

Law relating to limitation.

* The Limitation Act, 1963.

→ The Act applies to all civil proceedings and some special criminal proceedings.

→ Limitation Act based on maxim

"Vigilantibus non dormientibus jura subvertunt" means, law aids vigilant not those who sleep over their

Bar of Limitation. (Section 3).
 (rights limit) (exam. 5 times)

→ Sec. 3 of the Act provides that any suit, appeal or application if made beyond the prescribed period of limitation, it is the duty of the court not to proceed with such suits irrespective of the fact whether the plea of limitation has been set up in defence or not.

→ The provisions of section 3 are mandatory.

→ The court can suo moto take note of question of limitation.

→ Sec. 3 is not to deprive the court of its jurisdiction.

→ A decree passed in a time barred suit is not a nullity. (invalid or null).

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Case law: Bombay Dyeing & Mfg. Co. Ltd. vs. State of Bombay

= The law of limitation bars the remedy and court of law only when the period of limitation has expired. It does not extinguish the right that it cannot be enforced by judicial process.

Thus if a claim is satisfied outside the court of law after the expiry of period of limitation, that is not illegal (Sec 3)

Case law: Mohanlal Uesma vs. District Cooperative Bank

= Supreme court observe that if statute sets particular period of limitation, then no concession or order can extend this period and authority had no jurisdiction to consider such application which delay filed after the deadline.

3. case law: S.M. Annapoorni vs. Sreedhara Logistics India Pvt. Ltd.

1 = Limitation period under IBC.
2) In S.M. Annapoorni vs. Sreedhara Logistics India Pvt. Ltd. NCLAT upheld NCLT's decision to set aside a Section 3 application under IBC and it was held after the 3 yrs limitation period under Article 137 of Limitation Act.

The court ruled that right to apply arises when debt becomes due and since invoice was more than 3 yrs old, application was time barred.

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Case law: Ramil vs. Resera coal fields Ltd.

= SC held that once the period of limitation expires then the appellant has to explain the delay made therefor day by day and if he wants to explain the delay even for a single day, it would be deemed that the party did not have sufficient cause (Art. Sec 5)

5. Case law: R.B. Ramlingam vs. R.B. Channarayana

= Supreme court of India held that substantial cause is party on individualistic test and not a collective test. So two cases cannot be treated alike. Each case must be evaluated on its own unique facts and circumstances. Court has discretion to determine what constitutes substantial cause on case to case basis. There are no fixed categories of substantial cause every case may have its own uniqueness.

6. Case law: G. Ramagouda Mayor, Etc. vs. Special Land Acquisition Officer, Bangalore.

= SC held that substantial cause should be interpreted liberally to promote substantial justice. Court emphasized that delay in filing appeal should generally be excused to remove justice provided there is no gross negligence, deliberate inaction or lack of good faith by party seeking the delay.

7. Case law: Patnapati Subba Reddy (Died) by L.R. & Or.
vs. The Special Deputy Collector (A)

= SC dealt with issue of condoning delay under Limitation Act 1963. The Petitioner challenge High Court dismissal of their Application to condone delay of 5659 days in filing a proposed appeal. SC reaffirmed several key principles:-

- 1) The law of limitation is based on public policy to bring an end to litigation or ensure rights are exercised within a fixed time frame
- 2) Sec 3 should be strictly interpreted to rule Sec 5 - should be interpreted liberally but not to by pass limitation law
- 3) Courts have discretion to condone delay if sufficient cause is shown but negligence / inadvertent delay and fault or diligence can prevent
- 4) Events of case are irrelevant when deciding on delay / condonation focus is on cause for delay
- 5) The legalised way justified as claimant for request in pursuing judgement and appeal.

SC found no reason to interfere with the decision
8. Case law: Ajay Dabra vs. Phane Ram and Ors.
= 9N Atay Dabry vs Phare Ram and Ors.
decision to reject the delay / condonation application for a 254 day delay in filing an appeal.
Applicant said substitution - funeral was reason for

delay as he have to pay court fee.
SC ruled that this is not a valid reason for condonation as applicant could have filed appeal corrected it later the court emphasized that when proper procedure was not followed, they ~~to~~ High Court dismissal was upheld.

What is sufficient cause and what is not may be explained by the following observations:-

- 1) Wrong practice of HC which misled the appellant or his counsel in not ^{filling the} ~~filling the~~ ^{appeal during the} ~~appeal during the~~ ^{prescribed} ~~prescribed~~ ^{time frame} ~~time frame~~ or substantial cause.
- 2) Mistake of counsel may be taken into consideration.
- 3) Conditions of delay such mistake must be favorable.
- 4) Wrong advice given by advocate can give rise to substantial cause in certain cases.
- 5) Mistake of law (Law vs. Administrative Error) ^{generally law is not substituting}
- 6) Impairment of the party or serious illness of the party may be considered for condoning or delay. ^{appeal or application only not for}

Extension of time in certain cases (Sec 5)
The court may admit an application or appeal even after the expiry of the specified period of limitation if it is satisfied upon the applicant or the appellant, on the law may be applied to subsequent cause for not making it withing the limit.
Prasanna

If there is a substantial cause or extension of time or condonation of delay. 404

Sec 5 gives the extension of prescribed period in certain cases on substantial cause being shown for the delay. This is known doctrine of Substantive cause for condonation or delay.

Case Law: B.K. Educational Services Private Limited vs Panna Uthappa and Associates.

= On B.K. Educational Services Pvt. Ltd. vs. Panna Uthappa and Associates SC ruled that limitation Act 1963 applies to application under sec 7 and 9 of insolvency & Insolvency Code 2016 retroactively from 1st 2016. The court held that Article 137 of Limiting Act 1963 has 3 year limitation period from date of default applies to insolvency application if default occur more than 3 yrs before filing the application could be barred.

Case Law: Udayan Chiva Bhai vs. R.C. Balle Sec 12
= Sec 12 prescribed the time which should be excluded in computing the time of limitation.

However, time taken by court to prepare decree or order before an application for copies made shall not be excluded in computing the time for obtaining copy of decree or order.

Case Law: Purni Devi & Anr. vs. Gans Ram & Anr. Fact:-

Case date back to 1st June 1984, when plaintiff's wife deceased filed a suit for possession against the defendant.

On 10th Dec. 1986, Munsiff court ruled in favour of Plaintiff.

On 9th Feb. 1990, District court dismissing defendant appeal.

9th Nov. 2000, HC dismisses defendant 2nd Appeal.

On 18th Dec. 2000 Plaintiff filed an execution application before Tehsildar court (Inherent Jurisdiction).

On 9th Jan 2005, Tehsildar rejected application due to lack of jurisdiction.

On 3rd Oct. 2005, Plaintiff filed fresh execution application before Munsiff court (correct jurisdiction).

Issue:-
Munsiff court dismiss the application on 9th Nov. 2007 stating it was barred by limitation. However issue is whether time spending in pursuing case is

being spent from (Tehsildar court) should be excluded from limitation period.

Persons

Sec. 14 of Limitation Act which excludes time spent in court without jurisdiction if proceedings were pursued in good faith and due diligence.

The court contended that time spent in wrong form (from good to good) in Tehsil dar court will be excluded from limitation period.

Prohibits was allowed to proceed with execution in court and application was not barred by ~~Limitation~~ Section 14.

Persons Under legal disability.

Section 6

When the person who can institute suit, and make application is a minor, insane or idiot then his limitation period will begin from date of cessation of legal disability.

If a person is suffering from one legal disability and after ceasing to suffer no other legal disability then he may file the case after end of all disabilities.

Section 7

Sec. 7 is applicable where several persons are jointly entitled to institute the suit or make an application, one or some of them are affected by legal disability.

Provision of section 7

If the concept of the person suffering from ~~requisite~~ legal disability is not necessary. → The period of limitation will continue original.

If the concept of the person suffering from legal disability is necessary. → The period of limitation will extend for all joint persons and not only against the disabled person.

Section 8

Sec. 8 provides that in those cases where the application of Sec. 6 or 7 of the Act results in an extension of the period prescribed by statute, that extension is not to be more than 3 yrs after the cessation of the disability.

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Continuous Running of Time. (Section 9)

→ According to section 9 of the Act, where once ^{Discretionary} has begun to run, no subsequent disability or inability to institute a suit or make an application can stop it. Can start

→ The rule of this section is based on the English dictum "Time when once it has commenced to run in any case will not regard to be Sobly reason of any subsequent event."

→ The applicability of this section is limited to suits and applications only and does not apply to appeals unless the case falls within any the exceptions provided in the Act itself.

Section 10 & 10A - Sec. 10 excludes suits against trustees and their representative from provisions of the act for Sec. 10 to apply, Property in question must be under the trustee for specific purpose.

Yam
→ Computation of Period of Limitation (Section 12)
While calculating period of limitation every day has to be counted except for the ones which are

Specifically excluded. The specific days to be excluded are:-

1. In case of suit - The day on which period begins to run.

In case of appeal:-
• The day on which period begins to run.

• The day of pronouncement of judgment -
The day of obtaining a copy of decree, order, sentence or judgment.

In case of application for review - The day on which period begins to run.

In case of appeals to the day of pronouncement of set aside an award / judgment.
In case of any other application - The day of obtaining a copy of decree order, sentence or judgment.

* Exclusion of time during which leave to sue or appeal as a pauper is applied for (Sec. 13)

→ 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 stay leave shall be excluded and the court may on payment of the cost fees provided for suit, suit or appeal, treat the suit or appeal as having the same force and effect as if the court fees had been paid in full at once.

Exclusion of time barred taking into court (Section 14) -

The statute to a person is given by Sec 14 of the Act when the period of limitation is over because another civil proceedings relating to the matter in issue had been initiated in a court which is capable to entertain it by law or jurisdiction or by any other like course.

Exclusion of time in certain other cases (Section 15)

- 1) Where an application for the execution of a decree has been stayed by an injunction or order the day on which it was issued or made and the day which it was withdrawn shall be excluded.
- 2) The time required to obtain the sanction or consent of the court for a notice period shall be excluded.

3) The time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

4) The time during which the defendant has been exempt from cross-examination and from the penalties, besides which shall be excluded.

Effect of Acknowledgment on the period of limitation (Section 18)

Sec 18 deals with the effect of acknowledgment of liability in respect of property or right on the period of limitation.

Following requirements should be present for a valid acknowledgment:-

- 1) There must be an admission of acknowledgment.
 - 2) Such acknowledgment must be in respect of any property or right.
 - 3) It must be made before the expiry of period of limitation.
 - 4) It must be in writing and signed by the party against whom such property or right is claimed.
- On all the above statements, are satisfied, a new period of limitation shall be computed from the date when the acknowledgment was signed.

Exam

Effect of Payment on Account of Debt or Interest on legacy Section 19.

where payment on account of a debt or of interest on a legacy is made before the expiration of the prescriptive period by the person liable to pay the debt or by his agent duly authorized in this behalf a fresh period of limitation shall be computed from time when the payment was made.

Acquisition of Ownership by Possession Section 25

Sec 25 applies to acquisition of ownership. It prescribes that the right to acquire and use of things or rights, way, easements, use of water, or any other easement which have been peacefully enjoyed without interruption, and for 25 yrs (30 yrs if properly recorded) to have grown be absolute or indefeasible.

Exam
Sec 17

If suit application is based on fraud or mistake of defendant or their agent limitation period does not start until plaintiff discovers the fraud or mistake or until plaintiff could with reasonable diligence have discovered fraud or mistake.

In case of unrecorded document limitation begins only when plaintiff can produce document or take its production.

Exception: if judgment debtor prevents execution of decree by fraud or force or by any other means period for executing decrees?

judgment debtor must file application within 4 yrs from discovery of fraud or conversion of funds.

Exam
Limitation and with under the constitution

Legislature can make laws on limitation without violating fundamental rights as long as reasonable time is given for existing enforcing existing rights before they are barred by the new laws.

Limitation Act is not unconstitutional because it applies only to actions in future. It is considered a shield not as a weapon of offence. It does not prevent people for claiming rights but limits the time frame for enforcing ~~them~~ entering for entering for.

Sec. 18 and 19

most favored 1/4

State cannot enforce limitation for enforcing fundamental rights. Such restriction can be challenged under Article 13(2) (Tilokchand Motilal case)

Limitation Act does not apply to Article 32 & 226 but court may deny relief if delay is longer than prescribed period of limitation. So where writ remedy is similar to ordinary remedy in ordinary case court may apply same limitation rule.

NOTE *

(1) for appeal against death sentence → limitation period 30 days

(2) Appeal against other sentence → limitation period 60 days to HC and 30 days for other court.

(3) leave to Appeal as a pauper → limitation period 60 days to HC and 30 days for other court.

* Gregorian calendar ⇒ 1st Jan to 31st Dec.

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Interpre

The phrase judicial process certain rules Acts are the

CASUS OM

casus omissus not provided therefore go

There are 1. Every word 2. The court or words

A court hearing

Prima

1. Literal

Arranging sentences or their natural meaning