rule 6 - Time for Filing Written Statement: The written statement must be filed **within 30 days** from the date of service of summons.

Order XXI, Rule 90 - Limitation for Execution of Decree: The application for the execution of a decree must be made **within 12 years** from the date of the decree.

8. Special Laws with Specific Time Limitations

The Income Tax Act, 1961: Under Section 153, the limitation for completing the assessment or re-assessment is typically **12 months** from the end of the assessment year in which the return was filed.

The Environment Protection Act, 1986: The limitation period for filing suits in environmental matters is generally set at **3 years** from the date of the cause of action.

9. Judicial Interpretation & Trends Judicial Flexibility:

Courts often consider the principles of natural justice and fairness when dealing with cases of delayed filing, granting extensions or condoning delays in certain circumstances.

Case Law:

In **Laxmi Raj Shetty v. State of Tamil Nadu** (1988), the Supreme Court clarified that delays in filing cases could be condoned only if the applicant presents sufficient cause.

In **State of Rajasthan v. Swaika Properties** (1985), the Court emphasized that delay in filing an appeal is not to be mechanically condoned unless the explanation for delay is reasonable.

Conclusion:

Balance between Limitation and Access to Justice: Time limits serve to bring finality and certainty to disputes but must be balanced against the needs for justice and fairness. Legal systems must evolve with flexibility, ensuring that undue delays do not prevent legitimate claims.

* * *

Different Reliefs with Different Periods of Limitation in Indian Statutes**1. Introduction:****Concept of Limitation:**

Limitation refers to the time period within which a person must bring a legal action. After this period lapses, the claim is considered "barred," and the court may refuse to entertain it. The period of limitation serves to promote justice, encourage prompt actions, and ensure that evidence remains fresh.

Purpose of Limitation Periods:

Prevents stale claims.

Ensures fairness in litigation.

Encourages diligence in pursuing legal rights.

Indian Limitation Act, 1963: The Limitation Act, 1963 is the primary statute governing time limits for various kinds of legal proceedings in India. The Act classifies reliefs into categories and prescribes specific periods within which actions must be taken.

2. Categories of Reliefs Under Indian Statutes

The Indian statutes provide different remedies (reliefs) for civil and criminal matters, each with a prescribed limitation period. Let's go through the different reliefs in civil and criminal law:

A. Civil Reliefs and Their Limitation Periods

Recovery of Money (Civil Suits) Period: 3 years

Statute: Limitation Act, 1963, Section 3. The period of limitation for filing a suit for recovery of money is generally **3 years** from the date when the cause of action arises (e.g., the date of default in payment).

Specific Performance of Contract

Period: 3 years

Statute: Limitation Act, 1963, Section 18

Details: A party can file a suit for specific performance **within 3 years** from the date of breach of the contract. The limitation begins from the date when the plaintiff knew or ought to have known about the breach.

Recovery of Possession of Immovable Property

Period: 12 years

Statute: Limitation Act, 1963, Section 27

Details: A suit for recovery of immovable property must be filed **within 12 years** from the date of dispossession or when the right to property is obstructed.

Suit for Compensation for Breach of Contract

Period: 3 years

Statute: Limitation Act, 1963, Section 9

Details: If a party to a contract breaches the terms and conditions, the aggrieved party must initiate a lawsuit for damages **within 3 years** from the date of the breach.

Suit for Recovery of Money Based on Negotiable Instruments (e.g., Promissory Note)

Period: 3 years

Statute: Negotiable Instruments Act, 1881, Section 138

Details: A suit for dishonor of negotiable instruments (e.g., promissory notes, bills of exchange) must be filed **within 3 years** from the date of dishonor.

B. Criminal Reliefs and Their Limitation Periods

This section is concerned with the limitation period for initiating legal proceedings in criminal cases. It applies to all offenses, except those punishable by death, life imprisonment, or imprisonment for a term exceeding 3 years.

Key Provisions: Limitation Period for Cognizance:

Offenses punishable with imprisonment for a term **exceeding one year but not exceeding three years:** Cognizance must be taken **within three years** from the date of the offense.

Offenses punishable with imprisonment for a term of **one year or less:** Cognizance must be taken **within one year** from the date of the offense.

Offenses punishable **with death, life imprisonment, or imprisonment exceeding three years:** There is **no limitation period**, meaning legal action can be initiated at any time.

Commencement of Limitation:

The period of limitation begins from the date on which the offense was committed.

If there is a continuation of the offense, the limitation period starts from the **last date** on which the offense was committed.

3. Special Limitation Periods for Certain Laws

Consumer Protection Act, 2019

Period: 2 years

Details: Under the Consumer Protection Act, a consumer has **two years** from the date of occurrence of the defect in service or goods to file a complaint with the District Consumer Forum.

Arbitration and Conciliation Act, 1996

Period: 3 years

Details: The limitation period for filing a suit to challenge an arbitral award is **3 years** from the date of the award.

Recovery of Debts Due to Banks and Financial Institutions Act, 1993

Period: 3 years

Details: This act governs the recovery of debts by banks and financial institutions, and the limitation period for initiating recovery actions is **3 years** from the date when the debt becomes due.

4. Important Case Laws

K.K. Verma vs. Union of India (1954): This case emphasized the importance of adhering to limitation periods in suits involving government contracts and public authorities.

S. Ramaswamy vs. Union of India (2002): Discussed the limitation period for challenging administrative decisions under the public law.

5. The Role of Court's Discretion

Condonation of Delay: The courts have the discretion to condone the delay in filing suits if the plaintiff provides sufficient reasons for the delay.

Factors Considered for Condonation:

Lack of knowledge of the right to sue.

Inability to access the legal forum due to reasons like illness or natural calamity.

Deliberate delay due to good faith mistakes.

6. Conclusion

Importance of Limitation: Limitation periods play a crucial role in ensuring legal certainty, preventing stale claims, and maintaining the integrity of the judicial process.

Need for Legal Awareness: It is essential for litigants and legal professionals to be aware of the limitation periods to effectively exercise their legal rights and avoid the risk of having their claims barred.

Judicial Discretion: While limitation periods are strict, the discretion to condone delays ensures that justice is not denied solely on procedural grounds when there is a reasonable cause.

* * *

Amendment of Pleadings and the Aspect of Limitation in Indian Law

1. Introduction:

What are Pleadings? Pleadings refer to the formal written statements submitted by parties in a lawsuit, which set out the facts, claims, and defenses in the case. Pleadings are crucial as they define the issues that the court will resolve.

Plaint: The written statement from the plaintiff setting out the claims.

Written Statement: The defense provided by the defendant.

Amendment of Pleadings: The process of altering, adding, or removing any part of the original pleadings during the course of litigation. Amendments allow a party to modify their case to reflect the evolving facts, clarify points, or correct mistakes. The Indian Civil Procedure Code (CPC) provides for the amendment of pleadings under certain circumstances.

2. *Legal Framework for Amendment of Pleadings*

Provisions in CPC:

Order VI, Rule 17 of CPC: This is the principal provision governing amendments of pleadings.

General Rule: A party may apply to the court for leave to amend their pleadings at any stage of the proceedings.

Discretion of the Court: The court has discretion to allow or reject the amendment request, but it must be exercised judiciously.

The Purpose of Amendments:

To ensure that the real issues are decided.

To allow the pleadings to reflect the facts as they are.

To prevent injustice by permitting parties to present a full and fair case.

3. Guidelines for Allowing Amendment of Pleadings

Order VI, Rule 17 of CPC: The rule provides that amendments may be allowed if necessary for:

Rectifying Defects or Errors: Correcting mistakes in names, dates, or the presentation of facts.

Introducing New Facts: Reflecting new developments or events that affect the case.

Changing the Cause of Action: Allowing the introduction of new claims or defenses based on the same facts.

Conditions for Allowing Amendments:

Fairness: The amendment should not prejudice the other party or alter the essential nature of the case.

No Prejudice to the Opposite Party: The amendment should not introduce new facts that would unduly disadvantage the opposing party.

No Delay: The amendment should be sought at the earliest opportunity and not after undue delay.

Permitting Justice: The amendment must be allowed to ensure that justice is done and the truth is brought to light.

4. The Aspect of Limitation and Amendment of Pleadings

Interaction Between Limitation and Amendments: When seeking to amend a pleading, the party must ensure that the amendment does not violate the limitation period for filing the original claim or defense. The limitation period is crucial because it determines the maximum time within which a party can initiate or amend their legal claims.

Key Considerations:

No Extension of Limitation by Amendment: An amendment that introduces a new cause of action or claim

after the limitation period has expired can only be allowed if it is deemed to relate back to the date of the original pleading (i.e., the time when the original claim was filed).

Limitation Act, 1963: The Act sets out time limits within which actions must be filed. A party cannot amend their pleadings in a way that would allow them to initiate a claim that is barred by the statute of limitations.

5. Case Laws on Amendment and Limitation

V. Rajeshwari vs. K. Manikandan (2018): The Supreme Court ruled that when an amendment introduces a new cause of action, it must be allowed to relate back to the original pleading only if the cause of action existed when the original pleading was filed. If the claim is barred by limitation, it cannot be allowed even by way of amendment.

N. Balakrishnan vs. M. Krishnamurthy (1998): The Court emphasized that the limitation for filing an amended pleading does not get extended, and the amendment must not introduce a new cause of action beyond the limitation period. It further highlighted the importance of allowing amendments in the interest of justice, even if there is a delay, provided there is a valid reason.

Radhakrishna Agarwal vs. State of Bihar (2005): The Court observed that an amendment that seeks to bring in a new cause of action after the expiration of the limitation period cannot be allowed, even if the amendment is proposed in good faith.

6. The Doctrine of "Relates Back"

Doctrine Explained: According to the "relates back" doctrine, an amendment to a pleading will be treated as if it were part of the original pleading, for the purposes of limitation. This principle helps to prevent a party from being penalized for technicalities if the amendment clarifies or adds to the original facts.

Section 22 of the Limitation Act, 1963: Provides that an amended pleading relating to a new claim or cause of action will be considered to have been filed when the original pleading was filed, if the original suit was within the limitation period.

Example: If a plaintiff seeks to amend their plaint to include a new defendant, and the new defendant's claim is within the limitation period, it may be allowed to "relate back" to the date of the original filing.

7. Practical Implications

Avoiding Stale Claims: Courts are cautious when allowing amendments that would allow the introduction of claims barred by limitation. The goal is to avoid reopening matters that should be considered closed after the expiration of the limitation period.

Importance of Prompt Action: Litigants must be diligent in making amendments. Delaying the application for an amendment can result in the loss of the right to amend the pleadings or bar the claim from being heard.

8. Conclusion

The Role of Amendments in Ensuring Justice: Amendments are an essential tool in ensuring that pleadings accurately reflect the issues at hand, allowing the court to address the real dispute. It allows the parties to present all necessary facts for a fair decision.

Balancing Amendment with Limitation: While amendments are permitted, they must not be used to extend or bypass limitation periods. Courts will ensure that amendments do not compromise the fairness of the legal process by allowing parties to introduce stale claims.

Courts' Discretion: Ultimately, the court's discretion plays a pivotal role in ensuring that amendments are allowed in a way that upholds the principles of justice, fairness, and adherence to the law.

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SESSION- IV

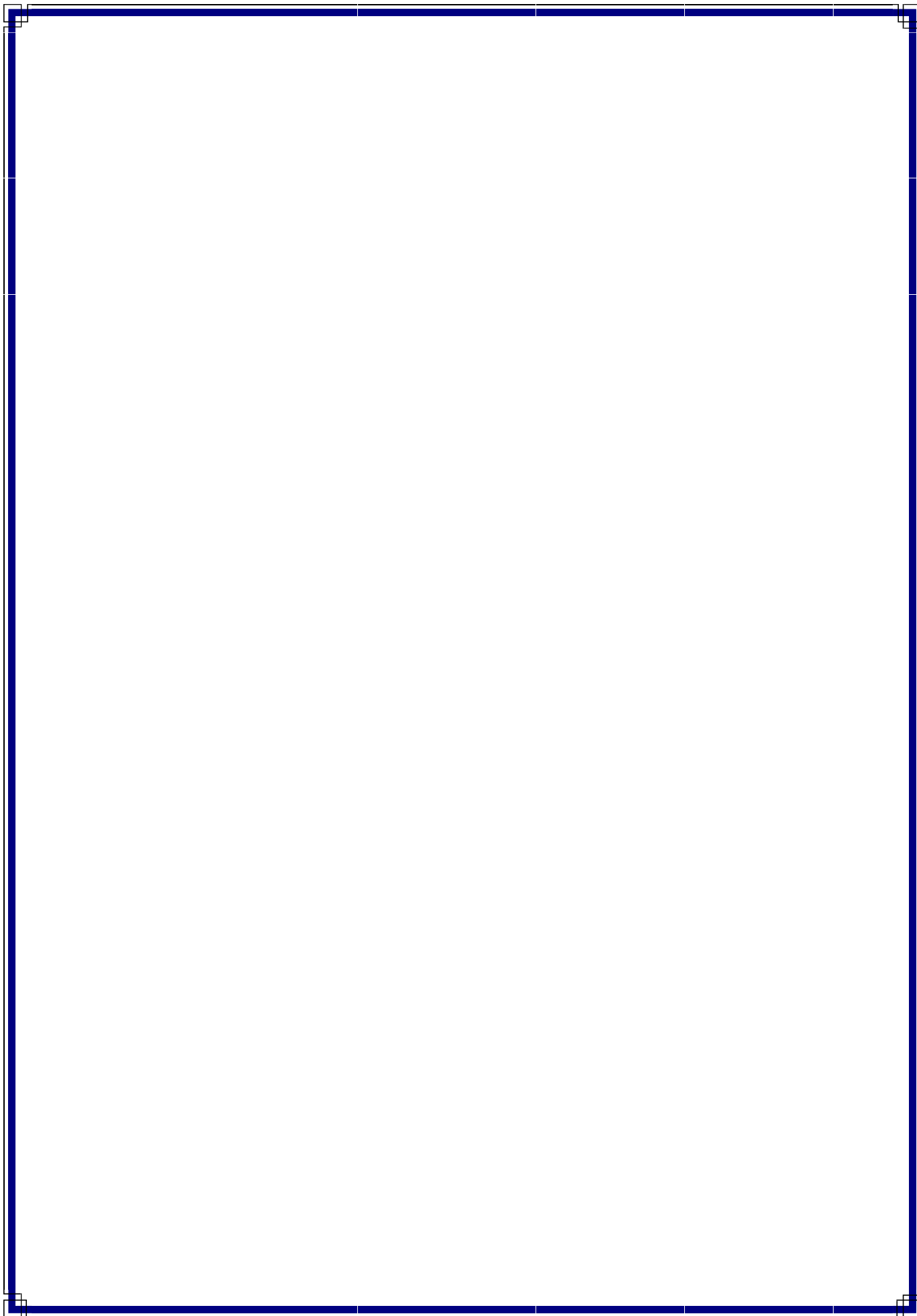
LAW ON LIMITATION

**LIMITATION IN CRIMINAL CASES IN
RESPECT OF OFFENCES UNDER IPC
/ BNS AND OTHER LAWS.**

Paper Presentation

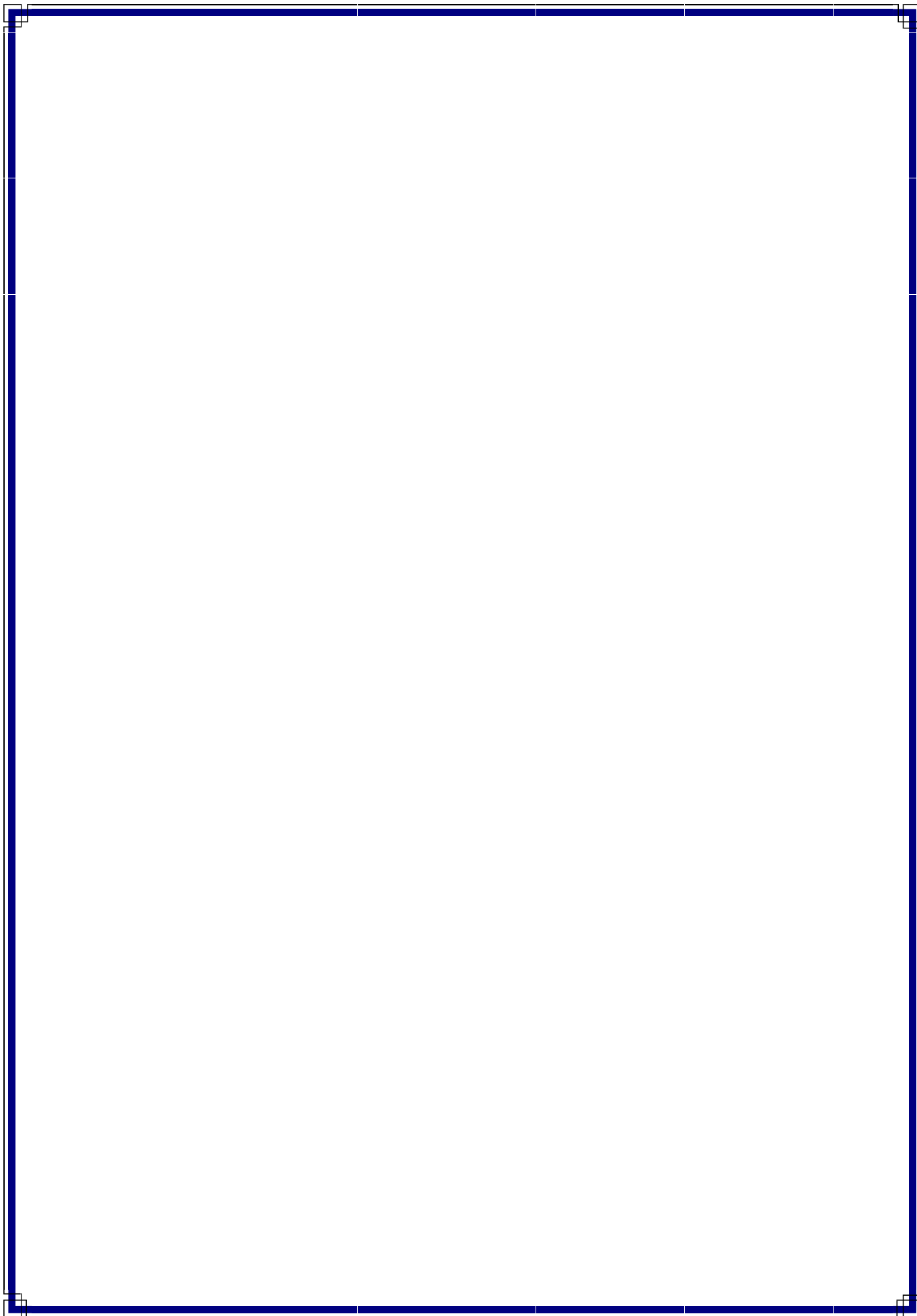
by

Sri. Ch.Yugandhar,
Additional Civil Judge (Senior Division)
SRIKAKULAM.



TOPICS

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



LIMITATION IN CRIMINAL CASES IN RESPECT OF OFFENCES UNDER IPC / BNS AND OTHER LAWS.

CHAPTER XXXVI of the Code of Criminal Procedure deals with the limitation for taking cognizance of certain offences.

Section 467 CrPC defines the "period of Limitation" as the period specified in section 468 CrPC for taking cognizance of an offence (**Japani Shoo vs. Chandrasekhar Mohanty¹**).

This provision **Section 467 CrPC** corresponds to **section 513 BNSS**.

Section 468 of Cr.P.C. deals with the bar for taking cognizance after lapse of the period of limitation which reads : -

(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 the more severe punishment or, as the case may be, the most severe punishment.

¹ 2003(8) SCC 559

The object of putting a bar of limitation on prosecution 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 prosecution long after of the date of offence.

Limitation to be examined in the light of the gravity of the charge. **(NOIDA Entrepreneurs Association Vs. NOIDA and others ²).**

This provision section 468 CrPC is similar to **Section 514 of BNSS.**

However, the explanation appended to section 514 BNSS explains that for the purpose of computing the period of limitation, the relevant date shall be the date of filing a complaint under section 223 or the date of recording information under section 173.

Commencement of period of limitation dealt with under the **section 469 of Cr.P.C. -**

(1) The period of limitation, in relation to an offender, 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 AIR 2011 SC 2112

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

This **section 469 of Cr.P.C** corresponds to **section 515 of BNSS**.

Section 470 of Cr.P.C. deals with the 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 which from 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 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.

This **Section 470 of Cr.P.C** corresponds to **section 516 BNSS**.

Section 471 Cr.P.C. excluded the date on which the 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.

This section 471 CrPC corresponds to **section 517 BNSS**.
The computation of limitation with respect to the continuing offences deals with **Section 472 Cr.P.C.** as "In the case of a continuing offence a fresh period of limitation shall began to run at every moment of the time during which the offence continuous".

This provision 472 CrPC corresponds to **section 518 BNSS**.

Extension of period of limitation in certain cases is dealt **under section 473 Cr.P.C.** which reads :- "Notwithstanding anything contained in the foregoing provisions of this chapter, any court may take cognizance of an offence after the expiry of the period of limitation, 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 interest of justice.

This **Section 473 CrPC** corresponds to **section 519 BNSS**.

Thus, Sections 513 to 519 of Chapter XXXVIII of BNSS, 2023, corresponds to sections 467 to 473 of Chapter XXXVI of Cr.P.C, 1973.

In view of the above provision of laws, which describes three kinds of period of limitation, namely: **(1)** for the offences punishable with a fine only the period is six months; **(2)** for offences punishable with imprisonment not exceeding one year the period is one year and lastly **(3)** for offences punishable with imprisonment exceeding one year but not exceeding three years the period is three years. Thus, only for the offences punishable with imprisonment upto three years bar of limitation has been made applicable. Section 468 CrPC further provides that for offences triable jointly, the limitation period will be determined by the more severe punishment among the above three categories.

An important aspect of Section 468 of the Code of Criminal Procedure (Cr.P.C.) that deserves attention is its introductory phrase: "Except as otherwise provided elsewhere in this code." This phrase refers specifically to the provisions of Section 199 (5) of the Cr.P.C., which envisages a limitation of six months for offences defined in Section 199 (2). It also pertains to Sections 198 (6) and (7) of the Cr.P.C.

Section 469 Cr.P.C. speaks of the commencement of the period of limitation and specifies broadly three alternatives namely (1) the date of the offence or (2) the first date of knowledge about the commencement of offence, when it is not known or (3) the first date of knowledge of the identity of the offender when he is not known.

Section 469 (2), 470 and 471 contain methods of computation of the period of limitation.

In the case of **Surendra Mohan Vikal vs. Ascharaj Lal Chopra**³, the Hon'ble Supreme Court clarified the question of limitation in a criminal case concerning defamation. The issue at hand was the commencement of the limitation period. The Hon'ble High Court ruled that the "cause of action" for defamation arose only after the acquittal on 01.04.1975. However, the Hon'ble Supreme Court clarified that the question of "cause of action" was not relevant in this instance, as the controversy was about the commencement of the offence. Consequently, it was determined that the date of the offence was March 1972, when the defamatory complaint was filed in the Magistrate's Court. As a result, the complaint was quashed by the Hon'ble Supreme Court on the grounds that it was barred by the limitation period. The Court referenced Sections 470 and 473 of the Code of Criminal Procedure (Cr.P.C.) and concluded that Section 470 was not applicable, as the respondent did not seek the benefit of Section 473, which allows for an extension of the limitation period.

In another case, **State of Punjab vs. Sarwan Singh** ⁴, which involved the misappropriation of funds from a cooperative society by the accused, Sarwan Singh, the charge sheet was filed on 13.10.1976. The charge sheet indicated that the embezzlement

³ **AIR 1978 SC 984**

⁴ **(1981) 3 SCC 34**

took place on 22.08.1972, and the audit report that lead to the detection of the offence was dated 05.01.1973. On these dates, the Hon'ble High Court and the Hon'ble Supreme Court determined that the prosecution was clearly barred by the three-year limitation period under Section 468 (2) of the Cr.P.C. The Hon'ble Supreme Court further stated that the purpose of establishing a limitation period for prosecution in accordance with the concept of a fair trial, as enshrined in Article 21 of the Constitution of India.

In the case **Bhagirath Kanoria and others Vs. State of M.P.**⁵, in which the principal question arises regarding continuing offence explained in Section 472 where the Hon'ble Supreme Court enunciated the concept of continuing offence in para 19 of said Judgment as thus: "the question whether a particular offence is a continuing offence must necessarily depend upon the language of the statute which creates that offence, the nature of the offence and above all, the purpose which is intended to be achieved by constituting the particular act as an offence".

In para 22 of the same Judgment, it was held that section 473 of the code enacts an overriding provision, and courts confronted with the provision laying down a rule of limitation governing prosecution will give due weight and consideration to the provisions of section 473 and take cognizance even after the expiry of limitation if the interest of justice so requires.

In another case, **Gokak Patel Volkart Ltd. Vs. Dundayya Gurushiddaiah Hiremath and others** ⁶ in which the Hon'ble Supreme Court gave a detailed enunciation of the law relating to the continuing offence provided for in section 472 of the Code. The Hon'ble Supreme Court had an occasion to deal with the period of

⁵ AIR 1984 SC 1688

⁶ (1991) 2 SCC 141

limitation with respect to the offence under section 498-A of IPC in the case **Vanka Radha Manohari Vs. Vanka Venkata Reddy and others**⁷, where the Hon'ble Supreme Court held that the High Court would have considered the provisions of Section 473 of the Code, specifically in a case of cruelty against woman and applied the Section 473 and condone the delay.

The police filed two applications along with the charge sheet, one for condonation of delay and the other seeking permission for further investigation and filing of an additional charge sheet. The Chief Judicial Magistrate kept the application for further investigation pending but allowed the application to condone the delay and issued a process against the accused persons. The accused carried the matter to the Hon'ble High Court by challenging the order of the Chief Judicial Magistrate in two-fold (1) that cognizance could not have been taken on an incomplete charge sheet and (2) that the delay could not have been condoned without notice to the affected party and without recording any reason. The Hon'ble High Court accepted both the contentions and quashed the proceedings. The State preferred a petition before the Hon'ble Supreme Court, where the Hon'ble Supreme Court disagreed with the High Court on the first contention by observing that the Magistrates power is not fettered by the label that the investigation agency chooses to give the report submitted by it under Section 173(2) CrPC.

The Hon'ble Supreme Court further observed that "in our view, the High Court was perfectly justified in holding that delay, if any, for launching the prosecution, could not have been condoned without notice to the respondents and behind their back and without recording any reasons for condonation of the delay". Then,

⁷ (1993) 3 SCC 4

the Hon'ble Supreme Court remitted the case to the Chief Judicial Magistrate to decide the application by the prosecution for condonation of delay afresh after hearing both parties. (**State of Maharashtra Vs. Sharadchandra Vinayak Dongre and others**⁸).

Regarding the Drugs and Cosmetics Act of 1940, the Hon'ble Supreme Court ruled that the limitation period begins not on the date the sample was taken but on the date the government analyst's report is received. This was clarified in the case of the **State of Rajasthan vs. Sanjay Kumar and others**⁹, as referenced in Section 469(1)(b) of the Criminal Procedure Code (CrPC).

The Hon'ble Supreme Court, in the case **Arun Vyas Vs Anitha Vyas**¹⁰, observed that any finding recorded by the Magistrate holding the complaint to be barred by limitation without considering the provisions of Section 473 of CrPC will be a deficient and defective finding. The mandate for liberal construction of Section 473 CrPC in favour of the wife, a victim of cruelty, was emphasized in this decision.

However, again, the Hon'ble Supreme Court in **State of Himachal Pradesh vs. Tara Dutta**¹¹, on the question of limitation in criminal cases has observed that the discretion has been vested in the Court taking cognizance to extend the period of limitation if the delay is satisfactorily explained, and it is in the interest of justice to extend the period but the said discretion has to be exercised on Judicially recognized grounds and through a speaking order.

The moot question to be decided at the outset is what is the

⁸ AIR 1995 SC 231

⁹ AIR 1968 SC 1919

¹⁰ (1999) 4 SCC 690

¹¹ (2000) 1 SCC 230

relevant date for computing the period of limitation under Section 468 CrPC - whether it is the date of filing of the complaint or the date of institution of the prosecution or the relevant date is the date on which a Magistrate takes cognizance.

In the landmark judgment of **Sarah Mathew Vs. Institute of Cardio Vascular Diseases & ors**¹², it is held by the Constitution Bench of the Apex Court as under:

"41. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 of the Cr.P.C., the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. We further hold that Bharat Kale which is followed in Japani Sahoo lays down the correct law. Krishna Pillai will have to be restricted to its own facts and it is not the authority to decide the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 of the Cr.P.C."

In view of the law laid down by the Apex Court in the case of Sarah Mathew (supra), which was later followed in **Amritlal Vs Shantilal Soni & ors**¹³, the relevant date for computing the period of limitation is the date of filing of the complaint or the date of institution of prosecution.

After new criminal laws came into force, the position regarding the computation of the limitation became statute in view of the explanation appended to Section 514 BNSS, which makes clear that the computation of period of limitation, the relevant date shall be the date of filing complaint under Section 223 or the date of recording of information under Section 173 BNSS.

¹² 2014 (1) SCC

¹³ 2022 Live Law (SC) 248

Therefore, the period of limitation has to be examined as on the date of filing complaint before the court under Section 223 BNSS or as on the date of registering FIR under Section 173 BNSS.

Limitation of prosecution for offences under Special Laws:

Sections 4 and 5 of the CrPC are relevant for understanding any enactment creating a bar to prosecution by reason of limitation.

Section 4 of the CrPC deals with the trial of offences under the Indian Penal Code and other laws: **(1)** All offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

Section 5 is a savings clause that says, "Nothing contained in the code shall, in the absence of a specific provision to the contrary, effect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force."

Section 4 CrPC lays down the general procedure for criminal cases, regardless of whether the offence is under IPC or any other law. It mandates that all offences, whether under IPC or other laws, be investigated, inquired into, tried, and otherwise dealt with according to the provisions of CrPC.

If a specific law or enactment regulates the manner or place of investigating, inquiring into, trying, or otherwise dealing with certain offences, those cases will be dealt with according to the procedure in the Special Law.

Section 5 of CrPC is a saving clause that ensures special or Local laws, along with any special jurisdiction, power, or procedure prescribed by them, are not affected by CrPC unless there is a specific provision contrary to it.

Furthermore, the provisions in Sections 4(2) and 5 of the Cr.P.C. are relevant to the interpretation of Section 468.

Section 195 to 199 of CrPC which provisions are corresponds to **Section 215 to 222 of BNSS** are pertaining to the bar to take cognizance of certain offences under given circumstances as indicated in the respective provisions.

Section 372 CrPC says that no appeal shall lie from any Judgment or order of a criminal court except as provided for by this court or by any other law for the time being in force.

Provided that the Victim shall have a right to prefer an appeal against any order passed by the court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the court to which an appeal ordinarily lies against the order of conviction of such court.

The Hon'ble Supreme Court held in **Mohd Abaad Ali and another Vs Directorate of Revenue Prosecution Intelligence**¹⁴ that the delay occurred in preferring an appeal against the acquittal can be condoned under section 5 of Limitation Act 1963. The Hon'ble Court has also observed that although the limitation period in preferring an appeal is mentioned under Section 378 of

¹⁴ **2024 Live Law (SC) 141**

CrPC., the said provision does not contain any exclusionary provision to exclude the application of the Limitation Act.

The time for obtaining sanction excluded from limitation under Section 468 CrPC as held in **K.J.Kunjuman and other Vs State of Karnataka and other**¹⁵ .

Limitation for prosecution one under section 498 A IPC will commence from last incident of cruelty (2025 LiveLaw (Bom) 48).

When no limitation period is prescribed appeal must be filed within “reasonable time” depending upon the facts of each case as held in **M/s. North Eastern Chemicals Industries (P) Ltd., and another Vs M/s.Ashok Paper Mills(Assam) Ltd., and another** ¹⁶.

The Hon’ble Supreme Court in the case of **Inder Singh Grewal Vs State of Punjab and others**¹⁷ has observed that the Complaint under the Domestic Violence Act is to be filed within one year from the date of incident as per section 28, 32 of Domestic Violence Act r/w.428 CrPC. But in subsequent Judgment of Hon’ble Apex Court in the case **Kamatchi Vs Laxminarayana**¹⁸, has held that an application filed under Section 12 of the Act is not a Complaint as per section 2 of CrPC. Therefore, the application of section 468 CrPC over section 12 of DV Act is not permissible, and hence the rule / law of limitation of one year is not applicable to the applications filed under section 12 of the DV Act.

Section 142 (b) The Negotiable Instruments Act provides for the condonation of delay in filing of the Complaint under section 138 of Negotiable Instruments Act allowing the Court to condone the delay if sufficient cause is shown. It is imperative to issue notice to the accused when filing for condonation of delay under

¹⁵ 2023 LiveLaw (Kar) 69

¹⁶ 2023 LiveLaw (SC) 1064

¹⁷ 2012 Cri.L.J 309

¹⁸ 2022 LiveLaw (SC) 370

section 142 (b) of NI Act. This procedural safe guard is crucial for ensuring fairness in legal proceedings and protecting the rights of the accused.

Article 114 of Limitation Act:

Appeal from an order of acquittal,— (a) under sub-section (1) or sub-section (2) of section 417 of the Code of Criminal Procedure, 1898 (5 of 1898); (b) under sub-section (3) of section 417 of that Code.	Ninety days Thirty days.	The date of the order appealed from. The date of the grant of special leave.
115. Under the Code of Criminal Procedure, 1898 (5 of 1898)— (a) from a sentence of death passed by a court of session or by a High Court in the exercise of its original criminal jurisdiction; (b) from any other sentence or any order not being an order of acquittal— (i) to the High Court (ii) to any other court	Thirty days. Sixty days. Thirty days.	The date of the sentence. The date of the sentence or order. The date of the sentence or order.