

LB-302 – Limitation and Arbitration

Part A: Limitation

Prescribed Legislation: The Limitation Act, 1963

Prescribed Books:

- 1) M.R. Mallick, **B.B. Mitra** *The Limitation Act, 1963* (22nd ed., 2011).
- 2) K. Shanmukham, **Sanjiva Row's** *The Limitation Act* (9th ed., 2000).

Topic 1: Limitation of Suits, Appeals and Applications (Sections 3-5)

(a) Effect of expiry of limitation – dismissal of suit, appeal, application (section 3)

- 1) *R.B. Policies At Lloyd's v. Butler*, (1949) 2 All ER 226
- 2) *Union of India v. West Coast Paper Mills Ltd.*, AIR 2004 SC 1596
- 3) *Punjab National Bank v. Surendra Prasad Sinha*, AIR 1992 SC 1815

(b) Extension of limitation (section 5)

- 4) *Collector, Land Acquisition, Anantnag v. Katiji*, AIR 1987 SC 1353
- 5) *State of Nagaland v. Lipok AO*, (2005) 3 SCC 752

Topic 2: Computation of Limitation (Sections 12, 17 to 19, 21)

(a) Exclusion of time (sections 12)

- 6) *The Commissioner of Sales Tax, U.P. v. M/s. Madan Lal Das & Sons, Bareilly*, AIR 1977 SC 523
- 7) *State of Uttar Pradesh v. Maharaj Narain*, AIR 1968 SC 960

(b) Effect of fraud or mistake (section 17), Effect of acknowledgment (section 18), effect of payment (section 19), Effect of substituting or adding new plaintiff or defendant (section 21)

- 8) *Mahabir Kishore v. State of M.P.*, AIR 1990 SC 313
- 9) *Sampuran Singh v. Niranjana Kaur (Smt.)*, AIR 1999 SC 1047

Topic 3: Acquisition of Ownership by Possession (Sections 25-27)

- 10) *Rajender Singh v. Santa Singh*, AIR 1973 SC 2537
- 11) *Ravinder Kaur Grewal & Ors v. Manjeet Kaur & Ors.*, Civil Appeal No.7764/2014 SC

Topic 4: The Schedule – Period of Limitation

(a) Article 113 – Any suit for which no period of limitation is provided elsewhere.

- 12) *State of Punjab v. Gurdev Singh*, (1991) 4 SCC 1

(b) Article 137 – Limitation where no period is prescribed

- 13) *Ajaib Singh v. Sirhind Cooperative Marketing-cum-Processing Service Society Ltd.*, AIR 1999 SC 1351

Part B: Arbitration

Introduction to Alternate Dispute Resolution:

Topic 5: Differences between Litigation, Arbitration, Conciliation, Mediation and Negotiation

Readings:

- 1) Need for Alternatives to the Formal Legal System (Special Address by Hon'ble Mr. Justice S. Muralidhar in International Conference on ADR, Conciliation, Mediation and Case Management organized by the Law Commission of India at New Delhi on May 3-4, 2003)
- 2) 'Comparison of Adjudication with ADR', Mediation Training Module of India Chapter 4 (2011) SC of India
- 3) 'Development of Mediation in India', Mediation Training Module of India Chapter 1 (2011) SC of India
- 4) *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. P. Ltd.*, 19 (2010) 8 SCC 24

Topic 6: Conciliation / Mediation

- (a) Difference between mediation/ conciliation and other ADRs
- (b) Mediator's Skills and Roles
- (c) Stages of Mediation: Mediator's Opening Statement; Parties' Opening Statement; Joint Session; Caucus or Separate Session; Final Negotiation/Deal-Making Round; Closure
- (d) Strategies and Techniques
- (e) Role of Silence/Apology
- (f) Handling Emotions/Impasse
- (g) Drafting Agreement
- (h) Ethical Dilemmas in Mediation

Readings:

- 1) 'Understanding Conflict' by Aman Hingorani
- 2) 'Concept & Techniques of Mediation', Mediation Training Module: Delhi Mediation Centre
- 3) 'Stages in Mediation Process and Role of Mediator' by Ashish Kumar
- 4) Justice Manju Goel, 'Successful Mediation in Matrimonial Disputes' available at <http://www.delhimediationcentre.gov.in/articles.htm>

Topic 7: Arbitration

- (a) Overview of Arbitration & Conciliation Act, 1996
- (b) Overview of International Rules

- (c) Drafting Arbitration Clause
- (d) Case Analysis

Readings:

- 1) Aman Hingorani, “Alternative Dispute Resolution, including Arbitration, Mediation and Conciliation”, All India Bar Examination Preparatory Materials
- 2) 2015 Amendment to the Arbitration and Conciliation Act, 1996
- 3) *National Insurance Co. Ltd. v Boghara Polyfab Pvt. Ltd.*, (2009) 1 SCC 267
- 4) *ONGC Ltd. v. Western Geco International Ltd.* (2014) 9 SCC 263
- 5) Excerpts from Drafting Dispute Resolution Clauses: A Practical Guide, American Arbitration Association
- 6) Steven Lubet, Modern Trial Advocacy: Analyses and Practice, pp 1-13
