



LIMITATION ACT

LIMITATION ACT

Syllabus

Questions Bank

Text

Reference Section

SYLLABUS

Pages

1. Scope.
2. Legal Disability. '
3. Running of Time.
4. Acknowledgement.
5. Adverse Possession.
6. Fraud.
7. Important periods of Limitation.

TEXTUAL & REFERENCE BOOKS

1. Chitale & Annaji Rao : *The Indian Limitation Act.*
2. Mitra : *Law of Limitation and prescription.*
3. Bare Act

QUESTIONS BANK

1. 'The Limitation Act does not extinguish a right but bars a remedy. Discuss.
2. What is Legal Disability ? Detail the provisions relating to legal disability and Double or Multi disabilities.
3. 'Once time begins to run, nothing shall stop it'. Discuss.
4. How is exclusion of time in Legal Proceedings dealt with ?
5. What is acknowledgment ? What are the essentials of acknowledgment ? Explain with illustrations.
6. What is the effect of fraud or mistake or the document, being concealed fraudulently. *
7. Explain Adverse Possession and how it is acquired ?
8. State the period of time and when time starts in:
 - 1) For a Seaman's Wages.
 - 2) For the price of food sold by the hotel.
 - 3) For the price of lodging.
 - 4) For money payable for money lent.
 - 5) For surety against Principal Debtor.
 - 6) For arrears of rent.
 - 7) For Specific Performance of a Contract.
 - 8) To set aside an instrument for the rescission of a Contract.
 - 9) By a Mortgagor to redeem mortgaged property.
 - 10) By a mortgagee for foreclosure.
 - 11) By a land lord to recover possession from a tenant.
 - 12) For compensation for false imprisonment or Malicious Prosecution.
 - 13) For compensation for Libel or Slander.
 - 14) For compensation for obstructing a Warehouse.
 - 15) To restrain waste. By a Hindu for arrears of maintenance.
 - 16) To set aside an ex-parte decree.
 - 17) For leave to appeal as pauper to the High Court.
 - 18) To appeal from a sentence of death, to High Court.
 - 19) Any other application for which the Limitation Act is silent.

CHAPTER 1

Ch.L ' The Limitation Act does not extinguish a right, but bars a remedy⁵.

The solid foundation on which the Limitation Act is founded is that on the expiry of the period of limitation, the right is not lost, but only the remedy by way of suit in a court is lost. Hence, the right continues to exist, and, any other remedy available or possible may be resorted to.

The foundation of the Limitation Act may be traced to the maxim: 'Vigilantibus non dormiantibus jura Subveniunt' (Law helps those who are vigilant, but not those who are sleeping). Further, the limitation has sound public policy and expediency as its basis. The intention of the Limitation Act is not, to grant a right where there is none, but to interpose a bar after a specified period of time of enforcing an existing right. Rules of limitation are not meant to destroy the rights of the parties, but only to see that the parties do not resort to dilatory tactics. (Doctrine of latches)

In all personal actions, the right subsists although the remedy is no longer available. If, therefore, a creditor, whose debt becomes barred, has any means of realising or enforcing his claim by any method except by a suit, the Limitation Act does not prevent him from recovering it.

Not being aware of the period of limitation, a debtor may pay the creditor a time-barred debt. However, once paid he cannot recover the same money from the creditor. The reason is that the right of the creditor continues, but only his remedy is barred. Similarly in the case of a set-off, a set-off being a cross-suit, it will be dismissed if it is in respect of a time-barred debt.

A is due to B Rs.5,000/-; B is due to A Rs.2,000/- but barred by time.

Hence a set off of Rs.2,000/- in Rs.5,000/- is not allowed

The reason is that the right of Y to recover Rs.2,000/- is barred under a suit.

An advocate's remedy to recover his fees from his client is barred after 3 years. However, he may keep a lien over the records of the client and recover the dues from him. The right is not extinguished, but only the remedy is lost.

A Vendor's right to recover his purchase money from the vendee is lost after 3 years. But, if he is still in possession of the goods, he may retain the goods and the vendee cannot claim the goods.

Exception : This principle of Limitation Act is subject to one exception in Sn.25. It provides that on the expiry of the period of

limitation in respect of possession of property (adverse possession), the right to such property shall be extinguished. Hence, by non-enjoyment for a specified period, of the right over the property, the owner's right becomes extinct. (Extinctive prescription).

Here, the right itself is lost and the title vests in the possessor.

2. Exceptional Circumstances:

Though the strict rule of the limitation Act is that once time starts nothing can stop it, there are certain exceptional circumstances these are cases of suspension, extension & interruption of the period of limitation.

CHAPTER 2

- LEGAL DISABILITY

Ch.2.1. Legal Disability

Sns. 6, 7 and 8 of the Limitation Act deal with provisions relating to legal disability.

Legal disability is the want of legal qualification to act i.e., to enter into contract etc. But, inability is different and it means physical incapacity to act. Protective clauses are in respect of legally disabled persons. The reason for giving the protection is that these persons are having no legal capacity to form a proper judgment to manage their own affairs. The Act mentions a minor, an insane and an idiot as disabled persons. No other disability is recognised.

Sn.6: If at the time from which the period of limitation is to be reckoned, the person entitled to file a suit, (or make an execution-application) is a minor, an insane or an idiot, he may file a suit or make an application within the same period as specified in the schedule of the Limitation Act for others. However the maximum period is 3 years from the date of cessation of disability.

In the leading cases of Morgan V Morgan; and Taylor V Horde the court has explained the position of a minor in particular and of a disabled person in general.

These cases were followed in Vasudev Vs. Balakrishna, where a person by name Ambu got into possession of property belonging to the Minor. Held she must from that date hold the property-as a Guardian or Agent of the minor. Thus the minor was protected during his

minority. He is having 3 years time in addition from the date of his attaining majority, to file a suit for the property.

Cb.2.2. Double or Multi Disabilities

If a person is affected by two or more disabilities, or if, after the cessation of one disability, he is affected by another disability he may file a suit, after both the disabilities cease. The period of limitation is the same as for others, but he will have 3 more years from the date of cessation of the second disability.

If the disability continues upto death his legal representative may file a suit within the period of limitation or within a maximum of 3 years after the death of the disabled person.

If the legal representative is also affected by a disability at the time of the death of the disabled person, he may file a suit within the period of limitation or within 5 years of cessation of his disability.

If the disabled person dies after the disability cease, but within the period of limitation, then, the legal representative may sue within the balance of period of limitation available.

Examples : The right to sue for the hire of a vehicle accrues to A during his minority.

A may sue within 3 years from the date of attaining majority. In the above case.

If A is affected by insanity during his minority, A may sue within 3 years from the date of cessation of both disabilities. In the first case:

If A dies during his minority leaving B, his minor son, B may sue within 3 years on his attaining majority.

Ch.2.3. Disability of one of Several Persons

If one of several persons jointly entitled to sue is under a disability, and a valid discharge can be given without his consent, then, time will run against them all. However, if no such discharge can be given, time will not run. But time will start running when one of them becomes capable of discharging without others consent.

A has taken Rs.10,000/- loan from B, C & D who are partners. B is insane & C is a minor. D may sue and time runs against them all.

CHAPTERS

RUNNING OF TIME

Ch.3.1. Running of Time (Sn.9).

The rule that when the period of limitation has once begun to run nothing shall stop it, seems to depend more on the language of the statute, than on any sound principle.

The origin of the principle is in English Law. The object of the rule in Sn.9 is that when the legal disability has ceased and an opportunity to sue has accrued, no subsequent disability or inability of such a person should be allowed to operate to extend the period. Disability refers to minority, insanity and Idiocy. But, inability means want of power to act eg : financial.

The section refers to subsequent disability or inability, to sue or to make an application. Hence, once time starts running, even subsequent disability cannot stop it. This may look to be too harsh., However, it is in keeping with the principle 'Vigilantibus non dermantibus subveniunt' and to discourage latches, this rule is retained.

Eg.: On 1.3.92, X executed to Y a promissory note. On 1.2.93 X becomes insane. On 15.1. 96, Y regains sanity and sues X.

Held, the suit is barred by limitation. Though Y is insane Sn.9 does not provide any protection. The reason, is time has already started running.

Exception: i) If letters of administration to the estate of the creditor have been granted to his debtor, then Sn. 9 provides that the running of time to cover shall be suspended during the period of administration. The reason is the hand to pay and the hand to receive the money are the same. Hence, time will not run. Hence, the debtor cannot abuse his position with the loyal cloak of protection.

ii) In computing the period time spent in legal proceedings, should be excluded. (Sn.12)

Exceptions:

Though Sn.9 says that once time starts nothing can stop it, there are some exceptional circumstances, when the period of limitation is suspended, extended or interrupted.

Suspension:

1. The period when Defendant, under administration of Central Govt is absent from India.

2. Duration when there were proceedings in a court without jurisdiction.

3. Stay due to injunction.

4. When Govt's consent is required to serve notice on defendant, the period is deemed to be suspended.

5. Duration when fraudulently, the right to sue is concealed from the knowledge of the plaintiff etc.

Extension:

1. If on the date of expiry of the period of limitation is a court holiday, the period is extended the date of reopening of the court.

2. When the court is satisfied that there are sufficient reasons for not fixing the case within time.

Interruption:

1. There would be interrupted periods of limitation in case of continuing breach of Contract or Torts.

Ch.3,2. Exclusion of time in Legal Proceedings (Sns.12 to 16) In computing the period of limitation,

i) The day from which such period is to be reckoned shall be excluded.

ii) The day of the decision of the Court and the time required to obtain the judgment copy shall also be excluded. This applies, to special leave applications, review or revision or an application to set aside an award.

iii) Exclusions of time in cases where leave to sue as a pauper is applied for.

Hence, the time during which the applicant has been prosecuting in good faith his application for such leave should be excluded. The court will treat the suit as one duly instituted if the court fees has been paid.

iv) Exclusion of time of a civil proceedings bona fide in a court without jurisdiction.

He must have proceeded with due diligence and the preceding suit or application should relate to the same matter in issue. He must have acted in good faith. That court should be unable to entertain the case due to defect in the jurisdiction. Misjoinder of parties is deemed to be defective jurisdiction. Resisting an application, is a proceeding in a court. The proceeding may be the institution of the suit, appeal or revision. The principle is that no one who honestly and with due diligence proceeds should be penalised for the delay caused by him in instituting a case in a wrong court.

v) Time spent in withdrawing a suit under order 23 Rule 2 C.P.C is to be excluded.

Notice: Where previous sanction of Government is necessary (e.g.Sn.80 C.P.C.-2 months notice), period of such notice is excluded.

vi) Effect of death: When a person, to whose estate the cause of action relates, dies before the accrual of the cause of action, then the time spent from the date of death until a legal representative takes over, shall be excluded in computing the period of limitation. The position is the same with reference to the person against whom a suit would have been instituted.

This section will not apply to pre-emption, or to suits of possession of immovable property or hereditary office.

Computation of period:

The following are excluded in computing period of limitation.

1. Suits : The day on which, the time begins to run.
2. Appeals : i) The day on which the time begins to run.
 if) The day judgement is pronounced
 iii) Time needed to obtain copy of decree, order etc or copy of judgement.
3. Review, Revision :
 1. Day on which period starts.
 2. Day of judgement
 3. Time required to obtain copy of decree or judgement.

Ch.3.3 Substitution or addition of party to suit:

The limitation Act provides that if a new party (whether as plaintiff or defendant) is added or substituted, the suit should be deemed to have been instituted on the date when such person was made a party.

The procedure to be followed is that when there are several plaintiffs with joint cause of action, all of them should be impleaded within the period of limitation. Hence, if a person is impleaded as a plaintiff after the period of limitation, the suit would be barred. But, not so if the defendants do not object.

However, if a plaintiff, is made a defendant or Vice Versa in a suit, this is considered not as addition of new party & hence suit is not barred.

S.21 provides that if the court is satisfied that the omission to include a plaintiff or defendant was due to a mistake, in GOOD FAITH it may direct the suit date as date of institution. (Not date of addition), hence, the suit will not be barred.

CHAPTER 4

ACKNOWLEDGMENT

Ch.4.Acknowledgment

Sns. 18,19 & 20 deal with acknowledgment.

Acknowledgment of liability is the admission or owning of a liability. Hence, a stranger to a transaction cannot own or admit a liability. Acknowledgment in respect of any property or of right:

i) Must be in writing.

ii) Must be signed by the party or by his duly authorised agent.

iii) Must be made before the date of expiration of the period of limitation; and

iv) Must be sufficient

, i) Writing :

Oral acknowledgment is not recognised. Where acknowledgment is undated oral evidence may be given of the date of signing.

ii) The party or his duly authorised agent should sign the document, with date. Signature is essential. Acknowledgment by a guardian on behalf of a minor is valid. The Manager (Karta) of a Joint Hindu Family, a legal practitioner on behalf of the client may acknowledge.

iii) **Before the expiry of the period:**

Where the period of limitation completely runs out, no acknowledgment can be made. If made, it will not revive the debt. But, a fresh promise under 8.5.25(23) contract Act may be made (Novatio). Hence, Time-barred debt cannot be acknowledged. By acknowledgment no new right is created, but there will be extension of the period of limitation. It is a fresh starting point of the period of limitation. A conditional acknowledgment is not valid.

iv) **Sufficiency:**

There must be an admission of a liability in acknowledgment. In English Law, reference to the exact right or the nature of the property is essential. In India, acknowledgment is sufficient though it omits to specify the same. Acknowledgment is sufficient if:

a) There is averment that time for payment has not come.

b) There is refusal to pay or claim a set-off.

c) There is acknowledgment addressed to another person other than the person entitled.

Eg.: 1) 'I am willing to pay, but only by instalments.'

2) 'My P/N is unstamped. Hence I will not pay'.

3) 'I admit the loan but I have paid it.'

CHAPTER 5

ADVERSE POSSESSION

Ch.5. Adverse Possession: Sns.25 to 27

Adverse possession is an exception to the rule "that the Limitation Act does not extinguish the right, but only bars the remedy".

Sn.25 deals with acquisition of easement by perception.

i) This refers to the access and use of light or air to, any building; It also refers to any way, watercourse or use of any water or other easement.

ii) This must have been enjoyed peaceably and openly as of right and as an easement.

iii) This must be for a period of twenty years-This 20 years shall be a period ending within two years next before the institution of the suit. But, for Government the period of limitation is 30 years.

iv) If the above conditions are satisfied the easement becomes absolute and indefeasible.

The enjoyment of the easement must be *nevi, nee calm, nee precario* (without violence, without stealth, without precariouness i.e., without permission). The easement must be exercised as a right, and, hence not under any license or leave.

e.g.: i) A sues B for obstructing his right of way. D admits obstruction but denies the right of way. A proves his right which was

enjoyed peaceably and openly from 1-1-1973. A is entitled to the easement.

ii) A sues B for his easmentary right of light and air. B shows that on one occasion in 20 years, A had taken leave of B for light and air. he suit is to be dismissed.

Period of 20 years: The plaintiff must enjoy the right to easement for 20 years. Then, within 2 years thereof he may file a suit, to establish his right. But if he is in continuous enjoyment for more than 20 years, he must file a suit within 2 years of any interruption made by the defendant. Otherwise, the plaintiff's right will be defeated.

e.g.: A had enjoyed an easement from Jan.1960 to Jan.1980. A files a suit in 1983 March. B shows that the right was not enjoyed since 1980. The suit fails as it is brought after 2 years.

Sn.27: On the expiry of 12years, the person who was in possession of a property becomes the absolute owner, if he has enjoyed the property peaceably and openly, for 12 years, **nee vi, nee calm and nee precario, against the real owner.**

Ch.5.2 Foreign Contracts:

Contracts entered into by parties in a foreign country, pose problems when the party in India sues in India for breach of contract etc. In such a case, the limitation Act provides that Indian law would be applicable i.e, law of the forum. The limitation Act of a foreign country will not be applicable.

If the contract is made in the country, and the suit is instituted in another, in so far as. interpretation of the contract itself is concerned, it is done as per the law of country where the contract is to be performed. (Lex loci celebrations)

Procedure for suing, the period of limitation & other procedures should be as per the law of the forum. Hence, if a suit is barred according to a foreign law, that is not applicable, if as per Indian Limitation Act, the suit is within period of limitation.

CHAPTER 6

FRAUD

Ch.6.1 Effect of Fraud or mistake

One principle of Limitation Act is that where there is no person who could sue or be sued the Act would not run. This means, for a complete cause of action to exist, there must be a person in existence capable of suing. .

The period of limitation is specified in the schedule annexed to the Limitation Act. However, question arises as to what is the position when there is a fraud or mistake or the concerned document has been concealed fraudulently. In such cases, Sn.17 provides that the period of limitation would not run until the plaintiff has discovered with due diligence the fraud or the mistake. Similarly if a document is concealed time will not run until the plaintiff has the means to produce it or compel its production. Until the document is discovered the person will not know that he has a right to sue. Hence the person's right is unknown until he discovers.

The above rule is applicable

- i) To any suit or application based on fraud of the opposite party.
- ii) The knowledge of the right or title is concealed by fraud.
- iii) Where the suit is for a relief from the consequences of a mistake.
- i'v) Where the concerned document has been fraudulently concealed by the defendant.

Exception

The above rule of time not running is not applicable to cases to recover, to enforce a charge or to set aside any transaction relating to property, which is purchased for value by a person who is not a party to the fraud or who did not know about the fraud. Similarly in the case of mistake, the bona fide purchaser for value who did not know the mistake is protected. Where there is a concealed document, the bona fide purchaser for value who did not know that there was a concealed document, is protected.

These provisions are made to protect the interests of the bonafide innocent purchasers.

Sn.17(2) deals with the case of a judgment debtor, who may prevent the execution of a decree or order within the period of limitation. In such a case, the court may extend the time for the execution of the decree on an application made by the judgment creditor. However, he must file the application within One year from the date

of discovery of the fraud or the cessation of force.

Ch.6.2. Continuing breaches of contracts & torts Sn 22

Sn 22 provides that where there is a continuous breach of contract or commission of tort, a fresh period of limitation begins to run during such breach or commission continues.

The origin of this can be traced to "de die in diem" which means "from day to day". Hence, if the cause of action is on a day to day basis, Sn 22 provides that the period of limitation starts running every such of time, when the breach continues.

The essential requirement is that there should be continuous breach of contract or commission of tort. Otherwise, the section will not applyl

e.g. A agrees to supply goods to B, on a particular day, time being the essence of contract. A fails. Time starts running from that day. There is no continuous breach. Hence Sn 22 will not apply.

Similarly in case of slander, libel, malicious prosecution or false imprisonment the period of limitation is one year from the date of cause of action. There is no continuity & Sn 22 will not apply.

Hence, in case of contracts there should be continuous breach during the continuance of contract; in case of torts there should be continuous injury in continuous torts to get the fresh period of limitation. •

e.g. Nuisance, Trespass, when continued by the tort feasor, the period of limitation starts every time the Nuisance & Trespass is committed.

CHAPTER7 IMPORTANT PERIODS OF LIMITATION

The period of limitation and the time of commencement of the period of limitation of **some important Articles** are noted below:

Description of suit	SCHEDULE (Periods of Limitation)	
	Period of Limitation	Time from which period begins to run
2. Against a factor for an account.	Three Years	When the account is, during the continuance of the agency, demanded & refused or, where no such demand is made, when the agency terminates
3. By a principle against his agent for movable property received by the latter & not accounted for.	Three Years	When the account is, during the continuance of the agency, demanded & refused or, where no such demand is made, when the agency terminates
5. For an account & a share of the profits of a dissolved partnership.	Three Years	The date of the dissolution.

6. For a seaman's wages	105	
	Three Years	The end of the voyage during which the wages are earned.
8. For the price of Three Years food or drink sold by the keeper of a hotel, tavern or lodging-house.		When the food or drink is delivered.
9. For the price of lodging. •	Three Years	When the price becomes payable.
10. Against a carrier for compensation for losing or injuring goods.	Three Years	When the loss or injury occurs.
14. For the price of goods sold and delivered where no fixed period of credit is agreed upon.	Three Years	The date of the delivery of the goods.
19. For money payable for money lent.	Three Years	When the loan is made.
27. For compensation for breach of a promise to do anything at a specified time or upon the happening of a specified contingency.	Three Years	When the time specified arrives or the contingency happens.
42. By a surety against the principal debtor.	Three Years	When the surety pays the creditor.

43. By a surety against a co-surety.	Three Years	When the surety pays anything in excess of his own share.
47. For money paid upon an existing consideration which afterwards fails.	Three Years	The date of the failure.
52. For arrears of rent.	Three Years	When the arrears become due.
54. For specific performance of a contract.	Three Years	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
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.
61. By a mortgagor		
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.

63. By a mortgagee a) for foreclosure	Thirty Years	When the money secured by the mortgage becomes due.
b) for possession of immovable property mortgaged.	Twelve Years	When the mortgage becomes entitled to possession.
97. By a landlord to recover possession from a tenant.	Twelve Years	When the tenancy is determined.
73. For compensation false imprisonment.	One Year	When the imprisonment ends.
74. For compensation for a malicious prosecution.	One year	When the plaintiff is acquitted or the prosecution is otherwise terminated.
75. For compensation for libel.	One Year	When the libel is published
76. For compensation for slander.	One Year	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained results.
85. For compensation for obstructing a way or a watercourse.	Three Years	The date of the obstruction
86. For compensation for diverting a water course.	Three Years	The date of the diversion.

89. To restrain waste.	Three Years	When the waste begins.
90. For compensation for injury caused by an injunction wrongfully obtained.	Three Years	When the injunction ceases
104. To establish a periodically recurring right.	Three Years	When the plaintiff is first refused the enjoyment of the right.
105. By a Hindu for arrears of maintenance.	Three Years	When the arrears are payable.
107. For possession of a hereditary office	Twelve Years	When the defendant takes possession of the office adversely to the plaintiff.
115. Under the Code of Criminal Procedure, 1964		
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	The date of the sentence.
121. Under the same Code for an order to set aside abatement.	Sixty days	The date of the sentence.

123 To set aside a **Thirty days** decree passed ex-parte.

The date of the decree or where the summons or notice was not duly served, when the applicant had knowledge of the decree.

130. For leave to appeal as a pauper-

The date of decree appealed from.

a) to the High Court **Sixty days**

The date of decree appealed from.

b) to any other Court. **Thirty days**

The date of the judgement final order or sentence.

133. To the Supreme Court for special leave to appeal

The date of the order of refusal.

a) in a case involving **Sixty days** death sentence.

Sixty days

b) in a case where leave to appeal was refused by the High Court.

The date of the judgment or order

c) in any other case. **Ninety days**

137, Any other application with no limitation period. Three Years

When the right to apply accrues

THE END

REFERENCE SECTION

Selected Sections

The Indian Limitation Act 1963

(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;

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.

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 date 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.

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 judgement of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

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 times 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.

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.

8. Special exceptions

Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, 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.

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 stops it:

PROVIDED that where letters of administration to the estate of 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.

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.

PART III COMPUTATION OF PERIOD OF LIMITATION

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 judgement, the day on which judgement complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.

(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 judgement 2[***] shall also be excluded.

(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. 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.

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.

15. Exclusion of time in certain other cases

(1) In computing the period of limitation of 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 by 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 the Central Government, shall be excluded.

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 making 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 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 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 judgement-debtor has, by fraud or force, prevented the execution of a decree or order with the period of limitation, the court may, on the application of the judgement-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.

18. Effect of acknowledgement in writing

(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgement 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 acknowledgement was so signed.

(2) Where the writing containing the acknowledgement 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 acknowledgement 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 a 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.

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 acknowledgement 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.

20. Effect of acknowledgement 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 acknowledgement 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 acknowledgement 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 acknowledgement 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 acknowledgement 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 acknowledgement 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.

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.

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 the tort, as the case may be, continues.

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.

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.

PART IV

ACQUISITION OF OWNERSHIP BY POSSESSION

25. Acquisition of easement 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 with 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 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.

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 interests or term resisted by the person entitled on such determination to the said land or water.

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.