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## Introduction

It describes different period of limitations for

- Suits
- Petitions
- Applications

Apply to:

Civil **Proceedings** (+)

> Special Criminal

**Proceedings** 

Extends to whole

of India

Law of Limitation Bars. the remedy, but it does not extinguish the right

Case:

**Bombay Dying** & Mfg. Co. v/s State of Bombay

Description of the given case -

Supreme Court held that, law of limitation bars the remedy in court of law only when the period of limitation has expired

## But

It does not extinguish the right that is it cannot be enforced by judicial process.

- Thus, if claim is satisfied the court of law after expiry of period of limitation, if is not Illegal

## **Bars of Limitations**

Section: 3

It provides that any

- -Suit
- -Appeal

Or

- Application if made beyonds the prescribed period of limitations

It is a duty of court not be proceed with it.

The It does not Question derive the of Suit is Court of its barred by jurisdiction limitation should be decided on the facts they stood on

the date of

presentation

of plaintiff

**Decisions** of court of allowing Suit after period prescribed if not violated Decree passed in time barred Suit if not a **Nullify** 

Exceptions

Section: 4 **Expiry** of period when court is closed

Section: 5 Sufficient cause

Section: 6 Person under legal

disability





## **EXCEPTIONS**

Section: 4

Section: 5 - Sufficient Cause

Section: 6 - Reason under legal disability

Expiry of period when court is closed

If prescribed period for any

- Suit
- Appeal
- Application expires on a day when court is closed it may be preferred or made on the day when court reopens

If allows the extension of prescribed period in certain cases on sufficient cause being shown for delay. This is known as

**Doctrine of Sufficient Cause** 

Applicable to : Any Appeal, Any Application

Not Applicable To : Any Suits, Application made under provision of order XXL of Code of Civil Procedure, 1908

Reason for non-applicability is that, the period of limitation in most Suits extends from 3 to 12 years. Whereas, in appeal & application does not exceed 6 months

Thus court may assist Appeal or Application after expiry of specified period of limitation if it is satisfied with applicant/ appellant for not mating if within line

Cause must be beyond control of party -

Case: Ramlal v/s Reva Coal Field Ltd.

It is court's discretion to extend or not period of limitation even after sufficient cause has been shown i.e. court should exercise its discretion judicially & not arbitrarily

Section: 6 Legal Disability

If a person want to institute a Suit or make an application is a MINOR, INSANE OR IDOT @ time of cause of action the period of limitation to file a suit will start when such disability ceases.

- Whose one legal disability is followed by another - limitation period will run when all legal disabilities are ceased if legal disability continues upto Death
- : Limitation period will run for legal representation (who is not legally disabled) from date of Death
- Where person under disability dies after disability ceases but within period allowed to him legal representation may institute suit or make application within same period after death.

Section: 7 Disability of one of several person

Where one of several person jointly entitles to institute a suit/ application for execution of decree

- Discharge be given without concerns of such person - Time will run against them all,

No such discharge can be given - Time will not run as against any of them become capable of giving such discharge

Note: It is not applicable of principle of section: 6

Section: 8 Special **Exceptions** 

In case, where application of section: 6 /7 result in an extension of period of limitation

That extension is not to be more than 3 vears of the cessation of disability.

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## NOTE: Section: 5

What is sufficient cause or not may be explained by allowing observation

- 1. Wrong Practice of H C which misled appellant
- 2. Mistake of Counsel
- 3. Wrong Advice of by advocate
- 4. Mistake of Law
- 5. Imprisonment of party/serious illness
- 6. Time taken for obtaining certified copy of decree.
- 7. Non-availability of file of case to State Council/Panel Lawyer.

## Case:

(Collectors & Authorise chief Settlement Commissioner v/s Darshan Singh & other)

8. Ailment of father - ie period which defendant took to look after his father

## Case:

Mahendra Yadav v/s Ratna Devi & others

#### **Section: 9 - Continuous Running of time** Rule is For the Thus Section: 9 **Applicable** Once time based on applicability begun to To time run run, No English it is essential when - Suits Contemplate that cause of Subsequent dictum cause of only cases - Applications action/right disability action where cause "Time to move the to institute accrues of action Not application when a Suit/ continuous to Apply **Application** must once exist To it has continue to can stop Appeals exist it. commenced Section: 10 to run in any If a right **Excludes suits** case they had against trusted will not been taken and their cease to away by representative be so by subsequent reason event, no of nay question subsequent of Bar of event" limitation

will arise







Exclusion in

other Cases

[Section: 15]

# **Computation of Period of limitations**

[Section: 12] **Exclusion of certain** days/Times in legal **Proceedings** 

- 1. In case of nay suits, appeal & applications -
- Period of Limitation is to be computed exclusive of the day on which the time begun to run
- 2. The day on which the judgment complained pronounced was the time requisite obtaining copy for decree, sentence/ order applied for order applied from or sought to be revised/received shall be excluded
- 3. Time required for obtaining of copy of judgment on which decree/order is founded shall be excluded
- 4. Time required obtaining copy of award shall be excluded.

**Exclusion of time** bona-fide taken in a court without *jurisdictions* 

Civil proceeding relating to matter in issue had been initiated in a court which is unable to entertain it by lack of jurisdiction shall be excluded certain conditions co-exist for applicability -

Exclusion

of time

during

which

leaue

to sue/

appeal

as a

"Poor"

pall per is

applied

for

[Section: 13]

- (1) Plaintiff was prosecuting another civil due diligence.
- (2) Previous suit/ to same matter
- in good faith
- (4) court was unable to entertain suit/ application

[Section: 14]

- proceedings with
- application related
- (3) plaintiff prosecuted

(1)(2)If Suit/ Time Application required for Execution obtaining of decree sanction has been consent stayed government by an shall be injunction/

order

@Such

period of

injunction

shall be

excluded

application for execution of decree by any receiver/ interim receiver/ liquidator excluded Period

(3)(4)Time In suit/ during which proceeding to set aside the sale has been prosecuted shall be excluded beginning with of institution & Ending with expiry of 3 months from date of their

(5)Time during which defendant has been absent from India shall be excluded

In case a death of person before right to institute a Suit accures Period of limitation accures when legal representative of deceased capable of instituting such suit Exceptions: Suit for possession of immovable property/ hereditary

office

(6)

When suit/ Application is based upon fraud/ mistake of defendant Period of limitation shall not began until plaintiff has discovered fraud/ mistake

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appointment

shall be

excluded

"Debt"

under

court





## **Effect of Acknowledgment on Period of Limitations**

[Section: 18]

Following Requirements should be present for valid Acknowledgment

There must be an admission/ Acknowledgment

Such Acknowledge must be in respect of any property/ right

Must be made before expiry of period of limitation

Must be in writing and signed by the party against whom such property/ Right is claimed.

Note: If all above requirements are satisfied

fresh Period of limitation shall be computed from time when Acknowledgment was signed.

# **Effect of Payment on Account of DEBT** or of Interest on legacy

[Section: 19] A per Explanation Where payment of Debt/Interest When is made mortgaged **BEFORE** land is **EXPIRATION** Does not in the include **OF** prescribed possession period of money mortgage By the person payable liable to pay The receipt decree/ of rent shall order of A FRESH be deemed PERIOD OF to payment LIMITATION shall be computed from time when payment was

Theirs a fresh period of limitation becomes Available to Creditor when part payment of debt is made to debtor before expiration of period of limitation

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made



## **Classification of Period of Limitation**

[Section : 18]

		<b>V</b>	
Sr. NO.	PERIOD	DETAILS	
1.	30 years	<ul> <li>(a) Suit by mortgagors fro redemption/ recovery of possession of immovable property mortgaged</li> <li>(b) Suit by mortgage for forclosure</li> <li>(c) Suit by or on behalf of C.G/S.G including state of J &amp; K</li> </ul>	
2.	12 years	(a) Suits relating to - Immovable Property, Trust, Endowments	
3.	3 years	(a) Suits relating to - Accounts, Contracts, Declaratory suits, decree, Investments, Movable Property	
4.	1 years to 3 years	Suits relating to - Tort, other Miscellaneous matter, where no period of limitation is provided	
5.	90 days to 10 days	Application for leave to appeal & defendant suit under summary procedure from date of service of summon	
		For appeals against a sentences of death passed by court of session/H.C. in exercise of its original jurisdiction	
	For appeal against any sentences other death sentence or any other not being a acquitted & 30 days for appeal to any of is prescribed period of leave to appeal a from the date of decree is 60 days to Hoto any other court		

# Acquisition of Ownership By Possession

[Section: 25] It should be peaceably enjoyed It applies It provides without interruption rights to to access acquisition of & use for 20 For 30 easement - light years years - air - way belongs such period - watercourse of 20 years to shall be - use of water Government period ending within 2 years next before institutional Suits shall be absolute & indefeasible

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## **Limitation & writs under the Constitution**

[Entry 13m list III of COI]

The Schedule

PART-I: Suit — Section: 1-113

PART-1; Suit — Section; 1-115			
PART-I: SUITS			
1.	Accounts (1-5)		
2.	Contracts (6-55)	3 ye <mark>ar</mark> s	
3.	Declarations (56-58)		
4.	Decree and Investments (59-60)		
5.	Immovable property (61-67)		
	- Redeem/Foreclosure	30 years	
	- For Possession	12 y <mark>ears</mark>	
	- Recover Surplus	3 ye <mark>ar</mark> s	
	- Payment	12 y <mark>ears</mark>	
6.	Movable Property (68-71)	3 ye <mark>ar</mark> s	
7.	Tort (72-91)		
8.	Trust and Trust Property (92-96)		
	- Immovable	12 years	
	- Movable	3 years	
9.	Suits relating to Miscellaneous Matter		
	95 , 105		
	107 , 109		
	111 , 112		
10.	Suits where there is no prescribed period	3 years	

PART-II: Appeal — Section: 114-117

	PART-II: APPEALS				
1.	Civil Procedure Court - Criminal Procedure Court	90 days			
2.	Review other than Supreme court	30 days			
3.	Abatement set aside order 22	60 days			
4.	CPC Appeal:				
	- High Court	90 days			
	- Other Court	30 days			
	- High Court				
	- Single bench	30 days			
	- Double bench				
5.	Criminal:				
	- Death Sentence Session Court - H.C	30 days			
	- Session Court other than death - H.C	60 days			
	- Other court appeal session court	30 days			
	- Appeal against acquainted	90 days			

PART-III: Application — Section: 118-137

P	PART-III: APPLICATION			
1.	leave to appeal & defend sammary suit (118)	10 days		
2.	legal representative made by party (120)	90 days		
3.	leave to appeal as "pauper"			
	- To H.C.	60 days		
	- To any other court	30 days		
4.	Execution of decree or order (other than decree granting a mandatory injuction) (136)	12 years		
5.	Any other application for which no period of limitation is prescribed	3 years		