

Law relating to Limitation

Lesson 9

KEY CONCEPTS

■ Bar of Limitation ■ Computation of period ■ Legal disability ■ Judicial process ■ Time barred ■ Pauper

Learning Objectives

To understand:

- Computation of period of Limitation
- Bar on institution of suits created by Limitation Act
- Extension and continuous running of time under Limitation Law
- Acquisition of property after lapse of time
- Period prescribed for various suits for filling under Limitation law

Lesson Outline

- Introduction
- Computation of the Period of Limitation
- Bar of Limitation
- Extension of time in certain cases
- Continuous running of time
- Computation of period of limitation
- Effect of acknowledgement on the period of limitation
- Effect of Payment on account of debtor interest on legacy
- Computation of time mentioned in the instrument
- Acquisition of ownership by possession
- Limitation and writs under the constitution
- The Schedule
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The new criminal laws i.e. Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha Sanhita 2023 and Bharatiya Sakshya Adhiniyam 2023 have repealed Indian Penal Code 1860, Criminal Procedure Code 1973 and Indian Evidence Act 1872 (old criminal laws) respectively.

Therefore, by virtue of Section 8 of General Clauses Act 1897, the references to the old criminal laws, unless a different intention appears, be construed as references to the provision of new criminal laws.

REGULATORY FRAMEWORK

- The Limitation Act, 1963

INTRODUCTION – LAW RELATING TO LIMITATION

The law relating to limitation is incorporated in the Limitation Act of 1963, which prescribes different periods of limitation for suits, petitions or applications.

The Act applies to all civil proceedings and some special criminal proceedings which can be taken in a Court of law unless its application is excluded by any enactment. The Act extends to whole of India.

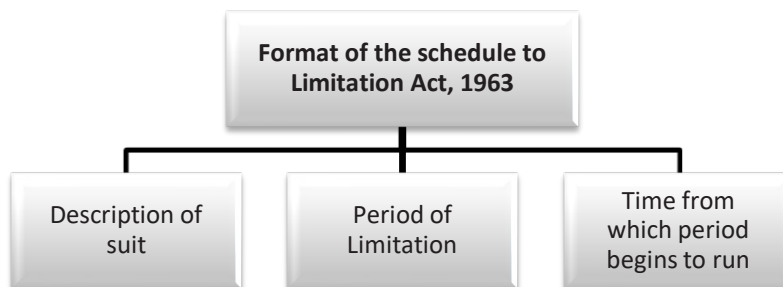
CASE LAW

The Law of limitation bars the remedy in a Court of law only when the period of limitation has expired, but it does not extinguish the right that it cannot be enforced by judicial process, in *Bombay Dying & Mfg. Co. Ltd. v. State of Bombay, AIR 1958 SC 328*. Thus if a claim is satisfied outside the Court of law after the expiry of period of limitation, that is not illegal.

COMPUTATION OF THE PERIOD OF LIMITATION FOR DIFFERENT TYPES OF SUITS

The Courts in India are bound by the specific provisions of the Limitation Act and are not permitted to move outside the ambit of these provisions. The Limitation Act prescribes the period of limitation in Articles in Schedule to the Act. In the Articles of the Schedule to the Limitation Act, Columns 1, 2, and 3 must be read together to give harmonious meaning and construction.

The Schedule containing the table showing the relevant Articles prescribing limitation period for a specified suit and also time from which such period commences is given at the end of this Lesson.



BAR OF LIMITATION

Section 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 motu* take note of question of limitation. The question whether a suit is barred by limitation should be decided on the facts as they stood on the date of presentation of the plaint. It is a vital section upon which the whole limitation Act depends for its efficacy.

The effect of Section 3 is not to deprive the Court of its jurisdiction. Therefore, decision of a Court allowing a suit which had been instituted after the period prescribed is not vitiated for want of jurisdiction. A decree passed in a time barred suit is not a nullity.

CASE LAW

Noharlal Verma vs. District Cooperative Central Bank Limited, Jagdalpur, (SC), 2008

The Supreme Court observed that, if the statute stipulates a particular period of limitation, no concession or order would make an application barred by time to be within the limitation and the authority had no jurisdiction to consider such application on merits.

Limitation period under IBC

S.M. Ghogbhai vs. Schedulers Logistics India Pvt. Ltd. (23.05.2022 - NCLAT) :2022 SCC OnLine NCLAT 216

In this case, the Appeal was filed against the Order dated 16th November, 2021 passed by National Company Law Tribunal, Mumbai Bench, Court-III by which the Application C.P. No. 3857/I & B/2019 filed by the Appellant under Section 9 of the Insolvency and Bankruptcy Code, 2016 was rejected as barred by time. Tribunal dismissed the appeal stating -

"We are satisfied that for the limitation for filing Section 9 application it is Article 137 of the Limitation Act, 1963 which is attracted. Under Article 137, time from which period begins to run is "when the right to apply accrues" the right to apply accrues when invoices issued by the Appellant to the Corporate Debtor were not paid. Invoices on the basis of which payment is claimed are more than three years earlier from the date of filing of Section 9 Application which is the basis for rejection of the Application of the Appellant by the Adjudicating Authority."

EXTENSION OF TIME IN CERTAIN CASES

Doctrine of sufficient cause

Section 5 allows the extension of prescribed period in certain cases on sufficient cause being shown for the delay. This is known as doctrine of "sufficient cause" for condonation of delay which is embodied in Section 5 of the Limitation Act, 1963. Section 5 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.

It is clarified by the explanation appended to Section 5 that the fact that the appellant or applicant was misled by any order, practice or judgement of the High Court in ascertaining or computing the prescribed period may be a sufficient cause within the meaning of this section.

Thus, the Court may admit an application or appeal even after the expiry of the specified period of limitation if it is satisfied with the applicant or the appellant, as the case may be as to sufficient cause for not making it within time.

The Section is not applicable to applications made under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 and also to suits. The Court has no power to admit a time barred suit even if there is a sufficient cause for the delay. It applies only to appeals or applications as specified therein. The reason for non-applicability of the Section to suits is that, the period of limitation allowed in most of the suits extends from 3 to 12 years whereas in appeals and application it does not exceed 6 months. For the applicability of Section 5, the "prescribed period" should be over. The prescribed period means any period prescribed by any law for the time being in force.

The party applying for condonation of delay should satisfy the Court for not making an appeal or application within the prescribed period for sufficient cause. The term sufficient cause has not been defined in the Limitation Act. It depends on the circumstances of each case.

However, it must be a cause which is beyond the control of the party.

CASE LAW

In *Ramlal v. Rewa Coal Fields Ltd.*, AIR 1962 SC 361, the Supreme Court held that once the period of limitation expires then the appellant has to explain the delay made thereafter for day by day and if he is unable to explain the delay even for a single day, it would be deemed that the party did not have sufficient cause for delay.

It is the Court's discretion to extend or not to extend the period of limitation even after the sufficient cause has been shown and other conditions are also specified. However, the Court should exercise its discretion judicially and not arbitrarily.

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

1. Wrong practice of High Court which misled the appellant or his counsel in not filing the appeal should be regarded as sufficient cause under Section 5;
2. In certain cases, mistake of counsel may be taken into consideration in condonation of delay. But such mistake must be *bona fide*;
3. Wrong advice given by advocate can give rise to sufficient cause in certain cases;
4. Mistake of law in establishing or exercising the right given by law may be considered as sufficient cause. However, ignorance of law is not excuse, nor the negligence of the party or the legal adviser constitutes a sufficient cause;
5. Imprisonment of the party or serious illness of the party may be considered for condonation of delay;
6. Time taken for obtaining certified copies of the decree of the judgment necessary to accompany the appeal or application was considered for condoning the delay.
7. Non-availability of the file of the case to the State counsel or Panel lawyer is no ground for condonation of inordinate delay (*Collector and Authorised Chief Settlement Commissioner v. Darshan Singh and others*, AIR 1999 Raj. 84).
8. Ailment of father during which period the defendant was looking after him has been held to be a sufficient and genuine cause [*Mahendra Yadav v. Ratna Devi & others*, AIR 2006 (NOC) 339 Pat].

The *quasi-judicial* tribunals, labour courts or executive authorities have no power to extend the period under this Section.

The test of "sufficient cause" is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of limitation has left the concept of 'sufficient cause' delightfully undefined thereby leaving to the court a well-intended discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the Court as such.

R B Ramlingam v. R B Bhvansewari (2009) 2 SCC 689

G. Ramegowda, Major, Etc. v. Special Land Acquisition Officer, Bangalore, AIR, 1988, SC 897

The Supreme Court held that the expression 'sufficient cause' in Section 5 of the Limitation Act, 1963 must receive a liberal construction so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of the delay.

Example

The limitation period of the suit was 3 years. On the last day, X was hospitalized and could not file the suit. He recovered within next 2 days. Can he be allowed to file a suit under section 5 after showing sufficient cause?

No, section 5 is applicable for applications and appeals.

CASE LAWS***B.K. Educational Services Private Limited v. Parag Gupta and Associates (2019) 11 SCC 633***

In this case, the question raised by the Appellants was whether the Limitation Act, 1963 will apply to applications that are made under Section 7 and/or Section 9 of the Insolvency and Bankruptcy Code, 2016 on and from its commencement on 01.12.2016 till 06.06.2018. The Supreme Court held that Limitation Act, 1963 is applicable to proceedings under Sections 7 and 9 of the Insolvency and Bankruptcy Code, 2016 retrospectively since its inception. It was stated –

“that, relying upon the Report of the Insolvency Law Committee of March, 2018, that the object of the Amendment Act which introduced Section 238A into the Code was to clarify the law and, thus, Section 238A must be held to be retrospective.

...It is thus clear that since the Limitation Act is applicable to applications filed Under Sections 7 and 9 of the Code from the inception of the Code, Article 137 of the Limitation Act gets attracted. “The right to sue”, therefore, accrues when a default occurs. If the default has occurred over three years prior to the date of filing of the application, the application would be barred Under Article 137 of the Limitation Act, save and except in those cases where, in the facts of the case, Section 5 of the Limitation Act may be applied to condone the delay in filing such application”

Pathapati Subba Reddy (Died) by L.Rs. & Ors v. The Special Deputy Collector (LA) by Supreme Court on 08.04.2024

Merits of the case are not required to be considered in condoning the delay. 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

This case can be referred to understand the law relating to condonation of delay under the Limitation Act, 1963.

The present Special Leave Petition was filed challenging the judgment and order whereby the High Court has dismissed the application of the petitioners for condoning the delay of 5659 days in filing the proposed appeal.

The moot question before the Hon’ble Supreme court was whether in the facts and circumstances of the case, the High Court was justified in refusing to condone the delay in filing the proposed appeal and to dismiss it as barred by limitation.

The Supreme Court has laid down that on a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (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.

Moreover, the High Court, in the facts of this case, has not found it fit to exercise its discretionary jurisdiction of condoning the delay. There is no occasion for us to interfere with the discretion so exercised by the High Court for the reasons recorded. First, the claimants were negligent in pursuing the reference and then in filing the proposed appeal. Secondly, most of the claimants have accepted the decision of the reference court. Thirdly, in the event the petitioners have not been substituted and made party to the reference before its decision, they could have applied for procedural review which they never did. Thus, there is apparently no due diligence on their part in pursuing the matter. Accordingly, in our opinion, High Court is justified in refusing to condone the delay in filing the appeal.

Ajay Dabra vs. Pyare Ram and Ors, 2023 SCC OnLine SC 92, decided by Supreme Court on 31.01.2023

In this case the impugned order of High Court of Himachal Pradesh dismissed the delay condonation applications filed Under Section 5 of the Limitation Act, 1963, declining to condone a delay of 254 days, because the reasons assigned for the condonation were not sufficient reasons for condonation of the delay. This was not found to be a sufficient reason for the condonation of delay as the Appellant was an affluent businessman and a hotelier.

The Supreme Court has said that we do not have a case at hand where the Appellant is not capable of purchasing the court fee. He did pay the court fee ultimately, though belatedly. But then, under the facts and circumstances of the case, the reasons assigned for the delay in filing the appeal cannot be a valid reason for condonation of the delay, since the Appellant could have filed the appeal deficient in court fee under the provisions of law, referred above. Therefore, we find that the High Court was right in dismissing Section 5 application of the Appellant as insufficient funds could not have been a sufficient ground for condonation of delay, under the facts and circumstance of the case. It would have been entirely a different matter had the Appellant filed an appeal in terms of Section 149 Code of Civil Procedure and thereafter removed the defects by paying deficit court fees. This has evidently not been done.

Persons under legal disability

Section 6 is an enabling section to enable persons under disability to exercise their legal rights within a certain time. Section 7 supplements Section 6, Section 8 controls these sections, which serves as an exception to Sections 6 and 7. The combined effect of Sections 6 and 8 is that where the prescribed period of limitation expires before the cessation of disability, for instance, before the attainment of majority, the minor will no doubt be entitled

to a fresh period of limitation from the attainment of his majority subject to the condition that in no case the period extended by Section 6 shall by virtue of Section 8 exceeds three years from cessation of disability, i.e., attainment of majority.

Sections 6, 7 and 8 must be read together. Section 8 imposes a limitation on concession provided under Sections 6 and 7 to a person under disability up to a maximum of three years after the cessation of disability. The Section applies to all suits except suits to enforce rights of pre-emption.

The period of three years under Section 6 of this Act has to be counted, not from the date of attainment of majority by the person under disability, but from the date of cessation of minority or disability.

Both Sections 6 and 7 go together. Section 7 is an extension of Section 6, where the point of time at which the existence of disability is to be recognised "*the time from which the period of limitation is to be reckoned*".

Section 7 is only an application of the principle in Section 6 to a joint-right inherited by a group of persons wherein some or all of whom are under the disability. The disability of all except one does not prevent the running of time, if the discharge can be given without the concurrence of the other. Otherwise the time will run only when the disability is removed.

To apply Section 7, disability must exist when the right to apply accrued, i.e., at the time from which period of limitation is to be reckoned.

In other words, Section 8 provides that in those cases where the application of Section 6 or 7 of the Act results in an extension of the period prescribed by Schedule, that extension is not to be more than three years after the cessation of the disability.

Example

The limitation period for filling a suit is 12 years. When the limitation period commenced X was minor of age 10 years

He will not get 12 years after cessation of minority. He will get only 3 years due to bar of section 8 of the Limitation Act.

Example

Disabilities are being a minor or insane, or an idiot.

Section 7 deals with the situation where there is joint entitlement of filling a suit or application. It give rise to two situation:

1. When Discharge may be given by any other person without concurrence: In this situation, time will run against them all.
2. When discharge cannot be given by any other person without concurrence: In this situation, 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

CONTINUOUS RUNNING OF TIME

According to Section 9 of the Act where once time has begun to run, no subsequent disability or inability to institute a suit or make an application can stop 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 debt shall be suspended while the administration continues.

The rule of this Section is based on the English dictum. "Time when once it has commenced to run in any case

will not cease to be so by reason of any subsequent event". Thus, when any of the statutes of limitation is begun to run, no subsequent disability or inability will stop this running.

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

For the applicability of Section 9 it is essential that the cause of action or the right to move the application must continue to exist and subsisting on the date on which a particular application is made. If a right itself had been taken away by some subsequent event, no question of bar of limitation will arise as the starting point of limitation for that particular application will be deemed not to have been commenced.

Thus, time runs when the cause of action accrues. True test to determine when a cause of action has accrued is to ascertain the time, when plaintiff could have maintained his action to a successful result first if there is an infringement of a right at a particular time, the whole cause of action will be said to have arisen then and there.

Section 9 contemplates only cases where the cause of action continues to exist. Section 10 excludes suits against trustees and their representatives from the purview of the Act. In order to invoke the application of Section 10 the property must be vested in a trustee or trustees for a specific-purpose.

COMPUTATION OF PERIOD OF LIMITATION

Exclusion of certain days or exclusion of time in legal proceedings

While computing Period of Limitation certain day/days are to be excluded.

Part III of the Act containing Sections 12 to 24 deals with computation of period of limitation and Section 12 prescribes the time which shall be excluded in computing the time of limitation in legal proceedings.

- (i) **Computation of period of limitation for a suit, appeal or application:** According to Section 12(1), the day which is to be excluded in computing period of limitation is the day from which the period of limitation is to be reckoned. In case of any suit, appeal or application, the period of limitation is to be computed exclusive of the day on which the time begins to run.
- (ii) **Computation of period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgement:** The day on which the judgement 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 [Section 12(2)].
- (iii) **Computation of period for an application made for leave to appeal from a decree or order:** The time requisite for obtaining a copy of the judgement shall also be excluded [Section 12(3)].
- (iv) **Computation of Limitation period for an application to set aside an award:** The time required for obtaining a copy of the award shall be excluded [Section 12(4)].

Thus, the time required for getting copies of certain decisions, mentioned under Section 12 is also to be excluded in computing the period of limitation as per Sub-sections (2), (3) and (4).

CASE LAW

The term "time requisite for obtaining a copy" means the time which is reasonably required for obtaining such a copy, On the explanation to Section 12, the Supreme Court in the case of *Udayan China Bhai v. R.C. Bali*, AIR 1977 SC 2319, held that by reading Section 12(2) with explanation it is not possible to accept the submission that in computing the time requisite for obtaining copy of a decree by an application made after preparation of the decree, the time that elapsed between the pronouncement of the judgement and the signing of the decree should be excluded.

However, the time taken by the Court to prepare the decree or order before an application for a copy is made shall not be excluded in computing the time for obtaining a copy of a decree or an order. (Explanation to Section 12)

CASE LAW

Jharkhand Urja Utpadan Nigam Ltd. & Anr. v. M/s Bharat Heavy Electricals Limited, Supreme Court, 15.04.2025

In this case, the Hon'ble Supreme Court held that the limitation period for filing an appeal under the Commercial Courts Act, 2015, commences from the date of pronouncement of the judgment and that a party cannot insist that the limitation starts only from the date of receiving a copy of the judgment.

In this case, the petitioners were aggrieved by the Jharkhand High Court's refusal to condone a 301-day delay in filing a commercial appeal under the Commercial Courts Act, 2015.

The petitioners argued that the limitation period should commence only after receiving a copy of the judgment, as mandated by Order XX Rule 1 CPC (as amended for commercial courts).

The Court clarified that while Order XX Rule 1 of the CPC places a duty on the court to provide a copy of the judgment to the litigant, the litigant is nonetheless expected to make reasonable efforts to apply for it.

The Court said "Thus, merely because Order XX Rule 1 enjoins a duty upon the commercial courts to provide the copies of the judgment that does not mean that the parties can shirk away all responsibility of endeavoring to procure the certified copies thereof in their own capacity. Any such interpretation would result in frustrating the very fundamental canons of law of limitation and the salutary purpose of the Act, 2015 of ensuring timely disposals."

The Court further added "One of the core tenets of the law of limitation is to enthrone diligence amongst parties as to their rights. The law of limitation cannot be read in such a manner whereby parties stop showing any modicum of regard for their own rights and on the pre-text of untimely communication continue to litigate without being vigilante themselves."

The Court thus noted that "In the present case we find that after the order in question came to be pronounced by the Commercial Court, Ranchi, the appellants herein during the limitation period did not bother to even inquire as to why the said order was not available. It was only eight-months after the pronouncement of the said order and almost 150-days after the expiry of the limitation period, that the realization suddenly dawned upon the appellants herein to apply for the certified copy."

Hence, the appeal was dismissed.

Exclusion of time during which leave to sue or appeal as a pauper is applied for (Section 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 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.

Exclusion of time bona fide taken in a court without jurisdiction (Section 14)

The relief to a person is given by Section 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 unable to entertain it, by lack of jurisdiction or by any other like cause. The following conditions must co-exist for the applicability of this Section:

- (a) that the plaintiff or the applicant was prosecuting another civil proceedings against the defendant with due diligence in the above said court;
- (b) that the previous suit or application related to the same matter in issue;
- (c) that the plaintiff or the applicant prosecuted in good-faith in that court; and
- (d) that the court was unable to entertain a suit or application on account of defect of jurisdiction or other like cause.

CASE LAW

02.04.2024

Purni Devi & Anr. V. Babu Ram & Anr.

Supreme Court

In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding against the defendant should be excluded

Facts

The genesis of the case at hand dates back to 01.06.1984, wherein the predecessors in interest of the Appellant ("Plaintiff") filed a suit for possession against the Respondents ("Defendants"). On 10.12.1986, this suit was decreed by learned Munsiff, First Class Hiranagar, in favour of the Plaintiff, and the Defendants were directed to deliver vacant and peaceful possession of the property to the Plaintiff. This decree was challenged by the Respondents before the learned District Judge, Kathua, in First Appeal, which came to be dismissed on 09.02.1990. Thereafter, the Respondents preferred a Second Appeal before the High Court of Jammu and Kashmir which came to be dismissed *vide* Order dated 09.11.2000. No further appeal was preferred. Therefore, the decree of the learned Munsiff Court attained finality on 09.11.2000.

The present *lis* arises from the application for execution filed by the predecessor in interest of the Plaintiff, before the learned Tehsildar (Settlement), Hiranagar on 18.12.2000. This application came to be rejected on 29.01.2005, whereby the learned Tehsildar observed that the Plaintiff had not applied before the Court with appropriate jurisdiction.

The Plaintiff thereafter, on 03.10.2005 preferred a fresh application for execution before the Court of Munsiff, Hiranagar. This application resulted in the order dated 28.11.2007, whereby, the learned Munsiff Court dismissed the application as being barred by limitation, which has come to be confirmed *vide* the impugned order.

Issue

Whether the time spent in wrong forum be excluded from the Period of Limitation?

Decision

The principles pertaining to applicability of Section 14, were extensively discussed and summarised by Supreme Court in Consolidated Engg. Enterprises case, wherein while holding the exclusion of time period under Section 14 of the Limitation Act to a petition under Section 34 of the Arbitration Act it was observed:-

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

- (1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;

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

This Court in Consolidated Engg. Enterprises (Supra) further expounded that the provisions of this Section, must be interpreted and applied in a manner that furthers the cause of justice, rather than aborts the proceedings at hand and the time taken diligently pursuing a remedy, in a wrong Court, should be excluded.

In the present case, it is not in dispute that:-

- (i) Both the proceedings are civil in nature and have been prosecuted by the Plaintiff or the predecessor in interest.
- (ii) The failure of the execution proceedings was due to a defect of jurisdiction.
- (iii) Both the proceedings pertain to execution of the decree dated 10.12.1986, which attains finality on 09.11.2000.
- (iv) Both the proceedings are in a court.

More recently, in Laxmi Srinivasa R and P Boiled Rice Mill v. State of Andhra Pradesh and Anr.6 (2-Judge Bench), Supreme Court followed the dictum in Consolidated Engg. Enterprises (Supra) and M.P. Steel (Supra) to exclude the time period undertaken by the Plaintiff therein in pursuing remedy under Writ Jurisdiction, in the absence of challenge to the bona fides of the Plaintiff, in view of Section 14.

The Hon'ble Supreme Court has laid down that we do not find the reasoning given by the learned High Court in paragraph 9 while rejecting the plea for exclusion of time to be sustainable. On a perusal of the record, it is apparent that the Plaintiff has pursued the matter bonafidely and diligently and in good faith before what it believed to be the appropriate forum and, therefore, such time period is bound to be excluded when computing limitation before the Court having competent jurisdiction. All conditions stipulated for invocation of Section 14 of the Limitation Act are fulfilled.

Exclusion of time in certain other cases

- (a) When a suit or application for the execution of a decree has been stayed by an 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. [Section 15(1)].
- (b) The time required to obtain the sanction or consent of the Govt. required, or a notice period shall also be excluded in case of suits. [Section 15(2)].
- (c) In a suit or an application for execution of a decree by any receiver or interim receiver or any liquidator, the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of their appointment shall be excluded. [Section 15(3)].
- (d) The time during which a proceeding to set aside the sale has been prosecuted shall be excluded in case of a suit for possession by a purchaser at a sale in execution of a decree. [Section 15(4)].
- (e) The time during which the defendant has been absent from India and from the territories outside India administered by the Central Government, shall also be excluded. [Section 15(5)].

- (f) In case of death of a person before the right to institute a suit accrues, 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. The same rule applies in case if defendant dies. [Sections 16(1) and (2)].

However, the above rule does not apply to suits to enforce rights of pre-emption or to suits for the possession of immovable property or of a hereditary office. [Section 16(3)].

- (g) Where the suit or application is based upon the fraud or mistake of the defendant or respondent or his agent or in other cases as mentioned in Section 17, the period of limitation shall not begin to run until the plaintiff or applicant has discovered fraud or mistake or could with reasonable diligence have discovered it 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. These rules are subject to certain exceptions as provided in proviso to section 17(1). When a judgment-debtor by fraud or force prevented the execution of a decree or order within the period of limitation, the court may extend the period for execution of the decree or order on the application of Judgment Creditor. Such application shall be made within one year from the date of the 'discovery of the fraud' or the 'cessation of force'. (Section 17).

EFFECT OF ACKNOWLEDGEMENT ON THE PERIOD OF LIMITATION

Section 18 of the Act deals with the effect of acknowledgement of liability in respect of property or right on the period of limitation.

The following requirements should be present for a valid acknowledgement as per Section 18:

There must be an admission or acknowledgement

Such acknowledgement must be in respect of any property or right

It must be made before the expiry of period of limitation

It must be in writing and signed by the party against whom such property or rights is claimed

If all the above requirements are satisfied, a fresh period of limitation shall be computed from the time when the acknowledgement was signed.

CASE LAW

Laxmi Pat Surana vs. Union Bank of India and Ors. (26.03.2021 - SC) : AIR 2021 SC 1707

This case has discussed, that a fresh period of limitation is required to be computed from the date of acknowledgment of debt by the principal borrower. The Supreme Court stated that-

“Suffice it to conclude that there is no substance even in the second ground urged by the Appellant regarding the maintainability of the application filed by the Respondent-financial creditor Under Section 7 of the Code on the ground of being barred by limitation. Instead, we affirm the view taken by the NCLT and which commended to the NCLAT - that a fresh period of limitation is required to be computed from the date of acknowledgment of debt by the principal borrower from time to time and in particular the (corporate) guarantor/corporate debtor vide last communication dated 08.12.2018. Thus, the application Under Section 7 of the Code filed on 13.02.2019 is within limitation.”

Asset Reconstruction Company (India) Limited vs. Bishal Jaiswal and Ors. (15.04.2021 - SC) : AIR 2021 SC 5249

The supreme court addressed the issue as to whether an entry made in a balance sheet of a corporate debtor would amount to an acknowledgement of liability Under Section 18 of the Limitation Act. The Supreme Court held that several judgments of this Court have indicated that an entry made in the books of accounts, including the balance sheet, may amount to an acknowledgement of liability within the meaning of Section 18 of the Limitation Act but subject to further examination. It stated-

“that there is a compulsion in law to prepare a balance sheet but no compulsion to make any particular admission, is correct in law as it would depend on the facts of each case as to whether an entry made in a balance sheet qua any particular creditor is unequivocal or has been entered into with caveats, which then has to be examined on a case by case basis to establish whether an acknowledgement of liability has, in fact, been made, thereby extending limitation Under Section 18 of the Limitation Act”

EFFECT OF PAYMENT ON ACCOUNT OF DEBT OR OF INTEREST ON LEGACY

As per Section 19 of the Act 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. The proviso says that, save in the case of payment of interest made before the 1st day of January, 1928 an acknowledgement of the payment must appear in the handwriting of, or in a writing signed by the person making the payment.

According to the explanation appended to this Section:

- (a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of suchland shall be deemed to be a payment;
- (b) ‘debt’ does not include money payable under a decree or order of a court for the purpose of this Section.

Thus, according to this section a fresh period of limitation becomes available to the creditor when part-payment of debt is made by the debtor before the expiration of the period of limitation.

COMPUTATION OF TIME MENTIONED IN INSTRUMENTS

All instruments shall for the purposes of this Act be deemed to be made with reference to the Gregorian Calendar. (Section 24).

ACQUISITION OF OWNERSHIP BY POSSESSION

Section 25 applies to acquisition of easements. It provides that the right to access and use of light or air, way, watercourse, use of water, or any other easement which have been peaceably enjoyed without interruption and for twenty years (thirty years if property belongs to Government) shall be absolute and indefeasible. Such period of twenty years shall be a period ending within two years next before the institution of the suit.

CASE LAW

Ravinder Kaur Grewal and Ors. vs. Manjit Kaur and Ors. (07.08.2019 - SC): 2019 SCC OnLine SC 975

In this case, the question was whether a person claiming the title by virtue of adverse possession can maintain a suit Under Article 65 of Limitation Act, 1963 for declaration of title and for a permanent injunction seeking the protection of his possession thereby restraining the Defendant from interfering in the possession or for restoration of possession in case of illegal dispossession by a Defendant whose title has been extinguished by virtue of the Plaintiff remaining in the adverse possession or in case of dispossession by some other person? Court held that there is no bar under Limitation Act, 1963 to file a suit. It stated that -

“In our opinion, consequence is that once the right, title or interest is acquired it can be used as a sword by the Plaintiff as well as a shield by the Defendant within ken of Article 65 of the Act and any person who has perfected title by way of adverse possession, can file a suit for restoration of possession in case of dispossession....

We hold that plea of acquisition of title by adverse possession can be taken by Plaintiff Under Article 65 of the Limitation Act and there is no bar under the Limitation Act, 1963 to sue on aforesaid basis in case of infringement of any rights of a Plaintiff.”

LIMITATION AND WRITS UNDER THE CONSTITUTION

The subject of limitation is dealt with in entry 13, List III of the Constitution of India. The Legislature may, without violating the fundamental rights, enact statutes prescribing limitation within which actions may be brought or varying or changing the existing rules of limitation either by shortening or extending time provided a reasonable time is allowed for enforcement of the existing right of action which would become barred under the amended Statute.

The Statute of Limitation is not unconstitutional since it applies to right of action in future. It is a shield and not a weapon of offence.

The State cannot place any hindrance by prescribing a period of limitation in the way of an aggrieved person seeking to approach the Supreme Court of India under Article 32 of the Constitution. To put curbs in the way of enforcement of Fundamental Rights through legislative action might well be questioned under Article 13(2) of the Constitution. It is against the State action that Fundamental Rights are claimed. (*Tilokchand Motichand v. H.P. Munshi, AIR 1970 SC 898*).

The Limitation Act does not in terms apply to a proceeding under Article 32 or Article 226 of the Constitution. But the Courts act on the analogy of the statute of limitation and refuse relief if the delay is more than the statutory period of limitation (*State of M.P. v. Bhai Lal Bhai, AIR 1964 SC 1006*). Where the remedy in a writ petition corresponds to a remedy in an ordinary suit and latter remedy is subject to bar of a statute of limitation, the Court in its writ jurisdiction adopts in the statute its own rule of procedure and in absence of special circumstances imposes the same limitation in the writ jurisdiction.

If the right to property is extinguished by prescription under Section 27 of the Limitation Act, 1963, there is no subsisting right to be enforced under Article 32 of the Constitution. In other case where the remedy only, not the right, is extinguished by limitation the Court will refuse to entertain stale claims on the ground of public policy (*Tilokchand Motichand v. H.P. Munshi, AIR 1970 SC 898*).

THE SCHEDULE**(Periods of Limitation)****[Sections 2(j) and 3]**

S. No.	Description of suit	Period of limitation	Time from which period begin storun
First Division - SUITS			
PART I – SUITS RELATING TO ACCOUNTS			
1.	For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Three years	The close of the year in which the last-time admitted or proved is entered in the account, such year to be computed as in the account.
2.	Against a factor for an account.	Three years	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
3.	By a principal against his agent for movable property received by the latter and not accounted for.	Three years	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
4.	Other suits by principals against agents for neglect or misconduct.	Three years	When the neglect or misconduct becomes known to the plaintiff.
5.	For an account and a share of the profits of a dissolved partnership.	Three years	The date of the dissolution.
PART II – SUITS RELATING TO CONTRACTS			
6.	For a seaman's wages.	Three years	The end of the voyage during which the wages are earned.
7.	For wages in the case of any other person.	Three years	When the wages accrue due.
8.	For the price of food or drink sold by the keeper of a hotel, tavern or lodging- house.	Three years	When the food or drink is delivered.
9.	For the price of lodging.	Three years	When the price becomes payable.
10.	Against a carrier for compensation for losing or injuring goods.	Three years	When the loss of injury occurs.
11.	Against a carrier for compensation for non-delivery of, or delay in delivering goods.	Three years	When the goods sought to be delivered.
12.	For the hire of animals, vehicles, boats or household furniture.	Three years	When the hire becomes payable.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
13.	For the balance of money advanced in payment of goods to be delivered.	Three years	When the goods ought to be delivered.
14.	For the price of goods sold and delivered where no fixed period of credit is agreed upon.	Three years	The date of delivery of the goods.
15.	For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Three years	When the period of credit expires.
16.	For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Three years	When the period of the proposed bill elapses.
17.	For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Three years	The date of the sale.
18.	For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Three years	When the work is done.
19.	For money payable for money lent.	Three years	When the loan is made.
20.	Like suit when the lender has given a cheque for the money.	Three years	When the cheque is paid.
21.	For money lent under an agreement that it shall be payable on demand.	Three years	When the loan is made.
22.	For money deposited under an agreement that it shall be payable on demand including money of a customer in the hands of his banker so payable.	Three years	When the demand is made.
23.	For money payable to the plaintiff for money paid for the defendant.	Three years	When the money is paid.
24.	For money payable by the defendant to the plaintiff for money received by the defendant, for the plaintiff's use.	Three years	When the money is received.
25.	For money payable for interest upon money due form the defendant to the plaintiff.	Three years	When the interest becomes due.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
26.	For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Three years	When the accounts are stated in writing signed by the defendant or his agent duly authorised in this behalf unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.
27.	For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Three years	When the time specified arrives or the contingency happens.
28.	On a single bond, where a day is specified for payment.	Three years	The day so specified.
29.	On a single bond, where no such day is specified.	Three years	The date of executing the bond.
30.	On a bond subject to a condition.	Three years	When the condition is broken.
31.	On a bill of exchange or promissory note payable at a fixed time after date.	Three years	When the bill or note falls due.
32.	On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Three years	When the bill is presented.
33.	On a bill of exchange accepted payable at a particular place.	Three years	When the bill is presented at that place.
34.	On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Three years	When the fixed time expires.
35.	On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Three years	The date of the bill or note.
36.	On a promissory note or bond payable by instalments.	Three years	The expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective terms of payment.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
37.	On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one or more instalments, the whole shall be due.	Three years	When the default is made unless where the payee or obligee waives the benefit of the provision and then when fresh default is made in respect of which there is no such waiver.
38.	On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Three years	The date of the delivery to the payee.
39.	On a dishonoured foreign bill where protest has been made and notice given.	Three years	When the notice is given.
40.	By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance.	Three years	The date of the refusal to accept.
41.	By the acceptor of an accommodation – bill against the drawer.	Three years	When the acceptor pays the amount of the bill.
42.	By a surety against the principal debtor.	Three years	When the surety pays the creditor.
43.	By a surely against a co-surety.	Three years	When the surety pays anything in excess of his own share.
44.	(a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.	Three years	The date of the death of the deceased or where the claim on the policy is denied, either partly or wholly, the date of such denial.
	(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.	Three years	The date of the occurrence causing the loss, or where the claim on the policy is denied, either partly or wholly, the date of such denial.
45.	By the assured to recover premia paid under a policy voidable at the election of the insurers.	Three years	When the insurers elect to avoid the policy.
46.	Under the Indian Succession Act, 1925, Section 360 or Section 361, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.	Three years	The date of the payment or distribution.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
47.	For money paid upon an existing consideration which afterwards fails.	Three years	The date of the failure.
48.	For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-shares.	Three years	The date of the payment in excess of the plaintiff's own share.
49.	By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Three years	When the right to contribution accrues.
50.	By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate.	Three years	The date of the payment.
51.	For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Three years	When the profits are received.
52.	For arrears of rent.	Three years	When the arrears become due.
53.	By a vendor of immovable property for personal payment of unpaid purchase-money.	Three years	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
54.	For specific performance of a contract	Three years	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has noticed that performance is refused.
55.	For compensation for the breach of any contract, express or implied not herein specially provided for.	Three years	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.
PART III – SUITS RELATING TO DECLARATIONS			
56.	To declare the forgery of an instrument issued or registered.	Three years	When the issue or registration becomes known to the plaintiff.
57.	To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.	Three years	When the alleged adoption becomes known to the plaintiff.
58.	To obtain any other declaration.	Three years	When the right to sue first accrues.

<i>S. No.</i>	<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which period begin storun</i>
PART IV – SUITS RELATING TO DECREES AND INSTRUMENTS			
59.	To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first becomes known to him.
60.	To set aside a transfer of property made by the guardian of a ward –		
	(a) by the ward who has attained majority;	Three years	When the ward attains majority.
	(b) by the ward's legal representative –		
	(i) When the ward dies within three years from the date of attaining majority;	Three years	When the ward attains majority.
	(ii) when the ward dies before attaining majority.	Three years	When the ward dies.
PART V – SUITS RELATING TO IMMOVABLE PROPERTY			
61.	By a mortgagor –		
	(a) to redeem or recover the possession of immovable property mortgaged;	Thirty years	When the right to redeem or to recover possession accrues.
	(b) to recover possession of immovable property mortgaged and afterwards transferred by the mortgagee for a valuable consideration.	Twelve years	When the transfer becomes known to the plaintiff.
	(c) to recover surplus collection received by the mortgagee after the mortgage has been satisfied.	Three years	When the mortgagor re-enters on the mortgaged property.
62.	To enforce payment of money secured by a mortgage or otherwise charged upon immovable property.	Twelve years	When the money sued for becomes due.
63.	By a mortgagee:		
	(a) for foreclosure;	Thirty years	When the money secured by the mortgagee becomes due.
	(b) for possession of immovable property mortgaged.	Twelve years	When the mortgagee becomes entitled to possession.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
64.	For possession of immovable property based on previous possession and not on title, when the plaintiff while in possession of the property has been dispossessed.	Twelve years	The date of dispossession.
65.	For possession of immovable property or any interest herein based on title.	Twelve years	When the possession of the defendant becomes adverse to the plaintiff.
	Explanation — For the purposes of this article –		
	(a) where the suit is by a remainderman, a reversioner (other than a landlord) or a devisee, the possession of the defendant shall be deemed to become adverse only when the estate of the remainderman, reversioner or devisee, as the case may be, falls into possession;		
	(b) where the suit is by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies; (c) where the suit is by a purchaser at a sale in execution of a decree when the judgement debtor was out of possession at the date of the sale, the purchaser shall be deemed to be a representative of the judgement debtor who was out of possession.		
66.	For possession of immovable property when the plaintiff has become entitled to possession by reason of any forfeiture or breach of condition.	Twelve years	When the forfeiture is incurred or the condition is broken.
67.	By a landlord to recover possession from a tenant.	Twelve years	When the tenancy is determined.
PART VI — SUITS RELATING TO MOVABLE PROPERTY			
68.	For specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion.	Three years	When the person having the right to the possession of the property first learns in whose possession it is.
69.	For other specific movable property.	Three years	When the property is wrongfully taken.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
70.	To recover movable property deposited or pawned from a depository or pawnee.	Three years	The date of refusal after demand.
71.	To recover movable property deposited or pawned, and afterwards bought from the depository or pawnee for a valuable consideration.	Three years	When the sale becomes known to the plaintiff.
PART VII – SUITS RELATING TO TORT			
72.	For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the territories to which this Act extends.	One year	When the act or omission takes place.
73.	For compensation for false imprisonment.	One year	When the imprisonment ends.
74.	For compensation for a malicious prosecution.	One year	When the plaintiff is acquitted or the prosecution is otherwise terminated.
75.	For compensation for libel.	One year	When the libel is published.
76.	For compensation for slander.	One year	When the words are spoken, or if the words are not actionable in themselves, when the special damage complained of results.
77.	For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	One year	When the loss occurs.
78.	For compensation for inducing a person to break a contract with the plaintiff.	One year	The date of the breach.
79.	For compensation for an illegal, irregular or excessive distress.	One year	The date of the distress.
80.	For compensation for wrongful seizure of movable property under legal process.	One year	The date of the seizure.
81.	By executors, administrators or representatives' under the Legal Representatives' Suits Act, 1855.	One year	The date of the death of the person wronged.
82.	By executors' administrators or representatives under the Indian Fatal Accidents Act, 1855.	Two years	The date of the death of the person killed.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
83.	Under the Legal Representatives' Suits Act, 1855, against an executor, an administrator or any other representative.	Two years	When the wrong complained of is done.
84.	Against one who having a right to use property for specific purposes, perverts it to other purposes.	Two years	When the perversion first becomes known to the person injured thereby.
85.	For compensation for obstructing a way or a water-course.	Three years	The date of the obstruction.
86.	For compensation for diverting a water-course.	Three years	The date of the diversion.
87.	For compensation for trespass upon immovable property.	Three years	The date of the trespass.
88.	For compensation for infringing copyright or any other exclusive privilege.	Three years	The date of the infringement.
89.	To restrain waste.	Three years	When the waste begins.
90.	For compensation for injury caused by an injunction wrongfully obtained.	Three years	When the injunction ceases.
91.	For compensation —		
	(a) for wrongfully taking or detaining any specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion;	Three years	When the person having the right to the possession of the property first learns in whose possession it is.
	(b) for wrongfully taking or injuring or wrongfully detaining any other specific movable property.	Three years	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
PART VIII — SUITS RELATING TO TRUSTS AND TRUST PROPERTY			
92.	To recover possession of immovable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration.	Twelve years	When the transfer becomes known to the plaintiff.
93.	To recover possession of movable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration.	Three years	When the transfer becomes known to the plaintiff.

<i>S. No.</i>	<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which period begin storun</i>
94.	To set aside a transfer of immovable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Twelve years	When the transfer becomes known to the plaintiff.
95.	A set aside a transfer of movable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Three years	When the transfer becomes known to the plaintiff.
96.	By the manager of a Hindu, Muslim or Buddhist religious or charitable endowment to recover possession of movable or immovable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration.	Twelve years	The date of death, resignation or removal of the transferor or the date of appointment of the plaintiff as manager of the endowment whichever is later.
PART IX – SUITS RELATING TO MISCELLANEOUS MATTERS			
97.	To enforce a right of pre-emption whether the right is founded on law or general usage or on special contract.	One year	When the purchaser takes under the sale sought to be impeached, physical possession of the whole or part of the property sold, or, where the subject-matter of the sale does not admit of physical possession of the whole or part of the property when the instrument of sale is registered.
98.	By a person against whom (an order referred to in Rule 63 or Rule 103) of Order XXI of the Code of Civil Procedure, 1908 or an order under Section 28 of the Presidency Small Cause Courts Act, 1882, has been made, to establish the right which he claims to the property comprised in the order.	One year	The date of the final order.
99.	To set aside a sale by a Civil or Revenue Court or a sale for arrears of Government revenue or for any demand recoverable as such arrears.	One year	When the sale is confirmed or would otherwise have become final and conclusive had no such suit been brought.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
100.	To alter or set aside any decision or order of a Civil Court in any proceeding other than a suit or any act or order or an officer of Government in his official capacity.	One year	The date of the final decision or order by the Court or the date of the act or order of the officer, as the case may be.
101.	Upon a judgement including a foreign judgement, or a recognisance.	Three years	The date of the judgement or recognisance.
102.	For property which the plaintiff has conveyed while insane.	Three years	When the plaintiff is restored to sanity and has knowledge of the conveyance.
103.	To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Three years	The date of the trustee's death or if the loss has not then resulted, the date of the loss.
104.	To establish a periodically recurring right.	Three years	When the plaintiff is first refused the enjoyment of the right.
105.	By a Hindu for arrears of maintenance.	Three years	When the arrears are payable.
106.	For a legacy or for a share of a residue bequeathed by a testator or for a distributive share of the property of an interstate against an executor or an administrator or some other person legally charged with the duty of distributing the estate.	Twelve years	When the legacy or share becomes payable or deliverable.
107.	For possession of a hereditary office. <i>Explanation</i> — A hereditary office is possessed when the properties thereof are usually received or if there are no properties when the duties thereof are usually performed.	Twelve years	When the defendant takes possession of the office adversely to the plaintiff.
108.	Suit during the life of a Hindu or Muslim female by a Hindu or Muslim who if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re- marriage.	Twelve years	The date of the alienation.
109.	By a Hindu governed by Mitakshara law to set aside his father's alienation of ancestral property.	Twelve years	When the alienee takes possession of the property.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
110.	By a person excluded from a joint family property to enforce a right to share therein.	Twelve years	When the exclusion becomes known to the plaintiff.
111.	By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Thirty years	The date of the dispossession or discontinuance.
112.	Any suit (except a suit before the Supreme Court in the exercise of its original jurisdiction) by or on behalf of the Central Government or any State Government, including the Government of the State of Jammu & Kashmir.	Thirty years	When the period of limitation would begin to run under this Act against a like suit by a private person.
PART X – SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD			
113.	Any suit for which no period of limitation is provided elsewhere in this Schedule.	Three years	When the right to sue accrues.
Second Division – Appeals			
114.	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;	Ninety days	The date of the order appealed from.
	(b) under Sub-section (3) of Section 417 of that Code.	Thirty days	The date of the grant of special leave.
115.	Under the Code of Criminal Procedure, 1898.		
	(a) from a sentence of death passed by a Court of Session or by a High Court in exercise of its Original Criminal Jurisdiction;	Thirty days	The date of the sentence.
	(b) from any other sentence or any order not being an order of acquittal –		
	(i) to the High Court;	Sixty days	The date of the sentence or order.
	(ii) to any other Court.	Thirty days	The date of the sentence or order.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
116.	Under the Code of Civil Procedure, 1908 –		
	(a) to a High Court from any decree or order;	Ninety days	The date of the decree or order.
	(b) to any other Court from any decree or order.	Thirty days	The date of the decree or order.
117.	From a decree or order of any High Court to the same Court.	Thirty days	The date of the decree or order.
Third Division – Applications			
118.	For leave to appear and defend a suit under summary procedure.	Ten days	When the summons is served.
119.	Under the Arbitration Act, 1940.		
	(a)for the filing in Court of an award.	Thirty days	The date of service of the notice of the making of the award.
	(b)for setting aside an award or getting an award remitted for reconsideration.	Thirty days	The date of service of the notice of the filing of the award.
120.	Under the Code of Civil Procedure, 1908, to have the legal representative of a deceased plaintiff or appellant or of a deceased defendant or respondent, made a party.	Ninety days	The date of death of the plaintiff, appellant, defendant or respondent as the case may be.
121.	Under the same Code for an order to set aside an abatement.	Sixty days	The date of abatement.
122.	To restore a suit or appeal or application for review or revision dismissed for default of appearance or for want of prosecution or for failure to pay costs of service of process or to furnish security for costs.	Thirty days	The date of dismissal.
123.	To set aside a decree passed ex parte or to re-hear an appeal decreed or heard ex parte. Explanation: For the purpose of this article, substituted service under rule 20 of Order V of the Code of Civil Procedure, 1908, shall not be deemed to be due service.	Thirty days	The date of the decree or where the summons or notice was not duly served, when the applicant had knowledge of the decree.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
124.	For a review of judgement by a Court other than the Supreme Court.	Thirty days	The date of the decree or order.
125.	To record an adjustment or satisfaction of a decree.	Thirty days	When the payment or adjustment is made.
126.	For the payment of the amount of a decree by instalments.	Thirty days	The date of the decree.
127.	To set aside a sale in execution of a decree, including any such application by a judgement-debtor.	Sixty days	The date of the sale.
128.	For possession by one dispossessed of immovable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree.	Thirty days	The date of the dispossession.
129.	For possession after removing resistance or obstruction to delivery of possession of immovable property decree or sold in execution of a decree.	Thirty days	The date of resistance or obstruction.
130.	For leave to appeal as a Pauper —		
	(a) to the High Court;	Sixty days	The date of decree appealed from.
	(b) to any other Court.	Thirty days	The date of decree appealed from.
131.	To any Court for the exercise of its powers of revision under the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973.	Ninety days	The date of the decree or order or sentence sought to be revised.
132.	To the High Court for a certificate of fitness to appeal to the Supreme Court under Clause (1) of Article 132, Article 133 or sub-clause (c) of clause (1) of Article 134 of the Constitution or under any other law for the time being in force.	Sixty days	The date of the decree, order or sentence.

S. No.	Description of suit	Period of limitation	Time from which period begin storun
133.	To the Supreme Court for special leave to appeal—		
	(a) in a case involving death sentence;	Sixty days	The date of the judgement, final order or sentence.
	(b) in a case where leave to appeal was refused by the High Court;	Sixty days	The date of the order of refusal.
	(c) in any other case.	Ninety days	The date of the judgement or order.
134.	For delivery of possession by a purchaser of immovable property at a sale in execution of a decree.	One year	When the sale becomes absolute.
135.	For the enforcement of a decree granting a mandatory injunction.	Three years	The date of the decree or where a date is fixed for performance, such date.
136.	For the execution of any decree (other than a decree granting a mandatory injunction) or order of any Civil Court.	Twelve years	When the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place: Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.
137.	Any other application for which no period of limitation is provided elsewhere in this Division.	Three years	When the right to apply accrues.

CASE LAW**A. Valliammai vs. K.P. Murali and Others decided by Supreme Court on 11th September, 2023**

In this case the Supreme Court has referred to the provisions of Article 54 of Part II of the Schedule to the Limitation Act, 1963 which stipulates the limitation period for filing a suit for specific performance as three years from the date fixed for performance, and in alternative when no date is fixed, three years from the date when the plaintiff has notice that performance has been refused.

The Supreme Court referred to the case earlier decided in *Pachanan Dhara and Others v. Monmatha Nath Maity (2006) 5 SCC 340*. The Supreme Court in referred case had held that for determining applicability of the first or the second part, the court will have to see whether any time was fixed for performance of the agreement to sell and if so fixed, whether the suit was filed beyond the prescribed period, unless a case for extension of time or performance was pleaded or established. However, when no time is fixed for performance, the court will have to determine the date on which the plaintiff had notice of refusal on part of the defendant to perform the contract.

CLASSIFICATION OF PERIOD OF LIMITATION

Depending upon the duration, period of limitation for different purposes may be classified as follows:

Period of 30 years: The maximum period of limitation prescribed by the Limitation Act is 30 years and it is provided only for three kinds of suits:

1. Suits by mortgagors for the redemption or recovery of possession of immovable property mortgaged;
2. Suits by mortgagee for foreclosure;
3. Suits by or on behalf of the Central Government or any State Government including the State of Jammu and Kashmir.

Period of 12 years: A period of 12 years is prescribed as a limitation period for various kinds of suits relating to immovable property, trusts and endowments.

Period of 3 years: A period of three years has been prescribed for suits relating to accounts, contracts, declaratory suits, suits relating to decrees and instruments and suits relating to movable property.

Period varying between 1 to 3 years: The period from 1 to 3 years has been prescribed for suits relating to torts and other miscellaneous matters and suits for which no period of limitation is provided in the schedule to the Act.

Period in days varying between 90 to 10 days: The minimum period of limitation of 10 days is prescribed for application for leave to appear and defend a suit under summary procedure from the date of service of the summons. For appeals against a sentence of death passed by a court of session or a High Court in the exercise of its original jurisdiction the limitation period is 30 days. For appeal against any sentence other than a sentence of death or any other not being an order of acquittal, the period of 60 days for the appeal to High Court and 30 days for appeal to any other Court is prescribed. Period of leave to appeal as a pauper from the date of the decree is 60 days when application for leave to appeal is made to the High Court and 30 days to any other Court.

LESSON ROUND-UP

- The essential purpose of a limitation period is to place a time limit on the period within which a party can commence legal proceedings.
- Limitation periods are imposed by statute, primarily the Limitation Act, 1963. The Limitation Act provides different limitation periods for different types of suits.
- If a limitation period has expired for a particular claim, the claim will be “statute-barred”. This means that it will no longer be possible for the claimant to effect recovery for that claim against the alleged wrongdoer.
- Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application can stop 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 debt shall be suspended while the administration continues.
- 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.
- Limitation is dealt with in entry 13, List III of the Constitution of India. The Statute of Limitation is not unconstitutional since it applies to right of action in future.

GLOSSARY

Doctrine of sufficient cause: The extension of prescribed period in certain cases on sufficient cause being shown for the delay.

Harmonious construction: Interpretation of two or more provisions in a way that effect may be given to all/ both.

TEST YOURSELF

(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation)

1. Explain Doctrine of Sufficient Cause.
2. "Period of Limitation once starts cannot be stopped". Comment.
3. In which kind of suits maximum period of 30 years prescribed under the Limitation Act, 1963?
4. Write a short note on:-
 - (i) Effect of Payment on Account of Debt or of Interest on Legacy
 - (ii) Acquisition of Ownership by Possession
5. What are the sufficient causes for extension of time period under Limitation Act, 1963?

LIST OF FURTHER READINGS

- Bare Act of Limitation Act, 1963
- V.G. Ramachandran : Law of Limitation; Eastern Book Company, Lucknow
- M.R. Mallick, B.B. Mitra The Limitation Act, 1963 (22nd ed., 2011)
- K. Shanmukham, Sanjiva Row's The Limitation Act (9th ed., 2000)
- Law of Limitation; Eastern Book Company, Lucknow, V.G. Ramachandran
- Articles of Professionals.

OTHER REFERENCES (INCLUDING WEBSITES / VIDEO LINKS)

- <https://www.indiacode.nic.in/bitstream/123456789/1565/1/a1963-36.pdf>
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