

30th May.

classmate

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Chapter 10 :- Limitation Act, 1963

- This Act applies to all civil cases.
- It also applies to certain 'criminal cases' not all criminal cases.

IMP

* Section 3 :- Bar of Limitation.

- "Any suit, appeal or application if made beyond the prescribed period of limitation, then it is the duty of court not to proceed with such suits irrespective of fact whether the defence has been taken or not."

- Section 3 is mandatory.

- If court is allowing a suit after prescribed period of limitation then such decree will be valid.

- A decree passed in time barred suit is not a nullity.

* Limitation Bars remedy but does not extinguish right (Section 3)

- If claim is satisfied outside the court of law after the expiry of period of limitation, that is not illegal.

- Bombay Dying & mfg. com. Ltd Vs State of Bombay.

* Section 5 :- Extention of time in certain cases

- Condonation of delay.
- Sufficient cause.

- Section 5 states if there is sufficient cause then court might allow a suit and will give you condonation of delay, (Pamla Vs. Panna coal fields Ltd)

- In ~~Ramlal~~ Coal fields Ltd, The supreme court held that once the period of limitation expires then appellant has to explain the reason of delay, day by day.

- If appellant fails to state reason, they are not allowed to have condonation of delay.

- Sufficient cause :-
 - 1) wrong practice of high court.
 - 2) mistake of council
 - 3) wrong advise by advocate
 - 4) mistake of law
 - 5) Imprisonment / illness
 - 6) Time taken for obtaining copy of judgement
 - 7) Non-availability of file.
 - 8) Ailment of father.
 - 9) Ignorance of law is not sufficient cause

IMP
* Person under legal disability. [Section 6, 7 & 8]

- Section 6 :- If a minor, insane or idiot wants to institute a suit then his period of limitation will begin from the date of cessation of legal disability.

If a person is suffering from one legal disability, after recovering from another disability, then his limitation period will start after end of all legal disability.

- Section 7 :- If one or more persons wants to constitute a suit if some of them are legally disabled then,

- If Consent of person suffering from legal disability is not necessary then period of limitation continue as original.

- If consent of person suffering from legal disability is required then limitation period will extend for all persons and will begin ~~cessatio~~ ^{after} cessation of all the persons.

- Section 8 :-

- Section 8 contrals Sec. 6 and 7.

- Limitation period cannot extend beyond three years from cessation of legal disability.

- However, the original period of limitation expires after three years then, ~~org~~ original period will be considered.

- Section 9 :-

- Once limitation period began to run then no subsequent disability or inability can stop it.

- This section only applies to suits and application not to appeals.

• Section 12 :-

- In case of suit :- The day on which limitation period began to run.

- In case of appeal :- i] The day on which limitation period began to run

ii] The day of judgement

iii] The day of obtaining copy of decree, order etc.

- In case of review/revision :-

i] The day on which limitation period began to run.

ii] The day of judgement

iii] The day of obtaining copy of decree, order etc.

- In case of set aside award :-

i] The day on which the limitation period began to run.

ii] The day of obtaining copy of award

- In case of other application :-

i] The day on which limitation period began to run.

• Section 16 :-

- In case of death of a person before the right to institute a suit accrued, the period of limitation computed from when there is legal representative.

• Section 17 :- If there is a fraud the limitation period starts when it is discovered.

* Effect of Acknowledgement.

Section 18 :-

If there is admission or acknowledgement



in respect of right or property,



before the expiry of period of limitation



it must be in writing or signed by party,



against whom such right or property is claimed.



fresh period of limitation shall be computed from the acknowledgement was signed.

• Section 19 :-

- Whenever the part payment or payment of interest is made before the expiry of period of limitation then first period of limitation shall be computed from the date when payment was made.

- mortgaged land in possession of mortgagee payment of rent to mortgagee shall be deemed to be part payment.

- Debt doesn't include money payable under decree or order of court.

• Section 25 :-

- applies to easement.

- It states that if you're enjoying any kind of easement that is air, light, way, watercourse peacefully for 20 years without interruption then such right is absolute. In case of government property, it should be 30 years.

- If right infringe then 2 years period.

* Classification of period of Limitation.

• 30 years :- i] mortgage $\begin{matrix} \longrightarrow & \text{redemption} \\ \text{by or on behalf of} & \longrightarrow & \text{foreclosure} \end{matrix}$
ii] Central or State government

• 12 years :- i] Immovable property
ii] Trust

• 3 years :- i] Breach of contract
ii] Movable property
iii] Accounts.

• 1 to 3 years :- i] Tort
ii] Miscellaneous case

* Limitation Act apply to writs ?

• Case 1 :- Tilokchand Motichand Vs. H.P. Munshi
- no period of limitation for writs.

- Case 2 :- State of MP v. Bhai Lal Bhai
- If delay is more than statutory period of limitation then it should be refused.

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