

# THE LIMITATION ACT, 1963

## THE SCHEDULE

### PERIODS OF LIMITATION

[See sections 2(1) and 3]

#### FIRST DIVISION—SUITS

Description of suit	Period of limitation	Time from which period begins to run
<b>PART I—SUITS RELATING TO ACCOUNTS</b>		
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.	Three years	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
4 Other suits by principals against agents for neglect or misconduct.	Three years	When the neglect or misconduct becomes known to the plaintiff.
5 For an account and a share of the profits of a dissolved partnership.	Three years	The date of the dissolution.
<b>PART II—SUITS RELATING TO CONTRACTS</b>		
6 For a Seaman's wages.	Three years	The end of the voyage during which the wages are earned.
7 For wages in the case of any other person.	Three years	When the wages accrue due.
8 For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.	Three years	When the food or drink is delivered.
9 For the price of lodging.	Three years	When the price becomes payable.
10. Against a carrier for compensation for losing or injuring goods.	Three years	When the loss or injury occurs.

Description of suit	Period of limitation	Time from which period begins to run
11. Against a carrier for compensation for non-delivery of, or delay in delivering goods.	Three years	When the goods ought to be delivered.
12. For the hire of animals, vehicles, boats or house-hold furniture.	Three years	When the hire becomes payable.
13. For the balance of money advanced in payment of goods to be delivered.	Three years	When the goods ought to be delivered.
14. For the price of goods sold and delivered where no fixed period of credit is agreed upon.	Three years	The date of 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.	Three years	When the period of credit expires.
16. For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Three years	When the period of the proposed bill elapses.
17. For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Three years.	The date of the sale.
18. For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Three years	When the work is done.
19. For money payable for money lent.	Three years	When the loan is made.
20. Like suit when the lender has given a cheque for the money.	Three years	When the cheque is paid.
21. For money lent under an agreement that it shall be payable on demand.	Three years	When the loan is made.
22. For money deposited under an agreement that it shall be	Three years	When the demand is made.

Description of suit	Period of limitation	Time from which period begins to run
payable on demand, including money of a customer in the hands of his banker so payable.		
23. For money payable to the plaintiff for money paid for the defendant.	Three years	When the money is paid.
24. For money payable by the defendant to the plaintiff for money received by the defendant, for the plaintiff's use.	Three years	When the money is received.
25. For money payable for interest upon money due from the defendant to the plaintiff.	Three years	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.	Three years	When the accounts are stated in writing signed by the defendant or his agent duly authorised in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.
27. For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Three years	When the time specified arrives or the contingency happens.
28. On a single bond, where a day is specified for payment.	Three years	The day so specified.
29. On a single bond, where no such day is specified.	Three years	The date of executing the bond.
30. On a bond subject to a condition.	Three years	When the condition is broken.
31. On a bill of exchange or promissory note payable at a fixed time after date.	Three years	When the bill or note falls due.

Description of suit	Period of limitation	Time from which period begins to run
32. On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Three years	When the bill is presented.
33. On a bill of exchange accepted payable at a particular place.	Three years	When the bill is presented at that place.
34. On a bill of exchange or promissory note payable at a fixed time, after sight or after demand.	Three years	When the fixed time expires.
35. On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Three years	The date of the bill or note.
36. On a promissory note or bond payable by instalments.	Three years	The expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective terms of payment.
37. On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one or more instalments, the whole shall be due.	Three years	When the default is made, unless where the payee or obligee waives the benefit of the provision and then when fresh default is made in respect of which there is no such waiver.
38. On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Three years	The date of the delivery to the payee.
39. On a dishonoured foreign bill where protest has been made and notice given.	Three years	When the notice is given.
40. By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance.	Three years	The date of the refusal to accept.

Description of suit	Period of limitation	Time from which period begins to run
41. By the acceptor of an accommodation bill against the drawer.	Three years	When the acceptor pays the amount of the bill.
42. By a surety against the principal debtor.	Three years	When the surety pays the creditor.
43. By a surety against a co-surety.	Three years	When the surety pays anything in excess of his own share.
44. (a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.	Three years	The date of the death of the deceased, or where the claim on the policy is denied, either partly or wholly, the date of such denial.
(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.	Three years	The date of the occurrence causing the loss, or where the claim on the policy is denied, either partly or wholly, the date of such denial.
45. By the assured to recover premia paid under a policy voidable at the election of the insurers.	Three years	When the insurers elect to avoid the policy.
46. Under the Indian Succession Act, 1925 (39 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.	Three years	The date of the failure.
48. For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-sharers.	Three years	The date of the payment in excess of the plaintiff's own share.

Description of suit	Period of limitation	Time from which period begins to run
49. By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Three years	When the right to contribution accrues.
50. By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate.	Three years	The date of the payment.
51. For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Three years	When the profits are received.
52. For arrears of rent.	Three years	Where the arrears become due.
53. By a vendor of immovable property for personal payment of unpaid purchase-money.	Three years	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
54. For specific performance of a contract.	Three years	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
55. For compensation for the breach of any contract, express or implied not herein specially provided for.	Three years	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.

#### PART III—SUITS RELATING TO DECLARATIONS

56. To declare the forgery of an instrument issued or registered.	Three years	When the issue or registration becomes known to the plaintiff.
57. To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.	Three years	When the alleged adoption becomes known to the plaintiff.
58. To obtain any other declaration.	Three years	When the right to sue first accrues.

Description of suit	Period of limitation	Time from which period begins to run
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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. |
| 60. To set aside a transfer of property made by the guardian of a ward—                 |             |   |
| (a) by the ward who has attained majority.  | Three years | When the ward attains majority.   |
| (b) by the ward's legal representative—   |             |   |
| (i) When the ward dies within three years from the date of attaining majority.          | Three years | When the ward attains majority.   |
| (ii) When the ward dies before attaining majority.                                      | Three years | When the ward dies.   |

PART V—SUITS RELATING TO IMMOVABLE PROPERTY

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| 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.          |
| (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.    |
| 62. To enforce payment of money secured by a mortgage or otherwise charged upon immovable property.                                 | Twelve years | When the money sued for becomes due.                       |
| 63. By a mortgagee—   |              |  |
| (a) for foreclosure.  | Thirty years | When the money secured by the mortgage becomes due.        |
| (b) for possession of immovable property mortgaged.   | Twelve years | When the mortgagee becomes entitled to possession.         |

Description of suit	Period of limitation	Time from which period begins to run
64. For possession of immovable property based on previous possession and not on title, when the plaintiff while in possession of the property has been dispossessed.	Twelve years	The date of dispossession.
65. For possession of immovable property or any interest therein based on title.	Twelve years	When the possession of the defendant becomes adverse to the plaintiff.

*Explanation.*—For the purposes of this article—

- (a) where the suit is by a remainderman, a reversioner (other than a landlord) or a devisee, the possession of the defendant shall be deemed to become adverse only when the estate of the remainderman, reversioner or devisee, as the case may be, falls into possession;
- (b) where the suit is by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies;
- (c) where the suit is by a purchaser at a sale in execution of a decree when the 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.



Description of suit	Period of limitation	Time from which period begins to run
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#### STATE AMENDMENTS

##### **Bihar:**

In Article 65, in the second column, following words shall be added at the end, namely:—

“but 30 years in respect of immovable property belonging to a member of the Schedule Tribes as specified in Part III to the Schedule to the Constitution (Scheduled Tribes) Order, 1950”.

[*Vide* Bihar Regulation 1 of 1969, sec. 3 and Sch. (w.e.f. 8-2-1969)].

##### **Orissa:**

In Article 65, second column, following words shall be added at the end, namely:—

“but thirty years in relation to immovable property belonging to a member of a Scheduled Tribe specified in respect of the State of Orissa in the Constitution (Scheduled Tribes) Order, 1950”.

[*Vide* Orissa Regulation 1 of 1975, sec. 5 (w.e.f. 12-12-1975)].

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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. |
| 67. By a landlord to recover possession from a tenant.  | Twelve years | When the tenancy is determined.                             |

#### 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. |
| 69. For other specific movable property.  | Three years | When the property is wrongfully taken.   |
| 70. To recover movable property deposited or pawned from a depository or pawnee.  | Three years | The date of refusal after demand.  |
| 71. To recover movable property deposited or pawned and afterwards bought from the depository or pawnee for a valuable consideration. | Three years | When the sale becomes known to the plaintiff.  |

#### PART VII—SUITS RELATING TO TORT

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| 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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Description of suit	Period of limitation	Time from which period begins to run
73. For compensation for false imprisonment.	One year	When the imprisonment ends.
74. For compensation for a malicious prosecution.	One year	When the plaintiff is acquitted or the prosecution is otherwise terminated.
75. For compensation for libel.	One year	When the libel is published.
76. For compensation for slander.	One year	When the words are spoken or, if the words are not actionable in themselves, when the special damage complained of results.
77. For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	One year	When the loss occurs.
78. For compensation for inducing a person to break a contract with the plaintiff.	One year	The date of the breach.
79. For compensation for an illegal, irregular or excessive distress.	One year	The date of the distress.
80. For compensation for wrongful seizure of movable property under legal process.	One year	The date of the seizure.
81. By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855 (12 of 1855).	One year	The date of the death of the person wronged.
82. By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855 (13 of 1855).	Two years	The date of the death of the person killed.
83. Under the Legal Representatives' Suits Act, 1855 (12 of 1855) against an executor, an administrator or any other representative.	Two years	When the wrong complained of is done.

Description of suit	Period of limitation	Time from which period begins to run
84. Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Two years	When the perversion first becomes known to the person injured thereby.
85. For compensation for obstructing a way or a water course.	Three years	The date of the obstruction.
86. For compensation for diverting a watercourse.	Three years	The date of the diversion.
87. For compensation for trespass upon immovable property.	Three years	The date of the trespass.
88. For compensation for infringing copyright or any other exclusive privilege.	Three years	The date of the infringement.
89. To restrain waste.	Three years	When the waste begins.
90. For compensation for injury caused by an injunction wrongfully obtained.	Three years	When the injunction ceases.
91. For compensation,—		
(a) for wrongfully taking or detaining any specific movable property lost, or acquired by theft, or dishonest misappropriation, or conversion.	Three years	When the person having the right to the possession of the property first learns in whose possession it is.
(b) for wrongfully taking or injuring or wrongfully detaining any other specific movable property.	Three years	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
PART VIII—SUITS RELATING TO TRUSTS AND TRUST PROPERTY		
92. To recover possession of immovable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration.	Twelve years	When the transfer becomes known to the plaintiff.
93. To recover possession of movable property conveyed or bequeathed in trust and	Three years	When the transfer becomes known to the plaintiff.

Description of suit	Period of limitation	Time from which period begins to run
afterwards transferred by the trustee for a valuable consideration.		
94. To set aside a transfer of immovable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof, for a valuable consideration.	Twelve years	When the transfer becomes known to the plaintiff.
95. 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 <sup>1</sup> [an order referred to in the rule 63 or in rule 103] of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908) or an order under section 28 of the	One year	The date of the final order.

1. Subs. by Act 52 of 1964, sec. 3 and Second Sch., for “an order under rule 63 or rule 103”.

Description of suit	Period of limitation	Time from which period begins to run
<p>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.</p>		
99. To set aside a sale by a civil or revenue court or a sale for arrears of Government revenue or for any demand recoverable as such arrears.	One year	When the sale is confirmed or would otherwise have become final and conclusive had no such suit been brought.
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.	One year	The date of the final decision or order by the court or the date of the act or order of the officer, as the case may be.
101. Upon a 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.	Three years	When the plaintiff is restored to sanity and has knowledge of the conveyance.
103. To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Three years	The date of the trustee's death or if the loss has not then resulted, the date of the loss.
104. To establish a periodically recurring right.	Three years	When the plaintiff is first refused the enjoyment of the right.
105. By a Hindu for arrears of maintenance.	Three years	When the arrears are payable.
106. For a legacy or for a share of a residue bequeathed by a testator or for a distributive share of the property of an 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.

Description of suit	Period of limitation	Time from which period begins to run
107. For possession of a hereditary office. <i>Explanation.</i> —A hereditary office is possessed when the properties thereof are usually received, or (if there are no properties) when the duties thereof are usually performed.	Twelve years	When the defendant takes possession of the office adversely to the plaintiff.
108. Suit during the life of a Hindu or Muslim female by a Hindu or Muslim, who if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re-marriage.	Twelve years	The date of the alienation.
109. By a Hindu governed by <i>Mitakshara</i> law to set aside his father's alienation of ancestral property.	Twelve years	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.	Twelve years	When the exclusion becomes known to the plaintiff.
111. By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Thirty years	The date of the dispossession or discontinuance.
112. Any suit (except a suit before the Supreme Court in the exercise of its original jurisdiction) by or on behalf of the Central Government or any State Government, including the Government of the State of Jammu and Kashmir.	Thirty years	When the period of limitation would begin to run under this Act against a like suit by a private person.

Description of suit	Period of limitation	Time from which period begins to run
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**STATE AMENDMENT**

**West Bengal:**

In the entry in the first column against Article 112, after the words "Jammu and Kashmir" the following words shall be and shall be deemed always to have been added, namely:—

"of a Government company owned wholly either by the Central Government or by the State Government or jointly by the Central and the State Government".

[Vide West Bengal Act 18 of 1977, sec. 3 (w.e.f. 4-8-1977)].

PART X—SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD

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| 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

Description of appeal	Period of limitation	Time from which period begins to run
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| 114. Appeal from an order of acquittal—   |             |   |
| (a) under sub-section (1) or sub-section (2) of section 417 of the Code of Criminal Procedure, 1898 (5 of 1898).                    | Ninety days | The date of the order appealed from.    |
| (b) under sub-section (3) of section 417 of the Code.   | Thirty days | The date of the grant of special leave. |
| 115. Under the Code of Criminal Procedure, 1898 (5 of 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 | The date of the sentence.               |
| (b) from any other sentence or any order not being an order of acquittal—   |             |   |
| (i) to the High Court.  | Sixty days  | The date of the sentence or order.      |
| (ii) to any other court.  | Thirty days | The date of the sentence or order.      |
| 116. Under the Code of Civil Procedure, 1908 (5 of 1908),—  |             |   |
| (a) to a High Court from any decree or order.   | Ninety days | The date of the decree or order.        |
| (b) to any other court from any decree or order.  | Thirty days | The date of the decree or order.        |

Description of appeal	Period of limitation	Time from which period begins to run
117. From a decree or order of any High Court to the same Court.	Thirty days	The date of the decree or order.

THIRD DIVISION—APPLICATIONS

Description of application	Period of limitation	Time from which period begins to run
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PART I—APPLICATIONS IN SPECIFIED CASES

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 (10 of 1940),—		
(a) for the filing in court of an award.	Thirty days	The date of service of the notice of the making of the award.
(b) for setting aside an award or getting an award remitted for reconsideration.	Thirty days	The date of service of the notice of the filing of the award.
120. Under the Code of Civil Procedure, 1908 (5 of 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 re-hear 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.



Description of application	Period of limitation	Time from which period begins to run
<i>Explanation.</i> —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.		
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.	Thirty days	When the payment or adjustment is made.
126. For the payment of the amount of a decree by instalments.	Thirty days	The date of the decree.
127. To set aside a sale in execution of a decree, including any such application by a judgment-debtor.	<sup>1</sup> [Sixty] days	The date of the sale.
128. For possession by one dispossessed of immovable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree.	Thirty days	The date of the dispossession.
129. For possession after removing resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree.	Thirty days	The date of resistance or obstruction.
130. For leave to appeal as a pauper—		
(a) to the High Court;	Sixty days	The date of decree appealed from.
(b) to any other court.	Thirty days	The date of decree appealed from.
131. To any court for the exercise of its powers of revision under the Code of Civil Procedure, 1908 (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.
	Sixty days	The date of the decree, order or sentence.

1. Subs. by Act 104 of 1976, sec. 98, for “Thirty” (w.e.f. 1-2-1977).

Description of application	Period of limitation	Time from which period begins to run
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.		
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.	Sixty days	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.
135. For the enforcement of a decree granting a mandatory injunction.	Three years.	The date of the decree or where a date is fixed for performance, such date.
136. For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court.	Twelve years	<sup>1</sup> [When] the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place: Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.

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PART II—OTHER APPLICATIONS

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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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1. Subs. by Act 52 of 1964, sec. 3 and Second Sch., for "Where".

## COMMENTS

### ARTICLE 30

#### **Bond - Subject to condition**

The starting point of limitation would be the date of the loss or injury to the goods, though after the goods were consigned by the consignor he would not be in a position to know the precise date on which the loss or injury has occurred and that the burden would be on the railway administration who want to non-suit the plaintiff on the ground of limitation to establish that the loss or injury occurred more than one year before the institution of the suit; *Southern Railway v. Seyadu Beedi Co.*, AIR 1970 Mad 108.

### ARTICLE 54

#### **Applicability**

The established rule of Limitation is that law of limitation is not applicable to a plea taken in defence unless expressly a provision is made in the statute. The Law of Limitation applies to the suits and application. Thus, the Law of Limitation bars only an action in a court of law but it does not extinguish a defence though such claim may be barred in a court of law. On the said principle, a defendant in a suit can put forward any defence though such defence may not be enforceable in a court of law being barred by limitation; *Ran Singh Malik v. State of Haryana*, AIR 2003 SC 960.

In the case of contract for sale of immovable property, the presumption is that time is not the essence of the contract; *Sardar Gurdeep Singh v. Amiya Kumar Datta*, (1994) 2 CCC 454 (MP).

#### **Scope**

Plea of protective umbrella of 'novation' which is associated with information-galore, is not permissible in the absence of mutuality. It has to be pleaded specifically and on contest, has to be proved cogently; *Basantilal v. Rameshwar Prasad*, (1994) 2 CCC 429 (MP).

#### **Specific performance and possession**

It is settled in law where a party to a contract commits an anticipatory breach of the contract, the other party to the contract may treat the breach as putting an end to the contract and sue for damages, but in that event he cannot ask for specific performance; *Basantilal v. Rameshwar Prasad*, (1994) 2 CCC 429 (MP).

### ARTICLE 58

#### **Right to sue first accrues**

There must be accrual of the right to sue for the plaintiff, and infringement or at least a clear and unequivocal threat to infringe that right by the defendant should happen. So far as the right of the plaintiff is not infringed or there is no positive and overt act on the part of the defendant to infringe the right of the plaintiff, there would not be accrual of the right to sue; *Rukashmaniben v. Vadilal Narayandas Jadawala*, (1994) 1 CCC 205 (Guj DB).

### ARTICLE 64

#### **Possession of immovable property**

Possession of a property belonging to several co-sharers by one co-sharer shall be deemed that he possess the property on behalf of the other co-sharers unless there has been a clear ouster by denying the title of other co-sharers and mutation in the revenue record in the name of one co-sharer would not amount to ouster unless there is clear declaration that title of other co-sharers was denied; *Darshan Singh v. Gujjar Singh*, AIR 2002 SC 606.

### ARTICLE 65

#### **Adverse possession**

The predecessor-in-interest of plaintiffs coming into possession of the land by virtue of an unstamped and unregistered sale deed executed by predecessor-in-interest of

defendants in 1931. The plaintiff in continuous possession till 1956 when defendants by issuing a notice calling upon plaintiffs as trespassers to hand over possession of the land to them. It was held that the unstamped and unregistered sale deed can at least be looked into for the collateral purpose of nature of possession of the plaintiff over the land. Accordingly, the sale deed shows that possession of plaintiff was not illegal and unauthorised. Plaintiff being in continuous and uninterrupted possession since 1931 and they having set up hostile title thereto against defendants who started asserting their title only from 1956, plea of adverse possession of plaintiffs was established; *Bondar Singh v. Nihal Singh*, (2003) 4 SCC 161.

The title in the property cannot pass to the auction-purchaser unless the purchase price has been released in full; *Bhargawa & Co. (Dr.) v. Shyam Sunder Seth (by L. Rs.)*, (1994) 2 CCC 481 (SC).

The passing of title presupposes the payment of price in full and the question is at what stage this takes place; *Bhargawa & Co. (Dr.) v. Shyam Sunder Seth (by L. Rs.)*, (1994) 2 CCC 481 (SC).

No doubt till the price is paid in full there is no claim to the property; *Bhargawa & Co. (Dr.) v. Shyam Sunder Seth (by L. Rs.)*, (1994) 2 CCC 481 (SC).

#### **Burden of proof**

When the plaintiff's title is established, it would be the burden of the defendant to prove that he acquired title by adverse possession; *Md. Abdul Hussain v. Md. Akkesh Ali*, (1991) 2 CCC 735 (Gau).

#### **Possession follows title**

The suit lands held by the erstwhile watandar or inamdar were impartible under the then existing law. The contest *inter se* for the status of watandar between members of the family ended by the order of the Regency Court and the only result was that the predecessors-in-title of the defendants were allowed to possess the land as watandar being the eldest member of the family of the original watandar on the rule of primogenetive, it was held that the possession of the eldest member of the family pursuant to the Court's order in 1945 as wantandar was not adverse to regrant of those lands to the watandar. Inam and watan lands regranted to the watandar enured to the benefit of the whole family of the watandar and thereafter they became partible. Hence, the partition suit filed by the other members of the family cannot therefore be said to be barred by limitation on ground that the eldest member of the family (predecessor-in-title of the defendants) had prescribed his adverse possession; *Chandramohan Ramchandra Patel v. Babu Koyappa Patel*, (2003) 3 SCC 552.

#### **Scope**

Plea of adverse possession cannot be raised by person and admits himself to be tenant; *Abdul Rahman v. Prasony Bai*, AIR 2003 SC 718.

#### **ARTICLE 87**

##### **Scope**

A suit for compensation for trespass upon immovable property is governed by Article 87 and by Article 72; *Girdhari Lal v. Chandandas*, (1991) 3 CCC 493 (MP).

#### **ARTICLE 113**

##### **Scope**

If the payment, even though it be of tax, has been made by the party labouring under a mistake of law the party is entitled to recover the same within the period of limitation of 3 years from the date when the mistake was known; *Assam Industrial Corporation v. Union of India*, (1991) 1 CCC 116 (Gau DB).

## **ARTICLE 122**

### **Starting point of limitation**

Limitation under Article 122 runs from the date of dismissal of appeal and not from the date of knowledge of dismissal; *Ashok Kumar v. Manjit Kaur*, (1991) 1 CCC 24 (J&K).

## **ARTICLE 123**

### **Starting point of limitation**

The limitation is 30 days from the date of the *ex parte* decree; *Naresh Industrial Corporation v. Ganesh Oil & General Mills*, (1994) 1 CCC 875 (Raj).

When it is not the case of the defendant that summons was not duly served, the period of limitation for moving an application for setting aside an *ex parte* decree does not start from the date of the knowledge of the *ex parte* decree; *Naresh Industrial Corporation v. Ganesh Oil and General Mills*, (1994) 1 CCC 875 (Raj).

## **ARTICLE 127**

### **Applicability**

It is settled law that an application to set aside sale under Order XXI, Rule 89 of the Code of Civil Procedure, 1908 is governed by Article 127. The executing court has no jurisdiction whatsoever to entertain such application after the period of limitation prescribed by Article 127; *Mohan Lal v. Hari Prasad Yadav*, (1994) 2 CCC 501 (SC).

## **ARTICLE 134**

### **Applicability**

Article 134 will apply only if the sale is in execution of "a decree". The starting point of limitation is one year from the date when the "sale becomes absolute"; *Mylsamy v. Dharapuram Cooperative Primary Land Development Bank*, (1994) 2 CCC 662 (Mad).

In a suit for damages, the period of limitation runs from the date of the damage and not of the act which caused the damage; *Federal Bank Ltd. v. Rama-Krishna Pillai*, (1991) 3 CCC 455 (Ker).

## **ARTICLE 137**

### **Scope and applicability**

Article 137 has replaced Article 181 of the Limitation Act, 1908. The intention of the legislative was to provide residuary article prescribing period of limitation for filing petitions and applications under the various special laws and not only under the Code of Civil Procedure; *Asia Resorts Ltd. v. Usha Breco Ltd.*, AIR 2002 SC 55.

The period of limitation under Article 137 is 3 years which commences from the date when the right to apply accrues; *Balwant Singh v. Gurbachan Singh*, (1994) 1 CCC 16 (SC).

The question when such right to apply accrues will depend on the facts and circumstances of each case; *Balwant Singh v. Gurbachan Singh*, (1994) 1 CCC 16 (SC).

An application for probate, letters of administration or succession certificate even if filed beyond three years from the date of the death of the testator cannot be rejected at the threshold as time-barred by invoking Article 137; *Francis v. Antony*, (1991) 1 CCC 530 (Ker).

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