

i) LIMITATION - SUITS, APPEAL SUITS & APPLICATIONS AND
ii) COMPUTATION OF PERIOD OF LIMITATION

by

Sri P.J.Theja Saai,
 Civil Judge (Junior Division),
 Railway Kodur

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I. Introduction

1. Part II of the Limitation Act, 1963 deals with "Limitation of Suits, Appeals and Applications" containing Sections 3 to 11. Part III of the Limitation Act, 1963 deals with "Computation of Period of Limitation" containing Sections 12 to 24.
2. Sections 3 to 11 of the Limitation Act, 1963 are as follows:
 - i. Section 3 – Bar of Limitation
 - ii. Section 4 – Expiry of prescribed period when court is closed
 - iii. Section 5 – Extension of prescribed period in certain cases
 - iv. Section 6 – Legal Disability
 - v. Section 7 – Disability of one of several persons
 - vi. Section 8 – Special Exceptions
 - vii. Section 9 – Continuous running of time
 - viii. Section 10 – Suits against trustees and their representatives
 - ix. Section 11 – Suits on contracts entered into outside the territories to which the Act extends
3. Sections 12 to 24 of the Limitation Act, 1963 are as follows:
 - x. Section 12 – Exclusion of time in legal proceedings
 - i. Section 13 – Exclusion of time in cases where leave to sue or appeal as a pauper is applied for
 - ii. Section 14 – Exclusion of time of proceeding bonafide in court without jurisdiction
 - iii. Section 15 – Exclusion of time in certain other cases
 - iv. Section 16 – Effect of death on or before the accrual of the right to sue
 - v. Section 17 – Effect of fraud or mistake
 - vi. Section 18 – Effect of acknowledgment in writing
 - vii. Section 19 – Effect of payment on account of debt or of interest in legacy
 - viii. Section 20 – Effect of acknowledgement or payment by another person
 - ix. Section 21 – Effect of substituting or adding new plaintiff or defendant
 - x. Section 22 – Continuing breaches and torts
 - xi. Section 23 – Suits for compensation for acts not actionable without special damage
 - xii. Section 24 – Computation of time mentioned in instruments

II. Limitation of Suits, Appeals and Applications

(a) Section 3 – Bar of Limitation

4. Section 3 (1) of Limitation Act provides that **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, subject to sections 4 to 24 of the Limitation Act.
5. Section 3 (2) (a) of Limitation Act provides that **a suit is instituted** -
 - i. in an ordinary case, when the plaint is presented to the proper officer
 - ii. in the case of a pauper, when his application for leave to sue as a pauper is made
 - iii. in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator
6. Section 3 (2) (b) of Limitation Act provides that **any claim by way of a set off or a counter claim, shall be treated as a separate suit** and shall be deemed to have been instituted -
 - i. in the case of a set off, on the same date as the suit in which the set off is pleaded
 - ii. in the case of a counter claim, on the date on which the counter claim is made in court.
7. The Hon'ble Supreme Court in ***Shrimant Shamrao Suryavanshi vs Pralhad Bhairoba Suryavanshi*** reported in (2002) 3 SCC 676, held as follows:

"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."

(b) Section 4 – Expiry of prescribed period when court is closed

8. Section 4 of Limitation Act provides that 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 re-opens.

9. Explanation to Section 4 of Limitation Act provides that a court shall be deemed to be closed on any day, if during any part of its normal working hours, it remains closed on that day.

(c) Section 5 – Extension of prescribed period in certain cases

10. Section 5 of Limitation Act provides that **any appeal or any application (other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908)**, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.
11. Explanation to Section 5 of Limitation Act provides that the fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause.
12. The Hon'ble Supreme Court in ***H. Guruswamy & Ors vs A. Krishnaiah Since Deceased by LRs*** reported in 2025 LiveLaw (SC) 53, held as follows:

".....Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as "liberal approach", "Justice oriented approach", "substantial justice" should not be employed to frustrate or jettison the substantial law of limitation.

 14. *We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a lis between the parties.*
 15. *The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.*
 16. *The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not....."*
13. The Hon'ble Supreme Court in ***Pathapati Subba Reddy (Died) by Lrs vs The Special Deputy Collector (LA)*** reported in 2024 INSC 286, summarised the principles regarding section 3 and section 5 of Limitation Act, as follows:

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

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

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

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

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

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

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

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

(d) Section 6 – Legal Disability(Minor or Insane or an Idiot)

14. Section 6 (1) of Limitation Act provides that where a person entitled to institute a suit or make an application for the execution of a decree is **a minor or insane, or an idiot** at the time from which the prescribed period is to be reckoned, 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 there for in the third column of the Schedule.
15. Section 6 (2) of Limitation Act provides that 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.

16. Section 6 (3) of Limitation Act provides that 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.
17. Section 6(4) of Limitation Act provides that **where the legal representative** referred to in sub-section (3) **is affected by any such disability at the date of the death of the person whom he represents,** the rules contained sub-sections (1) and (2) shall apply.
18. Section 6(5) of Limitation Act provides that **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.
19. Explanation to Section 6 of Limitation Act provides that 'minor' includes a child in the womb.

(e) Section 7 – Disability of one of several persons

20. Section 7 of Limitation Act provides that 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 where 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.
21. Explanation I to Section 7 of Limitation Act provides that Section 7 applies to a discharge from every kind of liability, including a liability in respect of any immovable property.
22. Explanation II to Section 7 of Limitation Act provides that 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.

(f) Section 8 – Special Exceptions

23. Section 8 of Limitation Act provides that 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.
24. Section 8 imposes a limitation on the concession provided under section 6 and section 7, to a maximum of three years after cessation of the disability. Section 8 is ancillary and restrictive of the concession granted in section 6 and Section 7 and does not confer any substantial privilege.

(g) Section 9 – Continuous running of time

25. Section 9 of Limitation Act provides that where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it.
26. Proviso to Section 9 of Limitation Act stipulates 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.

(h) Section 10 – Suits against trustees and their representatives

27. Section 10 of Limitation Act provides that notwithstanding anything contained in the foregoing provisions of the Limitation Act (Sections 3 to 9), **no suit against a person in whom property has become vested in trust for any specific purpose**, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, or the proceeds thereof, or for an account of such property or proceeds, **shall be barred by any length of time.**
28. Explanation to Section 10 of Limitation Act provides that 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 trustee thereof.
29. The Full bench of the Hon'ble High Court of Kerala in ***Sheela KK vs N G Suresh*** - Mat. Appeal No. 358 of 2019 dated 24-09-2020, held as follows:

"It is settled law and as laid down in the aforesaid judgments, when the wife entrusts with the husband any property belonging to her, a trust is created and the husband is bound to return the same to his wife. If the

same is not returned, the wife has a right to demand the same by filing a suit or as in the present case, file an application before the Family Court or take other necessary steps under the relevant statutes in force. When Section 10 of the Limitation Act indicates that there is no limitation for initiating any such action, in the absence of any other statute providing for a limitation, the trustee cannot take a contention that he shall not return the trust property on account of any period of limitation."

(i) Section 11 – Suits on contracts entered into outside the territories to which the Act extends

30. Section 11 (1) of Limitation Act provides that suits instituted in the territories to which this Act extends on contracts entered into in the State of Jammu and Kashmir or in a foreign country shall be subject to the rules of limitation contained in this Act.
31. Section 11 (2) of Limitation Act provides that no rule of limitation in force in the State of Jammu and Kashmir or in a foreign country shall be a defence to a suit instituted in the said territories on a contract entered into in that State or in a foreign country unless—
 - (a) the rule has extinguished the contract, and
 - (b) the parties were domiciled in that State or in the foreign country during the period prescribed by such rule.

III. Computation of Period of Limitation

(a) Section 12 – Exclusion of time in legal proceedings

32. Section 12 (1) of Limitation Act provides that in computing the period of limitation for any suit, appeal or application, **the day from which such period is to be reckoned shall be excluded.**
33. Section 12 (2) of Limitation Act provides that 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.**
34. Section 12 (3) of Limitation Act provides that where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order, the time requisite for obtaining a copy of the judgment shall also be excluded.

35. Section 12 (4) of Limitation Act provides that 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.

36. Explanation to Section 12 of Limitation Act provides that 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 a copy thereof is made shall not be excluded.

(b) Section 13 – Exclusion of time in cases where leave to sue or appeal as a pauper is applied for

37. Section 13 of Limitation Act provides that 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.

(c) Section 14 – Exclusion of time of proceeding bonafide in court without jurisdiction

38. Section 14 (1) of Limitation Act provides that 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 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.

39. Section 14 (2) of Limitation Act provides that 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 which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

40. Section 14 (3) of Limitation Act provides that notwithstanding anything contained in Order XXIII Rule 2 of the Code of Civil Procedure, 1908, the

provisions of Section 14 (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 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 or other cause of a like nature.

41. Explanation to Section 14 of Limitation Act provides as follows:

(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.

(d) Section 15 – Exclusion of time in certain other cases

42. Section 15 (1) of Limitation Act provides that in computing the period of limitation of 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 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.

43. Section 15 (2) of Limitation Act provides that in computing the period of limitation for any suit of which notice has been given, or for which the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

44. Explanation to Section 15 (2) of Limitation Act provides that 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 for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be counted.

45. Section 15 (3) of Limitation Act provides that in computing the period of limitation for any suit or application for execution of a decree by any receiver or interim receiver appointed in proceedings for the adjudication of a person as an insolvent or by any liquidator or provisional liquidator appointed 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.

46. Section 15 (4) of Limitation Act provides that 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.

47. Section 15 (5) of Limitation Act provides that 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.

(e) Section 16 – Effect of death on or before the accrual of the right to sue

48. Section 16 (1) of Limitation Act provides that 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.**

49. Section 16 (2) of Limitation Act provides that 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.**

50. Section 16 (3) of Limitation Act provides that nothing in section 16 (1) or 16 (2) applies to suits to enforce rights of pre-emption or to suits for the possession of immovable property or of a hereditary office.

(f) Section 17 – Effect of Fraud or mistake

51. Section 17 (1) of Limitation Act provides that where, in the case of any suit or application for which a period of limitation is prescribed by this Act —

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

- (b) the knowledge of the right or title on which a 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 the plaintiff or applicant has **discovered the fraud or the mistake or could have discovered it with reasonable diligence**, or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production
52. Proviso to section 17 (1) of Limitation Act stipulates that nothing in section 17 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.
53. Section 17 (2) of Limitation Act provides that 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.
54. Proviso to section 17 (2) of Limitation Act stipulates 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.
55. The Hon'ble Supreme Court in ***Rattan Singh & ors vs Nirmal Gill & Ors*** reported in 2020 INSC 641, held as follows:

"Therefore, for invoking Section 17 of the 1963 Act, two ingredients have to be pleaded and duly proved. One is existence of a fraud and the other is discovery of such fraud."

(g) Section 18 – Effect of acknowledgment in writing

56. Section 18(1) of Limitation Act provides that where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, **a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.**
57. Section 18(2) of Limitation Act provides that 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, oral evidence of its contents shall not be received.
58. Explanation to Section 18 of Limitation Act provides as follows:
 - (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 a 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 authorised 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.

(h) Section 19 – Effect of payment on account of debt or of interest in legacy

59. Section 19 of Limitation Act provides that **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 authorised in this behalf, **a fresh period of limitation shall be computed from the time when the payment was made.**

60. Proviso to Section 19 of Limitation Act stipulates that an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.
61. Explanation to Section 19 of Limitation Act provides as follows:
- (a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment
 - (b) "debt" does not include money payable under a decree or order of a court.

(i) Section 20 – Effect of acknowledgement or payment by another person

62. Section 20 (1) of Limitation Act provides that the expression "agent duly authorised 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 authorised by such guardian, committee or manager to sign the acknowledgment or make the payment.
63. Section 20 (2) of Limitation Act provides that nothing in the sections 18 & 19 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.
64. Section 20 (3) of Limitation Act provides as follows:
- (a) an acknowledgment signed or a payment made in respect of any liability by, or by the duly authorised 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 reversioner 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 authorised agent of, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family.

(j) Section 21 – Effect of substituting or adding new plaintiff or defendant

65. Section 21(1) of Limitation Act provides that 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 so made a party.

66. Proviso to Section 21 (1) of Limitation Act stipulates that where the court is satisfied that the omission to include a new plaintiff or defendant was due to a mistake made 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.
67. Section 21(2) of Limitation Act provides that 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 pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

(k) Section 22 – Continuing breaches and torts

68. Section 22 of Limitation Act provides that in the case of a continuing breach of contract or in the case of 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.

(l) Section 23 – Suits for compensation for acts not actionable without special damage

69. Section 23 of Limitation Act provides that in the case of a 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.

(m) Section 24 – Computation of time mentioned in instruments

70. Section 24 of Limitation Act provides that all instruments shall for the purposes of the Limitation Act be deemed to be made with reference to the Gregorian calendar.
