Jurisprudence, Interpretation & General Laws

10.04.2024	PHR Invent Educational Society vs. UCO Bank and Others	Supreme Court

Decision

High Court may not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person. However, it is subject to certain exceptions.

This case can be referred to for understanding and give more clarity of the law relating to entertaining writ petition by the High Courts under Article 226 of the Constitution of India.

In the instant case the Hon'ble Supreme Court has held that it could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

(i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;

(ii) it has acted in defiance of the fundamental principles of judicial procedure;

(iii) it has resorted to invoke the provisions which are repealed; and

(iv) when an order has been passed in total violation of the principles of natural justice

Further it was clarified that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.

For details:

https://api.sci.gov.in/supremecourt/2017/14596/14596_2017_15_1502_52056_Judgement_08-Apr-2024.pdf

08.04.2024	Pathapati Subba Reddy (Died) by L.Rs. & Ors. vs. The Special Deputy Collector (LA)	Supreme Court

Decision

Merits of the case are not required to be considered in condoning the delay. A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time

This case can be referred to understand the law relating to condonation of delay under the Limitation Act, 1963.

The present Special Leave Petition was filed challenging the judgment and order whereby the High Court has dismissed the application of the petitioners for condoning the delay of 5659 days in filing the proposed appeal.

The moot question before the Hon'ble Supreme court was whether in the facts and circumstances of the case, the High Court was justified in refusing to condone the delay in filing the proposed appeal and to dismiss it as barred by limitation.

The Supreme Court has said that on a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

Moreover, the High Court, in the facts of this case, has not found it fit to exercise its discretionary jurisdiction of condoning the delay. There is no occasion for us to interfere with the discretion so exercised by the High Court for the reasons recorded. First, the claimants were negligent in pursuing the reference and then in filing the proposed appeal. Secondly, most of the claimants have accepted the decision of the reference court. Thirdly, in the event the petitioners have not been substituted and made party to the reference before its decision, they could have applied for procedural review which they never did. Thus, there is apparently no due diligence on their part in pursuing the matter. Accordingly, in our opinion, High Court is justified in refusing to condone the delay in filing the appeal.

For details:

https://api.sci.gov.in/supremecourt/2018/24489/24489_2018_10_1501_51862_Judgement_02-Apr-2024.pdf

02.04.2024	Purni Devi & Anr. vs. Babu Ram & Anr	Supreme Court

In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding against the defendant should be excluded

Facts

The genesis of the case at hand dates back to 01.06.1984, wherein the predecessors in interest of the Appellant ("Plaintiff") filed a suit for possession against the Respondents ("Defendants") herein. On 10.12.1986, this suit was decreed by learned Munsiff, First Class Hiranagar, in favour of the Plaintiff, and

the Defendants were directed to deliver vacant and peaceful possession of the property to the Plaintiff. This decree was challenged by the Respondents before the learned District Judge, Kathua, in First Appeal, which came to be dismissed on 09.02.1990. Thereafter, the Respondents preferred a Second Appeal before the High Court of Jammu and Kashmir which came to be dismissed *vide* Order dated 09.11.2000. No further appeal was preferred. Therefore, the decree of the learned Munsiff Court attained finality on 09.11.2000.

The present *lis* arises from the application for execution filed by the predecessor in interest of the Plaintiff, before the learned Tehsildar (Settlement), Hiranagar on 18.12.2000. This application came to be rejected on 29.01.2005, whereby the learned Tehsildar observed that the Plaintiff had not applied before the Court with appropriate jurisdiction.

The Plaintiff thereafter, on 03.10.2005 preferred a fresh application for execution before the Court of Munsiff, Hiranagar. This application resulted in the order dated 28.11.2007, whereby, the learned Munsiff Court dismissed the application as being barred by limitation, which has come to be confirmed *vide* the impugned order.

Issue

Whether the time spent in wrong forum be excluded from the Period of Limitation?

Decision

The principles pertaining to applicability of Section 14, were extensively discussed and summarised by Supreme Court in Consolidated Engg. Enterprises (Supra), wherein while holding the exclusion of time period under Section 14 of the Limitation Act to a petition under Section 34 of the Arbitration Act it was observed: -

“Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction. On analysis of the said section, it becomes evident that the following conditions must be satisfied before Section 14 can be pressed into service:

1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;
2) The prior proceeding had been prosecuted with due diligence and in good faith;
3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;
4) The earlier proceeding and the latter proceeding must relate to the same matter in issue; and
5) Both the proceedings are in a court.”

This Court in Consolidated Engg. Enterprises (Supra) further expounded that the provisions of this Section, must be interpreted and applied in a manner that furthers the cause of justice, rather than aborts the proceedings at hand and the time taken diligently pursuing a remedy, in a wrong Court, should be excluded.

The Hon’ble Supreme Court has said that we do not find the reasoning given by the learned High Court in paragraph 9 while rejecting the plea for exclusion of time to be sustainable. On a perusal of the record, it is apparent that the Plaintiff has pursued the matter bonafidely and diligently and in good faith before what it believed to be the appropriate forum and, therefore, such time period is bound to be excluded when computing limitation before the Court having competent jurisdiction. All conditions stipulated for invocation of Section 14 of the Limitation Act are fulfilled.

For details:

https://api.sci.gov.in/supremecourt/2018/24489/24489_2018_10_1501_51862_Judgement_02-Apr-2024.pdf

07.03.2024	Rites Ltd vs. Ahuwalia Contract (India) Ltd. & Anr.	High Court of Delhi

Decision

Interest should not be awarded by Arbitrator if the parties agreed on this point

In this case, the petitioner assailed an Arbitral Award, to the extent that the learned Arbitrator has awarded interest on the respondent's claim for recovery against outstanding bills.

The arbitral proceedings arose out of a contract agreement, by which the petitioner - Rites Ltd., as the constituted attorney of respondent No. 2, Delhi University ["the University"], entrusted respondent No.1 - Ahluwalia Contract (India) Ltd. ["Ahluwalia"], with the task of construction of hostels and flats in the North Campus of the University.

By the impugned Award, the learned Arbitrator has awarded claim few claims in favour of Ahluwalia, along with post-award interest and costs.

The High Court referred to the decision of Hon'ble Supreme Court in Garg Builders, in which the Court was concerned with a contractual provision which excluded payment of interest on earnest money deposit, security deposit or any monies due to the contractor. The learned Arbitrator awarded interest, which was set aside by this Court.

The court further held that clauses 9 and 25 (9) of the contract, are unambiguous. They specifically deal with the situations contemplated in Ahluwalia's claim. Clause 9 provides that the contractor would not be entitled to "any compensation or claims or damages by way of interest etc. in case of delay in payment".

Clause 25(9) further restricts the power of the arbitrator to grant interest for the pre-reference or pendente-lite period on any amount found payable.

29.01.2024	Ajitsinh Chehuji Rathod vs. State of Gujarat & Anr	Supreme Court

Decision

Certified copy of the specimen signature maintained by the Bank can be procured with a request to the Court

This case can be referred to for understanding the legal position relating to presumption of genuineness and right of obtaining of copy of signatures maintained by the Bank.

The court in the judgement has further stated that certified copy of a document issued by a Bank is itself admissible under the Bankers' Books Evidence Act, 1891 without any formal proof thereof. Hence, in an appropriate case, the certified copy of the specimen signature maintained by the Bank can be procured with a request to the Court to compare the same with the signature appearing on the cheque by exercising powers under Section 73 of the Indian Evidence Act, 1872.

For details:

http://scourtapp.nic.in/supremecourt/2023/50878/50878_2023_3_1501_49957_Judgement_29-Jan-2024.pdf

10.01.2024	Shama Sharma vs. Kishan Kumar	Supreme Court

Decision

No reason for mentioning the caste/religion of any litigant before Court

In this case after deciding the matter in dispute, the Hon'ble Supreme Court has directed the Courts, Bars and registry regarding the non-mentioning of Case or Religion of Litigants.

The Supreme Court has said that before parting with this matter, we have noted with surprise thatthe caste of both the parties has been mentioned in the memo of parties, besides their other details. Learned counsel for the petitioner submits that if the memo of parties as filed before the courts below is changed in any manner, the Registry raises an objection and in the present case as the caste of both the parties was mentioned before the court below, he had no option but to mention their caste in the Transfer Petition.

The court further said that we see no reason for mentioning the caste/religion of any litigant either before this Court or the courts below. Such a practice is to be shunned and must be ceased forthwith. It is therefore deemed appropriate to pass a general order directing that henceforth the caste or religion of parties shall not be mentioned in the memo of parties of a petition/proceeding filed before this Court, irrespective of whether any such details have been furnished before the courts below. A direction is also issued to all the High Courts to ensure that the caste/religion of a litigant does not appear in the memo of parties in any petition/suit/proceeding filed before the High Court or the Subordinate Courts under their respective jurisdictions.

For details:

https://main.sci.gov.in/pdf/cir/07022024_102854.pdf

https://main.sci.gov.in/supremecourt/2023/27353/27353_2023_11_9_49365_Order_10-Jan-2024.pdf

19.04.2024	Insolvency and Bankruptcy Board of India vs. Satyanaraya N Bankatlal Malu & Ors	Supreme Court

Decision

Section 236 of the Insolvency and Bankruptcy Code, 2016(IBC) is "legislation by incorporation" and "not legislation by reference" therefore Amendment to section 435 of the Companies Act, 2013 are not applicable to section 236 of IBC.

This case can be referred to for understanding the law relating to 'Legislation by Incorporation' and 'Legislation by Reference'.

After Section 435 of the Companies Act, 2013 suffered an amendment in the year 2015 by the 2015 Amendment Act, sub-section (1) thereof provided that the Central Government may, for the purpose of providing speedy trial of offences punishable under the said Act with imprisonment of two years or more, by notification, establish or designate as many Special Courts as may be necessary….

Another amendment to Section 435 of the Companies Act, 2013 was effected by the Companies (Amendment) Act, 2017, with effect from 7th May, 2018. Vide the said amendment, two classes of Special

Courts were constituted. Firstly, a Special Court presided by a single judge holding office as Session Judge or Additional Session Judge, in case of offences punishable with imprisonment of two years or more under the Companies Act, 2013; and the second being presided by a Metropolitan Magistrate or a Judicial Magistrate of the First Class in the case of other offences, i.e., offences punishable with imprisonment of less than two years.

The question that required to be considered was, as to whether the Special Court under the Code would be as provided under Section 435 of the Companies Act as it existed at the time when the Insolvency and Bankruptcy Code came into effect, or it would be as provided under Section 435 of the Companies Act after the 2018 Amendment…..

The Apex Court decided that applying the principle as laid down by Supreme Court in various judgments, since the reference is specific and not general, it will have to be held that the present case is a case of 'legislation by incorporation' and not a case of 'legislation by reference'. The effect would be that the provision with regard to Special Court has been bodily lifted from Section 435 of the Companies Act, 2013 and incorporated in Section 236(1) of the Code….

For details:

https://api.sci.gov.in/supremecourt/2022/7992/7992_2022_3_1501_52325_Judgement_19-Apr-2024.pdf

07.08.2023	**V. Senthilal Balaji vs. State Represented by Deputy Director and Ors.**	**Supreme Court**

Decision

No writ of Habeas Corpus would lie when an arrestee is forwarded to the jurisdictional Magistrate u/s 19(3) of PMLA, 2002.

In this case the Supreme Court has summed up the Law relating to Prevention of Money Laundering Act and Writ of Habeas Corpus. The summation of Law is as under:

i. When an arrestee is forwarded to the jurisdictional Magistrate under Section 19(3) of the PMLA, 2002 no writ of *Habeus Corpus* would lie. Any plea of illegal arrest is to be made before such Magistrate since custody becomes judicial.

ii. Any non-compliance of the mandate of Section 19 of the PMLA, 2002 would ensure to the benefit of the person arrested. For such non-compliance, the Competent Court shall have the power to initiate action under Section 62 of the PMLA, 2002.

iii. An order of remand has to be challenged only before a higher forum as provided under the CrPC, 1973 when it depicts a due application of mind both on merit and compliance of Section 167(2) of the CrPC, 1973 read with Section 19 of the PMLA 2002.

iv. Section 41A of the CrPC, 1973 has got no application to an arrest made under the PMLA 2002.

v. The maximum period of 15 days of police custody is meant to be applied to the entire period of investigation – 60 or 90 days, as a whole.

vi. The words "such custody" occurring in Section 167(2) of the CrPC, 1973 would include not only a police custody but also that of other investigating agencies.

vii. The word "custody" under Section 167(2) of the CrPC, 1973 shall mean actual custody.

viii. Curtailment of 15 days of police custody by any extraneous circumstances, act of God, an order of

Court not being the handy work of investigating agency would not act as a restriction.

ix. Section 167 of the CrPC, 1973 is a bridge between liberty and investigation performing a fine balancing act.

x. The decision of this Court in Anupam J. Kulkarni, as followed subsequently requires reconsideration by a reference to a larger Bench.

For details:

https://api.sci.gov.in/supremecourt/2023/28176/28176_2023_7_1501_45841_Judgement_07-Aug-2023.pdf

24.08.2023	**M/s Hindustan Construction Company Limited vs. M/s National Highway Authority of India**	**Supreme Court**

Decision

Dissenting Award not to be treated as award even if Majority Award is Set aside

A dissenting opinion cannot be treated as an award if the majority award is set aside. It might provide useful clues in case there is a procedural issue which becomes critical during the challenge hearings. This court is of the opinion that there is another dimension to the matter. When a majority award is challenged by the aggrieved party, the focus of the court and the aggrieved party is to point out the errors or illegalities in the majority award. The minority award (or dissenting opinion, as the learned authors point out) only embodies the views of the arbitrator disagreeing with the majority. There is no occasion for anyone- such as the party aggrieved by the majority award, or, more crucially, the party who succeeds in the majority award, to challenge the soundness, plausibility, illegality or perversity in the approach or conclusions in the dissenting opinion.

For details:

https://api.sci.gov.in/supremecourt/2012/40706/40706_2012_5_1501_46332_Judgement_24-Aug-2023.pdf

05.07.2024	**Singrauli Super Thermal Power Station [Appellant(s)] vs. Ashwani Kumar Dubey & Ors. [Respondent(s)]**	**Supreme Court**

Decision

Doctrine of Official Notice is a Device used in Administrative Procedure and applies with Greater Force to a Judicial / Adjudicatory Body

While setting aside the order of National Green Tribunal on the ground of non-compliance with the principles of natural justice, the Hon'ble Supreme Court observed that "*NGT is a judicial body and therefore exercises adjudicatory function. The very nature of an adjudicatory function would carry with it the requirement that principles of natural justice are complied with, particularly when there is an adversarial system of hearing of the cases before the Tribunal or for that matter before the Courts in India. The NGT though is a special adjudicatory body constituted by an Act of Parliament, nevertheless, the discharge of its function must be in*

accordance with law which would also include compliance with the principles of natural justice as envisaged in Section 19(1) of the Act."

Relying on the 'official notice' doctrine the Apex Court observed:

> *"In this context, it would be useful to refer to what is known as the 'official notice' doctrine, which is a device used in administrative procedure. Although an authority can rely upon materials familiar to it in its expert capacity without the need formally to introduce them in evidence, nevertheless, the parties ought to be informed of materials so noticed and be given an opportunity to explain or rebut them. The data on which an authority is acting must be apprised to the party against whom the data is to be used as such a party would then have an opportunity not only to refute it but also supplement, explain or give a different perspective to the facts upon which the authority relies. This has been explained by Schwartz in his work on Administrative Law. The aforesaid doctrine applies with greater force to a judicial / adjudicatory body. Therefore, applying the aforesaid principle to the cases that come up before the NGT, if the NGT intends to rely upon an expert Committee report or any other relevant material that comes to its knowledge, it should disclose in advance to the party so as to give an opportunity for discussion and rebuttal. Thus, factual information which comes to the knowledge of NGT on the basis of the report of the Committee constituted by it, if to be relied upon by the NGT, then, the same must be disclosed to the parties for their response and a reasonable opportunity must be afforded to present their observations or comments on such a report to the Tribunal."*

For details:

https://main.sci.gov.in/supremecourt/2022/11778/11778_2022_16_50_44782_Judgement_05-Jul-2023.pdf

20.10.2023	**Yashpal Jain (Appellants) vs. Sushila Devi & Others (Respondents)**	**Supreme Court**

Decision

Supreme Court issued 12 directions for Speedy disposal of civil matters

In the preface of the Judgement, Supreme Court has said that:

Even after 41 years, the parties to this *lis* are still groping in the dark and litigating as to who should be brought on record as legal representative of the sole plaintiff. This is a classic case and a mirror to the fact that litigant public may become disillusioned with judicial processes due to inordinate delay in the legal proceedings, not reaching its logical end, and moving at a snail's pace due to dilatory tactics adopted by one or the other party.

Further in this case, the Supreme Court has issued 12 directions for Speedy Trial of Civil Cases. These directions are as follows:

i. All courts at district and taluka levels shall ensure proper execution of the summons and in a time bound manner as prescribed under Order V Rule (2) of CPC and same shall be monitored by Principal District Judges and after collating the statistics they shall forward the same to be placed before the committee constituted by the High Court for its consideration and monitoring.

ii. All courts at District and Taluka level shall ensure that written statement is filed within the prescribed limit namely as prescribed under Order VIII Rule 1 and preferably within 30 days and to assign reasons in writing as to why the time limit is being extended beyond 30 days as indicated under proviso to sub-Rule (1) of Order VIII of CPC.

iii. All courts at Districts and Talukas shall ensure after the pleadings are complete, the parties should be called upon to appear on the day fixed as indicated in Order X and record the admissions and denials and the court shall direct the parties to the suit to opt for either mode of the settlement outside the court as specified in sub-Section (1) of Section 89 and at the option of the parties shall fix the date of appearance before such forum or authority and in the event of the parties opting to any one of the modes of settlement directions be issued to appear on the date, time and venue fixed and the parties shall so appear before such authority/forum without any further notice at such designated place and time and it shall also be made clear in the reference order that trial is fixed beyond the period of two months making it clear that in the event of ADR not being fruitful, the trial would commence on the next day so fixed and would proceed on day-to-day basis.

iv. In the event of the party's failure to opt for ADR namely resolution of dispute as prescribed under Section 89(1) the court should frame the issues for its determination within one week preferably, in the open court.

v. Fixing of the date of trial shall be in consultation with the learned advocates appearing for the parties to enable them to adjust their calendar. Once the date of trial is fixed, the trial should proceed accordingly to the extent possible, on day-to-day basis.

vi. Learned trial judges of District and Taluka Courts shall as far as possible maintain the diary for ensuring that only such number of cases as can be handled on any given day for trial and complete the recording of evidence so as to avoid overcrowding of the cases and as a sequence of it would result in adjournment being sought and thereby preventing any inconvenience being caused to the stakeholders.

vii. The counsels representing the parties may be enlightened of the provisions of Order XI and Order XII so as to narrow down the scope of dispute and it would be also the onerous responsibility of the Bar Associations and Bar Councils to have periodical refresher courses and preferably by virtual mode.

viii. The trial courts shall scrupulously, meticulously and without fail comply with the provisions of Rule 1 of Order XVII and once the trial has commenced it shall be proceeded from day to day as contemplated under the proviso to Rule (2).

ix. The courts shall give meaningful effect to the provisions for payment of cost for ensuring that no adjournment is sought for procrastination of the litigation and the opposite party is suitably compensated in the event of such adjournment is being granted.

x. At conclusion of trial the oral arguments shall be heard immediately and continuously and judgment be pronounced within the period stipulated under Order XX of CPC.

xi. The statistics relating to the cases pending in each court beyond 5 years shall be forwarded by every presiding officer to the Principal District Judge once in a month who (Principal District Judge/ District Judge) shall collate the same and forward it to the review committee constituted by the respective High Courts for enabling it to take further steps.

xii. The Committee so constituted by the Hon'ble Chief Justice of the respective States shall meet at least once in two months and direct such corrective measures to be taken by concerned court as deemed fit and shall also monitor the old cases (preferably which are pending for more than 05 years) constantly.

It was also made clear that further directions for implementation of the above directions may be issued from time to time, if necessary, and as may be directed by the Supreme Court.

For details:

https://api.sci.gov.in/supremecourt/2020/4113/4113_2020_8_1506_47917_Judgement_20-Oct-2023.pdf

04.09.2023	**Jamboo Bhandari (Appellant) vs. M.P. State Industrial Development Corporation Ltd. & Ors. (Respondent)**	**Supreme Court**

Decision

Condition of appellants depositing 20% of the amount of compensation not mandatory under section 148 of N.I. Act

The appellants in these two appeals were the accused before the learned Judicial Magistrate who tried them on a complaint filed by the respondent No. 1 under Section 138 of the Negotiable Instruments Act, 1881 ("N.I. Act"). The learned Magistrate convicted the appellants and directed them to pay the cheque amount with interest thereon @ 9% per annum. An appeal was preferred by the appellants before the Sessions Court. Relying upon Section 148 of the N.I. Act, the Sessions Court granted relief under Section 389 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") subject to condition of appellants depositing 20% of the amount of compensation.

High Court also confirmed the order of the Sessions Court.

The Supreme Court held that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.

For details:

https://api.sci.gov.in/supremecourt/2022/30722/30722_2022_7_40_46699_Judgement_04-Sep-2023.pdf

11.09.2023	**CBI (Appellant) vs. R. R. Kishore (Respondent)**	**Supreme Court**

Decision

A Law declared unconstitutional is *void ab initio.*

This case decided the issue, whether declaration made in the case of Subramanian Swamy vs. Director, Central Bureau of Investigation and another (2014) 8 SCC 682, that Section 6A of the Delhi Special Police Establishment Act, 1942 being unconstitutional, can be applied retrospectively in context with Article 20 of the Constitution.

The Supreme Court has decided that it is crystal clear that once a law is declared to be unconstitutional, being violative of Part-III of the Constitution, then it would be held to be void ab initio, still born, unenforceable and non est in view of Article 13(2) of the Constitution and its interpretation by authoritative pronouncements.

Thus, the declaration made by the Constitution Bench in the case of Subramanian Swamy (supra) will have retrospective operation. Section 6A of the DSPE Act is held to be not in force from the date of its insertion i.e. 11.09.2003.

For details:

https://api.sci.gov.in/supremecourt/2007/415/415_2007_2_1501_46897_Judgement_11-Sep-2023.pdf

11.09.2023	**A. Valliammai (Appellant) vs. K.P. Murali and Others (Respondent)**	**Supreme Court**

Decision

When no time is fixed for performance, the court will have to determine the date on which the plaintiff had notice of refusal for the purpose of finding out when the Limitation Period begins.

In this case, the Supreme Court has referred to the provisions of Article 54 of Part II of the Schedule to the Limitation Act, 1963 which stipulates the limitation period for filing a suit for specific performance as three years from the date fixed for performance, and in alternative when no date is fixed, three years from the date when the plaintiff has notice that performance has been refused.

The Supreme Court referred to the case earlier decided in *Pachanan Dhara and Others v. Monmatha Nath Maity (2006) 5 SCC 340* in which it held that for determining applicability of the first or the second part, the court will have to see whether any time was fixed for performance of the agreement to sell and if so fixed, whether the suit was filed beyond the prescribed period, unless a case for extension of time or performance was pleaded or established. However, when no time is fixed for performance, the court will have to determine the date on which the plaintiff had notice of refusal on part of the defendant to perform the contract.

For details:

https://api.sci.gov.in/supremecourt/2017/9417/9417_2017_3_1501_46878_Judgement_12-Sep-2023.pdf

18.07.2023	**NTPC Ltd. vs. L and T-MHPS Boilers Pvt. Ltd.**	**Delhi High Court**

Decision

Whether Indian Evidence Act, 1872 strictly applicable to Arbitral Proceedings.

In this case, the Delhi High Court has decided that the scope of Judicial Scrutiny under section 37 of the Arbitration and Conciliation Act, 1996 (the Act) is more restrictive than Section 34 of the Act which is relating to Setting aside an Arbitral Award.

Further, in this case the court decided that Indian Evidence Act, 1872 does not apply stricto sensu to arbitral proceedings and that it is only the principles of evidence which shall be applicable to the proceedings.

06.07.2023	**M/s. Noumla Brothers vs. M/s. Ruchi World Wide Ltd.**	**Madhya Pradesh High Court**

Decision

The period of limitation is liable to be counted from which date?

In this case while answering the above question, the Madhya Pradesh High Court said that the only issue for consideration by this Court is, whether the period of limitation is liable to be counted from the date of dismissal of the SLP i.e. 4.10.2017 or the date 28.11.2017 when the appellant came to know about the dismissal of the SLP. The Copy of order dated 4.10.2017 passed in the SLP is on record and according to which, the SLP was dismissed on the very first day of its listing. The apex Court after condoning the delay has declined to grant leave and dismissed the SLP. On the said date, counsel for the appellant Shri Judy James and Mr. Prasad Rao were present. Whether the representative of the appellant was present in the court is a matter of the evidence. It is also to be decided whether the learned counsel who appeared in SC informed the appellant about the dismissal of the SLP. In the memo of application u/s. 34 of the Act of 1996 as well as in the application filed u/s. 14 of the Limitation Act, the appellant pleaded that the fact of the dismissal of the SLP came to its knowledge when the notice of the Execution Case was served upon it.