

The Limitation Act ,1963

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Objective of Limitation

- **Vigilantibus Et Non Dormientibus Jura Subveniunt**
[the law assists those that are vigilant with their rights, and not those that sleep thereupon]
- **In the interest of society as a whole, litigation must come to an end** (*interest reipublicae ut sit finis litium*)
- **To secure quiet of the community, to suppress fraud and perjury**
- **To quicken diligence and prevent oppression**
- **To ensure that claims are extinguished or ought to be held extinguished whether they are not litigated in the proper forum (court) within the prescribed period.**
- **That long dormant claims have more of cruelty than justice in them; That a defendant might have lost the evidence to dispute the state claim;**
- **That the right not exercised for a long time is non-existence; That the rights in property and rights in general should not be in a state of constant uncertainty, doubt and suspense.**

The Law in India

- First time a Law of Limitation was passed by Act XIV of 1859.
- Act of 1859 was followed by Act XIX of 1871 and the same was followed by the Act XV of 1877.
- Finally the Limitation Act, 1908 consolidated the law relating to limitation for suits, appeals and applications. Act of 1908 consists of 30 Sections and 183 Articles.
- Present Limitation Act 1963, was passed to implement the Third Report of the Law Commission on the Indian Limitation Act.
- **Scheme:** 32 Sections and Schedule
- Limitation Act of 1963 contains: **a.** First Division deals with Suits (Articles 1 – 113) **b.** Second Division deals with Appeals (Articles 114 – 117) **c.** Third Division deals with Applications (Articles 118 – 137)

Salient Features of the Act

- **Main Objective:** to fix or prescribe period **for barring legal actions.**
- **‘period of limitation’** -the period of limitation prescribed for any suit, appeal or application by the Schedule
- **prescribed period’** - the period of **limitation computed in accordance with the provisions of the Act.** [Section 2 (j) of the Limitation Act, 1963,]

- The Act only bars the remedy and not the right [S.3]
- Expiry of Limitation period when the court is closed [S.3]
- Extension of Limitation Period in certain circumstances - **Condonation of delay** (for sufficient cause Eg: Illness, legal advise & Imprisonment etc) – **Poverty, minority, marriage preparation and Parda-** may not be sufficient cause – Everyday's delay must be explained [S.5]

Importance of Limitation to Public Servants

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 defense;**

(1) 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 is 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 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;

- Legal Disability [S.6]
- Excuses persons like minors, insane & idiot to file a suit etc after disability is ceased [S.6-8]
- Continuance running of time (S.9)
- Computation of period of limitation
 - The day from which period is to be reckoned-shall be excluded
 - Time between day of judgment and time taken for obtaining copy of decree, sentence or order -shall be excluded
 - Time for obtaining leave to appeal as pauper- -shall be excluded (S.13)
 - Time for proceeding bonafide before a court without jurisdiction (s.13) etc.
 - The time of 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 (s.15)

- **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.**
(s.16)

- **17. Effect of fraud or mistake (S.17) - 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, has discovered it, or in the case of concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production:**

Effect of acknowledgment in writing

(s.18)

(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 derived his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed

Sec. 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 payment was made

Acquisition of easement by prescription (S.25)

- (1) Where the **access and use of light or air to and for any building** have been peaceably enjoyed there with 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 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 claim to which such period relates is contested.
- (3) **Where 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 the 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 authorizing the same to be made.

Conclusion

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