

The Limitation Act, 1963

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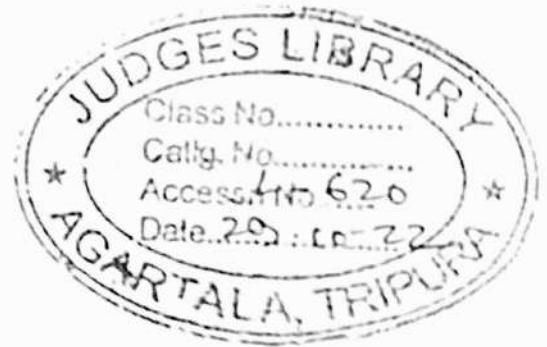
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The Limitation Act, 1963

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The Limitation Act, 1963¹

[Act 36 of 1963]

[5th October, 1963]

An Act to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith

Be it enacted by the Parliament in the Fourteenth Year of the Republic of India as follows:—

Statement of Objects and Reasons.—“The Bill seeks to implement the Third Report of the Law Commission on the Indian Limitation Act, 1908, with one important modification. While giving effect to the recommendations of the Commission as respects the rearrangement of the articles contained in the First Schedule in accordance with their subject-matter and the rationalisation of the periods of limitation as far as possible, it is felt that it would be more advantageous to adhere to the existing scheme which in almost all cases indicates the specific point of time from which the period of limitation begins to run.

An earlier Bill on the subject introduced in the Lok Sabha on the 23rd December, 1960, lapsed on its dissolution.

The notes on clauses explain in detail the provisions of the Bill.”

Statement of Objects and Reasons of Amending Act 10 of 1969.—The Limitation Act, 1963 (hereinafter referred to as the 1963 Act) repealed and re-enacted with modifications the provisions of the Indian Limitation Act, 1908 (hereinafter referred to as the 1908-Act). Clause (a) of Section 30 of the 1963 Act provides a special period of limitation in respect of suits relating to causes of action which had arisen before the commencement of the Act and for which the period of limitation prescribed under that Act is shorter than the period prescribed under the 1908-Act. The clause as originally enacted provided that such suits may be instituted within the period of limitation prescribed under the 1908-Act or within a period of five years from the commencement of the 1963-Act, whichever period expires earlier. The 1963-Act reduced the period of limitation somewhat drastically in respect of certain types of suits. The suits in respect of which the periods of limitation were reduced by the Act include, inter alia, not only suits by or on behalf of Government but also certain types of suits by private individuals. In the case of suits by and on behalf of Government the period of limitation was reduced from 60 to 30 years. Amongst reductions made in the case of suits by private individuals, particular mention may be made of the reduction from 60 years to 30 years in the case of suits to redeem or recover possession of immovable property which has been mortgaged and of the reduction from 30 years to 3 years in the case of suits for recovery of movable property deposited or pawned from a depository or a pawnee. The effect of Section 30(a) of the 1963-Act on these cases may be explained by an illustration. A mortgagor is a debtor and whereas the 1908-Act gave him a period of 60 years to find money to repay his debt and redeem his properties and whereas even the 1963-Act gave him a period of 30 years, in cases to which Section 30(a) of the 1963-Act is attracted, the period may become reduced considerably and in an extreme case where the cause of action has arisen a day before the commencement of the 1963-Act the maximum period would be 5 years. In view of these anomalous consequences and as the maximum period of 5 years provided under Section 30(a) of the 1963-Act was due to expire on the 31st December, 1968, an Ordinance, namely, the Limitation (Amendment) Ordinance, 1968 was

1. Received the assent of the President on the 5th October, 1963 and published in the Gaz. of India, Extra., Part II, S. 1 dated October 5, 1963, pp. 319-347.

promulgated on the 31st December, 1968 to amend, inter alia, Section 30(a) of the 1963-Act so as to increase the maximum period provided therein from 5 years to 7 years.

2. It is felt that even the extension of the maximum period of 5 years provided in clause (a) of Section 30 of the 1963-Act by 2 more years will not be sufficient to avoid the anomalous consequences arising out of the provisions of that clause and that in addition to such extension, it would be necessary to ensure that in the case of no suit the period of limitation actually available will fall short of the period prescribed in the 1963-Act even if the cause of action arose before the commencement of the 1963 Act.

3. The Bill seeks to replace the provisions of the Limitation (Amendment) Ordinance, 1968 insofar as they relate to Section 30(a) of the 1963 Act by an Act of Parliament giving effect to the aforementioned objects.

PART I PRELIMINARY

CASE LAW ▶ Applicability.—Applicability of relevant limitation provisions, held, depends on pleadings and plaint as they stand, and nature of suit cannot be altered by craft of counsel in written submissions or otherwise to bring a suit within limitation. Any alteration in plaint can only take place by amendment under Order 6 Rule 17 CPC, *M. Siddiq (Ram Janmabhumi Temple 5J) v. Suresh Das*, (2020) 1 SCC 1.

Limitation Act, held, cannot be extended by analogy or implication, *M. Siddiq (Ram Janmabhumi Temple 5J) v. Suresh Das*, (2020) 1 SCC 1.

It is not for court to interpret, commercially or otherwise, articles of the Limitation Act when it is clear that a particular article gets attracted. It is well settled that there is no equity about limitation: judgments have stated that often time periods provided by the Limitation Act can be arbitrary in nature, *Gaurav Hargovindbhai Dave v. Asset Reconstruction Co. (India) Ltd.*, (2019) 10 SCC 572.

1. Short title, extent and commencement.—(1) This Act may be called the Limitation Act, 1963.

(2) It extends to the whole of India ²[* * *].

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Date of enforcement: The Act was brought into force w.e.f. January 1, 1964 [Vide Noti. No. S.O. 3118, dated October 29, 1963].

CASE LAW ▶ Nature.—Only prescribes limitation period for filing suit. It does not confer any right or obligation to file suit, *Narayan v. Babasaheb*, (2016) 6 SCC 725 : (2016) 3 SCC (Civ) 483.

▶ **Object.**—The purpose of the Limitation Act is not to destroy rights. It is founded on public policy fixing the life span for legal remedy for the general welfare. The primary function of a court is to adjudicate between the parties and to advance substantial justice. The object of providing legal remedy is to repair the damage caused as a result of legal injury. If the explanation given does not smack of mala fides or is not shown to have been put forth as a part of a dilatory strategy, the court must show utmost consideration to the suitor, *B.T. Purushothama Rai v. K.G. Uthaya*, (2011) 14 SCC 86 : (2012) 4 SCC (Civ) 1077.

2. The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, Ss. 95, 96 and Sch. V (w.e.f. 31-10-2019).

The object of the Law of limitation is to prevent disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by party's own inaction, negligence or laches, *Rajendra Singh v. Santa Singh*, (1973) 2 SCC 705.

Rules of limitation are not meant to destroy the rights of the parties. It is founded on public policy fixing a life span for the legal remedy for the general welfare, *N. Balakrishnan v. M. Krishnamurthy*, (1998) 7 SCC 123.

It is founded on public policy with aim of securing peace, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have become stale due to lapse of time, *Basawaraj v. Land Acquisition Officer*, (2013) 14 SCC 81.

► **Applicability.**—Provisions of Limitation Act, 1963 are not applicable to the proceedings before bodies other than courts, such as a quasi-judicial tribunal or an executive authority. They may not have any application even in certain civil proceedings due to suo motu exercise of powers by the court. Also, they are not applicable to a writ proceeding. There can be no period of limitation for acts which a court is bound to perform, *L.S. Synthetics Ltd. v. Fairgrowth Financial Services Ltd.*, (2004) 11 SCC 456.

Is applicable even to the State of Nagaland. Its applicability to Nagaland is not barred by Article 371-A(1)(a)(iii), *Temjenkaba v. Temjenwati*, (2002) 10 SCC 597.

Since by the time Limitation Act, 1963 was enacted Pondicherry had become part of India, the Limitation Act, 1963 [prescribing that it extends to whole of India except Jammu and Kashmir], automatically extended to the then Pondicherry w.e.f. 1-1-1964. By virtue of enactment of Limitation Act, 1963, law of limitation prescribed by French Code Civil stood impliedly repealed. Hence, instant suit for specific performance of contract filed in Pondicherry in 1991, was governed by Article 54 of Limitation Act, 1963 and not Article 2262 of French Code Civil, *Gothamchand Jain v. Arumugam*, (2013) 10 SCC 472 : (2013) 4 SCC (Civ) 765 : (2013) 131 AIC 84 (SC).

Provisions of Limitation Act apply only in respect of proceedings being prosecuted in courts proper, i.e. courts as understood in the strict sense of being part of the Judicial Branch of the State. Principles underlying provisions of Limitation Act may be applied to quasi-judicial tribunals so long as there is nothing in relevant statutory scheme that rules out or bars applicability of such principles. Principle that courts always lean in favour of advancing the cause of justice where a clear case is made out for so doing, since justice and reason is at the heart of all legislation, *M.P. Steel Corpn. v. CCE*, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “applicant” includes—

- (i) a petitioner;
- (ii) any person from or through whom an applicant derives his right to apply;
- (iii) any person whose estate is represented by the applicant as executor, administrator or other representative;

(b) “application” includes a petition;

(c) “bill of exchange” includes a hundi and a cheque;

(d) “bond” includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;



- (e) "defendant" includes—
- (i) any person from or through whom a defendant derives his liability to be sued;
 - (ii) any person whose estate is represented by the defendant as executor, administrator or other representative;
- (f) "easement" includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in, or attached to, or subsisting upon, the land of another;
- (g) "foreign country" means any country other than India;
- (h) "good faith"—nothing shall be deemed to be done in good faith which is not done with due care and attention;
- (i) "plaintiff" includes—
- (i) any person from or through whom a plaintiff derives his right to sue;
 - (ii) any person whose estate is represented by the plaintiff as executor, administrator or other representative;
- (j) "period of limitation" means the period of limitation prescribed for any suit, appeal or application by the Schedule, and "prescribed period" means the period of limitation computed in accordance with the provisions of this Act;

CASE LAW ▶ "Prescribed period" of limitation.—"Prescribed period" is the period of limitation prescribed under statute. It does not include period extendible by court in exercise of its discretion, wherever provided, to extend period of limitation, *Assam Urban Water Supply & Sewerage Board v. Subash Projects & Mktg. Ltd.*, (2012) 2 SCC 624 : (2012) 1 SCC (Civ) 831.

- (k) "promissory note" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight;
- (l) "suit" does not include an appeal or an application;
- (m) "tort" means a civil wrong which is not exclusively the breach of a contract or the breach of a trust;
- (n) "trustee" does not include a benamidar, a mortgagee remaining in possession after the mortgagee has been satisfied or a person in wrongful possession without title.

NOTES ▶ Applicant.—The definition of the term 'applicant', as given in the present Act, is more inclusive and wide than the definition of the term given in the repealed Act IX of 1908. It includes a petitioner as well as any person whose estate is represented by the applicant as executor, administrator or other representative along with any person from or through whom an applicant derives his right to apply.

PART II

LIMITATION OF SUITS, APPEALS AND APPLICATIONS

3. Bar of limitation.—(1) Subject to the provisions contained in Sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after

the prescribed period shall be dismissed although limitation has not been set up as a defence.

(2) For the purposes of this Act,—

(a) a suit is instituted,—

(i) in an ordinary case, when the plaint is presented to the proper officer;

(ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and

(iii) in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator;

(b) any claim by way of a set-off or a counter-claim, shall be treated as a separate suit and shall be deemed to have been instituted—

(i) in the case of a set-off, on the same date as the suit in which the set-off is pleaded;

(ii) in the case of a counter-claim, on the date on which the counter claim is made in court;

(c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court.

CASE LAW ▶ Applicability.—Provisions of the Act, prima facie would be attracted in all types of suits, *Prem Singh v. Birbal*, (2006) 5 SCC 353.

▶ **Limitation — Commencement of.**—The cause of action arises when the real dispute arises, i.e. when one party asserts and the other party denies any right. Hence what has to be determined is the real dispute between the parties, *Rashtriya Ispat Nigam Ltd. v. Prathyusha Resources & Infra (P) Ltd.*, (2016) 12 SCC 405 : (2016) 4 SCC (Civ) 758.

▶ **Defence.**—Though period of limitation prescribed in Limitation Act precludes a plaintiff from bringing a suit which is barred by limitation, there is no such limitation so far as any defence is concerned, *Bajranglal Shivchandrai Ruia v. Shashikant N. Ruia*, (2004) 5 SCC 272.

▶ **Construction of provisions.**—Provisions of the Act should be construed liberally. However, different provisions require different construction. While Section 5 should be construed liberally, same principle need not apply in construing Section 3. Civil court has no jurisdiction to extend the periods of limitation prescribed under the Act, *Bhag Mal v. Munshi*, (2007) 11 SCC 285.

▶ **Bar of Limitation.**—Duty of court goes to the root of the matter. If suit, appeal or application is beyond limitation, court or adjudicating authority has no jurisdiction, power or authority to entertain the matter and decide it on merits. The court has an independent duty to look into aspect of limitation even though limitation has not been set up as a defence, *Noharlal Verma v. Distt. Coop. Central Bank Ltd.*, (2008) 14 SCC 445.

Rules of limitation not meant to destroy rights of parties. They are meant to see that parties do not resort to dilatory tactics but seek remedy promptly. During efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy. Unending period of launching remedy may lead

to unending uncertainty and consequential anarchy. Law of limitation thus founded on public policy, *Bhivchandra Shankar More v. Balu Gangaram More*, (2019) 6 SCC 387.

► **Duty of trial court.**—It is incumbent upon trial court to consider the issue of limitation on its own initiative even if that issue is not raised by parties concerned. Where the issue of limitation was not raised during trial by appellant State and also the trial court failed to consider that issue on its own initiative, held, the said issue could be raised in appeal including any successive appeal, *State of Gujarat v. Kothari & Associates*, (2016) 14 SCC 761.

► **Nature of question.**—Section 3 clearly provides that every suit instituted, appeal preferred and application made after the prescribed period of limitation, subject to the provisions contained in Sections 4 to 24, shall be dismissed although limitation has not been set up as a defence. A plea of limitation or plea of res judicata is a plea of law which concerns the jurisdiction of the court which tries the proceeding, since a finding on either plea in favour of the party raising it would oust jurisdiction of court, *Foreshore Coop. Housing Society Ltd. v. Praveen D. Desai*, (2015) 6 SCC 412 : (2015) 3 SCC (Civ) 333.

► **Filing of suit within the stipulated limitation period.**—In order to decide the question of limitation as to whether the suit is filed within time or not, the Court is mainly required to see the plaint allegations and how the plaintiff has pleaded the accrual of cause of action for filing the suit, *Ghewarchand v. Mahendra Singh*, (2018) 10 SCC 588.

4. Expiry of prescribed period when court is closed.—Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court reopens.

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

NOTES ► **Introduction.**—This section corresponds to Section 4 of the repealed Act IX of 1908 except the variation that the explanation attached to the section has been newly inserted.

CASE LAW ► **Non-working Saturday of court.**—Non-working Saturday of court is meant for Judges to enable them to write judgments, when Registry remains functional, held, cannot be regarded as a court holiday. When last date for filing suit was 31-12-2010, i.e the last day of winter vacation for court and next day was a non-working Saturday, filing of suit on 3-1-2011 (Monday), held, barred by limitation since non-working Saturday cannot be treated as a closed day of court so as to attract Section 4, *Ajay Gupta v. Raju*, (2016) 14 SCC 314.

5. Extension of prescribed period in certain cases.—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.

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

NOTES ▶ Introduction.—This section corresponds to Section 5 of repealed Act IX of 1908. It is not applicable to applications made under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (Execution of decrees and orders). Again, this section does not apply to suits. It applies only to such appeals or applications as specified therein.

CASE LAW ▶ Applicability.—Limitation Act applies to courts and not to quasi-judicial authorities, *Popat Bahiru Govardhane v. Land Acquisition Officer*, (2013) 10 SCC 765.

If any special or local law specifically provides for applicability of provisions of Limitation Act including Section 5 thereof in deciding appeal by statutory authority which is not a court, same will apply, *Ganesan v. T.N. Hindu Religious & Charitable Endowments Board*, (2019) 7 SCC 108.

▶ Condonation of delay.—In absence of any application for condonation of delay, the court has no jurisdiction in terms of Section 3, Limitation Act, 1963 to entertain the application filed for setting aside of decree after expiry of period of limitation, *Sneh Gupta v. Devi Sarup*, (2009) 6 SCC 194 : (2009) 2 SCC (Civ) 827.

Courts should not take liberal approach in matter of condonation of delay when State's action in preferring appeal is marred by serious laches and negligence in absence of "sufficient cause", *Amalendu Kumar Bera v. State of W.B.*, (2013) 4 SCC 52 : (2013) 2 SCC (Civ) 459.

Pragmatic attitude should be adopted by courts and a distinction made between cases in which delay is inordinate, thus giving rise to question of prejudice to the other side and requiring a more cautious approach, and a case where delay is of a few days only. However, no hard-and-fast rule can be laid down, *Vedabai v. Shantaram Baburao Patil*, (2001) 9 SCC 106.

For condonation of delay hypertechnical approach must be avoided. Conduct of party itself to be seen, not of its counsel, *Improvement Trust v. Ujagar Singh*, (2010) 6 SCC 786 : (2010) 2 SCC (Civ) 798.

Obligation of court while dealing with application for condonation of delay and approach to be adopted while considering grounds for condonation — Principles summarised, *Esha Bhattacharjee v. Raghunathpur Nafar Academy*, (2013) 12 SCC 649.

If court is convinced that there has been an attempt on part of government officials or public servants to defeat justice by causing delay, court, in view of the larger public interest, should take a lenient view in such situations, condone the delay, howsoever huge may be the delay, and have the matter decided on merits, *Antiyur Town Panchayat v. G. Arumugam*, (2015) 3 SCC 569.

When justice is at stake, held, technical or pedantic approach should not be adopted by courts to do justice when there is miscarriage of justice caused to public litigant, *B.S. Sheshagiri Setty v. State of Karnataka*, (2016) 2 SCC 123 : (2016) 1 SCC (Civ) 636.

Section 14 of the Limitation Act does not provide for a fresh period of limitation but only provides for exclusion of a certain period. Having regard to legislative intent, Section 14 of the Limitation Act, 1963 would be applicable to an application submitted under Section 34 of the 1996 Act for setting aside an arbitral award, *Simplex Infrastructure Ltd. v. Union of India*, (2019) 2 SCC 455.

▶ Filing of application seeking condonation of delay.—It is not mandatory to file an application in writing before relief can be granted under Section 5. Further, had such an application been mandatory, Section 5 would have expressly provided so. However, the court can always insist that an application or an affidavit showing cause for the delay be filed - Further, no applicant or appellant can claim condonation of

delay under Section 5 of the Limitation Act as of right, without making an application, *Sesh Nath Singh v. Baidyabati Sheoraphuli Coop. Bank Ltd.*, (2021) 7 SCC 313.

► **Sufficient cause.**—Expression “sufficient cause”, held, should be construed liberally on facts without any hard-and-fast rule. No doubt, substantive rights of parties should not be ignored because of delay, but a distinction must be made between delay of few days and inordinate delay causing prejudice to the other side. No premium can be given for total lethargy or utter negligence of State officers/machinery/agency/instrumentality, and condonation of delay caused by such officers cannot be allowed as a matter of course by accepting plea that dismissal on ground of limitation will cause injury to public interest, *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai*, (2012) 5 SCC 157.

Term “sufficient cause” is to receive liberal construction so as to advance substantial justice, when no negligence, inaction or want of bona fides is attributable to appellants, court should adopt a justice-oriented approach in condoning delay, *K. Subbarayudu v. LAO*, (2017) 12 SCC 840.

When aggrieved persons not made a party before court against whose order they had appealed, it is sufficient cause for condonation of delay in filing appeal, *Hetal Chirag Patel v. State of Gujarat*, (2018) 7 SCC 703.

► **Exclusion of period.**—Peremptory or mandatory language providing for statutory period of limitation, including a grace period, which may be provided on showing of sufficient cause. Words such as “not exceeding” or “but not thereafter”, held, are equivalent in clearly indicating that the limitation period can be extended no further, *Bengal Chemists & Druggists Assn. v. Kalyan Chowdhury*, (2018) 3 SCC 41.

6. Legal disability.—(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.

(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.

(5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been available to that person had he not died.

Explanation.—For the purposes of this section, ‘minor’ includes a child in the womb.

NOTES ▶ Introduction.—This section corresponds to Section 6 of the repealed Act IX of 1908. Illustrations to the old section have been *omitted*, and clause (5) and Explanation have been newly enacted in the present section to clarify the complications and to lay down a consolidated law on the subject. This section applies to the institution of suit or making application for the execution of a decree but does not apply to appeals. Again, this section applies only to cases dealt with by the Act itself and is not applicable to cases for which a period of limitation is prescribed by other Acts.

▶ **Idiot.**—See notes under the preceding head. An idiot is a person whose state of mind must be such as to render him affected and unable to understand the nature and consequences of the act he is entering into. Any kind of eccentricity or a mere lack of ordinary intelligence will not necessarily be termed as 'idiocy'.

CASE LAW ▶ Applicability.—In a given case, if the person entitled to institute a proceeding not governed by the Limitation Act is a minor, a lunatic or an idiot, it cannot be said that such person would not be entitled to institute such proceedings after such disability has ceased, for otherwise he would be barred by the period of limitation contained in the particular statute governing his rights. Section 6 again is a pointer to the fact that courts always lean in favour of advancing the cause of justice where a clear case is made out for so doing, *M.P. Steel Corpn. v. CCE*, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510.

7. Disability of one of several persons.—Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all; but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

Explanation I.—This section applies to a discharge from every kind of liability, including a liability in respect of any immovable property.

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

NOTES ▶ Introduction.—This section corresponds to Section 7 of the repealed Act IX of 1908 with the variation that the illustrations to the old section have been *omitted* and two explanations have been newly enacted in order to clarify the complications and consolidate the law on the subject. This section is supplementary to the preceding section.

▶ **Discharge by guardian.**—A natural or a legal guardian can give a valid discharge on behalf of his ward. But a *de facto* guardian cannot give a valid discharge.

8. Special exceptions.—Nothing in Section 6 or in Section 7 applies to suits to enforce rights of pre-emptions, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period of limitation for any suit or application.

NOTES ▶ Introduction.—This section corresponds to Section 8 of the repealed Act, IX of 1908. Illustrations to old section have been *omitted*. The present section is ancillary and restrictive of the exceptions granted in the preceding Sections 6 and 7. It does not provide any privilege.

► **Section as proviso to Sections 6 and 7.**—The present section *adds* a proviso to Sections 6 and 7. Under Section 6 a person under disability may sue after the cessation of disability within the same period as would otherwise have been allowed from the time specified therefor in the Schedule, but the present section lays down that in no case can the period be extended to anything beyond three years from the cessation of disability. If a minor acquired a cause of action to sue but after attaining majority died within the three years allowed by this section, his legal representative can institute a suit at any time within three years' period which had already commenced within the lifetime of the deceased.

9. Continuous running of time.—Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application 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 the debt shall be suspended while the administration continues.

NOTES ► Introduction.—This section altogether corresponds to Section 9 of the repealed Act IX of 1908. The rule of this section is based upon this English dictum : "Time when once it has commenced to run in any case will not cease to do so by reason of any subsequent event." Generally, when any of the statute of limitation has begun to run, no subsequent disability or inability will stop this running. (Bonning on Limitation.)

► **Scope.**—The scope of the proposition of law set forth in this section is limited to suits and applications only and does not apply to appeals. Application in execution also comes within the scope of this section.

10. Suits against trustees and their representatives.—Notwithstanding anything contained in the foregoing provisions of this Act, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time.

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

NOTES ► Introduction.—This section altogether corresponds to Section 10 of the repealed Act IX of 1908. The rule of this section follows the English law laid down under Section 25(2) of the English Judicature Act, 1873 which reads : "No claim of a *Cestui que* trust against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any statute of limitation."

► **Scope.**—The beneficiary's remedy comes within the scope of this section and it is well settled, both as regards real estate or personal estate, that time does not in equity bar the remedy of the beneficiary against the trustee. The section clearly lays down the rule that when a trust has been created expressly for some specific purpose or object, and property has become vested in a trustee upon such trust, the person who is beneficially interested in that trust may bring a suit against such trustee to enforce that trust at any distance

of time without being barred by the law of limitation. A fraudulent trustee who has misappropriated the trust property cannot escape from his liability under this section notwithstanding any length of time has expired.

CASE LAW ▶ Applicability.—Where Wakf's suit for recovery of possession of suit properties against persons who claimed to have purchased the said properties Section 10 is not applicable, *T. Kaliampurthi v. Five Gori Thaikkal Wakf*, (2008) 9 SCC 306.

When Suit in relation to disputed debutter property has been instituted by next friend of deity with deity as first plaintiff on ground that certain other pending suits in relation to debutter property were not adequately prosecuting or safeguarding interests of deity or debutter property. Section 10, held, not applicable, *M. Siddiq (Ram Janmabhumi Temple 5J) v. Suresh Das*, (2020) 1 SCC 1.

11. Suits on contracts entered into outside the territories to which the Act extends.—(1) Suits instituted in the territories to which this Act extends on contracts entered into in the State of Jammu and Kashmir or in a foreign country shall be subject to the rules of limitation contained in this Act.

(2) No rule of limitation in force in the State of Jammu and Kashmir or in a foreign country shall be a defence to a suit instituted in the said territories on a contract entered into in that State or in a foreign country unless—

- (a) the rule has extinguished the contract; and
- (b) the parties were domiciled in that State or in the foreign country during the period prescribed by such rule.

NOTES ▶ Introduction.—This section corresponds to Section 11 of the repealed Act IX of 1908 with certain modifications. The rule of this section is based on the principle of International Jurisprudence that “all suits must be brought within the period prescribed by the local law of the country where the suit is brought, otherwise the suit will be barred”.

PART III

COMPUTATION OF PERIOD OF LIMITATION

General

12. Exclusion of time in legal proceedings.—(1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.

(2) In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.

(3) Where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order, the time requisite for obtaining a copy of the judgment ³[* * *] shall also be excluded.

3. The words “on which the decree or order is founded” omitted by Act 46 of 1999, S. 33 (w.e.f. 1-7-2002).

(4) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

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

CASE LAW ▶ Introduction.—This section corresponds to Section 12 of the repealed Act IX of 1908 with certain modification. The explanation is newly enacted to clarify complications.

Delay caused by the appellant's carelessness or negligence cannot be considered "time requisite" and cannot be excluded, *Gopal Krishan Das v. Sailendra Nath Biswas*, (1975) 1 SCC 815.

Delay by the office or the court for which the appellant is not responsible, have to be excluded as being time requisite for obtaining the copies, *Gopal Krishan Das v. Sailendra Nath Biswas*, (1975) 1 SCC 815.

▶ **Appeal.**—Though no period is prescribed for making an application for certified copy of judgment and delivery thereof, but once an application is made within prescribed period of limitation time spent in preparation and supply of copy is excluded in computing period of limitation prescribed for filing appeal or revision, *R. Indira Saratchandra v. State of T.N.*, (2011) 10 SCC 344 : (2012) 3 SCC (Civ) 632.

▶ **Decrees or orders.**—No distinction to be drawn between decrees or orders pronounced on the original side or appellate or revisional side, *India House v. Kishan N. Lalwani*, (2003) 9 SCC 393.

▶ **Special or local law.**—Limitation period prescribed by special or local law must be strictly applied, but full effect must be given to provisions, such as those under Section 12, Limitation Act, permitting relaxation or extension of such period. Considerations of equity are no grounds for relaxing statutorily prescribed periods of limitation, *India House v. Kishan N. Lalwani*, (2003) 9 SCC 393.

13. Exclusion of time in cases where leave to sue or appeal as a pauper is applied for.—In computing the period of limitation prescribed for any suit or appeal in any case where an application for leave to sue or appeal as a pauper has been made and rejected, the time during which the applicant has been prosecuting in good faith his application for such leave shall be excluded, and the court may, on payment of the court fees prescribed for such suit or appeal, treat the suit or appeal as having the same force and effect as if the court fees had been paid in the first instance.

NOTES ▶ Introduction.—This section has been newly enacted in place of Section 13 of the repealed Act IX of 1908. It lays down the rules for the exclusion of the time cases where leave to sue or appeal as a pauper is applied for.

14. Exclusion of time of proceeding bona fide in court without jurisdiction.—(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil

proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in Rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under Rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

Explanation.—For the purposes of this section,—

- (a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;
- (b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;
- (c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

NOTES ▶ Introduction.—This section corresponds to Section 14 of the repealed Act IX of 1908, with certain modifications. Clause (3) of this section has been newly enacted. This section lays down the rules for the exclusion of time of proceeding bona fide in court without jurisdiction. It applies to the institution of suits of making application but is not applicable for the purposes of computation of time for appeals. However, the principle underlying this section may be applied as constituting a sufficient cause within the meaning of Section 5 for the purposes of condonation of delay in appeals.

CASE LAW ▶ Applicability.—Even though provisions of Section 14 apply only to courts proper, i.e. courts as understood in the strict sense of being part of the Judicial Branch of the State, but principles underlying Section 14 which advance cause of justice, held, apply to appeals filed before quasi-judicial tribunal such as that under Section 128 of Customs Act. Furthermore, Section 128 of Customs Act is not a complete code by itself so as to exclude operation of Section 14 of Limitation Act, 1963, *M.P. Steel Corpn. v. CCE*, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510.

Principles under Section 14 of Limitation Act, 1963 can be applied even when Section 5 of 1963 Act is not applicable, is no more res integra, *Suryachakra Power Corpn. Ltd. v. Electricity Deptt.*, (2016) 16 SCC 152.

▶ **Entitlement to benefit of.**—Where both the parties instituted suits against each other, appellant cannot be said to be lacking in bona fides in resorting to remedy of suit, and hence would be entitled to benefit of Section 14, *Arm Group Enterprises Ltd. v. Waldorf Restaurant*, (2003) 6 SCC 423.

▶ **Limitation/Delay/Laches.**—The Haryana Panchayati Raj Act, 1994 is a complete code for presentation of election petitions. It mandates that an election petition must be filed within 30 days from the date of declaration of results of election. Under the Act, there is no provision for condoning delay or extending the period of limitation. Hence, extension of that period of limitation by virtue of Section 14 of the Limitation Act, 1963 is not permissible. Legislature having prescribed a specific period for filing an election petition,

any petition which fails to comply therewith is liable to be dismissed, *Suman Devi v. Manisha Devi*, (2018) 9 SCC 808.

► **Exclusion of time.**—Respondent pursuing his relief in wrong forum, held, may be advised to file separate suit by invoking provisions of the Limitation Act, *Bharat Karsondas Thakkar v. Kiran Construction Co.*, (2008) 13 SCC 658.

► **Exclusion of period.**—Exclusion of period of proceeding in court/forum without jurisdiction puts plaintiff/applicant in same position as he was when abortive proceeding started, *M.P. Steel Corpn. v. CCE*, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510.

So long as the plaintiff or applicant is bona fide pursuing a legal remedy which turns out to be abortive, the time beginning from the date of the cause of action of an appellate or revisional proceeding is also to be excluded if such appellate/revisional proceeding is from an order in an original proceeding which turns out to be abortive. However, the period prior to the initiation of any abortive proceeding cannot be excluded for the simple reason that Section 14 does not enable a litigant to get a benefit beyond what is contemplated by it i.e. to put the litigant in the same position as if the abortive proceeding had never taken place, *M.P. Steel Corpn. v. CCE*, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510.

► **Mode of construction.**—Section 14 should be construed liberally, *Shakti Tubes Ltd. v. State of Bihar*, (2009) 1 SCC 786.

► **Policy underlying.**—Section 14 recognises bona fide mistake in selecting a wrong forum. Legislative intent is to exempt this period. Equity underlying Section 14, therefore, should be applied to its fullest extent, *Consolidated Engg. Enterprises v. Irrigation Deptt.*, (2008) 7 SCC 169.

► **Word “court”, occurring in Section 14.**—Any authority or tribunal having trappings of a court covered under word “court”, occurring in Section 14 and it need not be a civil court. Appellate authority under Section 41 of T.N. Shops and Establishments Act, is a “court”, *P. Sarathy v. State Bank of India*, (2000) 5 SCC 355 : (2000) SCC (L&S) 699.

► **Good faith.**—Time taken for proceeding with suit without impleading necessary party cannot be excluded under Section 14(3) and is a clear case of laches because (i) party pursuing such suit cannot be said to be acting in “good faith”, which expression, as used in Section 14, means “exercise of due care and attention”; (ii) in such a case permission granted for withdrawal of suit would not be because court lacks jurisdiction or for any other “cause of a like nature”. A finding on existence of “good faith” would be a finding of fact, *Deena v. Bharat Singh*, (2002) 6 SCC 336.

► **Absence of formal plea.**—Absence of formal plea regarding exclusion of period under Section 14 of Limitation Act in proceeding preferred before proper forum is not fatal when in application filed in proceeding before proper forum for condonation of delay, party concerned stated that period during which he was pursuing remedy before wrong forum ought to be excluded, *M.P. Steel Corpn. v. CCE*, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510.

► **Claim for exclusion of time.**—Termination of the wrongly pursued proceedings is not essential for claiming exclusion of time under Section 14 of the Limitation Act i.e. exclusion can be claimed even while the proceedings in wrong forum are pending, *Sesh Nath Singh v. Baidyabati Sheoraphuli Coop. Bank Ltd.*, (2021) 7 SCC 313.

15. Exclusion of time in certain other cases.—(1) In computing the period of limitation for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of 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.

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

Explanation.—In excluding the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be counted.

(3) In computing the period of limitation for any suit or application for execution of a decree by any receiver or interim receiver appointed in proceedings for the adjudication of a person as an insolvent or any liquidator or provisional liquidator appointed in proceedings for the winding up of a company, the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of appointment of such receiver or liquidator, as the case may be, shall be excluded.

(4) In computing the period of limitation for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

(5) In computing the period of limitation for any suit the time during which the defendant has been absent from India and from the territories outside India under the administration of Central Government shall be excluded.

NOTES ▶ Introduction.—This section corresponds to Section 15 of the repealed Act IX of 1908 with certain modifications. The explanation attached to this section has been newly enacted to clarify the complications and to consolidate all the laws on the subject. This section lays down the rules for the exclusion of time in cases where proceedings are suspended for reasons specified therein. It is applicable to suits and applications for the execution of decrees for the purposes of computing the period of limitation but does not apply to appeals.

CASE LAW ▶ Execution.—Word “execution” includes all processes and proceedings in aid to or supplemental to execution, *Chandi Prasad v. Jagdish Prasad*, (2004) 8 SCC 724 : (2004) 3 KLT 654.

▶ **Period of notice.**—Sixty days’ period of notice under Section 80 CPC, must be excluded for the purpose of computation of limitation period, *Shakti Tubes Ltd. v. State of Bihar*, (2009) 1 SCC 786.

▶ **Period of absence from India.**—Period of absence of defendant from India is liable to be excluded for computing limitation period for filing suit, *Satya Jain v. Anis Ahmed Rushdie*, (2013) 8 SCC 131 : (2013) 3 SCC (Civ) 738.

► **Exclusion of period.**—Exclusion of notice period in terms of, while calculating limitation period is not relevant where the notice was issued after the suit became time-barred, *State of Gujarat v. Kothari & Associates*, (2016) 14 SCC 761.

16. Effect of death on or before the accrual of the right to sue.—(1) Where a person who would, if he were living, have a right to institute a suit or make an application dies before the right accrues, or where a right to institute a suit or make an application accrues only on the death of a person, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting such suit or making such application.

(2) Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, or where a right to institute a suit or make an application against any person accrues on the death of such person, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute such suit or make such application.

(3) Nothing in sub-section (1) or sub-section (2) applies to suits to enforce rights of pre-emption or to suits for the possession of immovable property or of a hereditary office.

17. Effect of fraud or mistake.—(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,—

- (a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or
- (b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or
- (c) the suit or application is for relief from the consequences of a mistake; or
- (d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him;

the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, 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:

Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which—

- (i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or
- (ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a

person who did not know, or have reason to believe, that the mistake had been made, or

- (iii) in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.

(2) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:

Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.

NOTES ▶ Introduction.—This section corresponds to Section 18 of the repealed Act IX of 1908, but is newly enacted consolidating all the scattered laws on the subject. It lays down the rules as to effect of fraud or mistake on the computation of the period of limitation for instituting a suit or making an application. The principle underlying this section is that the right of party depended or under mistake cannot be affected by lapse of time so long as he remains, without any fault of his own, in ignorance of the fraud or mistake which has been committed.

CASE LAW ▶ Nature.—Embody fundamental principles of justice and equity, *Pallav Sheth v. Custodian*, (2001) 7 SCC 549.

18. Effect of acknowledgment in writing.—(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.

Explanation.—For the purposes of this section,—

- (a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right,
- (b) the word “signed” means signed either personally or by an agent duly authorised in this behalf, and
- (c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.

NOTES ▶ Introduction.—The section corresponds to Section 19 of the repealed Act IX of 1908 in all respects. It lays down the law as to effect of acknowledgment in writing on the computation of the period of limitation for institution of a suit or making an application.

CASE LAW ▶ Applicability.—For computation of fresh period of limitation from date of acknowledgment of liability, there is necessity of conclusive acknowledgment of the liability. Exchange of communications between the parties without any conclusive acknowledgment of liability, held, not enough, *CLP India (P) Ltd. v. Gujarat Urja Vikas Nigam Ltd.*, (2020) 5 SCC 185.

▶ **Nature, scope and object.**—Acknowledgments under this provision may be made in reference to all suits involving properties or rights for which limitation is prescribed under the Act, and may be made by either/any party to a transaction. This is the case since the rights and obligations of one party are correlative/coextensive with the corresponding obligations and rights of the other party, *Prabhakaran v. M. Azhagiri Pillai*, (2006) 4 SCC 484.

▶ **Acknowledgement in writing.**—Acknowledgement in writing must indicate existence of jural relationship such as that of debtor and creditor between the parties. Intention to admit such jural relationship is essential, which can be inferred from the clear statement containing the acknowledgement. Such statement is generally liberally construed by court. Once admission acknowledging the jural relationship and existence of liability is made, it is immaterial that the admission is accompanied by assertion that nothing would be found due from the maker of the admission of some amount would be payable to him by the person to whom the statement was made, *Food Corpn. of India v. Assam State Coop. Marketing & Consumer Federation Ltd.*, (2004) 12 SCC 360.

▶ **Acknowledgment in document made under compulsion of law.**—A document is not taken out of the purview of Section 18 merely on the ground that it is made under compulsion of law or in discharge of statutory duty. Whether such document contains acknowledgment which satisfies the requirements of Section 18, further held, is a question of fact, to be determined in each case. Thus, whether entry in balance sheet prepared in accordance with law, amounts to acknowledgment for purposes of Section 18, is also a question of fact to be determined in each case, *Asset Reconstruction Co. (India) Ltd. v. Bishal Jaiswal*, (2021) 6 SCC 366.

▶ **Unqualified acknowledgement.**—Unqualified acknowledgement of liability causes fresh period of limitation to begin and also gives plaintiff a cause of action to base his claim on, *Syndicate Bank v. R. Veeranna*, (2003) 2 SCC 15.

19. Effect of payment on account of debt or of interest on legacy.—Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made:

Provided that, save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.

Explanation.—For the purposes of this section,—

- (a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment.

(b) “debt” does not include money payable under a decree or order of a court.

NOTES ▶ Introduction.—This section corresponds to Section 20 of the repealed Act IX of 1908, with certain modifications. The proviso to sub-section (a) enacted by this section was *substituted* to sub-section (1) of Section 20 of the repealed Act IX of 1908, by the Indian Limitation (Amendment) Act I of 1927. This section and the preceding section are not mutually exclusive. They lay down the law in their respective particular spheres. The preceding section only operates against the person who makes the acknowledgment but this section makes the part-payment good in favour of any suit on that liability.

CASE LAW ▶ Conditions to claim exemption.—To claim exemption the payment must be made within the prescribed period of limitation and it must be acknowledged by some form of writing either in handwriting of payer himself or signed by him. Further, unless there is acknowledgment in the required form, payment by itself is of no avail, *Shanti Conductors (P) Ltd. v. Assam SEB*, (2020) 2 SCC 677.

20. Effect of acknowledgment or payment by another person.—(1) The expression “agent duly authorised in this behalf” in Sections 18 and 19 shall, in the case of a person under disability, include his lawful guardian, committee or manager or an agent duly authorised by such guardian, committee or manager to sign the acknowledgment or make the payment.

(2) Nothing in the said sections renders one of several joint contractors, partners, executors or mortgagees chargeable by reason only of a written acknowledgment signed by, or of a payment made by, or by the agent of, any other or others of them.

(3) For the purposes of the said sections,—

- (a) an acknowledgment signed or a payment made in respect of any liability by, or by the duly authorised agent of, any limited owner of property who is governed by Hindu law, shall be a valid acknowledgment or payment, as the case may be, against a reversioner succeeding to such liability; and
- (b) where a liability has been incurred by, or on behalf of a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly authorised agent of, the manager of the family for the time being, shall be deemed to have been made on behalf of the whole family.

NOTES ▶ Introduction.—This section corresponds to Section 21 of the repealed Act IX of 1908. Clause (1) of this section explains certain terms as used in Sections 18 and 19. Clause (2) is a barring clause applicable to joint contractors, partners, executors and mortgagees. Clause (3), as enacted, was *added* to Section 21 of the repealed Act IX of 1908 by the Indian Limitation (Amendment) Act I of 1927. This section, as a whole, is supplementary to the preceding Sections 18 and 19.

21. Effect of substituting or adding new plaintiff or defendant.—(1) Where after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Provided that where the court is satisfied that the omission to include a new plaintiff or defendant was due to a mistake made in good faith it may direct that the suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date.



(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

NOTES ▶ Introduction.—This section corresponds to Section 22 of the repealed Act IX of 1908, with the variation that proviso to sub-section (1) is newly enacted and *added*. The application of this section is confined to suits only and does not extend to proceedings in execution or appeals or other proceedings.

CASE LAW ▶ Impleadment of new defendant.—Unless court expressly directs otherwise by a separate and further order under the proviso, suit would be deemed to have been instituted against such defendant on the date of his impleadment, not any earlier date, *Ramalingam Chettiar v. P.K. Pattabiraman*, (2001) 4 SCC 96.

22. Continuing breaches and torts.—In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or tort, as the case may be, continues.

NOTES ▶ Introduction.—This section corresponds to Section 23 of the repealed Act IX of 1908. It aims to prevent multiplicity of suits and to enable the person to bring one action for all loss suffered by him during the whole period the tort or the breach continued.

CASE LAW ▶ Suit for encroachment.—Encroachment of a public property like a public road is a public wrong. So long as any obstruction or obstacle is created to free and unhindered access and movement on the road, wrongful act continues. Being a continuing source of wrong and injury, cause of action is created as long as such injury continues. Hence, as encroachment of a public street by any person is a continuing cause of action, plea of suit being barred by limitation has no merit, *Hari Ram v. Jyoti Prasad*, (2011) 2 SCC 682 : (2011) 1 SCC (Civ) 540.

23. Suits for compensation for acts not actionable without special damage.—In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

NOTES ▶ Introduction.—This section corresponds to Section 24 of the repealed Act IX of 1908, with the variation that the illustration to the old section has been *omitted*. The principle underlying this section is that where the cause of action lies, not in a specific act or omission, but in the resulting damage, the statute runs from the time when the plaintiff sustains the loss.

24. 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.

NOTES ▶ Introduction.—This section corresponds to Section 25 of the repealed Act IX of 1908, with the variation that the illustrations to the old section have been *omitted*.

PART IV

ACQUISITION OF OWNERSHIP BY POSSESSION

25. Acquisition of easements by prescription.—(1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as

an easement, and as of right, without interruption, and for twenty years, and where any way or watercourse or the use of any water or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption and for twenty years, the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible.

(2) Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

(3) Where the property over which a right is claimed under sub-section (1) belongs to the Government that sub-section shall be read as if for the words "twenty years" the words "thirty years" were substituted.

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

STATE AMENDMENTS

ORISSA

Repeal of Sections 25 and 26 of Limitation Act, 1963.—Sections 25 and 26 of the Limitation Act, 1963 in so far as they apply to the State of Orissa are hereby repealed.—*Vide* Orissa Act 24 of 1967.

NOTES ▶ Introduction.—This section corresponds to Section 26 of the repealed Act IX of 1908. Illustrations to the old section have been *omitted*. In sub-section (2) the period of acquisition of easement by prescription over the property belonging to Government has been prescribed thirty years instead of sixty years and as prescribed under sub-section (2) of the repealed Act IX of 1908. This section is comparable with Section 15 of the Indian Easements Act V of 1882 which has been amended by this Act under Section 28. The scope of this section is confined only to the acquisition of easements and measure the extent of the right or to indicate remedy for its disturbance.

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

NOTES ▶ Introduction.—This section corresponds to Section 27 of the repealed Act IX of 1908, with the variation that the Illustration to the old section has been omitted. It is also comparable with Section 16 of the Indian Easements Act V of 1882. It aims to safeguard the interest of the reversioners of servient tenements.

STATE AMENDMENTS

ORISSA

Repeal of Sections 25 and 26 of Limitation Act, 1963.—Sections 25 and 26 of the Limitation Act, 36 of 1963 in so far as they apply to the State of Orissa are hereby repealed.—*Vide* Orissa Act 24 of 1967.

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

NOTES ▶ Introduction.—This section corresponds to Section 28 of the repealed Act IX of 1908 without any modification. This section is applicable to the cases in which the adverse possession of the property is in question.

CASE LAW ▶ Title by adverse possession.—For determination of question of acquisition of title by adverse possession, proper court is civil court in a properly constituted suit under CPC. Civil court/Rent Controller in eviction suit filed under Rent Control Act, cannot determine such question, *Tribhuvanshankar v. Amrutlal*, (2014) 2 SCC 788.

▶ **Adverse possession.**—Adverse possession must be actual, open, hostile, exclusive and continuous, *Tribhuvanshankar v. Amrutlal*, (2014) 2 SCC 788.

▶ **Acquisition of ownership by adverse possession.**—Use of adverse possession as a sword by plaintiff is permissible in view of three-Judge Bench decision in *Ravinder Kaur Grewal*, (2019) 8 SCC 729. Person claiming acquisition of title by adverse possession can now file a suit for declaration of title and possession, based on his adverse possession, *Narendra Kumar Tripathi v. Karuna Auddy*, (2020) 3 SCC 220.

▶ **Acquisition of ownership by possession.**—Remedies available to person who perfects his title to property by adverse possession (Article 65), and even to person in settled possession who is yet to perfect his title by adverse possession (Article 64) are: (1) Firstly, held, once 12 years' period of adverse possession is over, the owner's right to eject the person in adverse possession (adverse possessee/possessory owner) is lost and the possessory owner acquires the right, title and interest possessed by the outgoing person/owner, as the case may be, against whom he has established the period of prescription. (2) Secondly, held, such adverse possessee/possessory owner can not only seek to protect his title as defendant in a suit but can also file suit for declaration of his title and for permanent injunction restraining defendant from interfering with his possession, where owner whose title stood extinguished, or any other person seeks to dispossess him from property. This would include the case where the property is sold away by the owner after the extinguishment of his title: in which case also a suit can be filed by a person who has perfected his title by adverse possession to question alienation and attempt of dispossession. Rulings of Supreme Court holding that person who had perfected his title by adverse possession could only protect his title as defendant in a suit, but could not file a suit for declaration of his title/protection of his possession, overruled. (3) Thirdly, held, even before ripening of his title by adverse possession, possessory suit under Article 64 can be maintained by person in settled possession against person seeking to dispossess him by force without recourse to law. Possession confers enforceable right under Section 6 of Specific Relief Act, 1963, *Ravinder Kaur Grewal v. Manjit Kaur*, (2019) 8 SCC 729.

PART V
MISCELLANEOUS

28. Amendment of certain Acts.—⁴[* * *]

29. Savings.—(1) Nothing in this Act shall affect Section 25 of the Indian Contract Act, 1872.

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law.

(3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law.

(4) Sections 25 and 26 and the definition of “easement” in Section 2 shall not apply to cases arising in the territories to which the Indian Easements Act, 1882, may for the time being extend.

CASE LAW ▶ Applicability of Section 29(2).—Section 29(2) applies where suit, appeal or application referred to therein is filed in a court and not before statutory authority, quasi-judicial authority or tribunal, *Ganesan v. T.N. Hindu Religious & Charitable Endowments Board*, (2019) 7 SCC 108.

▶ **Exclusion of applicability.**—Even in the absence of express exclusion, court can examine extent of exclusion of Limitation Act by a special law based on the provisions or the nature of the subject-matter and scheme of the special law. Hence, applicability of the Limitation Act is to be judged from the terms of the special law and not from terms of the Limitation Act, *CCE & Customs v. Hongo India (P) Ltd.*, (2009) 5 SCC 791.

▶ **Exclusion of Limitation Act.**—Even if there exists no express exclusion in the special law, the court has right to examine the provisions of the special law to arrive at a conclusion as to whether the legislative intent was to exclude the operation of the Limitation Act, *Patel Bros. v. State of Assam*, (2017) 2 SCC 350.

▶ **Special statute.**—Mode of construction of special statute providing for special or no period of limitation must receive a liberal and broader construction. Intent and purport of Parliament enacting the said Act must be given its full effect. But in construing a special statute providing for limitation, consideration of plea of hardship is irrelevant, *L.S. Synthetics Ltd. v. Fairgrowth Financial Services Ltd.*, (2004) 11 SCC 456.

▶ **Special or local law.**—“Expressly excluded”, must be contained in special or local law as distinguished from Section 4(1) CPC whereunder “specific provision to the contrary” must be contained in CPC itself, *Pankajakshi v. Chandrika*, (2016) 6 SCC 157 : (2016) 3 SCC (Civ) 105.

4. Omitted by Act 56 of 1974, S. 2 and Sch. I. Prior to omission it read as:

‘28. Amendment of certain Acts.—In the Indian Easements Act, 1882, in Section 15, for the words “sixty years”, the words “thirty years” shall be substituted and in the Code of Civil Procedure, 1908, Section 48 shall be omitted.’

► **Conditions precedent for applicability.**—Conditions precedent for applicability of the specified provisions of Limitation Act including Section 5 thereof to special or local Acts, are that the special/local Act (i) provides a limitation period different from that prescribed under Limitation Act, and (ii) does not expressly exclude the application of Limitation Act. Such exclusion can be, however, by necessary implication, *Fairgrowth Investments Ltd. v. Custodian*, (2004) 11 SCC 472.

► **Express exclusion of Limitation Act, by special law.**—Provisions of Limitation Act are inapplicable in appeal under Section 16 of the NGT Act, *Sridevi Datla v. Union of India*, (2021) 5 SCC 321.

30. Provision for suits, etc., for which the prescribed period is shorter than the period prescribed by the Indian Limitation Act, 1908.—Notwithstanding anything contained in this Act,—

(a) any suit for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be instituted within a period of ⁵[seven years] next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act, 1908, whichever period expires earlier:

⁶[Provided that if in respect of any such suit, the said period of seven years expires earlier than the period of limitation prescribed therefor under the Indian Limitation Act, 1908 and the said period of seven years together with so much of the period of limitation in respect of such suit under the Indian Limitation Act, 1908, as has already expired before the commencement of this Act is shorter than the period prescribed for such suit under this Act, then, the suit may be instituted within the period of limitation prescribed therefor under this Act.]

(b) any appeal or application for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be preferred or made within a period of ninety days next after the commencement of this Act or within the period prescribed for such appeal or application by the Indian Limitation Act, 1908, whichever period expires earlier.

NOTES ► Introduction.—This section saves limitation with respect to those suits, appeals or applications for which the prescribed period is shorter than the period prescribed by the Indian Limitation Act IX of 1908 which has been repealed. Special provision for the limitation of the aforesaid proceedings have been made in this section and the period of limitation with respect to them shall be computed accordingly.

STATE AMENDMENTS

Union Territory of Jammu and Kashmir.—In its application to the Union Territory of Jammu and Kashmir, after Section 30, insert—

“30-A. *Provision for suits, etc., for which the prescribed period is shorter than the period prescribed by the Limitation Act, samvat 1995.*—Notwithstanding anything contained in this Act,—

(a) Any suit for which the period of limitation is shorter than the period of limitation prescribed by the Limitation Act, Samvat 1995, may be instituted within a period of

5. Subs. by Act 10 of 1969, S. 2, for “five years” (retrospectively).

6. Ins. by Act 10 of 1969, S. 2.

one year next after the commencement of the Jammu and Kashmir Reorganisation Act, 2019 or within the period prescribed for such suit by the Limitation Act, Samvat 1995, whichever period expires earlier:

Provided that if in respect of any such suit, the said period of one year expires earlier than period of limitation prescribed therefor under the Limitation Act, Samvat 1995 (now repealed) and the said period of one year together with so much of the period of limitation in respect of such suit under the said Act, as has already expired before the commencement of the Jammu and Kashmir Reorganisation Act, 2019 is shorter than the period prescribed for such suit under the Limitation Act, 1963, then, the suit may be instituted within the period of limitation prescribed therefor under the Limitation Act, 1963;

- (b) Any appeal or application for which the period of limitation is shorter than the period of limitation prescribed by the Limitation Act, Samvat 1995, may be preferred or made within a period of ninety days next after the commencement of the Jammu and Kashmir Reorganisation Act, 2019 or within the period prescribed for such appeal or application by the Limitation Act, Samvat 1995, whichever period expires earlier." [Vide S.O. 1123(E), dated 18-3-2020 (w.e.f. 18-3-2020)].

Union Territory of Ladakh.—In its application to the Union Territory of Ladakh, after Section 30, insert—

“30-A. *Provision for suits, etc., for which the prescribed period is shorter than the period prescribed by the Limitation Act, samvat 1995.*—Notwithstanding anything contained in this Act,—

- (a) Any suit for which the period of limitation is shorter than the period of limitation prescribed by the Limitation Act, Samvat 1995, may be instituted within a period of one year next after the commencement of the Jammu and Kashmir Reorganisation Act, 2019 or within the period prescribed for such suit by the Limitation Act, Samvat 1995, whichever period expires earlier:

Provided that if in respect of any such suit, the said period of one year expires earlier than period of limitation prescribed therefor under the Limitation Act, Samvat 1995 (now repealed) and the said period of one year together with so much of the period of limitation in respect of such suit under the said Act, as has already expired before the commencement of the Jammu and Kashmir Reorganisation Act, 2019 is shorter than the period prescribed for such suit under the Limitation Act, 1963, then, the suit may be instituted within the period of limitation prescribed therefor under the Limitation Act, 1963;

- (b) Any appeal or application for which the period of limitation is shorter than the period of limitation prescribed by the Limitation Act, Samvat 1995, may be preferred or made within a period of ninety days next after the commencement of the Jammu and Kashmir Reorganisation Act, 2019 or within the period prescribed for such appeal or application by the Limitation Act, Samvat 1995, whichever period expires earlier." [Vide S.O. 3774(E), dated 23-10-2020].

CASE LAW ▶ Amendment in limitation provision.—The periods of limitation are procedural in nature and would ordinarily be applied retrospectively. Thus, generally the law of limitation which is in vogue on the date of the commencement of the action governs it. Hence, ordinarily, the law in force on the date of the institution of an appeal, irrespective of the date of accrual of the cause of action for filing an appeal, will govern the period of limitation. But there are certain exceptions to this principle. The new law of limitation providing a longer period cannot revive a dead remedy. Nor can it suddenly extinguish a vested right of action by providing for a shorter period of limitation, *M.P. Steel Corpn. v. CCE*, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510.

31. Provisions as to barred or pending suits, etc.—Nothing in this Act shall,—

- (a) enable any suit, appeal or application to be instituted, preferred or made, for which the period of limitation prescribed by the Indian Limitation Act, 1908 (9 of 1908), expired before the commencement of this Act; or
- (b) affect any suit, appeal or application instituted, preferred or made before, and pending at, such commencement.

NOTES ▶ Introduction.—This is a saving section which exempts from the operation of the new legislation, the pending suits, appeals and applications. Section 6 of the General Clauses Act X of 1897 provides that the repeal of any enactment “shall not revive anything not in force or existing at the time of the repeal or affect any right, privilege, obligation or liability acquired, accrued under any enactment so repealed”.

32. Repeal.—⁷[* * *]

THE SCHEDULE

PERIOD OF LIMITATION

[See Sections 2(j) and 3]

FIRST DIVISION—SUITS

PART I—Suits Relating To Accounts

| Description of suit | Period of limitation | Time from which period begins to run |
|---|----------------------|---|
| 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 item 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. | —do— | 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. | —do— | When the neglect or misconduct becomes known to the plaintiff. |
| 5. For an account and a share of the profits of a dissolved partnership. | —do— | The date of the dissolution. |

7. Omitted by Act 56 of 1974, S. 2 and Sch. I. Prior to omission it read as:
 “32. Repeal.—The Indian Limitation Act, 1908 (9 of 1908), is hereby repealed.”

| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--|
| 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. | —do— | When the wages accrue due. |
| 8. For the price of food or drink sold by the keeper of a hotel, tavern or lodging-house. | —do— | When the food or drink is delivered. |
| 9. For the price of lodging. | —do— | When the price becomes payable. |
| 10. Against a carrier for compensation for losing or injuring goods. | —do— | When the loss or injury occurs. |
| 11. Against a carrier for compensation for non-delivery of, or delay in delivering goods. | —do— | When the goods ought to be delivered. |
| 12. For the hire of animals, vehicles, boats or household furniture. | —do— | When the hire becomes payable. |
| 13. For the balance of money advanced in payment of goods to be delivered. | —do— | 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. | —do— | The date of the 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. | —do— | 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. | —do— | 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. | —do— | 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. | —do— | When the loan is made. |

| Description of suit | Period of limitation | Time from which period begins to run |
|---|----------------------|--|
| 20. Like suit when the lender has given a cheque for the money. | —do— | When the cheque is paid. |
| 21. For money lent under an agreement that it shall be payable on demand. | —do— | When the loan is made. |
| <p>CASE LAW ▶ "Payable on demand".—Meaning in Article 21 is "always payable" and in Article 22 is "payable when actually a demand for payment is made", <i>Syndicate Bank v. Channaveerappa Beleri</i>, (2006) 11 SCC 506.</p> | | |
| 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. | —do— | When the demand is made. |
| 23. For money payable to the plaintiff for money paid for the defendant. | —do— | 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. | —do— | When the money is received. |
| 25. For money payable for interest upon money due from the defendant to the plaintiff. | —do— | When the interest becomes due. |
| 26. For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them. | —do— | 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. | —do— | When the time specified arrives or the contingency happens. |
| 28. On a single bond, where a day is specified for payment. | —do— | The day so specified. |
| 29. On a single bond, where no such day is specified. | —do— | The date of executing the bond. |
| 30. On a bond subject to a condition. | —do— | When the condition is broken. |

| Description of suit | Period of limitation | Time from which period begins to run |
|---|----------------------|--|
| 31. On a bill of exchange or promissory note payable at a fixed time after date. | —do— | 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. | —do— | 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. | —do— | 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. | —do— | The date of the bill or note. |
| 36. On a promissory note or bond payable by instalments. | —do— | 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. |
| 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. | —do— | When the default is made, unless 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. | —do— | The date of the delivery to the payee. |
| 39. On a dishonoured foreign bill where protest has been made and notice given. | —do— | When the notice is given. |
| 40. By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance. | —do— | The date of the refusal to accept. |
| 41. By the acceptor of an accommodation bill against the drawer. | —do— | When the acceptor pays the amount of the bill. |
| 42. By a surety against the principal debtor. | —do— | When the surety pays the creditor. |

| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|---|
| 43. By a surety against a cosurety. | —do— | 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. | —do— | 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. | —do— | 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. | —do— | When the insurers elect to void the policy. |
| 46. Under the Indian Succession Act, 1925 (93 of 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. |
| 47. For money paid upon an existing consideration which afterwards fails. | —do— | 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-sharers. | —do— | 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. | —do— | 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. | —do— | The date of the payment. |
| 51. For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant. | —do— | When the profits are received. |
| 52. For arrears of rent. | —do— | When the arrears become due. |

| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--|
| 53. By a vendor of immovable property for personal payment of unpaid purchase-money. | —do— | 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. | —do— | The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused. |

CASE LAW ▶ Applicability.—Court, in applying period of limitation would first inquire as to whether any time was fixed for performance of agreement of sale. If it is so fixed, the suit must be filed within the period of three years, failing which the same would be barred by limitation. However, where no time for performance is fixed, held, it is for the courts to find out the date on which the plaintiff had notice that the performance was refused and on arriving at a finding in that behalf, to see whether the suit was filed within three years thereafter, *Janardhanam Prasad v. Ramdas*, (2007) 15 SCC 174.

Case in which no date fixed for performance of contract, court has to find the date on which plaintiff had notice that performance was refused, *Gunwantbhai Mulchand Shah v. Anton Elis Farel*, (2006) 3 SCC 634.

In *Vundavalli Ratna Manikyam v. V.P.P.R.N. Prasada Rao*, (2020) 3 SCC 289, agreement to sell provided for date of performance (and which was later extended), thus attracting first limb of Article 54 which provides that time from which period begins to run is from “the date fixed for performance”, ruling out applicability of second limb of Article 54 which provides “. . . if no [date of performance] is fixed, when the plaintiff has notice that performance is refused”. Plaintiff was all along ready and willing to perform its part of the contract, and even obtained quashment of the acquisition proceedings. Thus, held, Article 113 of the Limitation Act would apply and the right to sue accrued when subsequent to the quashment of the acquisition proceedings, the respondent-plaintiff served a notice upon the appellant-defendants to execute the sale deed and the defendants refused to execute the sale deed. As suit for specific performance was filed within three years thereof, said suit was correctly held by High Court to be within time.

▶ **Limitation Act, 1908.**—Article 113, Limitation Act, 1908 is in pari materia with Article 54, Limitation Act, 1963, *Ahmadsahab Abdul Mulla (2) v. Bibijan*, (2009) 5 SCC 462 : (2009) 2 SCC (Civ) 555.

▶ **Date fixed for the performance.**—Expression “date fixed for the performance” is definitely suggestive of a specific date in the calendar. When “date is fixed”, it means that there is a definite date fixed for doing a particular act. Whether date for the performance was fixed or not so to be established with reference to materials and evidence brought on record, *Ahmadsahab Abdul Mulla (2) v. Bibijan*, (2009) 5 SCC 462 : (2009) 2 SCC (Civ) 555.

▶ **Specific performance of agreement of sale.**—In respect of a contract for sale of immovable property, time is not essence of the contract, but question as regards conduct of the party must be considered in the background of the case, *R.K. Parvatharaj Gupta v. K.C. Jayadeva Reddy*, (2006) 2 SCC 428.

▶ **Suit for specific performance of contract.**—Once it is proved that time fixed for performance of the contract has been extended by the parties, instead of the first part of Article 54, the

| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--------------------------------------|
| second part thereof would become applicable, <i>Panchanan Dhara v. Monmatha Nath Maity</i> , (2006) 5 SCC 340. | | |

► **Suit for specific performance of contract for sale of immovable property.**—When time is not the essence of contract, second limb of Article 54 attracted i.e. “when the plaintiff has notice that performance is refused”. Accordingly, starting point of limitation period of 3 yrs would be when plaintiff noticed refusal of performance of contract by defendant, *Urvashiben v. Krishnakant Manuprasad Trivedi*, (2019) 13 SCC 372.

► **Specific performance.**—Article 54 does not distinguish between a case where possession of property has been delivered in part-performance of agreement or otherwise, *Fatehji & Co. v. L.M. Nagpal*, (2015) 8 SCC 390 : (2015) 4 SCC (Civ) 371.

► **Two parts of Article 54 — Relative scope and applicability.**—“Date fixed” for specific performance of contract means specific date in calendar. Where no definite date for performance fixed in contract, first part of Article 54 would not apply and limitation period of three years would commence from date when refusal of performance comes to notice of plaintiff, *Madina Begum v. Shiv Murti Prasad Pandey*, (2016) 15 SCC 322.

► **Determination of article that would govern the matter.**—It is a well-recognised canon of construction of the Limitation Act that when there is a specific article dealing with a specific subject, that article is to be applied in preference to a general and residuary article, *Nand Ram v. Jagdish Prasad*, (2020) 9 SCC 393.

55. For compensation for the breach of any contract, express or implied, not herein specially provided for.

—do—

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.

CASE LAW ► Applicability.—Suit for damages for additional costs incurred by respondent-plaintiff while performing works contract as a result of extension of contract period on account of delay on part of appellant State in handing over the site to respondent at specified time, held, attracted Article 55, and not Article 113 of Limitation Act, 1963, *State of Gujarat v. Kothari & Associates*, (2016) 14 SCC 761.

► **Terms and conditions of the agreement.**—Rights of the parties have to be determined as per the terms and conditions of the agreement between them, *Sundaram Finance Ltd. v. Noorjahan Beevi*, (2016) 13 SCC 1.

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.

—do—

When the alleged adoption becomes known to the plaintiff.

| Description of suit | Period of limitation | Time from which period begins to run |
|--------------------------------------|----------------------|--------------------------------------|
| 58. To obtain any other declaration. | Three years | When the right to sue first accrues. |

CASE LAW ▶ Applicability.—Article 58 applies to suits for declaration relating to service matters. Limitation period of three years starts when right to sue first accrues, *State of Punjab v. Balkaran Singh*, (2006) 12 SCC 709 : (2007) 2 SCC (L&S) 645.

▶ **Right to sue for declaration.**—Right to sue accrues when there is a clear and unequivocal threat to infringe a right, *Daya Singh v. Gurdev Singh*, (2010) 2 SCC 194 : (2010) 1 SCC (Civ) 379.

▶ **Right to sue first.**—While enacting Article 58 of the 1963 Act, the legislature has designedly made a departure from the language of Article 120 of the 1908 Act. The word “first” has been used between the words “sue” and “accrued”. This would mean that if a suit is based on multiple causes of action, the period of limitation will begin to run from the date when the right to sue first accrues. To put it differently, successive violation of the right will not give rise to fresh cause and the suit will be liable to be dismissed if it is beyond the period of limitation counted from the day when the right to sue first accrued, *L.C Hanumanthappa v. H.B Shivakumar*, (2016) 1 SCC 332.

▶ **“Right to sue” when accrues.**— Court must determine when right to sue first accrued. Right to sue accrues only when cause of action arises - Suit must be instituted when right asserted in suit is infringed or there is clear and unequivocal threat of infringement by dependant, *Dahiben v. Arvindbhai Kalyanji Bhanusali*, (2020) 7 SCC 366.

PART IV—Suits Relating To Decrees and Instruments

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| 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 become known to him. |
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CASE LAW ▶ Applicability.—Article 59 applicability is applicable only to voidable transactions and not to void transactions. It therefore applies where a document is prima facie valid and would not apply to instruments which are presumptively invalid. Hence, Article 59 would be attracted in case of coercion, undue influence, misappropriation or fraud when the transaction is a voidable one, *Prem Singh v. Birbal*, (2006) 5 SCC 353.

60. To set aside a transfer of property made by the guardian of a ward—

CASE LAW ▶ Sale of Hindu ancestral property.—Article 60 is applicable to suit by quondam minor to set aside alienation of his property by his guardian and limitation period of three years will start from date of minor attaining majority. Even if on date of filing of suit, remaining plaintiffs were major, but none of them was in capacity of manager of the family so as to be capable of giving discharge without concurrence of the minor and as such by virtue of Section 7 of Limitation Act, 1963, time of 3 yrs will run against all the plaintiffs only on minor attaining majority, *Narayan v. Babasaheb*, (2016) 6 SCC 725 : (2016) 3 SCC (Civ) 483.

| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--------------------------------------|
| (a) by the ward who has attained majority; | —do— | 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; | —do— | When the ward attains majority. |
| (ii) when the ward dies before attaining majority. | —do— | When the ward dies. |

PART V—Suits Relating To Immovable Property

61. By a mortgagor—

CASE LAW ▶ Redemption of usufructuary mortgage.—Redemption of usufructuary mortgage, limitation period begins to run from date mortgage money is paid or is otherwise satisfied, *Mohan Lal v. Mohan Lal*, (2016) 13 SCC 90.

| | | |
|---|--------------|--|
| (a) to redeem or recover 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 collections received by the mortgagee after the mortgage has been satisfied. | Three years | When the mortgagor re-enters on the mortgaged property. |

CASE LAW ▶ Redemption suit.—For the suit of redemption of a mortgage the period of limitation begins to run when the right to redeem or to recover possession accrues. In the case of a usufructuary mortgage, which does not fix any date for repayment of the mortgage money, but merely stipulates that the mortgagee is entitled to be in possession till redemption, the right to redeem would accrue immediately on execution of the mortgage deed and the mortgagor has to file a suit for redemption within 30 years from the date of the mortgage. The effect of not filing a suit for redemption within the said period, as provided under Section 27 of the Limitation Act, 1963, would be that the mortgagor would lose his right to redeem and the mortgagee would become entitled to continue in possession as the full owner, *Prabhakaran v. M. Azhagiri Pillai*, (2006) 4 SCC 484.

| | | |
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| 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. |
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63. By a mortgagee—

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| (a) for foreclosure; | Thirty years | When the money secured by the mortgage becomes due. |
|----------------------|--------------|---|

| Description of suit | Period of limitation | Time from which period begins to run |
|---|----------------------|--|
| (b) for possession of immovable property mortgaged. | Twelve years | When the mortgagee becomes entitled to possession. |
| 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. |

CASE LAW ▶ Applicability.—Applicability of the Articles 64 & 65 has to be decided on the basis of pleadings but by suppression of material facts and skilful pleading, plaintiff cannot seek to avoid the inconvenient article, *Ramiah v. N. Narayana Reddy*, (2004) 7 SCC 541.

▶ **Suits for adverse possession.**—When requirement of possession and continuous possession for statutory period of 12 yrs not met, held, such suits could not have been decreed, *M. Venkatesh v. Bangalore Development Authority*, (2015) 17 SCC 1.

▶ **Adverse Possession.**—Burden of proof for adverse possession lies on the defendant, *M. Durai v. Muthu*, (2007) 3 SCC 114.

A person who bases his title on adverse possession must show by clear and unequivocal evidence that his title was hostile to the real owner and amounted to denial of his title to the property claimed. The ordinary classical requirement of adverse possession is that it should be *nec vi, nec clam, nec precario* and the possession required must be adequate in continuity, in publicity and in extent to show that it is possession adverse to the competitor, *Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan*, (2009) 16 SCC 517.

▶ **Minimum period to trace back title.**—Though title to an immovable property is usually established by tracing it for a period of thirty years, the search and tracing is restricted to a minimum period of twelve years, presumably with reference to Articles 64 and 65 of the Limitation Act, 1963, *T.K. Mohammed Abubucker v. P.S.M. Ahamed Abdul Khader*, (2009) 14 SCC 224.

| | | |
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| 65. For possession of immovable property or any interest therein based on title. | Twelve years ⁸ | When the possession of the defendant becomes adverse to the plaintiff. |
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CASE LAW ▶ Suit for possession.—Explanation (b) applicable only where plaintiff is entitled to possession of property on death of Hindu or Muslim female where such female did not have an absolute/full interest in property concerned, and thus is not applicable to heir of female who is absolute/full owner of property. Word “entitled” contained in Explanation (b) clearly means that person concerned is entitled independently of the right of the Hindu or Mohammedan female, i.e it is necessary to trace the right to someone else and not to the Hindu or Mohammedan female, as the case may be, *Bapusaheb Chimasahab Naik-Nimbalkar v. Mahesh Vijaysinha Rajebhosale*, (2017) 7 SCC 769.

▶ **Article 65 or Article 58.**—In a suit for declaration of title and possession based on title i.e. both for relief of declaration and for relief of possession, limitation period applicable would be that under Article 65 and not Article 58, *Sopanrao v. Syed Mehmood*, (2019) 7 SCC 76.

8. In Bihar vide Bihar Regn. 1 of 1969, the following words and figures shall be added at the end:
“but 30 years in respect of immovable property belonging to a member of the Scheduled Tribes as specified in Part III to Schedule to the Constitution (Scheduled Tribes) Order, 1950.”

| Description of suit | Period of limitation | Time from which period begins to run |
|---------------------|----------------------|--------------------------------------|
|---------------------|----------------------|--------------------------------------|

► **"Title".**—It includes title acquired by adverse possession. If rightful owner does not commence any action to take possession within limitation period, his rights are lost, and the adverse possessee/possessory owner acquires the right, title and interest possessed by the outgoing person/owner, as the case may be, against whom he has established the period of prescription — Even if person after acquiring title by adverse possession, delivers possession to owner whose title had thereby extinguished, that would not confer any title on owner, *Ravinder Kaur Grewal v. Manjit Kaur*, (2019) 8 SCC 729.

► **Essential conditions to constitute adverse possession.**—Possession must be adequate in continuity, in publicity and in extent. It must be adverse to owner, in open, visible, notorious and peaceful denial of owner's title or knowledge. Neither mere long possession, nor possession as trespasser would qualify for adverse possession. Possession as joint/co-owner also cannot be presumed to be adverse, *Ravinder Kaur Grewal v. Manjit Kaur*, (2019) 8 SCC 729.

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 judgment-debtor was out of possession at the date of the sale, the purchaser shall be deemed to be a representative of the judgment-debtor who was out of possession.

CASE LAW ► Applicability.—Cause of action for claiming share in family property would arise from date ouster of the claimant and limitation period would run from the date — However, unless defendant raises defence of adverse possession against the said claim, he cannot raise an issue relating to limitation of the claimant's claim, *Mohammadbhai Kasabhai Sheikh v. Abdulla Kasambhai Sheikh*, (2004) 13 SCC 385.

| Description of suit | Period of limitation | Time from which period begins to run |
|---------------------|----------------------|--------------------------------------|
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► **Adverse possession meaning and applicability.**—Adverse possession includes “dealing” with one’s property which results in extinguishing one’s title in the property and vesting the same in the person in possession thereof and thus amounts to “transfer of immovable property” in a wider sense, *Amrendra Pratap Singh v. Tej Bahadur Prajapati*, (2004) 10 SCC 65.

► **Suit for possession.**—For suit for possession of immovable property filed by a Hindu who is entitled to the possession on death of a Hindu female—Limitation period would start from the date of death of the female as possession of the defendant would become adverse to plaintiff only from that date, *Jagat Ram v. Varinder Prakash*, (2006) 4 SCC 482.

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| 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. |
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| 67. By a landlord to recover possession from a tenant. | Twelve years | When the tenancy is determined. |
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CASE LAW ► Applicability.—Article 67 is a special provision which would apply in a case where a tenant has ceased to be a tenant in terms of the provisions of the rent control legislation. A statutory tenant continues to be a tenant despite termination of tenancy. Article 67 would not be attracted where tenant remains a statutory tenant, *Kamakshi Builders v. Ambedkar Educational Society*, (2007) 12 SCC 27.

PART VI—Suits Relating To Movable Property

| | | |
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| 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. |
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| 69. For other specific movable property. | —do— | When the property is wrongfully taken. |
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| 70. To recover movable property deposited or pawned from a depositary or pawnee. | —do— | The date of refusal after demand. |
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| 71. To recover movable property deposited or pawned, and afterwards bought from the depositary or pawnee for a valuable consideration. | Three years | When the sale becomes known to the plaintiff. |
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PART VII—Suits Relating To Torts

| | | |
|---|----------|---------------------------------------|
| 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. |
|---|----------|---------------------------------------|

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| 73. For compensation for false imprisonment. | —do— | When the imprisonment ends. |
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| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--|
| 74. For compensation for a malicious prosecution. | —do— | When the plaintiff is acquitted or the prosecution is otherwise terminated. |
| 75. For compensation for libel. | —do— | When the libel is published. |
| 76. For compensation for slander. | —do— | 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. | —do— | When the loss occurs. |
| 78. For compensation for inducing a person to break a contract with the plaintiff. | —do— | The date of the breach. |
| 79. For compensation for an illegal, irregular or excessive distress. | —do— | The date of the distress. |
| 80. For compensation for wrongful seizure of movable property under legal process. | —do— | The date of the seizure. |
| 81. By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855 (12 of 1855). | —do— | The date of the death of the person wronged. |
| 82. By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855 (13 of 1855). | Two years | The date of the death of the person killed. |
| CASE LAW ► Applicability. —Once a specific period of limitation is referable to any of the entries in Schedule to Limitation Act, 1963, then the residuary Article 113 cannot be invoked, <i>Damini v. Jodhpur Vidyut Vitran Nigam Ltd.</i> , (2017) 9 SCC 443. | | |
| 83. Under the Legal Representatives' Suits Act, 1855 (12 of 1855), against an executor, an administrator or any other representative. | —do— | 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. | —do— | When the perversion first becomes known to the person injured thereby. |
| 85. For compensation for obstructing a way or a watercourse. | Three years | The date of the obstruction. |

| Description of suit | Period of limitation | Time from which period begins to run |
|---|----------------------|--------------------------------------|
| 86. For compensation for diverting a watercourse. | Three years | The date of the diversion. |
| 87. For compensation for trespass upon immovable property. | —do— | The date of the trespass. |
| 88. For compensation for infringing copyright or any other exclusive privilege. | —do— | The date of the infringement. |
| 89. To restrain waste. | —do— | When the waste begins. |
| 90. For compensation for injury caused by an injunction wrongfully obtained. | —do— | When the injunction ceases. |
| 91. For compensation— | | |

CASE LAW ▶ Commencement of limitation.—Burden of proof as to the time of learning about the specific person in whose wrongful possession the specific movable property is, lies on plaintiff who files the suit for compensation/recovery regarding the specific movable property, *Standard Chartered Bank v. Andhra Bank Financial Services Ltd.*, (2016) 1 SCC 207 : (2016) 1 SCC (Civ) 277.

▶ **Compensation/recovery for conversion.**—According to Article 91(a) period of limitation for filing a suit for compensation/recovery as regards specific movable property lost/stolen/misappropriated/converted begins to run “when the person having the right to the possession of the property first learns in whose possession it is”. Period of limitation under Article 91(a) of the Limitation Act starts running on date that plaintiff acquires knowledge of identity of person who is in possession of the property. Apart from knowledge of identity of the person, Article 91(a) also requires knowledge that possession of specific movable property concerned was acquired by means of wrongful conversion. Thus, term “first learns” places a burden of knowledge which is rather specific in nature. Thus: (1) knowledge must be of identity of a specific person in whose possession the specific movable property concerned is, and (2) that he acquired possession thereof under an arrangement, which in law would constitute wrongful conversion. The knowledge of a specific person against whom the suit can be instituted is what is crucial here. A mere suspicion or a whisper of knowledge is not enough for period of limitation to start running, *Standard Chartered Bank v. Andhra Bank Financial Services Ltd.*, (2016) 1 SCC 207 : (2016) 1 SCC (Civ) 277.

(a) for wrongfully taking or detaining any specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion;

—do—

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.

—do—

When the property is wrongfully taken or injured, or when the detainer’s possession becomes unlawful.



| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--|
| 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. |
| 94. To set aside a transfer of Twelve years 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. To 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 ⁹ [an order referred to in Rule 63 or in | —do— | The date of the final order. |

9. Subs. by Act 52 of 1964, S. 3 and Sch. II.

| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--|
| Rule 103] of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), or an order under Section 28 of the Presidency Small Cause Courts Act, 1882 (15 of 1882), has been made, to establish the right which he claims to the property comprised in the 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. | —do— | When the sale is confirmed or would otherwise have become final and conclusive had no such suit been brought. |
| 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 of an officer of Government in his official capacity. | —do— | 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 judgment, including a foreign judgment, or a recognisance. | Three years | The date of the judgment or recognisance. |
| 102. For property which the plaintiff has conveyed while insane. | —do— | 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. | —do— | 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. | —do— | When the plaintiff is first refused the enjoyment of the right. |
| 105. By a Hindu for arrears of maintenance. | —do— | 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 intestate 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 hereditary office. | Twelve years | When the defendant takes possession of the office adversely to the plaintiff. |

Explanation.—A hereditary office is possessed when the properties thereof are usually received, or (if there are no

| Description of suit | Period of limitation | Time from which period begins to run |
|--|----------------------|--|
| properties) when the duties thereof are usually performed. | | |
| 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 remarriage. | —do— | The date of the alienation. |
| 109. By a Hindu governed by Mitakshara law to set aside his father's alienation of ancestral property. | —do— | When the alienee takes possession of the property. |
| 110. By a person excluded from a joint family property to enforce a right to share therein. | —do— | When the exclusion becomes known to the plaintiff. |
| <p>CASE LAW ▶ Applicability.—Question that whether suit was for enforcing right to share in joint family property for which limitation period is 12 years or it was simpliciter for recovery of money of his share for which limitation period is 3 years. Question not possible to be decided at stage of grant of amendment of pleadings prior to recording of evidence. Can be decided only after considering evidence led by parties, <i>Mohinder Kumar Mehra v. Roop Rani Mehra</i>, (2018) 2 SCC 132.</p> | | |
| 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 and Kashmir. | —do— | When the period of limitation would begin to run under this Act against a like suit by a private person. |

CASE LAW ▶ Suit by or on behalf of Central Government.—Bharat Sanchar Nigam Ltd. (BSNL) does not fall within expression "Central Government", *BSNL v. Pawan Kumar Gupta*, (2016) 1 SCC 363 : (2016) 1 SCC (Civ) 327.

▶ **Different limitation period for government and private individuals.**—Article 112 of the Limitation Act, 1963 prescribes a longer period of thirty years as limitation in regard to suits by the Government as against the period of 12 years for suits by private individuals. The reason is obvious. Government properties are spread over the entire State and it is not always possible for the Government

| Description of suit | Period of limitation | Time from which period begins to run |
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to protect or safeguard its properties from encroachments. Many a time, its own officers who are expected to protect its properties and maintain proper records, either due to negligence or collusion, create entries in records to help private parties, to lay claim of ownership or possession against the Government. Any loss of government property is ultimately the loss to the community. Courts owe a duty to be vigilant to ensure that public property is not converted into private property by unscrupulous elements, *R. Hanumaiah v. State of Karnataka*, (2010) 5 SCC 203 ; (2010) 2 SCC (Civ) 343.

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 |
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SECOND DIVISION—APPEALS

114. Appeals from an order of acquittal—

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| (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. |
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| (b) under sub-section (3) of Section 417 of that Code. | Thirty days | The date of the grant of special leave. |
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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 the exercise of its original criminal jurisdiction; | Thirty days | Time from which period begins to run. |
|---|-------------|---------------------------------------|

(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. |
|-----------------------|------------|------------------------------------|

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|-------------------------|-------------|------------------------------------|
| (ii) to any other court | Thirty days | The date of the sentence or order. |
|-------------------------|-------------|------------------------------------|

116. Under the Code of Civil Procedure, 1908—

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|---|-------------|----------------------------------|
| (a) to a High Court from any decree or order; | Ninety days | The date of the decree or order. |
|---|-------------|----------------------------------|

| | | |
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| (b) to any other court from any decree or order. | Thirty days | The date of the decree or order. |
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| 117. From a decree or order of any High Court to the same Court. | —do— | The date of the decree or order. |
|---|------|----------------------------------|

| Description of suit | Period of limitation | Time from which period begins to run |
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THIRD DIVISION—APPLICATIONS

PART I—Applications in specified cases

| | | |
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| 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. | —do— | The date of service of the notice of the filing of the award. |
| <p>CASE LAW ▶ Applicability.—Article 119(a) would be applicable only when application is made by one of the parties for filing award. Further held, as there is no limitation prescribed for the arbitrator to file an award, the court would entertain it, unless it was of the view that the period between the date of award and filing of the award was so huge as to attract the principle of denial of relief on the ground of delay and laches, <i>T.N. Electricity Board v. Hindustan Construction Co. Ltd.</i>, (2009) 17 SCC 571 : (2011) 2 SCC (Civ) 613.</p> | | |
| 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 <i>ex parte</i> or to rehear an appeal decreed or heard <i>ex parte</i> . | 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. |

Explanation.—For the purpose of this article, substituted service under Rule 20 of Order V of the Code of Civil Procedure, 1908 (5 of 1908) shall not be deemed to be due service.

| Description of suit | Period of limitation | Time from which period begins to run |
|---|----------------------------|---|
| 124. For a review of judgment 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. | —do— | When the payment or adjustment is made. |
| 126. For the payment of the amount of a decree by instalments. | —do— | The date of the decree. |
| 127. To set aside a sale in execution of a decree including any such application by a judgment-debtor. | ¹⁰ [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 dispossession. |
| 129. For possession after removing resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree. | —do— | 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 (5 of 1908) or the Code of Criminal Procedure, 1898 (5 of 1898). | 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. |

10. *Subs.* by Act 104 of 1976, S. 98 for "thirty days" (w.e.f. 1-2-1977). S. 98(2) in this regard provides: "(2) Where the period specified in Article 127 of Sch. to the Limitation Act, 1963 (36 of 1963), had expired on or before the commencement of this Act viz., (1-2-1977), nothing contained in sub-section (1) shall be construed as enabling such application as is referred to in the said article, to be filled after the commencement of this Act by reason only of the fact that a longer period therefor is specified in the Act aforesaid by reason of the provision of sub-section (1)."

| Description of suit | Period of limitation | Time from which period begins to run |
|---|----------------------|--|
| 133. To the Supreme Court for special leave to appeal,— | | |
| (a) in a case involving death sentence; | Sixty days | The date of the judgment, final order or sentence. |
| (b) in a case where leave to appeal was refused by the High Court; | —do— | The date of the order of refusal. |
| (c) in any other case. | Ninety days | The date of the judgment 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. |

CASE LAW ▶ Sale in execution of decree.—Sale becomes absolute on termination of proceedings initiated to set aside order of confirmation of sale as per Order 21 Rule 92(1) CPC, not on mere passing of such confirmation order, *United Finance Corpn. v. M.S.M. Haneefa*, (2017) 3 SCC 123.

▶ **Application under Order 21 Rule 95 CPC.**—Limitation period for application under Order 21 Rule 95 CPC for delivery of possession of property to purchaser starts from the date of confirmation of sale under Order 21 Rule 92 CPC and not from the date of issuance of sale certificate under Order 21 Rule 94 CPC. On failure of auction-purchaser to avail the said quick remedy, the law relegates him to the remedy of regular suit for possession subject to limitation period prescribed therefor, *Balakrishnan v. Malaiyandi Konar*, (2006) 3 SCC 49.

▶ **Execution of final decree.**—Decree becomes enforceable from date of passing of decree and not when decree is engrossed on stamp paper, *Bimal Kumar v. Shakuntala Debi*, (2012) 3 SCC 548: (2012) 2 SCC (Civ) 312.

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| 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. |
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| 136. For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court. | Twelve years | ¹¹ [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: |
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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.

11. Subs. by Act 52 of 1964, S. 3 and Sch. II.

| Description of suit | Period of limitation | Time from which period begins to run |
|---------------------|----------------------|--------------------------------------|
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CASE LAW ▶ Application under Section 54 CPC.—Articles 136 and 137 are not applicable to application under Section 54 CPC praying for partition of land by Collector as required by the terms of a preliminary decree passed by court, *Bikoba Deora Gaikwad v. Hirabai Marutirao Ghorgare*, (2008) 8 SCC 198.

▶ **Execution of foreign decree or foreign award.**— Article 136 does not apply in respect of foreign decrees or foreign awards (latter even when deemed to be a decree). Application for execution of foreign decree or foreign award (even when deemed to be decree under Section 49 of the A&C Act, 1996), held, is covered by Article 137, *Union of India v. Vedanta Ltd.*, (2020) 10 SCC 1.

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| 137. Any other application for which no period of limitation is provided elsewhere in this Division. | Three years | When the right to apply accrues. |
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CASE LAW ▶ Applicability.—This article is applicable to application for grant of probate and letters of administration, including under Section 228 of the Succession Act, 1925, *Sameer Kapoor v. State*, (2020) 12 SCC 480.

▶ **“Right to apply” for letters of administration, when accrues.**—Right to get letters of administration is a continuous right which can be exercised at any time so long right survives, *Sameer Kapoor v. State*, (2020) 12 SCC 480.