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**A court may reject a suit on the ground of limitation.<sup>1</sup>**

Limitation is a statutory period after which a lawsuit or prosecution cannot be brought in court. In a legal proceeding it is expected that the parties to the dispute will raise an issue before the court for settlement during a reasonable time. Court may restrict the admission of a belated issue because it cannot allow its machinery to be used for an indefinite period for determination of issues which parties may raise as per their own convenience of time. It assumes that an aggrieved must be conscious and alert for the remedy as is summed up in the maxim *vigilantibus et non dormientibus jura subveniunt* which is translated as the law aids the vigilant and not the indolent.

Limitation bars only the remedy in a Court of law when the period of limitation has expired but it does not extinguish the right [Bombay Dying & Mfg. Co. Ltd. v. State of Bombay AIR 1958 SC 328]. Thus if a claim is satisfied outside the Court of law after the expiry of period of limitation then it is not illegal.

**Law of limitation**

The law relating to limitation is incorporated in the Limitation Act of 1963 which prescribes different periods of limitation for suits, appeals, or applications. The Act applies to all civil proceedings and some special criminal proceedings which can be taken in a Court of law unless its application is excluded by any enactment. The Act extends to whole of India except the State of Jammu and Kashmir.

The Courts in India are bound by the specific provisions of the Limitation Act and are not permitted to move outside the ambit of these provisions. The Act in its Schedule prescribes the period

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<sup>1</sup> Takwani 2015 p 781

## Limitation

of limitation for different types of suits (Division I), appeals (Division II), and applications (Division III) and also the time from which such period commences.

## Bar of limitation

Section 3 of the Act provides that any suit, appeal or application if made beyond the prescribed period of limitation then it is the duty of the Court not to proceed with such suits irrespective of the fact whether the plea of limitation has been set up in defence or not. The question whether a suit is barred by limitation should be decided on the facts as they stood on the date of presentation of the plaint.

The effect of Section 3 is, however, not to deprive the Court of its jurisdiction. Decision of a Court allowing a suit which had been instituted after the period prescribed is not vitiated for want of jurisdiction. Thus, a decree passed in a time barred suit is not a nullity.

## Application, suit, and appeal

An application is a request for action or relief; and for the purpose of limitation includes a petition.<sup>2</sup> A petition is an application to a court in writing in contradistinction to motion which may be made by word of mouth.<sup>3</sup> A complaint, however, cannot be termed as application or petition even though it is filed before a criminal court.<sup>4</sup>

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<sup>2</sup> Sec 2(b)

<sup>3</sup> Aiyar 2013 v 3 p 3636

<sup>4</sup> Mitra 2018 v 1 p 67

## Limitation

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A suit is a proceeding undertaken by a person against another in a court of law. This is ordinarily a civil proceeding instituted by the presentation of a plaint.⁵

An appeal is a proceeding undertaken to have a decision reconsidered by a higher authority; esp. the submission of a lower court's or agency's decision to a higher court for review and possible reversal.⁶ An appeal is a continuation of suit;⁷ and is different from the suit to the extent that it only reviews and corrects the proceedings in a case already constituted and so does not create the cause.⁸ For the purpose of limitation, however, a suit does not include an appeal or an application.⁹

⁵ Mitra 2018 v 1 p 82

⁶ Black 2015 p 105

⁷ Hasmat Rai v Raghunath Prasad (1981) 3 SCC 103

⁸ Jain 2019 p 320

⁹ Sec 2(l)